

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY

NOVEMBER 29, 2010

+ + + + +

The Regular Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

JAMISON WEINBAUM, Director
SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel

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

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
STEPHEN MORDFIN
KAREN THOMAS
STEVEN COCHRAN
JOEL LAWSON
MICHAEL GIULIONI
TRAVIS PARKER
PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.

The transcript constitutes the
minutes from the Regular or meeting held on
November 29, 2010.

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

2 6:50 p.m.

3 CHAIRMAN HOOD: Okay. Our
4 regularly schedule public meeting will please
5 come to order.

6 Good evening, ladies and gentlemen.

7 This is November 29th, 2010 public meeting of
8 the Zoning Commission of the District of
9 Columbia.

10 My name is Anthony Hood. Joining
11 me are or were Vice Chairman Schlater,
12 Commissioner Turnbull, Commissioners May and
13 Commissioner Selfridge.

14 We're also joined by the Office of
15 Zoning Staff, Director Weinbaum, Ms. Schellin,
16 Ms. Hanousek and Ms. Bushman.

17 Also, the Office of Attorney
18 General, Mr. Bergstein.

19 The Office of Planning, Ms.
20 Steingasser, Mr. Lawson and the rest of the
21 staff. Let me just say the rest of the staff.

22 I'll just leave it at that.

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1 Okay. Copies of today's agenda are
2 available to you and are located in the bin
3 near the door.

4 We do not take any public testimony
5 at our meetings unless the Commission requests
6 someone to come forward.

7 Please be advised that this
8 proceeding is being recorded by a court
9 reporter and is also webcast live.

10 Accordingly, we must ask you to
11 refrain from any disruptive noises or actions
12 in the hearing room. Please turn off all
13 beepers and cell phones.

14 Does the staff have any preliminary
15 matters?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: Okay. If now, let
18 us proceed with the agenda.

19 First, we have, on the consent
20 calendar, Zoning Commission Case Number 01-
21 36A, Department of Real Estate Services -
22 Minor Modification to a PUD at Square 5868.

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1 Ms. Schellin.

2 MS. SCHELLIN: Yes, sir, this is a
3 request from the Applicant to change the child
4 care center to office use and we would ask the
5 Commission to please consider this request.

6 CHAIRMAN HOOD: Okay.
7 Commissioners, we have an exhibit that was
8 submitted which is Exhibit 1 and it also
9 mentions in the exhibit that copies of this
10 exhibit went to ANCs 8A and 8C.

11 This is the request: This
12 expansion will require a portion of the HSEMA
13 Staff currently located elsewhere in the UCC
14 to be relocated to the area of the public
15 currently built as the child care center. So,
16 they're asking to reuse that space that was
17 previously approved for a child card center
18 which I believe was basically built for
19 employees only, but what I'd like to do is
20 open it up and ask to handle this as a consent
21 calendar item.

22 COMMISSIONER MAY: Mr. Chairman.

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1 CHAIRMAN HOOD: Commissioner May.

2 COMMISSIONER MAY: I have a
3 question. Maybe the Office of Planning can
4 answer and I'm wondering. You know, my
5 recollection of this hearing, I was sitting in
6 the chair at the opposite end. It was that
7 long ago.

8 But, I was here for the hearing on
9 this and my recollection was that there was
10 substantial community interest in what was
11 happening with the child care center at the
12 time and I was actually surprised in reviewing
13 the materials that were submitted that within
14 the order there's not something explicit about
15 community use of the child care center.

16 So, I'm wondering if there has been
17 any conversation with the neighborhood or the
18 ANC either about the fact that the child care
19 center never really got off the ground or that
20 they are proposing this change in use of this
21 portion of the project.

22 MS. STEINGASSER: Well, the ANC was

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1 notified of the proposed amendment. It was
2 never proffered as a public benefit or
3 amenity.

4 COMMISSIONER MAY: Right.

5 MS. STEINGASSER: So, it was always
6 internal to the site because of the security
7 issues at the site. I don't think there was
8 ever an intention to expand it beyond that.

9 COMMISSIONER MAY: Um-hum.

10 MS. STEINGASSER: So, no, there's
11 been no discussion with the ANC about using it
12 at this point.

13 COMMISSIONER MAY: Okay.

14 CHAIRMAN HOOD: Any other
15 questions? Vice Chairman Schlater.

16 VICE CHAIRMAN SCHLATER: I just
17 want to confirm that there's never been a
18 child care center there. Because I looked at
19 the aerial photograph and it shows the area
20 where there is a child center and it shows
21 play equipment outside and it looks like it's
22 ready to be a child care center.

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1 MS. STEINGASSER: It was built to
2 be a child care center, but it has never
3 operated. They've never hired an operator and
4 there's never been any children inside the
5 site.

6 COMMISSIONER MAY: Okay. Did they
7 make much of an effort to market this to the
8 staff or did they survey staff in advance to
9 determine that there was a need for it? I
10 mean that was --

11 MS. STEINGASSER: I believe so.

12 COMMISSIONER MAY: -- part of the
13 normal process.

14 MS. STEINGASSER: I don't want to
15 speak out of school, but I believe in
16 conversations with the Applicant they did
17 survey the staff on several occasions and
18 there was not -- there was insufficient
19 interest which is why it's never opened.

20 COMMISSIONER MAY: Um-hum. But, in
21 advance of building it or programming, did
22 they actually -- do you know if they surveyed?

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1 That would be normal.

2 MS. STEINGASSER: I don't know.

3 COMMISSIONER MAY: Yes.

4 MS. STEINGASSER: Yes.

5 COMMISSIONER MAY: Okay.

6 MS. STEINGASSER: It was a long
7 time ago.

8 COMMISSIONER MAY: All right. Yes,
9 it was.

10 Well, Mr. Chairman, I'm not
11 enamored with the idea of acting to make a
12 change like this without some input from the
13 ANC, but since it really was not something
14 that was going to be a specific benefit to the
15 community or any expectation that it would be
16 used, I think the only concern would be the
17 potential impacts on the community from having
18 additional, I guess, office occupancy or
19 whatever the use is going to be there.

20 And given everything else that's
21 going to happen in that vicinity, development-
22 wise both on the east campus and the west

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1 campus, you know, it's a drop in the bucket.

2 So, I don't feel very strongly that
3 we need to hold off for the sake of the ANC at
4 this moment.

5 CHAIRMAN HOOD: Okay. Thank you,
6 Commissioner May. Anyone else? So --

7 COMMISSIONER TURNBULL: I would
8 agree with Commissioner May.

9 CHAIRMAN HOOD: Okay. So,
10 Commissioner May, let me make sure I
11 understand. So, you want to go ahead and move
12 forward or did you want to hold off and maybe
13 see if the ANC will respond or --

14 COMMISSIONER MAY: You know, I'm
15 not -- I'm not -- I'm very much on the fence
16 generally speaking because in circumstances
17 like this, I would rather act with the benefit
18 of specific input from the ANC even if it's a
19 no comment.

20 But, since there really is so
21 little potential for a negative impact on the
22 community, if the rest of the Commission would

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1 like to move forward and accept this minor
2 modification right now, I'd be okay with it.

3 CHAIRMAN HOOD: Okay. Anyone else
4 feel strongly enough that we should probably
5 hold off and maybe wait for some type of
6 response or no response and maybe allow two
7 more weeks for the ANC. I think the ANC has
8 had about two weeks now I believe. Correct?

9 MS. SCHELLIN: I believe they've
10 had since -- they were served on the 10th I
11 believe. So, they've had since the 10th.

12 CHAIRMAN HOOD: Is this the ANC --
13 I don't want to call them the ANC
14 Commissioners, but normally, this ANC, believe
15 me, they would have been here if this is -- I
16 think this is the ANC.

17 COMMISSIONER TURNBULL: Mary
18 Cuthbert.

19 CHAIRMAN HOOD: Yes, I don't recall
20 her name. But, I don't think this would have
21 just flew by night. They work real hard out
22 there and I know Ms. Cuthbert does. So, I

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1 would -- by me not saying, the silence is
2 sometimes golden.

3 Unless, Commissioners, we have any
4 other issues, I would move that we go ahead
5 and accept this item. It's under Commission
6 Case Number 01-36A, Department of Real Estate
7 Services for the Minor Modification to PUD at
8 Square 5868 and also take in the concerns and
9 the comments of Commissioner May as we move
10 forward and I ask for a second.

11 VICE CHAIRMAN SCHLATER: Second.

12 CHAIRMAN HOOD: It's been moved and
13 properly seconded. Any further discussion?

14 All those in favor.

15 (Ayes.)

16 CHAIRMAN HOOD: Not hearing any
17 opposition, Ms. Schellin, would you please
18 record the vote?

19 MS. SCHELLIN: The staff records
20 the vote 5 to 0 to 0 to approve final action
21 Zoning Commission Case Number 01-36A.
22 Commissioner Hood moving. Commissioner

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1 Schlater seconding. Commissioners May,
2 Selfridge and Turnbull in support.

3 CHAIRMAN HOOD: Okay. Thank you,
4 Ms. Schellin.

5 Next on the agenda, again Consent
6 Calendar item, is Zoning Commission Case
7 Number 05-36E. This is the K Street
8 Developers, LLC - Minor Modification of PUD at
9 Square 749. Ms. Schellin.

10 MS. SCHELLIN: Yes, sir, this is a
11 request from the Applicant to develop the 500
12 unit second phase of the residential retail
13 project in two subphases and there's a letter
14 from ANC 6C in support at Exhibit 6 and I
15 believe they may be requesting some reduction
16 of parking although I'm not quite sure how
17 that plays in there. But, I think there was
18 some request on that.

19 CHAIRMAN HOOD: Okay. Thank you,
20 Ms. Schellin. I think you're absolutely
21 correct.

22 We had a request going from one to

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1 one to I think one to .07, but I stand to be
2 corrected if that's not -- maybe it was -- was
3 it .07? What was it? 8.071. Okay. .71.
4 Okay. All right.

5 But, anyway, let me say this.
6 Let's look at page 3 and I think a lot of the
7 -- if you look at page 3 of the submission
8 dated October 28th from the Applicant and the
9 submission, if you look at the second
10 paragraph on the page and I really think that
11 just gives the scenario exactly what we've
12 been asked for minus the parking reference.

13 Let me open it up for any comments.
14 Vice Chairman Schlater.

15 VICE CHAIRMAN SCHLATER: Mr.
16 Chairman, the only question I would have is
17 the parking request which I'm open to doesn't
18 seem to be outlined in the actual modification
19 requested. So, I guess the only question I
20 would have is maybe for OP.

21 Is it OP's understanding that part
22 of this request is a reduction in parking?

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1 Has that been made clear to the ANC and
2 others?

3 MR. COCHRAN: I am not familiar
4 with discussions with the ANC. If the
5 Commission were to act, it would seem that one
6 of the conditions of the original order that
7 says no fewer than 545 parking spaces would
8 need to be modified so that it has an overall
9 -- the condition would be an overall total of
10 residential parking spaces not less than 0.71
11 space to each unit.

12 VICE CHAIRMAN SCHLATER: Does OP
13 believe that a reduction from a one-to-one
14 parking ratio down to .7 is a minor
15 modification of the PUD?

16 MR. COCHRAN: Yes.

17 VICE CHAIRMAN SCHLATER: The only
18 other thing I would say is it seems like we
19 have a support letter from the ANC, but it's
20 not clear to me that they were aware of the
21 parking reduction situation.

22 So, I'm not entirely opposed to moving

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1 it on the Consent Calendar, but I think I
2 would want to know that the ANC was aware of
3 that reduction and I think I would actually
4 like the Applicant to formalize their request
5 to us and explicitly state actually what
6 modification is being requested with respect
7 to the parking. Because I don't think it's
8 clear from the plans and the application that
9 was given to us.

10 COMMISSIONER MAY: If I could just
11 note that on page 4 of their letter, there is
12 a sentence or a paragraph that addresses it.
13 It's not a compelling justification or a good
14 explanation of why this is really a minor
15 modification, but it says a second minor
16 refinement regards the amount of parking
17 proposed to be provided and describes it in a
18 little bit more detail and then essentially
19 says that based on their marketing experience
20 and based on public policy heading in the
21 direction of less parking rather than more
22 parking, they think that it should be

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1 adjusted.

2 Frankly, I don't find that
3 compelling. So, I'm, I think, perfectly fine
4 with the idea of the phased delivery of the
5 project. I think that's a reasonable request
6 and, you know, frankly, smart given the state
7 of the economy and so on.

8 But, if we're going to reduce the
9 amount of parking by 30 percent, I don't
10 regard that as a minor modification and I
11 think that there should be some public
12 discussion of that and I think you're right.

13 There is -- the ANC letter is
14 silent on the issue of parking. They don't
15 make any explicit mention of it. They may be
16 perfectly fine with it, but they may not and I
17 also think that, you know, this is the sort of
18 thing that I think would require a hearing
19 because of its potential to impact the
20 neighborhood.

21 CHAIRMAN HOOD: All right. Any
22 other comments? Mr. Turnbull.

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1 COMMISSIONER TURNBULL: I'm in
2 agreement with that. I think that if the --
3 with the ANC being silent, it just raises a
4 question and I think both Commissioners
5 Schlater and May have made good points.

