

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:
                                :
                                : Case No.
OFFICE OF PLANNING - ZONING: 10-19
CONSISTENCY MAP AMENDMENT :
@ SQUARE 1050 & PORTIONS OF:
SQS. 1027, 1049 & 4509 &    :
TEXT AMENDMENT              :
=====
  
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Monday,
January 3, 2011

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 10-19 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room, 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairman
KONRAD W. SCHLATER	Vice Chairman
PETER G. MAY	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner FAIA, (AOC)

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Board of Zoning Adjustment
District of Columbia
CASE NO. Transcript
EXHIBIT NO. null

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON
ARTHUR JACKSON

This transcript constitutes the
minutes from the Public Hearing held on
January 3, 2011.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

WELCOME:

Anthony Hood, Chairman 4

ZC CASE NO. 10-19 - OFFICE OF PLANNING - ZONING CONSISTENCY MAP AMENDMENT @ SQUARE 1050 & PORTIONS OF SQS. 1027, 1049 & 4509 & TEXT AMENDMENT:

4

OFFICE OF PLANNING:

Arthur Jackson 9

ANC-6A:

Drew Ronneberg 18/24

Andrew Hysell, 6A06 23

BOARD QUESTIONS OF OP & ANC:

24

PERSONS/PARTIES IN OPPOSITION:

Danielle Smith 53

Joel Kelty 60

Board Questions: 66

SPECIFICALLY REQUESTED MATERIAL:

81

SET DECISION FOR FEBRUARY 7, 2011:

83

ADJOURN:

Anthony Hood, Chairman 85

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

2 6:36 p.m.

3 CHAIRMAN HOOD: Okay. Good
4 evening, ladies and gentlemen. This is the
5 Public Hearing of the Zoning Commission of the
6 District of Columbia for Monday, January 3,
7 2011.

8 My name is Anthony Hood. Joining
9 me are Vice Chair Mr. Schlater, Commissioners
10 May and Turnbull. We are also joined by the
11 Office of Zoning staff, Ms. Sharon Schellin
12 and Ms. Donna Hanousek. Also the Office of
13 Planning staff, Mr. Lawson and Mr. Jackson.

14 This proceeding is being recorded
15 by a Court Reporter and is also webcast live.

16 Accordingly, we must ask you to refrain from
17 any disruptive noises or actions in the
18 hearing room.

19 The subject of this evening's
20 hearing is Zoning Commission Case. No. 10-19.

21 This case was continued from November 1,
22 2010. It was also readvertised with notice

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1 mailed to the affected property owners.

2 This is a request by the Office of
3 Planning for a Map and Text Amendment to the
4 Zoning Regulations to amend the H Street,
5 N.E., Neighborhood Commercial Overlay District
6 as well as a request by the ANC-6A for
7 inclusion of additional properties.

8 Notice of today's hearing was
9 published in the DC Register on November 19,
10 2010 and copies of that announcement are
11 available to my left on the wall near the
12 door.

13 The hearing will be conducted in
14 accordance with the revisions of 11 DCMR 3021
15 as follows: Preliminary matters, presentation
16 by the Office of Planning, report of other
17 Government agencies, report of ANC-6A and 5B,
18 organizations and persons in support,
19 organizations and persons in opposition.

20 The following time constraints will
21 be maintained in this hearing: Organizations
22 five minutes, individuals three minutes.

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1 Also, let me go back to the
2 presentation. The first presentation will be
3 by the Office of Planning and the additional
4 properties in which they are not supportive of
5 will be done by the ANC. And we can proceed
6 in that order.

7 The Commission intends to adhere to
8 the time limits as strictly as possible in
9 order to hear the case in a reasonable period
10 of time. The Commission reserves the right to
11 change the time limits for presentations, if
12 necessary, and notes that no time shall be
13 ceded.

14 All persons appearing before the
15 Commission are to fill out two witness cards.
16 These cards are located to my left on the
17 table near the door.

18 Upon coming forward to speak to the
19 Commission, please, give both cards to the
20 reporter sitting to my right before taking a
21 seat at the table.

22 When presenting information to the

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1 Commission, please, turn on and speak into the
2 microphone, first, stating your name and home
3 address. When you are finished speaking,
4 please, turn your microphone off, so that your
5 microphone is no longer picking up sound or
6 background noise.

7 To avoid any appearance to the
8 contrary, the Commission requests that persons
9 present not engage the Members of the
10 Commission in conversation during any recess
11 or at any time.

12 The staff will be available
13 throughout the hearing to discuss procedural
14 questions.

15 Please, turn off all beepers and
16 cell phones, at this time, so as not to
17 disrupt these proceedings.

18 At this time, the Commission will
19 consider any preliminary matters.

20 Does the staff have any preliminary
21 matters?

22 MS. SCHELLIN: No, sir.

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1 CHAIRMAN HOOD: Okay. I think we
2 can get right into the case. And I would like
3 to go straight to Mr. Lawson and Mr. Jackson.

4 And once we do that, Mr. Ronneberg, we will
5 come to you all for the additional piece in
6 which you all have a disagreement in.

7 If that's okay with my colleagues,
8 I think we can move in that fashion. Okay.
9 Mr. Lawson? Oh, I'm sorry, Mr. Jackson?

10 MR. JACKSON: Good evening, Madam -
11 - sorry. Mr. Chairman and Members of the
12 Commission.

13 CHAIRMAN HOOD: That's all right.
14 You know what, you are still getting me and
15 Carol Mitten mixed up.

16 MR. JACKSON: It's a new year and,
17 by the way, happy new year to everyone.

18 CHAIRMAN HOOD: I should have said
19 that, too, happy new year, also, to everyone
20 on behalf of the Commission to everyone.
21 Thanks.

22 MR. JACKSON: All right. My name

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1 is Arthur Jackson. I'm a Development Review
2 Specialist with the Office of Planning. And I
3 will be providing a brief summary of the
4 Office of Planning report that is before you.

5 The summary will refer to the Map
6 in Exhibit 1 of the report that divides the
7 lots posed for rezoning changes into seven
8 areas.

9 You should also note that some area
10 numbers referenced in the analysis under
11 Section 8 of the report are incorrect.

12 The discussion of the analysis of
13 Area 4 on page 7 actually applies to
14 properties in Area 5. And the Area 5 analysis
15 on page 8 actually applies to lots shown on
16 Area 6 on the Map.

17 For your reference, the Map I'm
18 referring to is the last page of the Office of
19 Planning report.

20 As you recall, the Commission set
21 down for Public Hearing on petition filed by
22 the Office of Planning on behalf of the

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1 Advisory Neighborhood Commission 6A in July of
2 last year.

3 The 2006 Comprehensive Plan
4 Generalized Future Land Use Map designated all
5 the properties proposed by Office of Planning
6 for amendment as medium-density residential.
7 The existing apartment building on the corner
8 of Benning Road and 15th Street, shown as Area
9 1 on Exhibit 1 of the Office of Planning
10 report, have no ground floor retail and a
11 maximum defined height of 60 feet.

12 Rezoning the underlying property
13 from C-2-4 to R-5-C will be more consistent
14 with the form and character of the existing
15 development and remove the potential for
16 higher-density mixed-use development currently
17 allowed.

18 Although, it is normally considered
19 medium-density, R-5-C is the minimum
20 Residential District that will not render the
21 existing buildings nonconforming for height.

22 The Office of Planning proposal for

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1 rezoning Area 2, which consists of properties
2 generally along Maryland Avenue and 15th Street
3 from C-3-A to C-2-A with the H Street Overlay,
4 would conserve the existing neighborhood
5 character, not allow development of higher-
6 density mixed-use projects and establish
7 standards to guide potential redevelopment of
8 area properties.

9 It also provides a transition from
10 the higher-density zoning along the H Street
11 Corridor to low-density R-4 Zoning to the
12 south.

13 In addition, the District Council
14 recently approved and forwarded for National
15 Capital Planning Commission review legislation
16 to change the land use designation of these
17 properties from medium-density residential to
18 mixed-use medium-density residential and low-
19 density commercial.

20 The Office of Planning proposal,
21 however, would not be inconsistent with either
22 the existing or pending designation.

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1 Accordingly, these proposed changes would not
2 be inconsistent with the intent of the
3 Comprehensive Plan or the neighborhood
4 character.

5 Corresponding Text Amendments were
6 also proposed to ' 1320 and ' 1324 of the
7 Zoning Regulations, so that provisions for the
8 H Street ARTS Subdistrict Overlay would also
9 apply to the referenced portions of Squares
10 1027, 1049 and 1050.

11 Although the changes in the Office
12 of Planning petition were proposed after
13 consultation with the ANC, Advisory
14 Neighborhood Commission 6A, the ANC
15 subsequently recommended to the Commission
16 that the area for proposed rezoning be
17 expanded to include other Commercial Zone
18 property, primarily other lots near H Street
19 and lots fronting side streets that cross H
20 Street.

21 During the first Public Hearing on
22 November 1, 2010, the Commission agreed to

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1 consider the additional Map Amendments. Staff
2 was directed to reschedule the Public Hearing,
3 revise the public notice to include changes
4 suggested by the ANC and to notify all owners
5 of property that would be subject to these
6 changes, which was done.

7 These additional plans would
8 neither be supported by the 2006 Comprehensive
9 Plan or anticipated in the H Street Strategic
10 Development Plan, a supplement to the
11 Comprehensive Plan.

12 The purpose of the Strategic
13 Development Plan was to guide community,
14 private sector and public agency actions in
15 investments in revitalizing this traditional
16 neighborhood corridor over the next decade.

17 The project encompassed 13 blocks
18 and 1.5 miles of properties with frontage
19 along H Street between North Capitol and 17th
20 Street, N.E. The focus of the H Street Plan
21 and the resulting overlay is to address the
22 streetscape presence of buildings along this

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1 corridor.

2 Associated Strategic Development
3 Plan analysis projected that the retail demand
4 over the next decade would be strong enough to
5 spark the revitalization of retail uses in the
6 Central Retail District with complimentary
7 retail in the Western and Eastern Districts.

8 Ground floor spaces outside of
9 these areas, specifically targeted for retail
10 revitalization, were anticipated to be
11 occupied by professional office, studio space
12 and residential uses.

13 Specifically, the ANC proposals
14 include the following amendments: Rezone four
15 lots in Area 3 on your Map north of H Street
16 that front 13th Street from C-2-A to C-2-A with
17 the H Street Overlay.

18 The H Street Plan does not provide
19 any development guidance for development other
20 than possible use as a parking lot for a
21 revitalized R.L. Christian Library. Rezoning
22 these properties and adding an overlay would

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1 expand the overlay boundaries to include
2 properties not on H Street or on major
3 commercial corridor.

4 It would effectively and
5 inappropriately span the retail focus beyond
6 the targeted street frontage.

7 The area lots in Area 4, which is
8 north of H Street in the middle of the square,
9 has no frontage on any street and is currently
10 developed for parking. Almost all of the
11 alley lots in Area 7 between H and G Streets
12 are currently developed, mainly, with a
13 variety of two story warehouse and garage
14 buildings, primarily occupied by office-
15 related and service uses.

16 These lots have no frontage on any
17 street and only have alley access to H Street,
18 G Street and Maryland Avenue, N.E. The H
19 Street Plan includes no guidance for
20 development of these alley lots, other than
21 they could be -- they could serve to support--
22 as support or parking areas.

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1 As such, adding an overlay to the
2 current C-2-A District will make these alley
3 lots subject to inappropriate and irrelevant
4 guidelines and design review with no land use
5 or design guidance for the purpose of such
6 reviews.

7 The plan has no direct or relevant
8 guidance for the rezoning of the lots in Area
9 3 or Area 5, which is described as Area 4 in
10 our report. At the intersection of H Street
11 and Florida Avenue from C-3-A to C-2-A and
12 adding the overlay.

13 This change would be inconsistent
14 with the zoning and intended to build a
15 pattern for this intersection. The C-3-A
16 Zoning is consistent with similar zoning to
17 the north, east and south and as well as the
18 R-5-B, Multi-Family Residential Zoning, the
19 rest across Florida Avenue.

20 The proposal to extend the
21 boundaries to overlay to include properties
22 not on H Street would effectively expand the

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1 focus beyond the corridor while the design
2 standards provided with -- through the overlay
3 would be misplaced, since they are
4 specifically for a commercial corridor.

5 Similarly, down-zoning the
6 properties currently developed with a moderate
7 scale mixed-use buildings with frontage on H
8 Street and 14th Street in Area 6 from C-3-A to
9 C-2-A while retaining the overlay would be
10 inconsistent with the intended development
11 pattern of this -- around this intersection.

12 Particularly since properties
13 across H Street on all three corners would be
14 posed as squares, would continually have the
15 development potential allowed under C-3-A.
16 These properties would potentially be rendered
17 nonconforming for nonresidential FAR if
18 rezoned to C-2-A and the rezoning would limit
19 options for the improvement or redevelopment.

20 This rezoning would also be
21 inconsistent with the Main Street Mixed-Use
22 Corridor designation for the H Street Corridor

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1 in the Comprehensive Plan Policy Map.

2 Since these changes are not
3 supported by either the Comprehensive Plan or
4 the H Street Strategic Development Plan,
5 supplement to the Comprehensive Plan, Office
6 of Planning recommends the Commission
7 approvals be limited to those proposed in our
8 original petition.

9 And that concludes my summary of
10 the Office of Planning report.

11 CHAIRMAN HOOD: Thank you, Mr.
12 Jackson. Commissioners, do we want to ask the
13 Office of Planning or do we want to go
14 straight to Mr. Ronneberg? Okay. We'll go
15 straight to Mr. Ronneberg. Okay. Mr.
16 Ronneberg?

17 MR. RONNEBERG: Okay. Good
18 evening, Chairman Hood, and fellow
19 Commissioners. Before I discuss where we
20 differ with the Office of Planning, I think
21 for 80 percent of this case, we agree
22 wholeheartedly and support the rezoning of

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1 those areas south of H Street.

2 And for the people in the audience
3 who may not be familiar with all the rules of
4 the Zoning, these changes will not affect any
5 current land use. If you have a residence, it
6 will not compel you to turn it to a commercial
7 lot if you have an existing commercial use.
8 It will not affect anything that is currently
9 happening on your site. It only affects
10 future development.

11 So to dive into the details, if you
12 look at Exhibit 1 of the Office of Planning
13 report, the Map, I think there was some
14 confusion about it.

15 First of all, I would like to
16 address Area 6, which is -- which fronts H
17 Street. And this was an area that ANC-6A had
18 not intended to ask for any rezoning.

19 In our initial letter to the Zoning
20 Commission, we asked for 11 lots in Square
21 1026 to be rezoned and these would be the four
22 squares fronting H Street, the one lot,

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1 interior lot that is a parking lot and the six
2 lots fronting Florida Avenue and 14th Street.
3 So I think Area 6 we -- ANC-6A is not asking
4 for a down-zoning of that area.

5 So to go into the rationale for why
6 we are asking for these other areas to be
7 rezoned, the primary objective is to get all
8 commercial areas in the eastern end of H
9 Street subject to the rules of the overlay.
10 And those are mainly for the design
11 guidelines.

12 It has been our experience that the
13 design guidelines has tremendously helped the
14 development of an H Street that is attractive,
15 pedestrian-friendly and an appropriate
16 development. So that is the main reason why
17 we are asking for these commercial areas to be
18 included in the overlay.

19 The overlay will also benefit some
20 of these properties for the case of Area 7 and
21 the alley. There are some very interesting
22 structures in the alley. It is mainly

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1 industrial use now. It could be redeveloped,
2 something that looks like Cady's Alley in
3 Georgetown.

4 If these things were redeveloped,
5 they -- the property owners would have the
6 additional 0.5 FAR bonus density for
7 preserving the facade. So there are benefits
8 to the owners to incorporate in these areas
9 under the overlay.

10 As far as Area 3, we thought that
11 this was very close to the overlay and was --
12 and for very similar reasons to Square 1050,
13 it wouldn't make a lot of sense to have a
14 commercial area so close to H Street that
15 wasn't subject to the provisions of the
16 overlay.

17 For example, we could have another
18 gas station or we could have something that
19 wouldn't follow the design guidance very close
20 to the commercial area.

21 And really the Area 5, the request
22 for C-3-A to C-2-A, the down-zoning, was

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1 really meant to mirror what was going on at
2 the Maryland Avenue side of 1027, the down-
3 zoning on that side. If the Commission felt
4 that the down-zoning on Florida Avenue was not
5 appropriate, we would be fine with that. But
6 our primary objective is to just have the
7 overlay cover all commercial areas in this --
8 in the eastern end of H Street.

9 And I'm sorry, so a couple of
10 things that I have passed out. One was our
11 initial letter to the Office of Planning
12 requesting this overlay. And the other was
13 the slides from our November 1st presentation,
14 which has additional pictures, which kind of
15 shows you a character of the area, some of the
16 residential streets or some of the residential
17 buildings and some of the buildings around
18 them, the north side of Florida.

19 So we think that there isn't really
20 a good reason why we would rezone things south
21 of H Street and not have a symmetric rezoning
22 of the north of H Street. And once again, our

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1 intent is to expand the overlay, so that we
2 have the design guidelines that are contained
3 therein to incorporate -- to encompass all
4 these areas.

5 Do you have anything additional?

6 MR. HYSELL: Yes. Hi, my name is
7 Andrew Hysell and I am ANC Commissioner for
8 6A06. I just wanted to definitely be here to
9 voice my support for the Office of Planning's
10 recommendations as well as the additional
11 recommendations from the ANC-6. There is a
12 real interest.

13 These areas are just steps away
14 from the existing overlay and there is a real
15 interest that this development occurs. There
16 is so much happening, so much change occurring
17 that this all works together and that this
18 falls in the intent of the Comprehensive Plan.