6 CHAIRMAN HOOD: Commissioner
7 Selfridge.

8 COMMISSIONER SELFRIDGE: I would
9 just agree as well. Certainly in regards to
10 parking, that it may be justified, but there
11 should certainly be more discussion about it.

12 CHAIRMAN HOOD: I guess I have a
13 procedural question, Mr. Bergstein. It looks
14 like everybody's -- one of the requests was
15 the phasing. Could we actually vote on the
16 phasing, I know it's part of the request on
17 the Consent item, in this narrow a hearing --
18 narrow scope of a hearing? Is it just a
19 parking issue?

20 MR. BERGSTEIN: Yes, you can. The
21 one thing I do want to clarify is that
22 although the paragraph that Mr. May refers to

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1 begins by saying the second minor requirement
2 to the plans for the second phase of the PUD
3 regards the amount of parking that the actual
4 flexibility that I believe is thought is for
5 both phase one and phase two. That phase one
6 was constructed as a one for one and that it
7 would be both phase one and phase two that
8 would have a reduction of parking to .71.

9 But, the answer to your first
10 question is yes.

11 COMMISSIONER MAY: Mr. Chairman,
12 you know, I'm open to the idea that if the
13 Applicant wants to make a stronger case for a
14 minor modification and bring that back to us
15 as an argument, we could take that up at the
16 next meeting.

17 You know, I'd be happy to consider
18 it again based on the evidence presented at
19 that time rather than moving immediately to
20 setting down the parking issue for a hearing.

21 Because, I mean, it may be that they don't
22 want to go that route. I don't know.

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1 VICE CHAIRMAN SCHLATER: Mr.
2 Chairman, I would agree with that. I think I
3 could be convinced based on the filing that it
4 is indeed a minor modification and I'd like to
5 see more on it. I'd like it clarified and
6 just put in a very straightforward way so that
7 everybody understands it.

8 CHAIRMAN HOOD: Okay.

9 COMMISSIONER MAY: Particularly if
10 the ANC were -- really was in favor of
11 reducing the amount of parking.

12 CHAIRMAN HOOD: Okay. Does
13 everybody understand what was suppose to be
14 done? Okay. I think to keep it clean we
15 won't do anything. I would take the
16 suggestion of both of my colleagues. I think
17 that's the way we should proceed and we will
18 probably reschedule this for the next public
19 meeting.

20 MS. SCHELLIN: Yes.

21 CHAIRMAN HOOD: Okay. All right.
22 So, we'll do that and any questions you can

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1 see Ms. Schellin. All right. Thank you.

2 Okay. Next, Zoning Commission Case
3 Number 96-09A. This is the Pope John Paul II
4 Cultural Foundation, Inc., Square 3663. We
5 have a request for extinguishment of the PUD
6 and/or a modification of the PUD to be
7 considered and the alternative to owning a PUD
8 is not extinguished.

9 Ms. Schellin.

10 MS. SCHELLIN: Yes, sir, staff has
11 nothing further to add other than what you've
12 stated and would just ask the Commission
13 please to consider this.

14 CHAIRMAN HOOD: All right. Let me
15 just open that up for discussion. We have
16 Exhibit 1. Actually, Exhibit 1 and 2 and
17 also, we have Exhibit 6, the Office of
18 Planning's report, their recommendation to us.

19 Extinguish the PUD and reversion of the
20 property to the underlying 5A zone and it goes
21 on the modification of the PUD. The Applicant
22 would need to demonstrate that the physical

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1 alterations and additions to the building
2 would not diminish it's superior architecture,
3 on and on. Anyway, you have that in front of
4 you.

5 Let's take -- I think first let's
6 take up the issue whether we extinguish or
7 not. The request to extinguish, this being.
8 I'll just open it up.

9 VICE CHAIRMAN SCHLATER: Mr.
10 Chairman.

11 CHAIRMAN HOOD: Yes.

12 VICE CHAIRMAN SCHLATER: Can I ask
13 a question of OP? I couldn't tell from their
14 memo or report on this case whether they were
15 in support of extinguishment or modification.
16 They seemed to lay out options for us.

17 I was wondering if they had a
18 strong opinion one way or another.

19 MR. COCHRAN: We did not take a
20 position on whether you should extinguish the
21 PUD or whether it should be a modification.
22 We simply analyzed each of the options for

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1 extinguishment. Would be more the prevalence
2 of OAG.

3 If you do decide to set it down, we
4 are prepared with testimony for tonight if you
5 don't extinguish it.

6 CHAIRMAN HOOD: Mr. Bergstein, do
7 you want to comment?

8 MR. BERGSTEIN: I'm not going to
9 take a position on the merits. I'll just say
10 that I did discuss with the Applicant this
11 procedural route. That if, in fact, they were
12 able to proceed with development on the site
13 under the matter-of-right zoning that the site
14 would revert to if you did extinguish the PUD,
15 that it would be a proper vehicle for the
16 Applicant to consider coming to you and asking
17 you to extinguish the PUD.

18 There is a covenant on this
19 property and my main point was that I couldn't
20 agree to the extinguishment of that covenant
21 unless the Zoning Commission agreed to
22 basically make the PUD order null and void

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1 which is what this is about.

2 So, I don't take any position on
3 the merits, but I think it is an appropriate
4 request before you.

5 CHAIRMAN HOOD: Okay. Thank you.
6 Vice Chairman Schlater.

7 VICE CHAIRMAN SCHLATER: Is OP at
8 all -- there's a few things in the PUD order
9 that are public amenities that were meant to
10 last for the life of the project and it's
11 still going to be an architecturally
12 significant building. I don't think anybody's
13 concerned about that.

14 No longer be a museum and cultural
15 center available to all District residents.
16 There will no longer be programs for District
17 elementary school students. No longer a
18 research center for charitable and volunteer
19 organizations and they're not making space
20 available for local civic groups.

21 Does OP have an opinion on whether
22 those benefits and amenities should live on?

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1 MR. COCHRAN: If it's not a PUD,
2 then it would be no need for those benefits
3 and amenities to live on. If it's modified,
4 then there would be a need for the Applicant
5 to address the relationship between the
6 flexibility that is being requested in the
7 modified PUD versus the benefits and amenities
8 and then compare those to the previously
9 granted flexibility and those benefits and
10 amenities.

11 CHAIRMAN HOOD: Any other questions
12 or comments? Mr. Turnbull.

13 COMMISSIONER TURNBULL: So, if an
14 applicant develops a PUD, goes through the
15 process, amenities are offered and then says I
16 don't want to be PUD anymore, the amenities
17 are ended?

18 I mean any -- we could go through
19 any PUD process then and an applicant could
20 say no, I don't want to do that anymore and
21 no, I'm not going to give you any of the
22 amenities that we talked about in the

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1 beginning.

2 Is that your understanding?

3 MS. STEINGASSER: Well, clearly,
4 this is a unique case and no, we would not
5 take the blanket position that people -- any
6 development could go forward and get a PUD and
7 then decide they don't want to be a PUD, but
8 now, they've got their structure and just
9 extinguish it.

10 COMMISSIONER TURNBULL: How is it
11 that this is a unique case?

12 MS. STEINGASSER: The religious
13 museum has already shut down. They had very
14 little -- I think the application goes into
15 the attendance and their ability to operate
16 became very difficult.

17 So, in some ways, the amenity is
18 the project itself. So, when the project
19 began to not be able to operate, you know, it
20 has a very unique relationship that we don't
21 usually see in PUDs where an amenity may be a
22 more tangible physical offering to the

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1 community.

2 Here the project itself was its own
3 amenity, but it's already shut down. So, it's
4 a very unique case.

5 MR. COCHRAN: The flexibility that
6 was granted in the original PUD is certainly
7 not among the greatest amounts of flexibility
8 that the Commission has ever considered. It
9 granted flexibility for an office space use in
10 what was an underlying R5A zone.

11 The office use was accessory to the
12 museum. Definitely, the museum, the cultural
13 center, some of the outreach activities were
14 the primary uses of the site.

15 When it comes to physical
16 flexibility, the building went to 66 feet high
17 when it would have been allowed only 40 feet
18 in the R5A zone. So, that's the more
19 significant of the two reliefs.

20 COMMISSIONER TURNBULL: Well, I
21 guess I -- my main question is so amenities
22 can be withdrawn from a PUD by an applicant

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1 when they want to extinguish the PUD?

2 MR. BERGSTEIN: But, only if they
3 have the option of proceeding with the same
4 matter-of-right development in the zone that
5 it would become reverted to if the PUD expires
6 and I think, and OP can correct me, but my
7 guess is 99 percent of the time a project
8 comes to you as a PUD because that is the only
9 option for building what they want to build
10 and if they could have done matter of right
11 the same size under their original zoning,
12 they wouldn't come to you.

13 In this case, the original proposal
14 required a PUD. This alternative use would
15 not have if they had wanted to develop this
16 back in '97 for this particular use.

17 So, it's unusual in that sense.
18 There's an option available that is probably
19 not available in the vast majority of PUDs.

20 COMMISSIONER TURNBULL: Okay.
21 Well, I just wanted to have that in my hip
22 pocket in the future for other PUDs that are

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1 going to relinquish. I just like to know
2 where we're standing and if it's only for
3 religious groups, I want to know. I think we
4 need to know.

5 MR. COCHRAN: It's not.

6 COMMISSIONER TURNBULL: Okay.

7 MS. STEINGASSER: I don't think
8 that's what we're saying at all.

9 COMMISSIONER TURNBULL: All right.

10 Well, I just want to know for the record
11 where we go in the future on PUDs that are
12 going to be extinguished and what is the
13 status of amenities. That's all.

14 MS. STEINGASSER: Well, again at
15 least --

16 MR. COCHRAN: Again, we were not
17 trying to take an official position on this.

18 COMMISSIONER TURNBULL: Well,
19 someone's got to take an official position.

20 CHAIRMAN HOOD: I think we're going
21 to take it.

22 COMMISSIONER TURNBULL: And you're

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1 leaving that on our shoulders. Thank you very
2 much.

3 MS. STEINGASSER: I just want to be
4 clear from the Office of Planning standpoint
5 that we're not taking a blanket position that
6 any PUD can vacate its amenities whenever it
7 gets tired of being a PUD.

8 Just like the PUD is approved as a
9 project specific development, so is this
10 consideration. It's very unique. It's very
11 specific. Our recognition of that does not
12 blanketly transfer to any other PUD.

13 So, this is not a policy position
14 for us. This is a very project specific
15 analysis.

16 COMMISSIONER TURNBULL: Yes, but I
17 bet I could make a case that every PUD is
18 unique.

19 MS. STEINGASSER: Yes, that's my
20 point. That's exactly my point. Every PUD is
21 unique and our analysis of whether to
22 exterminate would be --

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1 COMMISSIONER TURNBULL: The same
2 arguments could be used at every unique PUD.

3 MS. STEINGASSER: No, I disagree.
4 I don't think they could, but --

5 COMMISSIONER TURNBULL: Okay.
6 Well, we'll go down the road and we'll see
7 what happens in years to come.

8 MR. BERGSTEIN: Well, in fact, the
9 BZA addressed this issue in another PUD where
10 George Washington University bought a PUD that
11 was suppose to be a headquarters and they
12 wanted to change the use of corporate
13 headquarters under the PUD and they wanted to
14 change the use to the Elliott School and they
15 argued oh, we can just do that. It's a PUD.
16 It's interchangeable and, in fact, they had no
17 alternative to go back to matter to right.

18 Only on that PUD-related map
19 amendment could they have built the building
20 they wanted to build and the BZA found that
21 they had to come back for a PUD modification
22 to change that use and in fact, that happened

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1 here.

2 So, again, the thing that makes
3 this unique is that there is actually a
4 matter-of-right alternative for the same
5 building with the same zoning envelope.

6 And I think what we're saying is
7 nine out of ten times, that's not the case.
8 You can't just say now, I've built the
9 building. I'm not going to provide the child
10 care center anymore. That would be a
11 violation of PUD or you could lose your C of
12 O.

13 VICE CHAIRMAN SCHLATER: Okay.

14 CHAIRMAN HOOD: Okay. Commission
15 May.

16 COMMISSIONER MAY: No, I was just
17 going to add that I don't think we're really
18 setting a dangerous precedent by considering
19 this.

20 I mean when the amenities of a PUD
21 are -- can no longer be provided for whatever
22 reason, it seems to me that what has to happen

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1 at that point is that the property has to
2 revert to the underlying zoning and has to
3 conform to the underlying zoning.

4 I mean there are going to be PUD
5 that have been built that are going to go away
6 and when you -- the building is demolished or
7 something like that, you start over again and,
8 you know, it can be made into a conforming
9 structured based on the zoning at the time.

10 I think this is an unusual
11 situation in that the building that they built
12 is not far away from the underlying zoning in
13 terms of what was actually constructed. So,
14 if they change the use which takes away one of
15 the areas of relief and if the building is
16 considered institutional, it can be considered
17 at a higher -- a greater height building than
18 the existing building that was built under the
19 PUD could be -- I mean would then be
20 considered conforming.

21 That's what's essentially being
22 argued here. That this is -- when you make

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1 those changes, this is now a conforming
2 building and a PUD is not necessary.

3 It's not that different from if
4 they had torn the building down and started
5 over and tried to build a conforming project
6 in my mind.