19 So I'm just here today to echo Drew's
20 comments.

21 MR. RONNEBERG: Thanks, Andrew.
22 And I do have one additional. I did receive

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1 one email from Mr. Hartman, who owns property
2 in the alley of Square 1017. And after some
3 questions that I answered about why was this--
4 why was the ANC proposing this, Mr. Hartman
5 was in support of the extension of the overlay
6 into the alley.

7 CHAIRMAN HOOD: Mr. Ronneberg,
8 which area is that in? Where? If you can
9 turn your mike on just so I can follow Mr.
10 Hartman.

11 MR. RONNEBERG: Area 7.

12 CHAIRMAN HOOD: Area 7, okay.
13 Okay. Are we all finished? Okay. First, let
14 me congratulate both of you. I believe you
15 were sworn in yesterday. Again, a service to
16 the city. We appreciate that.

17 Let me ask this, Mr. Ronneberg.
18 I'm not going to ask the new Commissioner,
19 even though he hit the ground running. Let me
20 ask you this, Mr. Ronneberg.

21 And I actually have never heard of
22 this or if I did, I must have forgotten, but

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1 the H Street Strategic Development Plan, are
2 you familiar with that?

3 MR. RONNEBERG: Yes. The overlay
4 is the zoning embodiment of that plan.

5 CHAIRMAN HOOD: Okay. Did you help
6 with the --

7 MR. RONNEBERG: Yes.

8 CHAIRMAN HOOD: You did? Okay.
9 Now, what you are asking for, at least what I
10 have here in front of me, goes against the
11 content of what you are trying to accomplish,
12 I believe, on H Street Strategic Development
13 Plan. Am I correct?

14 Help me understand it, because the
15 way I read it, we are talking about doing
16 things along the H Street Corridor.

17 MR. RONNEBERG: Right.

18 CHAIRMAN HOOD: And you helped
19 revise this plan, I believe, correct?

20 MR. RONNEBERG: I initiated it.

21 CHAIRMAN HOOD: You initiated this?

22 MR. RONNEBERG: Yes. I think there

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1 was a general awareness when that plan was
2 passed or I mean, the plan talks about an
3 area, not just properties fronting H Street.
4 A larger area than that.

5 CHAIRMAN HOOD: Yes.

6 MR. RONNEBERG: But when we got to
7 the Zoning Overlay, most of the properties
8 along the corridor face H Street, but there
9 are some commercial properties which do not.
10 So you have this problem that properties along
11 H Street are subject to design guidelines,
12 they get the FAR bonus, but there is
13 properties just off of H Street, which are
14 visible from H Street and for all practical
15 purposes, the only difference is they don't
16 front directly on H Street, which are not
17 subject to the overlay.

18 So we felt this was an error in the
19 original overlay and that's what we are here
20 to try and correct.

21 CHAIRMAN HOOD: And some of the
22 inconsistencies, you know, we're not supposed

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1 to be inconsistent with the Comp Plan, did you
2 try to get some of these amendments into the
3 latest version of the Amendments of the Comp
4 Plan through the Council?

5 MR. RONNEBERG: Well, if you look
6 at the letter we originally sent the Office of
7 Planning, if you go to page 2?

8 CHAIRMAN HOOD: Yes.

9 MR. RONNEBERG: Our initial basis
10 for working for this case was the things that
11 -- the areas which were asking for the
12 rezoning, were really, according to the Comp
13 Plan at the time, supposed to be residential.

14 So we originally went and asked
15 that some things be down-zoned to residential.

16 Office of Planning felt that the Map was in
17 error and they initiated the amendments to
18 change those areas from residential to mixed-
19 use, lower-density mixed-use.

20 So we feel that our amendments are
21 not inconsistent with the Comp Plan, which is
22 the standard that Office of Planning uses.

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1 Whether -- I mean, it doesn't speak -- the Map
2 doesn't speak to whether the overlay should be
3 here or not, north of H or south of H. I
4 mean, we just think that it is -- it was the--
5 it certainly was the intent of people who made
6 this H Street Strategic Plan and then the
7 Zoning Overlay that commercial areas be
8 subject to the design guidelines and the FAR
9 bonus and all these things.

10 And there is just some properties
11 that were left out of the original overlay.
12 And we are trying to incorporate them now.

13 CHAIRMAN HOOD: Okay. Now, one of
14 your statements, you addressed the audience.
15 Is there a variety of support to do this?

16 MR. RONNEBERG: Yes, certainly
17 within the ANC.

18 CHAIRMAN HOOD: What about outside
19 of the ANC? I mean, in my neighborhood,
20 everybody looks to the ANC. I mean, I'm
21 probably one of the few, right, within my
22 block that go to the ANC meetings.

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1 MR. RONNEBERG: I think -- I mean,
2 the main thrust of this is, you know, there
3 are some things that would not be allowed
4 under this. You know, Checkers, a drive-
5 through, and primarily, you know, despite what
6 zoning says, that is primarily a residential
7 area.

8 You wouldn't have -- drive-throughs
9 wouldn't be allowed. These, you know,
10 towering -- there is a picture of --

11 CHAIRMAN HOOD: So Checkers has a
12 drive-through?

13 MR. RONNEBERG: Huh?

14 CHAIRMAN HOOD: Does that Checkers
15 have a drive-through?

16 MR. RONNEBERG: Yes, it does.

17 CHAIRMAN HOOD: Okay. I never stop
18 there.

19 MR. RONNEBERG: And it is primarily
20 because it is a C-3-A Zone, so the gas station
21 at 1400 Maryland Avenue, you know, they were
22 permitted, but if this had been in place

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1 before then, a gas station would not be
2 permitted.

3 We think that since this is a
4 primarily residential area, a gas station
5 ideally wouldn't be allowed. We -- you know,
6 ANC-6A fought that case for months and months.

7 Ultimately, the BZA held that -- permitted a
8 gas station at that and so, you know, we
9 understand that. We live with that. We are
10 trying to correct problems as they may occur
11 in the future..

12 CHAIRMAN HOOD: Okay. All right.
13 Well, I thank you both. Mr. Ronneberg, I know
14 you have been very vigilant and active in the
15 ANC and doing diligent work and, again, we
16 want to commend the new Commissioner for
17 taking on the task.

18 Let me open it up. Colleagues, any
19 questions or comments? Commissioner May? Oh,
20 actually, we're going to either the Office of
21 Planning or Mr. Ronneberg, ANC.

22 COMMISSIONER MAY: My question

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1 actually -- my first question is for the
2 Office of Planning. I understand some of what
3 you wrote in your report and understand the
4 logic of it, but I'm a little confused by --
5 and I'll focus specifically on Area 3.

6 I'm confused about the argument
7 there that somehow adding the H Street Overlay
8 is inconsistent with the Comprehensive Plan,
9 because it is already zoned commercial and the
10 overlay, I mean, I'm not sure why applying the
11 overlay to those properties would somehow be
12 inconsistent with the Comprehensive Plan.

13 Can you explain that to me?

14 MR. JACKSON: Well, when looking at
15 the Comprehensive Plan, well, I mean, more
16 specifically looking at the Strategic Plan for
17 the street and looking at the illustrations
18 that were provided with it, the focus, the key
19 focus is H Street. It's not on the side
20 streets.

21 And, in fact, in that plan, the
22 reference that is made to those properties is

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1 really a reference that it will -- it could
2 support redevelopment of the library. So it's
3 not a corridor. It's not -- it doesn't face
4 any commercial use. In fact, the opposite --
5 on the opposite side of the street is -- it
6 probably was a residential property, but now
7 it is a community garden.

8 COMMISSIONER MAY: Yes.

9 MR. JACKSON: So extending the
10 active retail back into, essentially, a
11 residential section of the street is
12 inconsistent with the goals that were aligned,
13 that appear to be aligned, in the H Street
14 Strategic Plan.

15 COMMISSIONER MAY: But it is
16 already rezoned commercial.

17 MR. JACKSON: Yes.

18 COMMISSIONER MAY: So it could
19 already be an active retail.

20 MR. LAWSON: The difference would
21 be that under the overlay, it would be
22 required to have that retail component.

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1 COMMISSIONER MAY: Required to have
2 it? Okay.

3 MR. LAWSON: Whereas, under the
4 existing zoning under C-2-A, it could have a
5 retail component or could be all residential.

6 COMMISSIONER MAY: Okay. Right.
7 Okay. It is a little -- it does seem to be a
8 bit of a gap in the planning of the zoning
9 that it was not more consistently addressed,
10 because it is just sort of odd to be thinking
11 only about a singular street frontage and not
12 be thinking about the retail that is naturally
13 going to turn the corner in some of these
14 circumstances. So that's why it's a little
15 unusual.

16 MR. LAWSON: In a way, it's
17 interesting as we look through some of the
18 documentation that kind of led up to all of
19 this and looking at the original zoning. It
20 is kind of odd to have little pockets of C-2-A
21 like this that are kind of floating out there.