7 CHAIRMAN HOOD: Any other analysis
8 or questions?

9 All right. It sounds as though we
10 are in favor of extinguishment of the PUD in
11 this unique situation.

12 COMMISSIONER MAY: Mr. Chairman.

13 CHAIRMAN HOOD: Yes.

14 COMMISSIONER MAY: Can I just ask
15 one other question which is once again whether
16 there had been any specific conversation with
17 the ANC? Did the Office of Planning discuss
18 it with the ANC at all?

19 MR. COCHRAN: OP did not.

20 COMMISSIONER MAY: Okay. So, we
21 don't know whether they're aware of the
22 situation with the building or that the

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1 cultural center closed or the museum closed.
2 Whatever.

3 MR. COCHRAN: I can't speak for the
4 ANC.

5 COMMISSIONER MAY: Yes. I think
6 that's the one thing that makes me hesitate.
7 Is not knowing what the ANC is aware of.

8 CHAIRMAN HOOD: Do we know whether
9 the ANC was notified? Been served?

10 VICE CHAIRMAN SCHLATER: It looks
11 like they were served, Mr. Chairman, on the
12 November 9th letter.

13 CHAIRMAN HOOD: Does anyone feel
14 strong enough to wait and see if we can get a
15 response from ANC 5C?

16 COMMISSIONER SELFRIDGE: I think if
17 they've been notified and the center's already
18 closed down, I don't see any benefit in
19 waiting. I don't think it's going to change
20 anything and I do think this is a unique case
21 and, you know, it may very well be justified
22 in this case.

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1 CHAIRMAN HOOD: Okay. All right.
2 Well, I will obtain a motion to extinguish.
3 Would any of my colleagues --

4 VICE CHAIRMAN SCHLATER:
5 Mr.Chairman.

6 CHAIRMAN HOOD: Okay. Vice
7 Chairman Schlater.

8 VICE CHAIRMAN SCHLATER: Let's see
9 here. How about that we extinguish the
10 planned unit development established by Order
11 Number 823 for Square 3663, Lot 4.

12 CHAIRMAN HOOD: I will second that.
13 It's been moved and properly seconded. Any
14 further discussion?

15 Are you ready for the question?
16 All those in favor.

17 (Ayes.)

18 CHAIRMAN HOOD: Those opposed? Not
19 hearing any. Ms. Schellin, would you please
20 record the vote?

21 MS. SCHELLIN: Yes, staff records
22 the vote 5 to 0 to 0 to extinguish the PUD in

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1 Zoning Commission Case Number 96-09A.
2 Commissioner Schlater moving. Commissioner
3 Hood seconding. Commissioners May, Selfridge
4 and Turnbull in support.

5 CHAIRMAN HOOD: I just want to
6 validate. I forgot which one of my colleagues
7 said this is not setting a precedent. This is
8 a situation -- a unique situation as discussed
9 by Ms. Steingasser. So, hopefully, we won't
10 see it as Mr. Turnbull said and saying this is
11 what you did, waving this at us in about ten
12 years.

13 COMMISSIONER TURNBULL: I guarantee
14 you the order will say that.

15 CHAIRMAN HOOD: Okay.

16 COMMISSIONER TURNBULL: Can you put
17 that in bold?

18 MR. BERGSTEIN: Fourteen point
19 font. Yes.

20 CHAIRMAN HOOD: Okay. Let's go to
21 final action, Zoning Commission Case Number
22 10-02, Horning Brothers - Text Amendment

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1 701.4. Ms. Schellin. First one in final
2 action.

3 MS. SCHELLIN: Yes. Yes, Case
4 Number 10-02 is before the Commission for
5 final action and the only thing that staff has
6 to add is that we did receive an NCPC report
7 at Exhibit 27 and NCPC had no issues.

8 CHAIRMAN HOOD: Okay. You've heard
9 the report from the Zoning secretary. The
10 amendments permit a fast-food establishment,
11 no drive-thru to located in Square 33499 and
12 in Square 3664 Lot 820 as a matter of right
13 use.

14 Okay. Let me open it up. Any
15 discussion? Vice Chairman Schlater.

16 VICE CHAIRMAN SCHLATER: Mr.
17 Chairman, I would move that we approve Zoning
18 Commission Case Number 10-02, Horning Brothers
19 - Text Amendment, Section 701.4(w).

20 CHAIRMAN HOOD: It's been moved.
21 Can I get a second?

22 COMMISSIONER TURNBULL: Second.

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1 CHAIRMAN HOOD: Moved and properly
2 seconded. Any further discussion? Are you
3 ready for the question? All those in favor,
4 aye.

5 (Ayes.)

6 CHAIRMAN HOOD: Not hearing
7 opposition, Ms. Schellin, would you please
8 record the vote?

9 MS. SCHELLIN: Yes, staff records
10 the vote 5 to 0 to 0 to approve final action
11 of Zoning Commission Case Number 10-02.
12 Commissioner Schlater moving. Commissioner
13 Turnbull seconding. Commissioner Hood, May
14 and Selfridge in support.

15 CHAIRMAN HOOD: Okay. Next, Zoning
16 Commission Case Number 10-17, National
17 Restaurant Association - Map Amendment at
18 Square 16. Ms. Schellin.

19 MS. SCHELLIN: Yes, sir, this, too,
20 is before the Commission for final action and
21 again, we have an NCPC report at Exhibit 26
22 and again, no issues from NCPC.

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1 CHAIRMAN HOOD: Again, this is an
2 amendment to the Zoning Map. The National
3 Restaurant Association at Square 160, Lot 809.
4 Any discussion?

5 I would move that we approve Zoning
6 Commission Case Number 10-17, the National
7 Restaurant Association Map Amendment at Square
8 -- is that Square 160? Oh, I'm sorry. Square
9 16 and ask for a second.

10 VICE CHAIRMAN SCHLATER: Second.

11 CHAIRMAN HOOD: It's been moved and
12 properly seconded. It's not square --

13 VICE CHAIRMAN SCHLATER: It's 160 I
14 think.

15 CHAIRMAN HOOD: One sixty. One
16 sixty. Square 160.

17 VICE CHAIRMAN SCHLATER: One sixty.

18 CHAIRMAN HOOD: Okay. It's 160.
19 We got it. Okay. So, let the record reflect
20 Square 160. We don't want to do the wrong
21 square. That's what's wrong. Square 160 and
22 Lot 809. Did I call for the -- what did I do?

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1 COMMISSIONER SELFRIDGE: You did.

2 COMMISSIONER TURNBULL: You did.

3 CHAIRMAN HOOD: Oh, can I get a
4 second.

5 VICE CHAIRMAN SCHLATER: Second.

6 CHAIRMAN HOOD: You second. It's
7 moved and properly seconded. Any further
8 discussion?

9 Are you ready for the question?
10 All those in favor?

11 (Ayes.)

12 CHAIRMAN HOOD: Not hearing any
13 opposition, Ms. Schellin, would you please
14 record the vote.

15 MS. SCHELLIN: Yes, staff would
16 record the vote 4 to 0 to 1 to approve final
17 action Zoning Commission Case Number 10-17.
18 Commissioner Hood moving. Commissioner
19 Schlater seconding. Commissioners Selfridge
20 and Turnbull in support. Commissioner May not
21 voting having not participated.

22 CHAIRMAN HOOD: Okay. Next on the

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1 agenda, we have Zoning Commission Case Number
2 10-18, Office of Planning - Text Amendment:
3 Additional Flexibility for Fast Food
4 Establishments and Prepared Food Shops within
5 Square 375.

6 MS. SCHELLIN: Yes, again, we have
7 an NCPC report at Exhibit 14 and once again,
8 no issues from NCPC.

9 CHAIRMAN HOOD: Okay. My beginning
10 stands with what we're trying to do in this
11 action. I would move that we approve Zoning
12 Commission Case Number 10-18, Office of
13 Planning Text Amendment: Additional
14 flexibility for fast food establishment and
15 prepared food shops within Square 375 and ask
16 for a second.

17 COMMISSIONER TURNBULL: Second.

18 CHAIRMAN HOOD: Moved and then
19 properly seconded. Any further discussion?

20 All those in favor.

21 (Ayes.)

22 CHAIRMAN HOOD: Not hearing any

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1 opposition, Ms. Schellin, would you please
2 record the vote?

3 MS. SCHELLIN: Yes, staff records
4 the vote 5 to 0 to 0 to approve final action
5 of Zoning Commission Case Number 10-18.
6 Commissioner Hood moving. Commissioner
7 Turnbull seconding. Commissioners May,
8 Schlater and Selfridge in support.

9 VICE CHAIRMAN SCHLATER: We're
10 rolling now.

11 CHAIRMAN HOOD: Okay. Okay. Let's
12 go right into hearing action. We have no
13 proposed action tonight.

14 Hearing Action Zoning Commission
15 Case Number 10-20. This is a petition by ANC
16 4B - Map Amendment at Square 2986.

17 Mr. Moy. I'm sorry. What did I
18 say? Mordfin. I said Moy. Mr. Mordfin.

19 MR. MORDFIN: Good evening. I'm
20 Stephen Mordfin with the Office of Planning.

21 CHAIRMAN HOOD: And I apologize,
22 Mr. Mordfin. You know I know you.

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1 MR. MORDFIN: Apology accepted.

2 The subject application is
3 inconsistent with the Comprehensive Plan
4 including the future land-use map and the
5 generalized policy map, the Upper Georgia
6 Avenue Great Streets Redevelopment Plan and
7 the Brightwood Upper Georgia Avenue Plan of
8 the Neighborhood Investment Fund.

9 Therefore, the Office of Planning
10 recommends that the proposed map amendment not
11 be set down.

12 Thank you.

13 CHAIRMAN HOOD: Okay. Mr. Mordfin,
14 let me ask. I know that the council is in
15 process now of taking amendments or -- is this
16 being considered? Is this like on the table
17 or where is this? Is this in that process in
18 the pipeline or is --

19 MR. MORDFIN: For the Comprehensive
20 Plan?

21 CHAIRMAN HOOD: New amendments. Of
22 the new amendments we have.

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1 MR. MORDFIN: Of the new
2 amendments?

3 CHAIRMAN HOOD: Right.

4 MR. MORDFIN: No, it's not.

5 CHAIRMAN HOOD: It's not. Okay.
6 Have there been discussions with this
7 community about why it's inconsistent with the
8 Comprehensive Plan?

9 MR. MORDFIN: There have been
10 discussions with the ANC representatives that
11 filed the application and they were aware that
12 it was -- I made them aware that it was
13 inconsistent with the comprehensive plan.

14 However, what they wanted was to
15 make sure that they didn't get anything more
16 than a one-story building because they thought
17 that was more consistent with the neighborhood
18 and so, that's why they filed the application.

19 CHAIRMAN HOOD: Okay. Maybe --

20 COMMISSIONER MAY: Were they not
21 aware of the Comprehensive Plan discussion? I
22 mean wasn't that -- weren't there public

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1 meetings and discussions an ANC votes on what
2 was in the Comprehensive Plan. Because it's
3 pretty clear that the Comprehensive Plan was
4 advocating four to seven stories worth of
5 development.

6 MR. MORDFIN: They were made aware
7 of all those things and I had met with them
8 and they were aware. However, they felt that
9 this was the course of action that they wanted
10 to take.

11 COMMISSIONER MAY: Did these same
12 folks participate in the Comp Plan process or
13 was it a different set of commissioners or --

14 MR. MORDFIN: I do not know if they
15 were the same ones that participated.

16 COMMISSIONER MAY: Okay.

17 CHAIRMAN HOOD: Okay. Any other
18 questions? Vice Chairman Schlater.

19 VICE CHAIRMAN SCHLATER: Mr.
20 Mordfin, what's the status of the development
21 planning for this site? In the ANC's
22 submission, it says potentially the addition

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1 of over one thousand residents to the
2 neighborhood. Is that imminent?

3 MR. MORDFIN: What had happened is
4 there was a large track review for this site
5 that had approved -- found consistent the
6 proposal to put in 399 apartment units and
7 ground-floor retail and that project as we
8 understand it is not going to go forward now.

9 What has been proposed now for this
10 site plus the corner site at the corner of
11 Peabody and Georgia to incorporate that also
12 is to propose a Walmart for that location.

13 VICE CHAIRMAN SCHLATER: Has the
14 community weighed in on that proposal? Would
15 that be consistent with the existing zoning
16 for the site?

17 MR. MORDFIN: That would be
18 consistent with the existing zoning. It has
19 not been formally submitted to us yet. So,
20 the community has not been notified of that
21 application.

22 VICE CHAIRMAN SCHLATER: Do you

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1 think the ANC would reconsider its request to
2 rezone the site knowing the currently plans
3 for the site or have you had discussions with
4 them about that at all? About the withdrawal
5 -- about the fact that it looks like the large
6 track review project is not moving forward?

7 MR. MORDFIN: I have not had
8 discussions with them about it.

9 VICE CHAIRMAN SCHLATER: It think
10 it might be helpful maybe to have the ANC -- I
11 guess potentially the facts have changed in
12 terms of what's being planned for the site and
13 before denying this outright as inconsistent
14 with the Comprehensive Plan, I wonder if the
15 ANC would reconsider given the current facts.
16 Their request.

17 CHAIRMAN HOOD: I think though as
18 Mr. Mordfin has already mentioned, there has
19 not been a formal request made for that site.
20 Am I correct?

21 MR. MORDFIN: That's correct.

22 CHAIRMAN HOOD: So, I guess and I'm

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1 trying to accommodate what Vice Chairman
2 Schlater says. So, I guess what we would be
3 doing, Commissioners, if we all agree, we
4 would be holding off until that action happens
5 and that may be in abeyance for awhile.

6 But, I don't know. The city's
7 going to start moving fast real soon. So, I
8 don't know.

9 Ms. Steingasser, could you weigh in
10 on that?

11 MS. STEINGASSER: Well, part is to
12 have such a dramatic downzoning hanging over
13 the property could actually work to defer
14 future investment in the property. The
15 projects that are looking to go matter of
16 right.

17 So, we request that the Commission
18 take action on this application.

19 VICE CHAIRMAN SCHLATER: The only
20 thing that I would say -- and I'm not
21 proposing that it hang out there too long
22 because I actually think it's a very dangerous

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1 precedent to have people try to downzone the
2 site in order to derail a development
3 proposal.

4 I think it might be just helpful
5 for the process so that we have a complete
6 record to make the decision on for the ANC to
7 weigh in on the current set of facts and
8 potentially respond to the OP Report which
9 speaks directly to the Comprehensive Plan.
10 I'd like to see what the ANC has to say about
11 the Comprehensive Plan because I think OP
12 makes a fairly compelling case that the
13 proposal to downzone the site is inconsistent
14 with the Comprehensive Plan. So, I'm
15 wondering where the ANC is coming from on
16 this.

17 MS. STEINGASSER: The ANC certainly
18 knows that the report was filed and I don't
19 believe it has shown up here this evening
20 which is their right whenever the Commission
21 considers denial to speak to the Commission's
22 action. Make sure, but no, there is no one

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1 here from the ANC here this evening.

2 So, again, it's an awkward position
3 for the Office of Planning to try to speak for
4 the ANC which I am hearing you asking us to
5 do.

6 VICE CHAIRMAN SCHLATER: I'm not
7 asking you to do that actually. I'm just
8 wondering if it would be beneficial to the
9 fellow -- to the rest of the Commissioners for
10 further information on it and I'm not talking
11 about a long time. Maybe two weeks.

12 CHAIRMAN HOOD: Okay. Let's open
13 it up. Let me hear from Commissioner
14 Selfridge.

15 COMMISSION SELFIDGE: I think
16 that's a good way to proceed on this. I, too,
17 would be concerned about a precedent in terms
18 of downzoning on projects that people don't
19 particularly like.

20 But, I think it's important for ANC
21 4C is it or 4B to have an opportunity to
22 comment fully on the OP report and have an

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1 opportunity to certainly address any potential
2 changes to the site.

3 I also think that by doing that
4 we've not deferring action indefinitely. So,
5 it does allow for some certainty on that site
6 if we simply defer until the next meeting.

7 CHAIRMAN HOOD: Anyone else?
8 Commissioner Turnbull and then we'll go to
9 Commissioner May.

10 COMMISSIONER TURNBULL: I guess I'm
11 okay going that route. I don't know what
12 that's going to do for us. I don't know if
13 the ANCs going to change their position and it
14 sounds like they're pretty set in trying to go
15 to R5B, but if the rest of the Commissioners
16 want to defer and give the ANC another bite at
17 the apple, that's fine.

18 CHAIRMAN HOOD: Commissioner May.

19 COMMISSIONER MAY: I do think we
20 need to move ahead with and made a decision
21 whether or not to set this down relatively
22 quickly, but I don't see any harm in giving it

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1 a couple of weeks. In fact, I see some
2 benefit in giving the ANC another opportunity
3 to basically answer the question of why -- I
4 mean why do they think that this is the
5 appropriate thing to do given that it seems
6 pretty clear that it's contrary to the Comp
7 Plan.

8 And if we hear nothing or if we
9 hear more, that will help us make a better
10 decision and we don't need to put it off
11 indefinitely. But, I don't see any problem
12 with putting it off for a meeting or two.

13 CHAIRMAN HOOD: Okay. Anyone else?

14 COMMISSIONER TURNBULL: Well, like
15 I said, I would just add to those comments
16 that I think as Ms. Steingasser said we don't
17 want to leave this hanging over the site, this
18 property too long. I think we need to get an
19 answer fairly quickly and move on this.

20 CHAIRMAN HOOD: Honestly,
21 Commissioners, and I'm all for waiting one or
22 two weeks, I think we got the answer we're

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1 going to get. I don't think we're going to
2 get anything any different than what we had
3 before tonight, but I also want to make sure
4 that we give -- afford the opportunity to the
5 concerns of my colleagues.

6 So, it's rough when you're in the
7 chair position. You try to even it across the
8 Board. So, I would do that. We would look at
9 two weeks.

10 Ms. Schellin, can you give us a
11 date and can somebody contact the ANC?

12 MS. SCHELLIN: Yes, we'll contact
13 them and our next meeting is December 13th.

14 CHAIRMAN HOOD: Is that too long,
15 Commissioners? December 13th. Should be do a
16 special public meeting?

17 Okay. All right. Two weeks.
18 December 13th. Yes, that's right. Today is
19 the -- okay. All right. So, December 13th,
20 we will do this and the Office of Zoning Staff
21 will contact ANC 4B. Okay.

22 Let's move right along with the

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1 next item. Zoning Commission Case Number 10-
2 25, Urban Investment Partners - Map Amendment
3 at Square 2843.

4 Mr. Mordfin, again.

5 MS. STEINGASSER: Mr. Goldstein
6 this time.

7 CHAIRMAN HOOD: Goldstein. Okay.

8 MS. STEINGASSER: Right.

9 CHAIRMAN HOOD: All right.

10 MR. GOLDSTEIN: Good evening, Mr.
11 Chairman and Members of the Commission. My
12 name is Paul Goldstein.

13 Urban Investment Partners has filed
14 an application to rezone lots 810 and 808 in
15 Square 2843 from the R4 to R5B zone. The
16 sites are located at 1346 Park Road, N.W. and
17 1349 Kenyon Street, N.W. just east of 14th
18 Street in Columbia Heights.

19 Both properties are improved with
20 pre-1958 buildings, apartment buildings. At
21 the Park Road property is a three-story, 21
22 unit building and at the Kenyon Street

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1 property is a four-story, 40 unit building.
2 The buildings are nonconforming to the
3 applicable R4 zoning which is a zone that is
4 generally designed for row dwellings and which
5 places limits on apartment expansion.

6 In contrast, the requested R5B zone
7 is designed to provide flexibility of
8 residential building types including multi-
9 family residential buildings of moderate
10 height and density.

11 As stated in the application, the
12 Applicant intends to renovate and add
13 additional basement units within each building
14 which would facilitate a more comprehensive
15 upgrade. The Applicant is not proposing any
16 physical expansion of the buildings.

17 A rezoning to R5B would allow the
18 proposed unit increase as a matter of right
19 and make the properties more conforming to its
20 zoned district.

21 As described in the OP report,
22 based on an examination of the general

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1 guidance in the future land-use map as well as
2 the Comp Plan text, the R5B zoning designation
3 would not be inconsistent with the Comp Plan.

4 OP, therefore, recommends that the
5 map amendment be set down for a public
6 hearing.

7 Thank you and I'm available for any
8 questions.

9 CHAIRMAN HOOD: Thank you, Mr.
10 Goldstein. Commissioner Selfridge, did you
11 want to put something on the record?

12 COMMISSIONER SELFRIDGE: Yes, thank
13 you, Mr. Chairman. I'm going to recuse myself
14 from this case. My company has done business
15 with the Applicant before and just out of an
16 abundance of caution, I think I'm going to sit
17 this one out.

18 CHAIRMAN HOOD: Thank you very
19 much.

20 Okay. Let's up it up. Any
21 questions for the Office of Planning? Vice
22 Chairman Schlater.

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1 VICE CHAIRMAN SCHLATER: My
2 understanding is this rezoning is going to be
3 done in parallel with the historic
4 preservation effort. Are you going to go to
5 HPRB and designate the -- is the Applicant
6 going to HPRB to designate these two
7 buildings?

8 MR. GOLDSTEIN: My understanding is
9 the Applicant is planning on submitting a
10 historic landmark application.

11 VICE CHAIRMAN SCHLATER: And that
12 goes to the Historic Preservation Review
13 Board?

14 MR. GOLDSTEIN: I believe so, but
15 I'm less familiar with that process.

16 MR. LAWSON: It would.

17 VICE CHAIRMAN SCHLATER: And will
18 that process be complete before we take action
19 on the rezoning of the property?

20 MR. GOLDSTEIN: That's something I
21 can ask the Applicant to further clarify.

22 VICE CHAIRMAN SCHLATER: Would OP

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1 be supportive of the rezoning of the property
2 even without the historic designation of the
3 property?

4 MR. GOLDSTEIN: I believe that we'd
5 still be supportive of a public hearing on
6 that. On the rezoning.

7 The way that the buildings are now
8 constructed, they would be nonconforming under
9 R5B for FAR. So, any expansion of the
10 buildings would be somewhat constrained as a
11 matter of right.

12 The Applicant is proposing the land
13 marking, I guess, at least in part to
14 alleviate any concerns from the community that
15 the buildings may be torn down. Whether that
16 ultimately is a concern of the community is
17 something I'm not sure has been fully fleshed
18 out.

19 We'd still be supportive of the
20 public hearing on this rezoning request.

21 VICE CHAIRMAN SCHLATER: Is the
22 only thing that would -- these buildings are

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1 not in conformance with current zoning. I
2 guess I understand that part.

3 Is it only the number of units
4 that's tripping it out of conformance or is
5 it --

6 MR. GOLDSTEIN: I think it's more
7 than that. Certainly the number of units. I
8 believe one of the properties is nonconforming
9 to stories and height.

10 VICE CHAIRMAN SCHLATER: Okay.

11 MR. GOLDSTEIN: There may be a few
12 other features as well.

13 VICE CHAIRMAN SCHLATER: Is R5B
14 common in this area? I see the map. I don't
15 see it anywhere else on the map.

16 MR. GOLDSTEIN: Just looking on the
17 map, if you look, Newton Street has R5B.
18 Monroe Street is R5B. R5B is not an unusual
19 zone for moderate density residential in the
20 Comp Plan.

21 VICE CHAIRMAN SCHLATER: Okay.
22 Thank you very much.

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1 CHAIRMAN HOOD: Any other
2 questions?

3 COMMISSIONER TURNBULL: The one
4 building that's sort of sandwiched between
5 these properties and the C3, that's going to
6 stay R4. Is that an historic building?

7 MR. GOLDSTEIN: I just want to
8 clarify with you. The building that you're
9 referencing is that to the west on Park Road
10 of the property?

11 COMMISSIONER TURNBULL: Right.

12 MR. GOLDSTEIN: That actually is in
13 a C3A zone.

14 COMMISSIONER TURNBULL: Oh, that is
15 C3A?

16 MR. GOLDSTEIN: Yes. Yes. It may
17 be a little --

18 COMMISSIONER TURNBULL: Oh, I --

19 MR. GOLDSTEIN: -- less clear
20 because the outline of the properties kind of
21 overlap with the zoning line.

22 COMMISSIONER TURNBULL: Oh, okay.

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1 So, that is C3A.

2 MR. GOLDSTEIN: That's correct.

3 COMMISSIONER TURNBULL: Okay.

4 Thank you.

5 CHAIRMAN HOOD: Any other
6 questions?

7 COMMISSIONER MAY: Yes.

8 CHAIRMAN HOOD: Commissioner May.

9 COMMISSIONER MAY: What is it that
10 the owners of these properties want to do that
11 they cannot do under the current zoning? I
12 mean they're existing nonconforming
13 structures. They can continue to exist as
14 nonconforming structures. They can renovate
15 them. Right? What can't they do?

16 MR. GOLDSTEIN: My understanding is
17 that the expansion of the units in the
18 building is what --

19 COMMISSIONER MAY: The number of
20 units.

21 MR. GOLDSTEIN: The number of
22 units.

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1 COMMISSIONER MAY: So, it's cutting
2 it up into different number of units.

3 MR. GOLDSTEIN: Yes, I guess there
4 might be some under-used space in the
5 basement. Is my understanding in the
6 application.

7 COMMISSIONER MAY: Is it a basement
8 or is it a cellar? Because it looks like a
9 cellar from the pictures. In which case it
10 doesn't affect FAR.

11 MR. GOLDSTEIN: It's references in
12 the application as a basement. It's certainly
13 something we can further clarify.

14 COMMISSIONER MAY: Yes. But, you'd
15 still run afoul of the limit on the number of
16 units.

17 MR. GOLDSTEIN: Yes, I think --

18 COMMISSIONER MAY: Because it's R4,
19 you got to have that 900 feet. Okay.

20 MR. GOLDSTEIN: Yes, I think
21 they're quite afoul of that at the moment.

22 COMMISSIONER MAY: Right. Okay.

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1 CHAIRMAN HOOD: Okay. Any other
2 questions, Commissioners? All right. Any
3 proposals? Any motions?

4 VICE CHAIRMAN SCHLATER: Mr.
5 Chairman, I move that we setdown Zoning Case
6 Number 10-25 Urban Investment Partners
7 proposed Zoning Map amendment.