22 COMMISSIONER MAY: Yes.

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1 MR. LAWSON: And that is, I feel,
2 very much reflective of the planning at the
3 time.

4 COMMISSIONER MAY: Yes.

5 MR. LAWSON: Because prior to the H
6 Street Overlay, that was all C-2-A. And then
7 they took the properties that fronted on H
8 Street and, as you can see, the line is very
9 distinct. It literally follows the outlines
10 of the properties themselves, the zoning --
11 the overlay line which changed the zoning to
12 the properties to be included in the overlay.

13 It follows the properties that
14 front onto H Street and specifically excluded
15 all of those properties that do not front onto
16 H Street. So I understand. I totally get
17 what you are saying, because it does look kind
18 of odd having these little pieces, but it was
19 a very conscious effort.

20 COMMISSIONER MAY: Yes.

21 MR. LAWSON: And a very conscious
22 decision at the time that the overlay was

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1 created back in 2006 to do just that.

2 COMMISSIONER MAY: Okay. So since
3 the District owns that, those three lots, and
4 the only thing that was discussed, although I
5 know this is not our specific plan to do so,
6 but what normally was discussed was the
7 possible use of that property in support of
8 the redevelopment of the library at that
9 corner.

10 You are saying that that
11 redevelopment of the library could not happen
12 or the use of that space as parking for the
13 library could not happen if the overlay were
14 extended onto that property?

15 MR. LAWSON: No, we're not saying
16 that.

17 COMMISSIONER MAY: You're not
18 saying that?

19 MR. LAWSON: No.

20 COMMISSIONER MAY: Okay. Because I
21 thought that the implication of a plan, the
22 overlay, is that it would require that ground

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1 floor retail on all properties?

2 MR. LAWSON: It would require
3 ground floor retail if the property was
4 redeveloped. Mr. Ronneberg was absolutely
5 right, the overlay would only kick in once a
6 redevelopment application for any of the
7 properties --

8 COMMISSIONER MAY: For the
9 redevelopment proving that those -- that grass
10 to make it into a parking lot would be a
11 redevelopment, right?

12 MR. JACKSON: Well, currently,
13 there is actually a sign on the property that
14 said -- that makes reference to parking. Now,
15 I'm not sure who is operating it, but --

16 COMMISSIONER MAY: I mean, do we
17 see -- I thought I saw an image of it that it
18 indicated that it was just -- you're saying it
19 is a parking lot right now?

20 MR. JACKSON: Right now, it's
21 chained, but there is a sign that makes
22 reference to parking.

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1 COMMISSIONER MAY: Well, it looks
2 like it is grass from the aerial photo.

3 MR. JACKSON: Yes.

4 MR. LAWSON: I think what you are
5 getting at is that under the overlay, there is
6 a prohibition on parking lots. Now, I don't
7 think that anybody is actually proposing over
8 the long-term that this property be a parking
9 lot.

10 COMMISSIONER MAY: I hope not.

11 MR. LAWSON: But the overlay does
12 list a number of uses that are prohibited and
13 one of those is a parking lot. So it would
14 preclude the possibility of that.

15 COMMISSIONER MAY: Okay. Well,
16 even if it were just redeveloped, the entire
17 site were redeveloped for library use, would
18 that somehow be prohibited by the
19 classification?

20 MR. LAWSON: I don't believe so. I
21 don't believe so.

22 COMMISSIONER MAY: Okay. So but

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1 what probably would not work is that it could
2 -- those three properties could not be resold
3 and used for townhouses? That could not
4 happen under the overlay?

5 MR. LAWSON: I don't believe so.

6 COMMISSIONER MAY: Okay. All
7 right.

8 MR. LAWSON: Now, and I was
9 thinking I don't believe so.

10 COMMISSIONER MAY: Okay.

11 MR. LAWSON: Because we could, if
12 the Commission was interested in including
13 this in the overlay, we could look at the
14 wording and look at what would be required on
15 these properties.

16 COMMISSIONER MAY: Yes.

17 MR. LAWSON: Now, currently in this
18 area, there are certain ground floor uses that
19 are required, whether that requirement would
20 have to extend to this property, I think that
21 would be up for -- that could be up for
22 additional discussion.

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1 Under the current wording of the
2 overlay, my understanding of it, is that it
3 would be -- it would require that ground floor
4 retail or arts or entertainment space, it
5 could also be a club or it could be, you know,
6 an artist, you know, performance or, you know,
7 that kind of space as well, in fact, that's
8 what the overlay is more encouraging than
9 retail.

10 COMMISSIONER MAY: Yes.

11 MR. LAWSON: But if the Commission
12 was so inclined to include this within the
13 overlay, we could look at wording that would
14 exempt those properties from that specific
15 requirement, if the Commission wanted to go
16 that route.

17 COMMISSIONER MAY: Yes. Okay. I
18 guess then I would turn the question back to
19 the ANC and you all can -- whoever wants to
20 take this on.

21 Is it -- you know, we talked about
22 applying the overlay as if it is a relatively

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1 benign application of some additional
2 restrictions on the development -- future
3 development of a given piece of property.

4 But what the Office of Planning is
5 suggesting is that, in fact, by applying it,
6 it is making the -- this zoning change would
7 be inconsistent with the Comprehensive Plan,
8 because of some of the prohibitions that are
9 associated with it.

10 So I'm wondering whether you have
11 that same view of what the intention is here
12 and what you imagine, you know, just focusing
13 on this one particular piece of property, what
14 the intention might be. I mean, are you
15 trying to see that it be developed a certain
16 way? Are you just trying to make sure that if
17 it is commercial, that it follows the H Street
18 Guidelines?

19 MR. RONNEBERG: Mainly the latter.

20 That it is our interest is more into making
21 sure that it fronts the street. It has, you
22 know, good urban design characteristics that

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1 were codified in the overlay than anything.
2 That's the primary thing.

3 There may be some -- and I'm not
4 familiar. I have to apologize. I'm not
5 familiar with the overlay requiring commercial
6 use, but I could be wrong about that. I
7 thought that it requires -- it actually limits
8 certain noncommercial -- certain commercial
9 uses that don't conform to the preferred
10 commercial uses in the overlay.

11 But the primary intent of our
12 request is the design guidelines and ensuring
13 that buildings look appropriate for H Street.

14 And that's why, quite honestly, when we look
15 at Area 5 and why I made the statement that if
16 the Zoning Commission doesn't see the benefit
17 of the down-zoning because of the symmetry
18 with the area south of H Street, we would be
19 happy just to take the design guidelines or
20 excuse me, the overlay aspect of that.

21 COMMISSIONER MAY: Yes. I'm sorry,
22 which area was that? That was the --

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1 MR. RONNEBERG: Area 5 on Exhibit
2 1, the Map.

3 COMMISSIONER MAY: Okay.

4 MR. RONNEBERG: We did request
5 that, in addition to the overlay, it be down-
6 zoned from C-3-A to C-2-A. And that was
7 mainly because of the symmetry with properties
8 on fronting Maryland Avenue.

9 COMMISSIONER MAY: Yes.

10 MR. RONNEBERG: But if the Zoning
11 Commission doesn't feel that the down-zoning
12 is appropriate, but feels that the -- bringing
13 the overlay to that area is appropriate, we
14 would be happy with that conclusion.

15 COMMISSIONER MAY: Yes. Yes, that
16 was one of the notes I made is that those two
17 changes could be separable. You could just
18 consider the application of the overlay, but I
19 thought it was an easier case to just be
20 thinking about the 13th Street properties as we
21 think about this in the abstract.

22 I think I need to understand the

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1 overlay requirements a little bit more clearly
2 to understand whether, in fact, the
3 application of the overlay to either of these
4 properties on 13th or on 14th as we turn the
5 corner would, in fact, make the change or make
6 the -- the application of the overlay in those
7 circumstances would, in fact, be inconsistent
8 with the Comprehensive Plan.

9 So I don't really have any other
10 questions. I'm not sold on the proposed
11 change to Area 7, because it just seems
12 removed enough from the H Street. I mean, the
13 purpose of H Street, I mean, it may in some
14 way be beneficial, but it just seems, as I
15 said, a bit far removed.

16 It is outside that area indicated
17 in the Comprehensive Plan for the commercial
18 use. Anyway, it is an anomalous thing that
19 happens to be there. It is not inconsistent
20 with the Comp Plan, but it is -- there is no
21 driving reason why it needs to be part of it,
22 in my view.

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1 MR. RONNEBERG: Commissioner May,
2 could you look at some of the photographs we
3 have on --

4 COMMISSIONER MAY: Yes.

5 MR. RONNEBERG: -- the architecture
6 and buildings are certainly consistent with
7 the surrounding area.

8 COMMISSIONER MAY: Yes.

9 MR. RONNEBERG: So we would not
10 like to see that demolished and, you know, a
11 surface parking lot replacing it or something
12 like that. And, you know, in addition to --
13 the overlay has two aspects. It has as -- the
14 design requirements and guidelines, but it
15 also gives the owners additional bonus density
16 if they choose to preserve the facades.