8 CHAIRMAN HOOD: Thank you, Vice
9 Chairman. Can we get a second?

10 COMMISSIONER MAY: Second.

11 CHAIRMAN HOOD: Been moved and
12 properly seconded. Thank you, Commissioner
13 May. Moved and properly seconded. Any
14 further discussion?

15 All those in favor.

16 (Ayes.)

17 CHAIRMAN HOOD: Not hearing any
18 opposition, Ms. Schellin, would you please
19 record the vote.

20 MS. SCHELLIN: Yes, staff will
21 record the vote 4 to 0 to 1 to setdown Zoning
22 Commission Case Number 10-25 as a contested

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1 case. Commissioner Schlater moving.
2 Commissioner May seconding. Commissioners
3 Hood and Turnbull in support. Commissioner
4 Selfridge not voting has recused himself.

5 CHAIRMAN HOOD: Okay. Next, Zoning
6 Commission Case Number 10-29, Hazle II, LLC -
7 First-Stage PUD and Related Map Amendment at
8 Square 6162.

9 Did I skip one? How did I skip
10 that? Oh, I had put them up. We had already
11 set them down in my mind. Okay.

12 Zoning Commission Case Number --
13 I'm sorry. Thank you all.

14 Zoning Commission Case Number 10-
15 26, 3321 Georgia, LLC - Consolidated PUD and
16 Related Map Amendment at Square 3040.

17 Mr. Mordfin.

18 MR. MORDFIN: Hi. Good evening
19 again.

20 The Applicant's requesting a
21 consolidated planned unit development and PUD-
22 related map amendment to permit a mixed-use

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1 building consisting of residential and retail
2 space.

3 The applications requests
4 flexibility to increase building height and
5 density, modify the compact parking
6 provisions, reduce the loading requirements,
7 permit more than one roof structure of varying
8 heights and construct a lot in excess of
9 12,000 square feet within the Georgia Avenue
10 Overlay District.

11 The application also requests
12 flexibility to modify the plans as approved so
13 as to vary the number of residential units,
14 vary the interior components of the building,
15 vary the arrangement of the parking spaces and
16 vary the final selection of the exterior
17 materials without reducing the quality.

18 In exchange for this flexibility,
19 the Applicant proposes several public benefits
20 and amenities. These include urban design.
21 The Applicant proposes a masonry building with
22 store fronts directly accessible from the

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1 street in conformance with the design
2 provisions of the Georgia Avenue Overlay
3 District. The Office of Planning will work
4 with the Applicant to further define this
5 benefit if the application is set down.

6 Site planning, the proposed
7 building will eliminate outdoor parking,
8 loading and refuse removal and incorporate
9 these into the building away from public view.

10 Transportation, the application
11 proposes to implement a transportation demand
12 management program. The Applicant will also
13 participate in the First Source Employment
14 Program.

15 For housing and affordable housing,
16 the application indicates that 8 percent of
17 the residential square footage will be
18 affordable at 80 percent of AMI which is equal
19 to the IZ requirement. The Office of Planning
20 will work with the Applicant to refine this
21 request if the application is set down.

22 Environmental benefits, the

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1 Applicant proposes to participate in the green
2 community's program and uses of special value,
3 the Applicant proposes to work with the ANC to
4 identify benefits and amenities desired within
5 the community. Should the Commission set down
6 this application, the Office of Planning will
7 work with the Applicant in addressing this
8 list.

9 And this application is consistent
10 with the provisions of the Comprehensive Plan
11 including to stimulate high quality transit-
12 oriented development along the Georgia Avenue
13 corridor, to encourage continued
14 revitalization of the lower Georgia Avenue
15 corridor, to encourage the private sector to
16 provide new housing to meet the needs of
17 present and future District residents at
18 locations consistent with the District's land-
19 use policies and objectives and to promote
20 mixed-use development including housing on
21 commercially-zoned land particularly in
22 neighborhood commercial centers.

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1 Therefore, the Office of Planning
2 recommends that the Commission set down the
3 subject application.

4 Thank you and I'm available for
5 questions.

6 CHAIRMAN HOOD: Mr. Mordfin, I have
7 just one quick question. Is this -- I know
8 what it says, but is this the first new
9 development right like -- right there in that
10 area by Georgia and Lamont and Morton? Is
11 this the first new development right in that
12 little area there?

13 MR. MORDFIN: Well, one block south
14 and on the other side of Georgia Avenue was --
15 at Georgia and Lamont was a PUD about a year
16 ago, seven stories high with ground-floor
17 retail. This is one block up. So, they're
18 very close to each other.

19 CHAIRMAN HOOD: Has anything
20 happened with that other PUD that's a block
21 away?

22 MR. MORDFIN: One of the things

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1 that they had to do before there would be
2 construction was to close the public alley and
3 they have accomplished that. I don't know if
4 they've begun construction.

5 CHAIRMAN HOOD: Okay. All right.
6 Thank you.

7 Let me open it up. Any questions?
8 Comments? Commissioner May.

9 COMMISSIONER MAY: Yes, this
10 submission of this application at this point I
11 think still needs a lot of work before it will
12 actually be ready for a hearing. That's not
13 to say that I'm opposed to setting it down
14 tonight. I think maybe we can, but there
15 really is a lot in it that I think needs
16 attention and I'm sure the Office of Planning
17 has probably got a number of these concerns
18 already on their list.

19 I mean first of all one of the
20 things I don't understand, maybe Office of
21 Planning can shed some light on this, but why
22 is it that the development is all being

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1 concentrated away from the post office
2 structure? I mean is there some obligation
3 that that's got to stay exactly as it is
4 because it surely is not a very good thing
5 from an urban design point.

6 MR. MORDFIN: The Applicant
7 informed me that initially they had intended
8 to demolish that part of the building, but
9 that there's a long term lease that the
10 Applicant has with the post office, it's very
11 favorable to the post office, that they were
12 unable to get out of and so, therefore, they
13 instead decided to incorporate the existing
14 post office building, reface it with the
15 brick, reorient it's access.

16 And then what they saw as one of
17 the benefits of what they got is that the
18 south facing windows, the building could have
19 south facing windows. Whereas, if it went all
20 the way to the southern property line, we
21 would have a wall that couldn't have windows
22 unless they were at risk windows. So --

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1 COMMISSIONER MAY: Um-hum.

2 MR. MORDFIN: -- it might enliven
3 the light.

4 COMMISSIONER MAY: Well, it's some
5 minor benefit to the building and really no
6 benefit to the streetscape to have that.
7 That's really, really unfortunate because it's
8 -- I think that overall the building would be
9 much better if that could be -- the post
10 office portion of it could be incorporated
11 into the overall design of the building. It
12 would make the rest of the units, I think,
13 much better.

14 In your report, there is analysis
15 of the C2A and then C2B with the PUD and then
16 the proposal, but we don't have anything that
17 compares it to a C2A with a PUD and I'm
18 wondering if we could provide that when we get
19 to the hearing point because it would be
20 helpful to understand just how much
21 flexibility is being granted here.

22 One of the other major, I guess,

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1 aesthetic downfalls of this project is the
2 east wall which faces the neighbors which is
3 just proposed as, I don't know, EFUS or
4 something like that and it's all blank. There
5 are no windows. I know they're at risk or
6 potentially at risk because of the development
7 next door, but I'm not sure that the
8 development next door is ever going to rise to
9 the full height of this building. So,
10 something better has to happen on that wall.

11 And this is one of the things where
12 because they couldn't redevelop the post
13 office portion of the parcel, they had to stay
14 right on the property line along the east wall
15 -- the east property line. So, felt that they
16 -- you know, since they had at risk windows,
17 they weren't going to put them in.

18 I mean I just -- it makes that side
19 of the building just very unattractive as it
20 faces the neighborhood.

21 I think architecturally there are a
22 few other things that need some refinement. I

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1 mean I think overall the architecture is okay.

2 There is certainly more attention that needs
3 to be paid to the entrances especially the
4 garage entrance. The top of the building is
5 not very well developed.

6 And ideas like the green screen,
7 I'm actually fairly sceptical that the green
8 screen is going to work in that relatively
9 narrow light shaft and given it's placement.
10 So, I'm concerned that that gets worked out.

11 The benefits and amenities are
12 nonexistent in what we've seen so far. So, I
13 mean I think that's probably the biggest
14 shortfall. The rest of these things are the
15 kinds of things that we normally work out
16 between a set down and -- rather work out by
17 the time we actually have the hearing.

18 To have something come in with no
19 discussion of the benefits and amenities is
20 just -- I think is very unusual and it's the
21 biggest missing portion of it.

22 I would also note that I'm not

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1 convinced of the need for relief from the
2 setback requirements for the roof structures.

3 I can understand the need to have separate
4 roof structures in this circumstance, but I
5 think that a little bit more architectural
6 creativity could solve some of the roof stair
7 structure.

8 Those stairway entrances on the
9 roof, there are other -- you know, you don't
10 necessarily have to have a stairwell that's
11 completely straight from the top of the
12 building to the very bottom of the building
13 and it is possible to shift the stairwell and
14 then you don't have the roof structures very
15 close to the edge of the exterior walls of the
16 building.

17 Those are my comments.

18 CHAIRMAN HOOD: Thank you very
19 much. Any other comments? Questions of
20 Office of Planning? Vice Chairman Schlater.

21 VICE CHAIRMAN SCHLATER: Thank you,
22 Mr. Chairman.

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1 I think Commissioner May hit on the
2 highlights there.

3 I think for me, from an
4 architectural standpoint, the east wall is a
5 big problem in that there's going to be a lot
6 of people looking at it. I mean it's sort of
7 the -- it's the part of the building that
8 faces the neighborhood and I think they need
9 to do a lot better job with it. I don't think
10 that's a showstopper right now. I think it
11 can be improved through the process. I hope
12 it'll be better by the time we get to the
13 hearing.

14 The thing that I am more concerned
15 about is the list of benefits and amenities.
16 I think it's a bad precedent to be just
17 blowing by these benefits and amenities at set
18 down and saying that they're going to be
19 worked out later in the process.

20 I'm worried. I don't see much
21 being offered here. I mean I think -- I think
22 we've talked recently about affordable housing

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1 that meets the minimum threshold shouldn't be
2 considered an amenity to a project.

3 I think that the level of greening
4 of the building is actually not terribly
5 extraordinary by just meeting the green
6 community's program.

7 I think that I'd need to see more
8 evidence that this is a superior urban design
9 because I don't -- I need more at the hearing.

10 Somebody to show me what's superior about
11 this. I think it's a perfectly good looking
12 building, but I think it looks a lot like the
13 boxes that are being put up all over the city
14 right now and I wouldn't point to it and say
15 wow, this is a lot better than those boxes
16 that are being put up all over the city. I
17 would just say, you know, it is.

18 And so, I think what we're going to
19 be faced with again with this set of amenities
20 is it's very thin. This is a good project. I
21 think everybody wants to see density on
22 Georgia Ave. I think everybody wants to see

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1 improved retail on Georgia Ave and development
2 of that corridor.

3 And I laud the Applicant for the
4 good work that he's done along that corridor
5 to date and I hope this project moves forward.

6 I'm going to support it for a set down, but
7 in terms of the benefit amenities, it needs a
8 ton of work and I won't support it the way it
9 is currently.

10 CHAIRMAN HOOD: Any comments? Mr.
11 Selfridge.

12 COMMISSIONER SELFRIDGE: I would
13 just very briefly reiterate what Vice Chairman
14 Schlater said about the benefits and amenities
15 and I look forward to a much more robust
16 package as we consider this down the line.

17 CHAIRMAN HOOD: Anyone else? Okay.

18
19 COMMISSIONER TURNBULL: Yes, Mr.
20 Chair, I think my fellow Commissioners have
21 touched on, I think, the high points.

22 I would just reiterate what

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1 Commissioner May and Commissioner Schlater
2 said about the east facade. I think it's
3 really an affront to the neighborhood. I
4 think it's not a good neighbor. I think the
5 EFUS and the rather plain facade -- we've had
6 this before with other projects that seem to
7 be -- they have their dressy side and then
8 they have their side that we want to cut back
9 and dumb the architecture down and this is it.

10 And I will not support this project
11 unless it does something to that east facade
12 to the neighborhood and is more inviting and
13 becomes a good neighbor and blends in and
14 wants to be a good neighbor. It just totally
15 rejects the neighborhood on that facade.

16 I was going through the -- just
17 looking at the -- I guess I'm just -- I guess
18 Morton Street is a local street. It's a dead
19 end. It's got a cul-de-sac at it and
20 everything comes in and out and I'm not -- I'm
21 just a little curious. It looks very tight
22 because there's parking on both sides of the

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1 street and it's two ways.

2 Now, maybe it's not going to get a
3 lot of traffic, but I'm just concerned about -
4 - and I'm looking at the Applicant's Exhibit
5 4, the traffic impact study and I'm just a
6 little bit concerned. I'd like to get a
7 little bit more information on how this
8 actually works.

9 I see a truck. They have provided
10 a truck pull out which seems to work, but it's
11 -- I don't know. It just looks very tight and
12 maybe on page 16 and 17, but when you see the
13 on-street parking, I just don't know. I just
14 have some questions.

15 As I say, once you have parking on
16 both sides like that and again, the trucks, I
17 guess we're planning on only 30-foot trucks
18 coming in here. Maybe it will work. I just
19 have a concern about some of the issues there.

20 But, I would echo the concerns
21 about the architecture. I think this building
22 really needs some work on that.

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1 Thank you.

2 CHAIRMAN HOOD: Commissioner
3 Turnbull, I want to associate myself with your
4 comments. Especially, with dealing around
5 Morton Street. I'm very familiar with that
6 area and that street.

7 So, hopefully, if this is set down,
8 I believe it's going to be set down, I think
9 there's a lot of support up here to set it
10 down, but as I've heard from my colleagues and
11 I see that we need some additional work
12 especially when it comes to the amenities
13 package.

14 So, I think I'd like to see -- I
15 want to see how all that's going to -- all
16 that's going to relate with Morton Street and
17 how the traffic pattern and everything's going
18 to go. The circulation and how that's going
19 to all evolve and work once we get to the
20 hearing.

21 Are we ready to move forward with
22 this? Okay.

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1 I would move that we set down
2 Zoning Commission Case Number 10-26, 3321
3 Georgia, LLC, Consolidated PUD and Related Map
4 Amendment at Square 3040 and ask for a second.

5 COMMISSIONER TURNBULL: Second.

6 CHAIRMAN HOOD: It's been moved and
7 properly seconded. Any further discussion?

8 All those in favor.

9 (Ayes.)

10 CHAIRMAN HOOD: Not hearing any
11 opposition, Ms. Schellin, would you please
12 record the vote?

13 MS. SCHELLIN: The staff records
14 the vote 5 to 0 to 0 to set down Zoning
15 Commission Case Number 10-26 as a contested
16 case. Commissioner Hood moving. Commissioner
17 Turnbull seconding. Commissioners May,
18 Schlater and Selfridge in support.

19 CHAIRMAN HOOD: Okay. Let's move
20 to our next case. The one I tried to go to
21 earlier.

22 Zoning Commission Case Number 10-

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1 29, Hazle II, LLC - First-Stage PUD and
2 Related Map Amendment at Square 6162.

3 Mr. Mordfin. Oh, Ms. Thomas.

4 MS. THOMAS: Good evening, Mr.
5 Chairman, Members of the Commission. I'm
6 Karen Thomas with the Office of Planning.

7 The Office of Planning is
8 recommending set down of a first-stage PUD and
9 related map amendment to accommodate
10 development of a multi-story -- of a multi-
11 family apartment building, sorry, on a vacant
12 parcel comprised of Lots 810 and 811 in Square
13 6162.

14 The development of this lot is
15 included in D.C. Housing Authority's Hope 6
16 bridge financing which is being sought by the
17 Applicant and DCHA in conjunction for the
18 Highlands Addition Development which was
19 previously approved by this Commission.

20 While the Applicant's submission
21 indicated a map amendment from the R2 to the
22 R5B district, the 18,000 subject square foot

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1 lot does not satisfy the minimum area
2 requirement for a PUD and will also not meet
3 the standard of Section 2401.2 which
4 authorizes a waiver of not more than 50
5 percent of the minimum area by the Commission.

6 Therefore, OP is recommending set
7 down in the alternative as a map amendment to
8 the R5C district. The proposed development's
9 size and density would remain within the
10 moderate density limitations of the R5B PUD
11 which will not be inconsistent with the Comp
12 Plan and further land-use map and would be
13 regulated by the Commission through the PUD
14 process.

15 Therefore, we are proposing set
16 down in the alternative to facilitate this
17 important Hope 6 project.

18 Thank you.

19 CHAIRMAN HOOD: Thank you, Ms.
20 Thomas. Commissioners, any questions of Ms.
21 Thomas? Comments? Vice Chairman Schlater.

22 VICE CHAIRMAN SCHLATER: So, the

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1 original application asked for R5B. Correct?

2 And the reason why OP is suggesting in the
3 alternative R5C is because of this --

4 MS. THOMAS: Yes, the area
5 requirement which for a PUD --

6 VICE CHAIRMAN SCHLATER: I guess my
7 question is for OAG. Would it be possible for
8 us just to waive that area requirement instead
9 of -- I mean I'm a little uneasy just giving
10 the site a higher zoning designation just to
11 get around the PUD rules.

12 MR. BERGSTEIN: The problem is the
13 regulations themselves set up a limit on --
14 they already give you an opportunity to waive
15 it and I don't think you have the opportunity
16 to waive a waiver.

17 VICE CHAIRMAN SCHLATER: But, there
18 are regulations.

19 MR. BERGSTEIN: I'm sorry.

20 VICE CHAIRMAN SCHLATER: Are you
21 saying we would have to amend the regulations?

22 MR. BERGSTEIN: You'd have to amend

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1 the regulation.

2 VICE CHAIRMAN SCHLATER: Do a map
3 amendment and text amendment associated with
4 the PUD?

5 MR. BERGSTEIN: Well --

6 MS. STEINGASSER: If I could weigh
7 in.

8 VICE CHAIRMAN SCHLATER: Go ahead.

9 MS. STEINGASSER: The Commission
10 has a long precedent of doing this kind of
11 combination of a map amendment with a PUD in
12 order to get a project that's considered
13 important into the PUD process.

14 The one I can think of right off
15 the top of my head is the original Historic
16 Field School that wanted to do a condominium.

17 It was zoned R2. We brought an R5D onto it
18 so that it could convert to condominiums.
19 Everybody was in support. There's several
20 like that.

21 MR. BERGSTEIN: And Albermarie.

22 MS. STEINGASSER: Pardon?

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1 MR. BERGSTEIN: Albermarie.

2 MS. STEINGASSER: Albermarie was
3 the same.

4 CHAIRMAN HOOD: Going way back now.

5 MS. STEINGASSER: Rather than do
6 waivers where there are no standards, this
7 allows the zoning to stay -- the integrity of
8 the Zone Plan to stay in effect and then the
9 PUD itself, of course, nails the project down.

10 VICE CHAIRMAN SCHLATER: Okay.
11 Well, I think we need to talk to Mr. Parker
12 about that when we get back to the PUDs and
13 we'll revisit that question. So, I don't have
14 anything -- any inherent problem with R5C as
15 opposed to R5B.

16 One question I would have I don't
17 know if you can answer this. Maybe it's up to
18 the Applicant.

19 Do you know if they intend to
20 provide more detailed plans for the project at
21 the hearing?

22 MS. THOMAS: Yes. Yes, we are

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1 hoping that they do. We would be working with
2 them to do that as a stage one PUD. We
3 decided we would accept this because it's part
4 of the Hope 6 financing which had to go
5 through pretty quickly.

6 VICE CHAIRMAN SCHLATER: So, for
7 this particular building, they would have to
8 come back with a stage two approval. Is that
9 the way this has been structured?

10 MS. THOMAS: Absolutely. Yes.

11 VICE CHAIRMAN SCHLATER:
12 Interesting. Now, how far is this site from
13 the PUD site?

14 MS. THOMAS: It's just right across
15 the -- almost across the street from the
16 Highlands Addition PUD.

17 VICE CHAIRMAN SCHLATER: Is it
18 across the street? That's what I was trying
19 to --

20 MS. THOMAS: I'm sorry.

21 VICE CHAIRMAN SCHLATER: --
22 determine.

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1 MS. THOMAS: Well, hold on.

2 VICE CHAIRMAN SCHLATER: Well, it's
3 that R4. It's right across Barnaby Street?

4 MS. THOMAS: Across Barnaby Street.

5 No. No, the Highlands Addition PUD has not
6 been developed as yet. I can provide a better
7 map at the stage two process.

8 VICE CHAIRMAN SCHLATER: I'm just
9 curious. The precedent. How far away can you
10 go on a -- does it have to be immediately
11 adjacent to the PUD site to be included in the
12 PUD?

13 MS. STEINGASSER: This is not an
14 extension or amendment of that original PUD.
15 This is a second PUD that we're working --

16 VICE CHAIRMAN SCHLATER: This is a
17 standalone PUD.

18 MS. STEINGASSER: This is a
19 standalone which is --

20 VICE CHAIRMAN SCHLATER: It has
21 nothing to do with --

22 MS. STEINGASSER: It has to with

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1 the original PUD in terms of financing and the
2 ability to go forward for Hope 6.

3 VICE CHAIRMAN SCHLATER: Right.

4 MS. STEINGASSER: But, it is not an
5 amendment to that PUD.

6 VICE CHAIRMAN SCHLATER: So, that
7 it's benefit and amenities package has to
8 stand on its own.

9 MS. STEINGASSER: Stand on its own.

10 MS. THOMAS: That's correct.

11 VICE CHAIRMAN SCHLATER: I think I
12 understand what's going on here. People are,
13 you know, trying to -- based on what I read in
14 the application, there's a Hope 6 application.
15 They're trying to get their entitlements for
16 the project so that they can get their funding
17 for the Hope 6 and I certainly want to be
18 supportive of that.

19 But, the application is extremely
20 thin and light and it makes it very difficult
21 to push it forward and if it were for anything
22 other than the Housing Authority trying to get

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1 a Hope 6 approval, I can't imagine that the
2 Commission would approve and set this down.

3 So, I'm going to support setting it
4 down just because of the urgency of it, but I
5 think it's thin and I think we need a lot more
6 information once we get to the hearing on
7 amenities, on site planning and design.

8 That's it for now.

9 CHAIRMAN HOOD: Anybody else? Any
10 other comments? Commissioner May.

11 COMMISSIONER MAY: I would just
12 agree with Commissioner Schlater that this is
13 a really, really thin application. This is --
14 and the only reason -- actually, two reasons
15 why it might be passable. One is the fact
16 that it is only a stage one and so, we don't
17 need to have the same level of detail that we
18 would normally expect for a consolidated PUD
19 and the vast majority of cases we see are
20 consolidated PUDs.

21 And then the fact that it's the
22 Housing Authority and we have a tendency I

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1 think to let the projects that are coming into
2 the Housing Authority -- give them a little
3 bit more slack perhaps.

4 But, it really is very, very thin
5 and I hope that a lot of work goes on between
6 now and when the hearing occurs because this
7 is just -- you know, the amount of information
8 that we have here is just -- well, it's
9 minimal and it's not even worth trying to
10 comment specifically on the architecture or
11 anything else.

12 I mean there is risk associated
13 with this because, you know, with a submission
14 that's not very mature by the time you get to
15 the actual hearing, it may be a harder hearing
16 and it may be a harder decision making and it
17 may take longer in the long run to get this
18 thing done because it's so underdeveloped at
19 this moment.

20 So, I really do hope that there's a
21 lot more work that goes on and I would trust
22 the Office of Planning to guide it in the

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1 right direction.

2 CHAIRMAN HOOD: Okay. Any other
3 comments? Someone like to put a motion
4 forward.

5 And I think we're being asked, Ms.
6 Thomas, also to set down the alternative as
7 well as what the Applicant's proposing.

8 MS. THOMAS: That's correct.

9 CHAIRMAN HOOD: Okay. So, Mr.
10 Bergstein, I guess we'll be advertising both.
11 Is that --

12 MR. BERGSTEIN: I guess so. I mean
13 technically it doesn't meet the requirements
14 for -- the R5B doesn't meet the requirements
15 for a PUD.

16 I suppose you could set it down,
17 but ultimately, you can never grant it.

18 COMMISSIONER MAY: We don't have to
19 set down what they've requested.

20 MR. BERGSTEIN: I don't know you
21 can. I mean it's --

22 COMMISSIONER MAY: But, we could

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1 just set down R5C. Right?

2 MR. BERGSTEIN: Right. Because in
3 a way you're giving them more than what
4 they've requested, but it doesn't meet the
5 area requirements for a PUD under the
6 requested map amendment. So, I don't know how
7 you can set it down.

8 If OP has a different view, I'd
9 like to hear it, but it's an absolute
10 requirement.

11 MS. STEINGASSER: Now, we concur
12 which is why we've proposed the alternative.

13 CHAIRMAN HOOD: Okay. I was just
14 trying to accommodate. Again, being the
15 accommodating person I am, but I think we can
16 set down the R5C. Okay. So, we'll do that.
17 We'll set down the alternative as opposed to
18 what was proposed by the Applicant, the R5B.

19 Are we all in agreement? Okay.
20 Good.

21 Okay. Can I get a motion?

22 COMMISSIONER TURNBULL: Mr. Chair,

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1 I would move that we set down that Zoning Case
2 Number 10-29, Hazle II, LLC for a first-stage
3 PUD and related map amendment, R5C, for
4 property located at Atlantic and Barnaby
5 Street, S.E., Lots 810 and 811 in Square 6162
6 and ask for a second.

7 COMMISSIONER SELFRIDGE: Second.

8 CHAIRMAN HOOD: It's been moved and
9 properly seconded. Thank you, Mr. Turnbull
10 and Mr. Selfridge. It's been moved and
11 properly seconded. Any further discussion?

12 All those in favor.

13 (Ayes.)

14 CHAIRMAN HOOD: Not hearing an
15 opposition, Ms. Schellin, would please record
16 the vote.

17 MS. SCHELLIN: Yes, staff records
18 the vote 5 to 0 to 0 to set down Zoning
19 Commission Case Number 10-29 as a contested
20 case. Commissioner Turnbull moving.
21 Commissioner Selfridge seconding.
22 Commissioners Hood, May and Schlater in

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1 support.