17 COMMISSIONER MAY: Yes.

18 MR. RONNEBERG: So it does have
19 incentives --

20 COMMISSIONER MAY: Okay.

21 MR. RONNEBERG: -- built in.

22 COMMISSIONER MAY: Well, I guess as

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1 I'm studying the overlay more carefully, I'll
2 think that -- try to think that one through.
3 That's it with questions for me.

4 CHAIRMAN HOOD: Okay. Any other
5 questions? Commissioner Turnbull?

6 COMMISSIONER TURNBULL: Thank you,
7 Mr. Chair.

8 CHAIRMAN HOOD: Thank you, Mr.
9 Turnbull.

10 COMMISSIONER TURNBULL: I just
11 wanted to make -- I was going to make a joke
12 and say madam, but then I thought no, I better
13 not, so I played it straight.

14 I just wanted to note that I have
15 read the record since the last hearing, thanks
16 to Ms. Schellin. Thank you.

17 And I guess looking, I've got a
18 couple of questions. And as I understand it,
19 Area 6 is now out of consideration, that's
20 going to remain HS-A/C-3-A? It remains that.

21 And I guess looking at office -- I was very
22 convinced by the Office of Planning, when I

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1 first read their analysis of the situation,
2 but I have a couple of questions which relate
3 to it.

4 The Area 2 and Area 1, basically,
5 I'm assuming that the Comp Plan shows this
6 area as designated to go to C-2-A, but this
7 would allow that change?

8 MR. LAWSON: That's correct. The
9 Amendment to the Comprehensive Plan that is
10 before Council right now, would make it clear
11 that this is intended to be a low- to
12 moderate-density mixed-use area, which is kind
13 of in character with the existing development
14 in the area, but would actually facilitate
15 either the existing zoning or the zoning that
16 is proposed as part of this amendment. So
17 either one would be acceptable.

18 I should just note, by the way, you
19 know, I hope the Office of Planning didn't
20 kind of exacerbate some confusion about Area 6
21 and that's -- I know this is a little off
22 topic and I apologize for that, but the area

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1 at H Street and 14th Street, that was certainly
2 the area that caused us the most concern of
3 the areas that we thought were being brought
4 forward by the ANC.

5 So I would say that we are very
6 supportive and we appreciate that kind of
7 coming off the table. And if we kind of
8 caused that confusion, our apologies for that.

9 COMMISSIONER TURNBULL: Okay. I
10 guess getting back to what Commissioner
11 Ronneberg had asked about Area 5, sort of the
12 newer image scenario. And his thought was now
13 to leave it as in the C-3-A, but put it under
14 the guidelines of H Street. How does that
15 work then with that kind of an approach?

16 MR. LAWSON: If it's a sliding
17 scale, I guess, we would say that that is
18 probably a little bit better. We were
19 certainly very concerned about the down-
20 zoning, potential down-zoning of that
21 property.

22 Our concern is, you know, as Mr.

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1 Jackson pointed out, that, and it relates kind
2 of to both Area 3 and Area 5 and certainly to
3 the alley lots, Areas 4 and 7, is we are not
4 quite sure what those guidelines are and how
5 they relate to these properties.

6 The guidelines are very specific
7 for the H Street Commercial Corridor. And
8 that's what the design review by the BZA is
9 intended to address. And it is very specific
10 for streetscape improvements, facade
11 improvements or new buildings, how the facade
12 will look, how the pedestrian will experience
13 it, you know, fenestration, security graphs,
14 it's about as detailed an overlay as we have
15 got, in terms of design.

16 And it is all centered on H Street.

17 And to kind of take out this section of
18 Florida, we are not quite sure how the BZA
19 will, quite frankly, address that when they
20 look at those design issues.

21 We did see the relationship for the
22 properties that were proposed to be brought

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1 forward, you know, the areas in Area 2,
2 because it is kind of a consistent streetscape
3 character. It's kind of a broader swath, I
4 guess --

5 COMMISSIONER TURNBULL: Yes.

6 MR. LAWSON: -- where a streetscape
7 is being created. That's less -- we just see
8 that as being slightly less the case for these
9 other two properties where it is -- where
10 while I understand the desire to put them
11 under the same rules as the H Street Overlay,
12 we don't see that putting them under those
13 rules would accomplish a significant benefit,
14 but would subject those properties to that
15 additional review and those additional
16 restrictions and, as they were saying, the
17 additional whites or bonuses that are
18 established under the overlay.

19 COMMISSIONER TURNBULL: I agree
20 with your -- with OP's analysis for Area 4 and
21 7. I think there is a difficulty in applying
22 the guidelines to those areas. I guess the

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1 ones I'm struggling with are Area 3 and Area
2 5, if keeping the same zoning and yet, putting
3 them under the guidelines, because there are
4 very visible aspects in applying the street
5 frontage regulations to them.

6 That's the only thing that I think
7 I'm wavering on is is there an option there
8 that may lead us to include those? And I'm
9 not sure, again, like as you say, how that
10 weighs in with the Comp Plan and how the BZA
11 in anything that comes before it would be
12 looking at this, other than that it is an
13 extension of the H Street Overlay.

14 And I'm torn. I'm looking for some
15 guidance on how we might look at this. Now,
16 I'm fairly convinced that your analysis of 4
17 and 7, I think, are quite good. At this point
18 in time, we are not at liberty to go ahead, I
19 think, and just jump in and include those.

20 But I am struggling with Area 3 and
21 5.

22 MR. LAWSON: I will just -- I do

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1 just want to make one point regarding Areas 4
2 and 7. I think that the ANC is raising some
3 very legitimate points related to the
4 development on those lots. And that's why the
5 Zoning Commission and the Office of Planning
6 are looking at alley lots through the ZRR
7 process.

8 And we would be -- we are looking
9 forward to taking the comments, you know,
10 back, but related to these properties, to the
11 ZRR process to see, you know, where the
12 regulations themselves on a more broad scale
13 related to alley lots, in general, should
14 maybe be more reflective of the condition of
15 alley lots in the District.

16 Particularly, kind of in this part
17 of the world, this part of the city where
18 there are a relatively high number of alley
19 lots, unlike some other parts of the city.

20 COMMISSIONER TURNBULL: Would this
21 be strictly a Zoning Reg issue or it's also a
22 Comp Plan?

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1 MR. LAWSON: We see it as -- well,
2 in terms of ZRR, it is very much a Zoning Reg
3 issue. Although, there is language in the
4 Comprehensive Plan that is directing us to
5 look at alley lots and how we regulate
6 development on alley lots, in general, which
7 is why we are doing it and which is why the
8 Zoning Commission has started to receive some
9 of that language.

10 COMMISSIONER TURNBULL: Okay.
11 Thank you.

12 CHAIRMAN HOOD: Okay. Any other
13 questions? Okay. We don't have anything from
14 ANC-5B? I have a list with two names I'm
15 going to call. And I think, Commissioners,
16 you can just hold your seat. Just hold your
17 seat.

18 Mr. Kelty and Danielle Smith, I
19 believe, Ms. Smith. Is there a Danielle
20 Smith? Okay.

21 Now, Mr. Kelty is in opposition.
22 Ms. Smith, you have not identified. You can

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1 come forward, but I just wanted to note,
2 because if you are in support, you would go
3 first. Actually, you can go first anyway.
4 Let's just do that. That saves me from having
5 to think too much.

6 Could you take a seat and identify
7 yourself and then we'll go from there. Turn
8 your microphone on, so we can hear you.

9 MS. SMITH: Like that?

10 CHAIRMAN HOOD: There you go.

11 MS. SMITH: Okay. I got a letter
12 and I was seeing that my property was part of,
13 I guess, what you guys are looking at today.
14 And then I was talking with him and he said
15 maybe I think you have revised it, so I'm not
16 even sure if I'm affected any longer.

17 So I'm Lot 1026. I'm on Florida
18 Avenue, 1389 Florida Avenue.

19 CHAIRMAN HOOD: You say your lot is
20 1026?

21 MS. SMITH: Yes.

22 CHAIRMAN HOOD: Are we doing

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1 anything, Mr. Jackson, with 1026?

2 MS. SMITH: Because it was -- it--

3 I mean, I --

4 CHAIRMAN HOOD: Is there a file?

5 MS. SMITH: I'm here because I got
6 the letter.

7 MR. RONNEBERG: Some of it is Area
8 5.

9 CHAIRMAN HOOD: Area 5. Why don't
10 we do this? Ask your question and we will get
11 the answer either from Mr. Ronneberg who is
12 proposing all of this or we will go to the
13 Office of Planning at that point.

14 MS. SMITH: Okay. Okay. Well, my
15 question is when I bought the property it was
16 C-3-A. And then the letter that I got was
17 that you want to change it to C-2. And I want
18 to make sure that it is staying C-3.