2 CHAIRMAN HOOD: Okay. Next we have
3 Zoning Commission Case Number 08-06. This is
4 the Office of Planning Comprehensive Zoning
5 Regulations Reviews: Subtitle J: Production
6 and Distribution and Repair.

7 Mr. Parker.

8 MR. PARKER: Good evening, Mr.
9 Chairman, Members of the Commission. My
10 name's Travis Parker with the D.C. Office of
11 Planning.

12 We're here tonight to seek set down
13 of draft text for new Subtitle J of Title 11
14 which is the production, distribution and
15 repair or industrial zones.

16 I'm going to basically talk in
17 three pieces tonight. First, I'm going to go
18 through, you know, the organization of this
19 chapter. Sort of how it works. Because this
20 chapter is basically the template for all of
21 the other land-use subtitles that you're going
22 to see, residential, commercial, downtown and

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1 so, the way this one works is the way that all
2 the other ones will work and so, it's kind of
3 important to sort of understand that.

4 Secondly, then I'm going to go and
5 talk through the naming structure because this
6 is the first one that you'll see zone names
7 and all of the other zone names will work in a
8 similar fashion based on that organization.

9 And thirdly, I'm going to talk
10 about what's changed in this chapter from the
11 existing industrial zones. So, the policy
12 changes that we've talked about in the past
13 and how they have manifested here.

14 So, I think the most important
15 thing -- do all of you have your text in front
16 of you. The most important thing in starting
17 with any of these land-use subtitles is going
18 to be right up front.

19 Right after the introduction on
20 page 2.1, you will see something called the
21 Zone Reference Table. This table is going to
22 be the starting place for everybody looking

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1 for information on PDR zones and in the other
2 subtitles, residential, commercial, this table
3 will always be the first place people go.
4 This table contains references to every
5 regulation -- it's intended to contain a
6 reference to every regulation applicable to
7 any particular zone.

8 So, for argument's sake, I'm going
9 to run through -- let's pick the P3A zone,
10 P3A1 zone. For argument's sake, I'm going to
11 run through that zone today and we'll see how
12 basically the subtitle is laid out.

13 So, under the P3A1 zone, you will
14 see a series of references based on the
15 different things that we're regulating. So,
16 starting with zone purpose, if you want to
17 know the purpose of the P3A1 zone, you go to
18 Section J301.2 which is on the very next page.

19 That contains the purpose of this zone.

20 Development regulations for that
21 zone are going -- and I'm going to jump back
22 and forth to the table in 201.1.

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1 Development regulations for that
2 zone are in 402.4. So, if you jump to 402.4,
3 excuse me. Did I read wrong? And we have our
4 first reference mistake of many I'm sure.

5 The P3 is in 402.3. A codification
6 there, but you'll see in 402.3 a development
7 table. So, this table then contains for that
8 zone all of the development standards, height,
9 FAR. PR zones don't have rear yards, side
10 yards, lot occupancy, but for the zones that
11 do, those will be in this table as well as
12 GAR. So, again, all that information is
13 referenced in this table from the table in the
14 front.

15 Going back to 201.1, you can then
16 reference the use permissions and those are
17 located in Section 502.1. Section 502.1 is
18 the use table that you've seen before and this
19 contains all of the use permissions for PDR
20 zones.

21 So, in our P3A1 zone, you'll see
22 the left-hand column contains the permissions.

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1 You know, the not permitted, the conditional,
2 the special exception uses for every type of
3 use that exists in the code.

4 Subsequently to that, your
5 reference to zone-to-zone transitions. This
6 is basically buffering between PDR and
7 residential zones in Chapter 6 and if you
8 follow that reference, it takes you to another
9 table that tells you what sort of buffer you
10 have to have if you're abutting a residential
11 zone from a PDR zone.

12 And then the subsequent references
13 in that table in 201.1 are to parking. PDR
14 does not have any particular parking
15 requirements. There are no minimums. So,
16 Chapter 7 basically just says there are no
17 minimums in PDR zones.

18 And for bicycle parking and
19 loading, you're sent back to Subtitle B
20 because bicycle parking and loading are
21 universal and don't change by zone.

22 So, basically, this structure and

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1 this organization should become intuitive as
2 people use it, but it's very simple. You
3 basically just jump from table to table and
4 this is the organization that you will see in
5 future subtitles assuming that we don't make
6 great changes as we go through and we may.

7 The second thing I want to talk
8 about has to do with those zone names and if
9 you'll look now in your set down report on the
10 third page, you'll see the existing list of
11 industrial zones and overlays starting with
12 the CM1 ending with the M Fort Totten Overlay.

13 Each of these then has been transcribed into
14 a new zone name and the zone names have
15 meanings.

16 Basically, the P points you to the
17 PDR chapter. Similar to if your zone
18 currently starts to a C, it points you to the
19 commercial chapter.

20 The second digit points you to your
21 development standards table. So, those tables
22 in Chapter 4 of the proposed text that have

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1 your height, your lot occupancy, your rear
2 yards, your FAR, that table is indicated by
3 the second digit. So, all zones in which the
4 second digit are the same have the exact same
5 standards and go to the exact same table.

6 The third digit --

7 COMMISSIONER MAY: I'm sorry.
8 Which table is it?

9 MR. PARKER: Your table's in
10 Chapter 4. So, 402.1 --

11 COMMISSIONER MAY: 402.1, 2, 3.

12 MR. PARKER: -- 2, 3. Exactly.

13 COMMISSIONER MAY: Okay.

14 MR. PARKER: And so, you can see
15 the statements in front -- on the top of those
16 table. The following development standards
17 table applies to zones beginning with P1 and
18 the next one says beginning in P2 and
19 beginning in P3. So, each table reflects or
20 each digit reflects a table.

21 The third digit is your use code
22 and if you go to your use chapter, excuse me,

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1 502.1, the table there with the uses. All of
2 the zones with an A in the third digit use the
3 A column, use the first column there. All of
4 the zones with a B use the B column and C, C
5 column and so on and so forth.

6 So, if the third digit is the same
7 between two zones, you know that the use
8 permissions are the same between two zones.

9 And finally, the final digit
10 basically encompasses all the other changes.
11 There aren't any other changes in PDR zones.
12 All the PDR zones have the same standards for
13 buffering, but things like buffer zones and
14 street frontage regulations and other
15 regulations that aren't use or development
16 standards would be encompassed in those zones.

17 If there's differences, we'd have a 2 there
18 or a 3 there or a 4 there.

19 So, basically, in these four
20 digits, you're conveying all of the
21 information about the zones and it should
22 become intuitive that when you follow digit

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1 two or digit three, you're going to a
2 particular table or a particular place in a
3 table.

4 The weakness of this system
5 compared to our current one is that these
6 things are necessarily progressive. So, a 2
7 is not necessarily bigger or greater than a 1
8 and a D is not necessary more permissive in
9 uses than a C.

10 So, it just points you where to go
11 in the code. It's doesn't necessarily
12 indicate a progression.

13 So, that's the coding system and
14 I'll take questions on that as well in a
15 minute, but first, I wanted to -- well,
16 actually I'll stop here before I get into
17 what's changed in the PDR. Are there
18 questions on the coding system itself or how
19 the organization of the chapter works?

20 CHAIRMAN HOOD: Can you just
21 restate what you said about the progression?
22 One doesn't mean -- like the CM1, you have --

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1 more uses are allowed in the CM2 as opposed to
2 the CM1. CM1 is more restrictive. Can you
3 tell me is --

4 MR. PARKER: Sure. Let's look at,
5 for example, the P5C and P6C. P5C is the
6 existing M zone and P6C is the M zone with the
7 Fort Totten Overlay.

8 The Fort Totten Overlay actually
9 lowers the height. It doesn't lower, but it
10 says if it's 65 feet or greater, it has to go
11 through special review. So, the matter of
12 right height is lower in the P6 than in the
13 P5.

14 And subsequently, if we create new
15 zones, if we take the P1A and we split it up
16 and we change the height from the, you know,
17 40 feet to 25 feet, we wouldn't bump all these
18 up a zone. We'd create a new table. It would
19 be Table 7 and, you know, that new P1A would
20 become P7A.

21 So, the numbers are necessarily in
22 order. They just tell you where to look.

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1 CHAIRMAN HOOD: So, if I look at --
2 when I eventually fine P5C1 because this is --
3 you know, I don't know if this is going to be
4 more complicated, but I'm more than going down
5 the new system. But, when I eventually find
6 P5C1, I'll see that the uses in P5C1 and I'm
7 using existing code versus the new one. Also,
8 I'm combining them. But, anyway, P5C1 will
9 show me that the -- when I flip over and find
10 out what's going on in that particular zone,
11 the P6C1 at the end of the day is going to
12 show me that the P6C1 is actually more
13 restrictive than the P5C1.

14 MR. PARKER: Not in uses. Both of
15 those allow the exact same uses, but you
16 notice that the 5 and 6 are different. So,
17 the development standards, the height, the
18 side yards, that sort of thing are different.

19 CHAIRMAN HOOD: So, something is
20 more restrictive though. Even -- okay.

21 MR. PARKER: Yes.

22 CHAIRMAN HOOD: Okay.

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1 MR. PARKER: Yes.

2 CHAIRMAN HOOD: Okay. Gotcha. All
3 right. When I figure that out, maybe I'll
4 understand it better. All right. Okay.

5 Any other comments or questions?

6 MR. PARKER: I'll then go on to
7 talk about what's actually substantively
8 different in this chapter from the current
9 code based on recommendations from 2008.

10 First, something new to industrial
11 zones. Based on your guidance, we've limited
12 the non-PDR or nonindustrial FAR. So, all of
13 these zones have a maximum total FAR and the
14 FAR for nonindustrial related uses is limited
15 to a number below that. Similar to in
16 commercial zones, we limit the nonresidential
17 FAR. It's the same sort of thing here. So,
18 for example, the M zone has a total FAR of 6
19 and in the future, non-PDR uses will be
20 limited to 1. So, PDR uses can go to 6.
21 Other uses can go to 1.

22 We've standardized the buffer

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1 requirements. You can see we're down now to
2 six PDR zones where before we had eight.
3 That's the result of taking the Langdon
4 Overlay and the buffers that are required
5 there and making those universal. So, there's
6 actually no need for that separate Langdon
7 Overlay because the buffering that was
8 instituted through that overlay has been
9 applied across the board.

10 Thirdly, we have removed from this
11 code the standards of external effects that
12 were part of the original 1958 code. Largely
13 because that '58 code predated more up-to-date
14 requirements that have been put in DCMR and
15 are currently addressed by DDOE and there's a
16 table in the report that shows, you know,
17 what's regulated in the industrial chapter
18 right now in zoning, has been, you know,
19 supplanted by a lot of regulations in Title 20
20 of the code and is currently no longer
21 regulated really through zoning, but is
22 regulated by DDOE.

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1 And finally, in this chapter in the
2 Development Standards Table, you will see a
3 proposed requirement for a GAR number. We've
4 got a hearing scheduled on GAR in the month of
5 December. This is the first time you'll see
6 and in each subsequent set of draft text, you
7 know, for residential or commercial zones,
8 you'll see a proposed GAR standard for this
9 and basically, I'll walk through briefly how
10 we recommended that standard and what it
11 means.

12 In the report, you'll see that we
13 did an analysis of existing land cover in PDR
14 zones and determined an average existing GAR
15 score. So, if you calculated GAR based on all
16 the PDR lands in the city, you'd come out with
17 an existing score of about .137.

18 So, based on the assumption that we
19 wanted to set something higher than the
20 existing average in order to actually, you
21 know, promote a positive impact, we then
22 looked at, you know, what the potential upper

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1 limits of a GAR requirement would be.

2 We found that in PDR areas
3 achieving a score of about 0.4 gets difficult
4 as you reach 100 percent lot occupancy and
5 there are a lot of lots in the PDR zones that
6 are at 100 percent. Your options in achieving
7 your GAR go down as you get up to 100 percent.

8 So, with that mind, we looked at
9 scores between .137 and .4 to set the score
10 and we ran the potential costs of complying
11 with GAR and based on that cost, we narrowed
12 down our range from .2 to .3 of where we'd
13 like to set our proposed GAR requirement in
14 the PDR zones. All of those came up with
15 numbers for compliance that were less than 1
16 percent of construction costs in these zones.

17 But, in an abundance of caution and
18 since this is a new system, people aren't used
19 to it, we've opted to propose a limit of .2
20 which is on the lower scale of the probable
21 numbers that we were looking at.

22 And we're more than interested in

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1 talking with you more about the methodology.
2 We wanted to get this to you to see sort of
3 how we're going to propose numbers in the
4 various zones so that we'll have that --
5 you'll have that additional information for
6 our December 20th hearing on GAR.

7 CHAIRMAN HOOD: Okay. Anything
8 else? Any questions for Mr. Parker? Can we
9 have a request to set this down? Commissioner
10 May.

11 COMMISSIONER MAY: Yes, with the
12 GAR, what's the range of scores that you can
13 get for that?

14 MR. PARKER: It's designed to be 0
15 to 1.

16 COMMISSIONER MAY: Um-hum.

17 MR. PARKER: But, there are
18 instances where you can actually -- you could
19 actually go above 1. But, as I said, the
20 average scores in our PDR zones right now are
21 about 0.1.

22 COMMISSIONER MAY: Okay. In other

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1 zones, you -- are you expecting -- I mean what
2 would be a one?