19 CHAIRMAN HOOD: So you would be not
20 in favor of any zoning change on your
21 property.

22 MS. SMITH: No.

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1 CHAIRMAN HOOD: Mr. Ronneberg, do
2 you want to -- I'm sorry, Vice Chairman, did
3 you want to comment?

4 VICE CHAIRMAN SCHLATER: I just
5 wanted to clarify that I think one option that
6 is on the table is to maintain zoning at C-3-
7 A, but make the subject property subject to
8 the H Street Overlay. And do you understand
9 the implications of having the property
10 subject to the H Street Overlay?

11 MS. SMITH: No. I kind of am
12 getting what you guys are saying through what
13 has been said so far, but I have not seen the
14 H Street Overlay stipulations.

15 CHAIRMAN HOOD: Okay. And while I
16 know that is on the table, that will not be,
17 at least from my standpoint, until we get
18 further clarification on how we are going to
19 move with that additional H Street.

20 I would not be recommending that we
21 move in that fashion. I think from what I'm
22 hearing, we really are looking at Areas 1 and

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1 2 for now.

2 We can come back and revisit that
3 option. We are now talking about, I think,
4 Mr. Lawson has agreed to go back and kind of
5 help us to understand more of what is
6 permitted and not permitted, I think, in the H
7 Street. And I think, Commissioner May, that's
8 kind of where you were going. Am I correct?

9 COMMISSIONER MAY: Yes. I think
10 there is a sort of separate issue of what
11 happens when in these couple of circumstances
12 when the -- where it is proposed that the
13 overlay be wrapped around the corner at 13th
14 and 14th.

15 CHAIRMAN HOOD: Okay.

16 COMMISSIONER MAY: So I think that
17 is sort of a separate issue that I need to get
18 sorted out, whether Office of Planning can
19 help me sort it out or whether I have to do it
20 myself.

21 CHAIRMAN HOOD: Well, we are going
22 to ask for some assistance, because by

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1 Thursday, I don't know about you, but the
2 hearing we are going to have Thursday, I will
3 have forgotten all about this hearing today.
4 So we are going to ask for some assistance
5 from the Office of Planning to assist us with
6 that. Okay. Thank you, Mr. Lawson.

7 But my concern is that Ms. Smith,
8 we need to make sure that she also understands
9 that. And I'm just trying to figure out the
10 mechanism to the report that we get, that we
11 make sure that you receive that report,
12 because you are one of the folks that are
13 affected.

14 And I appreciate you coming down.
15 But let me see, do you have any other
16 questions for us?

17 MS. SMITH: No. I would like to,
18 as a resident in the area, find out, even if
19 it doesn't affect me in the long run, what is
20 going to -- what the decisions are going to be
21 made as far as H Street. Because I'm one
22 block away. It would affect me, affect my

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1 resale, you know.

2 CHAIRMAN HOOD: Right. Do you
3 attend ANC meetings? Do you attend your ANC
4 meetings? Not that that's a requirement, but
5 I'm just curious, do you attend?

6 MS. SMITH: I haven't, but --

7 CHAIRMAN HOOD: You're starting --

8 MS. SMITH: I --

9 CHAIRMAN HOOD: Now, Mr. Ronneberg,
10 you show her how to get into the meeting.
11 Okay. I think that's good. I think you have
12 a very active ANC who work very hard and I'm
13 sure that some exclamations can be handled
14 there. I'm sure that they will keep you
15 informed of exactly what they are proposing.
16 And I'm sure they will listen to you, because
17 that's why they are elected.

18 MS. SMITH: Okay.

19 CHAIRMAN HOOD: I'm sure they will
20 listen to you.

21 MS. SMITH: Okay. Thank you.

22 CHAIRMAN HOOD: So again, that was

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1 Area 5, I believe, correct?

2 Commissioners, any other comments
3 on Mrs. Smith's concern or needing further
4 clarification?

5 Ms. Schellin, I'm going to ask you
6 to help me figure out how we get that to her.

7 Maybe Office of Planning can help us once we
8 spread the overlay --

9 MS. SCHELLIN: Office of Planning
10 has just indicated that they will take care of
11 that.

12 CHAIRMAN HOOD: Oh, okay. Great.

13 MS. SCHELLIN: So she can contact
14 them and they will help her.

15 MS. SMITH: Okay.

16 CHAIRMAN HOOD: Okay.

17 MS. SMITH: Thank you.

18 CHAIRMAN HOOD: Great. Okay.

19 Let's go to Mr. Kelty. Hopefully I pronounced
20 that correctly. Mr. Kelty, let me understand,
21 you are in opposition? Just try it again. Is
22 the light green? It's not? If you -- yes,

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1 there you go.

2 MR. KELTY: Yes. My name is Joel
3 Kelty and I am in opposition. I have some --
4 I have a prepared statement. I also have a
5 copy I can provide to the Commission after I
6 am done.

7 My name is Joel Kelty. I'm an
8 architect, a developer and a resident of Ward
9 6. My firm Century Associates owns commercial
10 property in Square 1027, specifically, 1365,
11 1369 H Street, also known as the H Street
12 Playhouse.

13 While we take no position on the
14 extension of the H Street Neighborhood
15 Commercial Overlay, we do believe that the
16 proposed down-zoning of commercial property in
17 the H Street Corridor runs counter to the
18 overall goals of the Comprehensive Plan, the H
19 Street Strategic Development Plan and future
20 economic, social and cultural well-being of
21 the neighborhood.

22 We feel this way for three primary

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1 reasons:

2 Number one, reducing density is
3 inconsistent with encouraging development as
4 outlined in the Comprehensive Plan and the H
5 Street Strategic Development Plan. The Comp
6 Plan calls for directing growth specifically
7 to H Street. Policy CH-1.1.4 stipulates that
8 mixed-use development with ground floor retail
9 and upper floor residential uses should be
10 encouraged in the H Street/Benning Road
11 Corridor.

12 The plan encourages redevelopment
13 of Commercial Zones to provide "needed housing
14 and retail services" and indicates that such
15 development will reinforce the fabric of the
16 neighborhood by helping to relieve economic
17 pressures that, otherwise, result in
18 conversion of residential properties to
19 alternate uses.

20 Down-zoning from C-3-A to C-2-A
21 will adversely impact opportunities for
22 medium-density mixed-use development and will

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1 do nothing to relieve development pressure on
2 property in the surrounding R-4 Zone.

3 The second reason why we are
4 opposed to this is that additional residential
5 development is actually required in order to
6 support neighborhood retail uses.

7 The H Street Strategic Development
8 Plan acknowledges that people only walk 1,200
9 to 1,500 feet for retail. In order for
10 neighborhood retail to survive on H Street,
11 the street needs significant numbers of
12 additional residents.

13 Because the corridor is surrounded
14 by the R-4 Zone, the only logical place to put
15 large numbers of additional residents is in
16 mixed-use buildings in the corridor itself.

17 The plan specifically acknowledges
18 the appropriateness of this approach and calls
19 for attracting investment, encouraging the
20 renovation of existing storefronts and
21 buildings, attracting small office and
22 apartment uses in upper story spaces and

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1 encouraging infill development on vacant and
2 under-utilized sites.

3 The proposed down-zoning
4 contradicts the recommendations of the H
5 Street Strategic Development Plan.

6 Our third and final reason for
7 opposition is that higher-density development,
8 as currently allowed, will eventually prevent
9 undesirable land uses.

10 Policy CH-1.1.6 of the Comp Plan
11 suggests that fast food outlets, service
12 stations, convenience mini marts and other
13 drive-through businesses should be prevented
14 along the H Street Corridor. And, frankly, we
15 agree with that.

16 Down-zoning will actually encourage
17 such low-density uses and not prevent them.
18 The most effective approach for preventing
19 undesirable low-density land uses is to retain
20 the existing C-3-A Zoning in the proposed
21 area, perhaps with Overlay Zoning to provide
22 additional land use control.

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1 The existing allowable density will
2 result in land values that are capable of
3 supporting desirable redevelopment in the
4 future when market conditions permit.

5 Prudent owners or future buyers
6 will replace low-density undesirable land uses
7 with moderate-density mixed-uses in order to
8 realize maximum value from their assets.

9 In conclusion, while we take no
10 position on the proposal to extend the H
11 Street Neighborhood Commercial Overlay to the
12 subject lots, we do oppose down-zoning any
13 property in the C-3-A Zone to C-2-A.

14 It is our position that doing so is
15 counter to the goals and objectives of both
16 the Comprehensive Plan and the H Street
17 Strategic Development Plan. It will
18 discourage redevelopment of under-utilized
19 property along the H Street Corridor. And it
20 will do nothing to discourage automobile
21 filling stations, fast food restaurants,
22 drive-through uses and other undesirable and

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1 incompatible land uses.

2 CHAIRMAN HOOD: Okay. Thank you,
3 Mr. Kelty. Let me make sure I understand.
4 Now, you have property at Square 1027?

5 MR. KELTY: Correct.

6 CHAIRMAN HOOD: Okay. But you are
7 speaking, you are also including an area -- I
8 think you have an Office of Planning report?

9 MR. KELTY: We are interested in
10 everything in Square 1027.

11 CHAIRMAN HOOD: Oh, just 1027.

12 MR. KELTY: Yes. As I live in the
13 neighborhood as well and I have a general
14 personal interest or specific business
15 interest that relates to that square.

16 CHAIRMAN HOOD: Okay. But your
17 comments were anything that changes from C-3-A
18 to C-2-A. So that would also include like,
19 for example, Area 2.

20 MR. KELTY: Let me look at Area 2.
21 Area 2 is the specific area that we are
22 concerned about.

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1 CHAIRMAN HOOD: Okay.

2 MR. KELTY: And I have to say, I
3 see eye-to-eye with Drew and I really have
4 appreciated everything that he has done in his
5 -- you know, so far. I am opposed to the 1400
6 now. I don't think Checkers is an appropriate
7 land use in the neighborhood, but this isn't
8 the way to solve it.

9 CHAIRMAN HOOD: Okay.
10 Commissioners, any questions?

11 COMMISSIONER TURNBULL: I guess
12 just one. Would you see us keeping it as C-3,
13 but in putting the HS Overlay over it?

14 MR. KELTY: I think that's a great
15 idea. We would support that. However, I do
16 have concerns about enforcement of that. I
17 live in 6C at the other end of the street and
18 we have a retail property there that is flat
19 out violating the H Street design requirements
20 and it is heartbreaking.

21 So if we are going to have this H
22 Street Overlay, we have got to have, you know,

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1 it even handled and consistent enforcement.

2 CHAIRMAN HOOD: So sorry to hear
3 that. I really am. We --

4 MR. KELTY: And I'm not going to--
5 I would be happy to tell you the property off
6 the record, but I'm not going to air my
7 laundry.

8 CHAIRMAN HOOD: Well, we have to
9 keep everything on the record. But anyway,
10 eventually, it will get back to us. We will
11 figure out what it is.

12 Any other questions or comments?
13 Okay. All right. I want to thank you both
14 for your testimony and also your concerns and
15 we will talk about it as we move forward.

16 MR. KELTY: Would you like a copy
17 of this?

18 CHAIRMAN HOOD: Yes. You can turn
19 that in to staff, to the staff, the statement
20 you can give to the staff to my left.

21 Okay. Let me just do a recap,
22 Commissioners, before we -- I don't know if we

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1 are going to deliberate or how we are going to
2 do this. Let me just do a recap.

3 I think Areas 1 and 2 are the
4 concern that we heard just from Mr. Kelty
5 about Area 2. I think that that's what
6 everybody agrees on that, with the exception
7 of the opposition that Mr. Kelty is concerned
8 with anything that is Zoned C-3-A to C-2-A.

9 Now, let's look at the two alley
10 lots, 4 and 7.

11 COMMISSIONER TURNBULL: Mr. Chair?

12 CHAIRMAN HOOD: Sure.

13 COMMISSIONER TURNBULL: Let me just
14 interrupt you. I wonder if Office of
15 Planning, Mr. Lawson, could just comment on
16 Mr. Kelty's --

17 CHAIRMAN HOOD: Okay.

18 COMMISSIONER TURNBULL: -- in other
19 words, remain or leaving it at C-3, but
20 putting the HS Overlay Guidelines on it? How
21 does that fall out with your thinking?

22 CHAIRMAN HOOD: Are we talking

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1 about Area 2 or Area 7?

2 COMMISSIONER TURNBULL: Area 2.

3 CHAIRMAN HOOD: Area 2, okay.

4 Well, that's fine. Thank you, Mr. Turnbull.

5 That saves me. Mr. Lawson?

6 MR. LAWSON: Sure. As Mr. Jackson
7 noted, I think Mr. Jackson noted earlier, with
8 the Comp Plan Map Amendment that is going
9 forward right now, we think either C-2-A or C-
10 3-A would be, you know, not inconsistent with
11 the Comprehensive Plan, which is the major
12 factor, obviously. C-3-A allows a higher form
13 of density than C-2-A.

14 Placing it -- retaining the C-3-A
15 Zoning and placing it within the HS Overlay
16 would address some of the issues, I think,
17 that have been raised regarding potential uses
18 on those property, because the overlay does
19 prohibit or restrict some uses that the base
20 zoning does not.

21 So it might address some of the use
22 issues. I'm not going to speak for the ANC.

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1 If they had issues in that area regarding the
2 intensity of the development itself, then,
3 obviously, it wouldn't address those issues of
4 their's.

5 I am getting the suspicion that the
6 Chair is going to ask the Office of Planning
7 for some additional kind of very directed
8 analysis of if this is in the overlay or if
9 it's not, exactly what does that mean to these
10 properties? Do you get more density? Do you
11 get less density? Do you get more review? Do
12 you get less review? Those kinds of
13 questions.

14 If the Commission is interested, we
15 would be happy to provide that level of much
16 more kind of detailed and almost line-by-line
17 under the H Street Overlay specific detail for
18 Area 2, in addition to Areas 3 and 5, which
19 might answer some of the questions of both the
20 opponent and the ANC and the Commission of,
21 you know, just what are the exact implications
22 of placing this overlay on these individual

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1 properties, whether it is rezoned or not.

2 CHAIRMAN HOOD: Okay. And you're
3 exactly right, Mr. Lawson. We are going to be
4 asking for that. Let's put that in the
5 parking lot. We're going to come back to
6 that.

7 I'm just trying to go through each
8 one of the areas. I know what Mr. Ronneberg
9 has asked for. I know what the Office of
10 Planning and I know what we feel. And I'm
11 just trying to recap some of what I have
12 heard. And I want to make sure I'm correct as
13 we move forward.

14 We mentioned Area 1. It seems like
15 we are all on board, including Mr. Kelty and
16 those who came in. We are all fine with 1.

17 The issue is C-3-A to C-2-A in Area
18 2 and anywhere within the area. But then when
19 we look at Area 3, we look at that as putting
20 that as the option we have in the H Street
21 Overlay attached. I believe that's what we
22 said. The H Street Overlay, we are looking at

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1 the options of Areas 3 and 5.

2 Now, 4 and 7, the alley lots. I
3 think that we said that -- I'm trying to
4 remember now. What did we say about the alley
5 lots? Commissioners, colleagues, help me.
6 What did we say? We said something. I can't
7 remember.

8 COMMISSIONER TURNBULL: Well --

9 CHAIRMAN HOOD: I didn't write it
10 down.

11 COMMISSIONER TURNBULL: -- I think
12 that the Office of Planning's report, the
13 analysis that they have is pretty clear. And
14 I could clearly read the language.

15 CHAIRMAN HOOD: Well, okay. I'm
16 sorry.

17 COMMISSIONER TURNBULL: Well, I
18 think maybe I can't find it. They are talking
19 about the alleys are not really governed. I
20 mean, it's not a streetscape issue, which is
21 what the H Street Guidelines are directed
22 toward.

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1 I'm trying to find where, Mr.
2 Chair.

3 CHAIRMAN HOOD: Well, I think I got
4 it, Mr. Turnbull. That's also something that
5 the Office of Planning is going to be looking
6 at as we go through our ZRR process.

7 COMMISSIONER TURNBULL: Right.

8 CHAIRMAN HOOD: That's what I was
9 looking for.

10 COMMISSIONER TURNBULL: Yes.

11 CHAIRMAN HOOD: Yes. So I would be
12 inclined, Commissioners, and Mr. Ronneberg and
13 everyone, to go through that process with 4
14 and 7. Mr. Ronneberg, you have been very
15 active. I'm sure you will be involved with
16 that. I'm not sure if we have passed that
17 process, looking at alleys.

18 We have asked the Office of
19 Planning and it's still ongoing. Okay. All
20 right. And now, so we did 4 and 7. We talked
21 about 3 and 5, 1 and 2.

22 And 6, I think we said 6 is off the

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1 table now, correct? Okay. So, Mr. Ronneberg,
2 did you want to say something?

3 MR. RONNEBERG: Yes. I would just
4 like to address around one point that Mr.
5 Kelty made. And that's down-zoning won't
6 prevent certain undesirable uses.

7 And I think in this case, that's
8 not true in this case. For example, a service
9 station is permitted in a C-3-A Zone, but not
10 permitted in C-2-A Zone. A drive-through
11 establishment is permitted in C-3-A Zone, but
12 not a C-2-A Zone.

13 And there is some protection
14 provided by the overlay against what we would
15 consider these undesirable uses, but, you
16 know, they can be got around by a special
17 exception, rather than by a variance.

18 So there is some uses that would be
19 -- that are inappropriate, we believe are
20 inappropriate, for this neighborhood that are
21 addressed partially by the down-zone.

22 CHAIRMAN HOOD: Okay. Thank you.

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1 Did you want to say something, Vice Chairman?

2 Okay.

3 So really, Office of Planning,
4 we're going to ask that we look at that. I'm
5 just trying to go with what the Commission is
6 going to frame what we're going to deal with
7 when we start, whether we are going to do it
8 or not.

9 We already looked at 4 and 7. I
10 think we are not going to punt it, but that's
11 going through another process with the ZRR.
12 We are looking at putting the H Street Overlay
13 on top of Areas 3 and 5, I believe.

14 Area 6 is out. And Areas 1 and 2,
15 which we get exceptional concern from Mr.
16 Kelty is that going down from C-3-A. We also
17 may want to look at under the C-3-A, as we
18 already said, putting the H Street Overlay
19 there also.

20 But those are some of the things,
21 Mr. Lawson and Mr. Jackson, that we can
22 further look into as we deliberate. I'm just

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1 trying to make sure we have a consensus. Are
2 we in agreement with 4 and 7? Let's take 4
3 and 7 and going through the ZRR process.

4 We already had that process. Can
5 we hold off on that and deal with that as we
6 go through that process?

7 COMMISSIONER MAY: Well, I would
8 actually -- what I'm -- I have a more general
9 question about whether we are actually trying
10 to edge into decision making right now or
11 deliberation right now or whether we are just
12 trying to figure out what further information
13 we need from the Office of Planning, because I
14 thought where we were heading was that we
15 would take this up for deliberation at an
16 upcoming meeting and that what we were looking
17 or was what further information we might need
18 from the Office of Planning.

19 CHAIRMAN HOOD: Well, I'm actually
20 trying to give them a little less work and
21 that's why I'm looking at 4 and 7, because I
22 know what I have heard loud and clear.

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1 COMMISSIONER MAY: Right. Well, I
2 think, I mean, if they are going to give us a
3 supplemental report, I think that it would be
4 worth it for them to explain their rationale
5 for addressing this under ZRR as opposed to
6 doing it here and now.

7 VICE CHAIRMAN SCHLATER: I also
8 would piggyback on that, Commissioner May. I
9 would ask which provisions of the H Street
10 Overlay would not be logical to apply to Areas
11 4 and 7? You know, there are some provisions
12 of that overlay that might make sense. I
13 think that's the analysis we would want to
14 look at is explain why it is not logical to
15 apply those rules to those particular lots.

16 COMMISSIONER MAY: Yes. And I
17 don't know that it is necessarily an onerous
18 analysis. Some of these things are pretty
19 straightforward, you know, having multiple
20 dwelling units, you have to have an entrance
21 off of H Street. Well, that's not going to be
22 practical.

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1 CHAIRMAN HOOD: But let me ask
2 this, typically, if we put an overlay, and we
3 may have and I just don't remember, but do we
4 put an overlay in place and then go back later
5 on and take stuff out of that overlay for a
6 certain property? Do we typically do that?

7 COMMISSIONER MAY: No. And I'm not
8 suggesting that we do.

9 CHAIRMAN HOOD: Yes. I was just
10 asking.

11 COMMISSIONER MAY: No. I'm not
12 suggesting that's where we would be heading at
13 all. It's a question of whether -- you know,
14 it's the base decision of whether it makes
15 sense to apply this overlay or whether
16 applying it would be sort of ridiculous and
17 contradictory, which is what Office of
18 Planning has suggested for these alley
19 properties.

20 CHAIRMAN HOOD: Yes, and that's
21 what I actually -- and we are kind of
22 deliberating now actually. I actually thought

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1 from what I heard in this discussion that 4
2 and 7 was being further looked at and it
3 didn't make sense. But I mean, if we want to
4 ask Office of Planning to come back and tell
5 us the same thing we heard tonight, I mean,
6 that's fine, just put it in writing.

7 I think I already heard it. I
8 don't know. I'll stand to be corrected. I
9 think I already heard it. Did I already hear
10 that, Mr. Jackson, or am I incorrect?

11 MR. JACKSON: Well, it sounds as if
12 there was -- wanted to be additional clarity
13 about what elements we would like to-- would
14 be falling into the ZRR process of the issues
15 that were raised by the ANC.

16 CHAIRMAN HOOD: Okay.

17 MR. JACKSON: So I think that
18 that's what was the question.

19 CHAIRMAN HOOD: Okay. Let me ask
20 this and I was just trying to narrow it down,
21 narrow the focus down, because I want to make
22 sure we have a discussion that makes a

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1 difference.

2 Let me ask my colleagues this. Do
3 we want information on every one, with the
4 exception of Area 6? Let me try it that way.

5 I was just trying to narrow it down. Do we
6 want Area 6, too?

7 COMMISSIONER MAY: Not Area 6.
8 Well, I mean, if we are asking the Office of
9 Planning to provide additional information on
10 any of them, I think that it would be helpful
11 for them to address all of them to the extent
12 that they think that it is appropriate, based
13 on the discussion that we have had tonight.

14 CHAIRMAN HOOD: Okay.

15 COMMISSIONER MAY: We are going to
16 be looking for additional information from
17 them. And I think that what came out tonight
18 is that we need to look at this with a little
19 bit finer grain than we were before where it
20 was just sort of a yes or no on each one of
21 these proposals.

22 We need to understand a little bit

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1 more about what the overlay means if it is
2 applied in these circumstances.

3 CHAIRMAN HOOD: Okay. So we want
4 information on every one of their areas, and
5 that's where I'm trying to go, with the
6 exception of Area 6.

7 COMMISSIONER MAY: Yes.

8 CHAIRMAN HOOD: Are we all in
9 agreement?

10 COMMISSIONER MAY: Fine.

11 COMMISSIONER TURNBULL: I think on
12 Area 4 and 7, I mean, there -- what they have
13 said on page 9, they talk about the H Street
14 Plan. They are talking overlay addressing
15 streetscape presence of buildings. And he
16 said at least properties do not front on any
17 street. As such, properties could be subject
18 to inappropriate or irrelevant guidelines in
19 design review with no land use or design
20 guidelines for the purpose of such review.

21 Then they talked about the Zoning
22 Regs and getting into that. So I think they

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1 could simply elaborate more on maybe some of
2 their facts that they had here and explain it
3 a little bit further for us.

4 CHAIRMAN HOOD: Okay. Okay. All
5 right. Well, that sounds good. Are we all on
6 the same page? Mr. Lawson, Mr. Jackson?
7 Everything except for Area 6.

8 MR. JACKSON: Right.

9 CHAIRMAN HOOD: That's the only
10 area you don't have to come back and talk
11 about, but you might as well just do that one,
12 too, but I think we all agreed we are fine
13 with Area 6.

14 And also, the Office of Planning is
15 going to be working with Mrs. Smith with that.

16 And also, could we also make sure that Mr.
17 Kelty knows especially the analysis for Area
18 2? I think is what he mentioned. And also
19 Area 7. Could we do that, Mr. Jackson, Mr.
20 Lawson?

21 MR. LAWSON: Of course.

22 CHAIRMAN HOOD: Thank you so much.

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1 Okay. Anything else? Okay. We are all on
2 the same page?

3 MS. SCHELLIN: Well --

4 CHAIRMAN HOOD: Ms. Schellin?

5 MS. SCHELLIN: -- we will set this
6 for February 7th? Does that work?

7 CHAIRMAN HOOD: Is that enough
8 time, February 7th?

9 MS. SCHELLIN: Our February 7th
10 meeting.

11 CHAIRMAN HOOD: Do we have a
12 meeting on February 7th?

13 MS. SCHELLIN: Yes, we do. It's
14 our February meeting.

15 CHAIRMAN HOOD: Is that the 2nd?

16 MS. SCHELLIN: 7th.

17 CHAIRMAN HOOD: The 7th. But I'm
18 saying, is that the second Monday?

19 MS. SCHELLIN: It's the first --
20 no, it's the first Monday, because the second
21 one is the 14th.

22 CHAIRMAN HOOD: Oh.

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1 MS. SCHELLIN: Valentine's Day.

2 CHAIRMAN HOOD: Okay. Yes, all
3 right.

4 MS. SCHELLIN: So we changed it.

5 CHAIRMAN HOOD: Yes, Valentine's
6 Day.

7 MS. SCHELLIN: Valentine's Day.

8 CHAIRMAN HOOD: So none of us get
9 in trouble and you will, too.

10 MS. SCHELLIN: So if we could have
11 their filings by, since we don't have any
12 parties, there is no responses, the 21st of
13 January, 3:00 p.m.?

14 CHAIRMAN HOOD: Okay. All right.
15 Well, thank you very much. So anything else
16 before us tonight, Ms. Schellin?

17 MS. SCHELLIN: No.

18 CHAIRMAN HOOD: Okay. I want to
19 thank everyone for their participation
20 tonight. And you can follow this case as the
21 date has already been set, but if anything
22 changes and you want to follow this case with

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1 our staff and Ms. Schellin or Ms. Hanousek.
2 And I appreciate everyone's participation
3 tonight.

4 And with that, this hearing is
5 adjourned.

6 (Whereupon, the Public Hearing was
7 concluded at 7:47 p.m.)

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