3 MR. PARKER: Oh.

4 COMMISSIONER MAY: Can you actually
5 achieve a 1 and what would it be?

6 MR. PARKER: You can. A 1 -- you
7 can achieve 1 with, you know, a vegetated lot.
8 A fully vegetated lot with some trees on it.
9 You could also achieve a 1 with a --

10 COMMISSIONER MAY: So, parks are 1.

11 MR. PARKER: The parks are a 1 or
12 higher even. If they've got enough trees,
13 they're above 1 actually.

14 You could theoretically achieve a 1
15 with a full green roof on half or less of the
16 lot and then fully vegetated and treed on the
17 rest of the lot. It's hard to do.

18 COMMISSIONER MAY: Um-hum.

19 MR. PARKER: It's hard to achieve a
20 1.

21 COMMISSIONER MAY: Okay. And it's
22 really not an area ratio though. Right? I

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1 mean we're calling it GAR, but it really
2 doesn't relate specifically to the area.

3 MR. PARKER: It does. Actually,
4 the ratio is -- the denominator is the area of
5 the lot.

6 COMMISSIONER MAY: Is the area of
7 the lot.

8 MR. PARKER: Um-hum.

9 COMMISSIONER MAY: Okay. So, it's
10 how much green over the --

11 MR. PARKER: It's a weighted factor
12 of green.

13 COMMISSIONER MAY: But, it's not a
14 -- yes.

15 MR. PARKER: Over the area of the
16 lot.

17 COMMISSIONER MAY: Okay. As
18 opposed to it's not a multiplier the way FAR
19 is. That's why it sort of throws me. It's
20 thinking of FAR and GAR. FAR is a multiplier
21 of the lot. It's --

22 MR. PARKER: Well, if you look at

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1 it in one way. It you look at it in the other
2 way, it's the area of the building divided by
3 the area of the lot.

4 COMMISSIONER MAY: Yes. Okay. All
5 right. That helps.

6 I think there are also some
7 references that are incorrect in your
8 development standards tables.

9 MR. PARKER: I wouldn't doubt it.

10 COMMISSIONER MAY: The zone
11 conditions look like those references are
12 based on a previous iteration of the draft
13 text.

14 So, I think like, for example, it
15 goes to --

16 MR. PARKER: It should be 403.2.

17 COMMISSIONER MAY: The P2 is 403.2.

18 Is one I noted, but those obviously have to
19 be checked.

20 When will we see the graphics that
21 are associated with Section 6, Chapter 6?

22 MR. PARKER: I believe we can have

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1 those to you by the hearing.

2 COMMISSIONER MAY: So, that means
3 they wouldn't be published with the --

4 MR. PARKER: Oh, we'll work to get
5 them published. But, yes, if at all possible,
6 we will.

7 COMMISSIONER MAY: Okay. I wonder
8 if that's a requirement. I mean do we need to
9 have -- maybe Mr. Bergstein can answer that.

10 Can we advertise this without the
11 graphics being published?

12 MR. BERGSTEIN: Mr. Parker, correct
13 me, but the graphics actually in this chapter
14 are they like -- are they controlling? In the
15 case, they would be more specific or are they
16 more illustrated for this chapter?

17 MR. PARKER: I think in general
18 we're intending them to be, you know, as
19 controlling as text. So --

20 MR. BERGSTEIN: So, you know, in a
21 perfect world, if the illustrations are at the
22 same level of substance as text, then it would

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1 probably be wiser to wait until that's done
2 because then the next opportunity to really
3 comment on them won't be until notice of
4 proposed rulemaking.

5 MR. PARKER: We'll work to get them
6 included.

7 COMMISSIONER MAY: For non-PDR
8 uses, I mean that's any non-PDR use
9 whatsoever. Is that right? Or it's
10 controlled by the chart.

11 MR. PARKER: Actually, not. If you
12 will look -- PDR is actually category. One of
13 our 30 categories is PDR, but for the purposes
14 of this, we have actually included some other
15 uses as PDR and so, let me -- give me one
16 second.

17 If you look in one of those tables,
18 it's the maximum FAR for selected uses and if
19 you jump down to 404.1, it lists what the
20 selected uses are.

21 So, it's not just PDR, but also
22 basic utilities, large-scale government and

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1 waste related. So, it's PDR-like uses.

2 COMMISSIONER MAY: All right. Now,
3 I'm really confused. So, the uses that are in
4 404.1 are the only ones that are the non --

5 MR. PARKER: They're the only ones
6 that can achieve the maximum FAR for selected
7 uses.

8 COMMISSIONER MAY: For selected
9 uses and the FAR for all other uses can be
10 anything.

11 MR. PARKER: Correct. Anything
12 that's permitted in the zone.

13 COMMISSIONER MAY: And that
14 permission in the zone is controlled by your
15 first chart.

16 MR. PARKER: Correct. For 502.1.

17 COMMISSIONER MAY: I'm sorry.
18 Whatever. 502.1. Got it. Okay. So,
19 education is permitted and residential is
20 permitted, but only as an accessory use for
21 example.

22 MR. PARKER: Correct.

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1 COMMISSIONER MAY: Okay. All
2 right. Maybe I'll eventually get the hang of
3 this system. Thanks.

4 CHAIRMAN HOOD: Mr. Parker, I'm
5 just curious. 404.1, waste related services,
6 is that taking the place of case in point
7 maybe trash transfer stations?

8 MR. PARKER: Um-hum.

9 CHAIRMAN HOOD: Oh. Okay. And
10 that's permitted. Right now, that's -- it
11 doesn't really say where it's permitted, but
12 PDR -- is that PDR 1A1?

13 MR. PARKER: In any PDR zone, waste
14 related is still a special exception if you
15 look in the use chart and there are conditions
16 for the special exception and that's based on
17 current permissions in our existing code.

18 CHAIRMAN HOOD: Okay. I may have
19 some other questions later. Any other
20 questions? Vice Chairman Schlater.

21 VICE CHAIRMAN SCHLATER: Mr.
22 Parker, you'll have to excuse me. I'm not

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1 even sure if I was here for the guidance on
2 this hearing. They all blend together, but I
3 don't think I was and so, I'm going to ask
4 some maybe more basic questions.

5 MR. PARKER: That's fine.

6 VICE CHAIRMAN SCHLATER: With
7 respect to the changes in the allowable FAR in
8 these various zones, it appears that in three
9 out of the six PDR zones, the allowable FAR is
10 going up by half an FAR.

11 Can you just talk to me about the
12 rationale for increasing -- well, actually, in
13 the same answer, it would appear to be your
14 allowed FAR for non-PDR uses goes down.

15 MR. PARKER: Um-hum.

16 VICE CHAIRMAN SCHLATER: So, just
17 walk me through that logic again and then I
18 might have some follow-up questions.

19 MR. PARKER: Well, the logic for
20 making the non-PDR uses go down goes back to
21 the Comp Plan and the Industrial Land-Use
22 Study in preserving development capacity for

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1 industrial uses in D.C. There's a very limit
2 amount of industrial land period. A lot less
3 that is developable or vacant. So, you know,
4 there are policies in the Comp Plan and in the
5 Industrial Land-Use Plan to limit non-
6 industrial uses in these zones. There was
7 talk about different ways to do that through
8 our working group.

9 Ultimately, it was decided not to
10 just, you know, put an all out prohibition on
11 office and commercial uses in these zones
12 because there's a place for that, but to adopt
13 a strategy similar to that we use in
14 commercial zones for residential and just
15 limit the amount of non-residential or, excuse
16 me, non-PDR. So that in order to take full
17 advantage of the development potential some
18 PDR uses would have to be included or there's
19 always some development potential for PDR
20 uses.

21 Then in making that recommendation
22 and in working with various industrial

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1 stakeholders, the discussion was around off-
2 setting that balance a little bit. If we're
3 lowering for all non-PDR uses, we talked about
4 a slight increase and I think you're right.
5 It was .5 FAR for PDR uses and that was just,
6 you know, to balance the reduction that was
7 happening in the non-PDR uses.

8 VICE CHAIRMAN SCHLATER: Okay. So,
9 here's the follow-up question. On these uses
10 like a -- well, let's just talk about the
11 selected uses, basic utilities, large scale
12 government, PDR and waste related services.
13 Is it very often that you're going to get
14 multi-story buildings that have significant
15 FAR for those kinds of uses?

16 It seems like in the whole PDR
17 zones what you're looking at a lot of times is
18 one-story warehouse levels. So, I'm just
19 wondering. It just doesn't -- maybe in New
20 York City I can imagine areas where you have
21 high-density PDR, but I can't conjure it up in
22 my mind in D.C. where you have higher density

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1 PDR uses. So, I'm not sure whether this is
2 actually going to have any impacts.

3 MR. PARKER: It's certainly true
4 that it would have less an impact than just an
5 all-out limitation on non-PDR uses. I think
6 working with the working group and the Zoning
7 Commission, it just wasn't seen as palatable
8 to go to that extreme in limiting all non-PDR
9 uses just because there are areas that already
10 have significant amounts of investment in
11 terms of office and commercial and other types
12 of use.

13 But, this was a compromise
14 position. That, you know, we did look a lot
15 into the possibility for mixed use, the
16 possibility for buildings that had PDR
17 components be they storage or manufacturing
18 along with other types of buildings and it is
19 done. It is possible. As well as building
20 space that's convertible. That, you know, may
21 be used as office now, but could be used in
22 the future for PDR space.

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1 So, both of those were
2 possibilities. That's one that we didn't end
3 up adopting requiring that space be built as
4 convertible space.

5 VICE CHAIRMAN SCHLATER: Um-hum.

6 MR. PARKER: Just because of, you
7 know, further difficulties in doing that,
8 but --

9 VICE CHAIRMAN SCHLATER: So, in P1,
10 P2, P3, what are we getting for increasing the
11 FAR, the proposed maximum FAR in those zones
12 by the .5 FAR? I mean why are we doing that?
13 It's the compromise. I heard that part.

14 MR. PARKER: Sure.

15 VICE CHAIRMAN SCHLATER: It's a
16 compromise because you're lowering the --

17 MR. PARKER: Sure.

18 CHAIRMAN HOOD: -- non-PDR uses.

19 MR. PARKER: Basically, we're
20 preserving 12 FAR in the P1 zone for PDR uses.
21 So, there is always -- even if someone builds
22 an office building at 2 FAR, there's always

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1 development potential around, on top of,
2 within that structure for -- there's
3 additional development potential for PDR uses.

4 VICE CHAIRMAN SCHLATER: And do you
5 think that list of selected uses will expand
6 over time? I mean I guess that would be one
7 concern. Right?

8 MR. PARKER: I mean that would
9 ultimately be at your discretion.

10 VICE CHAIRMAN SCHLATER: Hold on.
11 A couple of other quick questions.

12 One thing just on the checking of
13 the references, how are we ultimately going to
14 have confidence when we're approving the text
15 that it is tight and we're not going to come
16 back with a hundred required text amendments
17 with various references being wrong?

18 MR. PARKER: You are --

19 VICE CHAIRMAN SCHLATER: What's the
20 quality control?

21 MR. PARKER: There will be multiple
22 iterations. We've already started talking

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1 about the audits that will take place. I mean
2 right now we're trying to get the basics
3 right. We're trying to make sure that
4 everything from the existing code is in here
5 that will need to be in here. Everything
6 that's been approved before is in here and
7 there's a lot of moving around.

8 I mean the broken references now
9 are from the fact that there's a lot of moving
10 around to make sure that everything that's
11 suppose to be in here is in here.

12 Once we've crossed that hurdle and
13 we know that everything is in here that's
14 suppose to be in here and that it all does
15 what it's suppose to do, there are going to be
16 several audits. We're going to audit for
17 references probably last, but first, we're
18 going to audit for terms that need to be
19 defined. We're going to audit to make sure
20 that all of the language that we use is
21 consistent and the same. You know, spelling,
22 grammar, punctuation. We've got a series of

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1 audits to do over the course of next summer.
2 First, we want to make sure everything's in
3 place.

4 VICE CHAIRMAN SCHLATER: Well, I
5 think it's an excellent first cut. So, I
6 don't want to be critical. I just want to
7 understand the process going forward.

8 MR. PARKER: Absolutely.

9 VICE CHAIRMAN SCHLATER: The last
10 question is just one thing that I'm concerned
11 about and I want you to alleviate my concern.

12 From the guidance that the Commission gave
13 you to the standards that are in this text,
14 have there been any policy evolutions that we
15 should be made aware of?

16 The one thing I didn't have time to
17 do last night when I was going through my text
18 was there's all sorts of different standards
19 in terms of animal boarding within 200 feet of
20 a residential zone. You know, limit of 300
21 persons in an emergency shelter. Are all
22 those standards the same as they are in the

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1 existing text and just put forward in a
2 different way or are we changing some of those
3 standards?

4 MR. PARKER: Changes, if any, are
5 virtually nonexistent. I think I can safely
6 say that every condition or requirement in the
7 code for PDR zones is referenced in this
8 table. I won't say that throughout all the
9 code. I know there are changes that will have
10 to be made as we go through this process in
11 different zones.

12 For example, you know, we have
13 hundreds of different retail uses in our
14 current code and sometimes the permissions of
15 those vary within a zone and if we have just
16 one retail, that gets more difficult. That
17 wasn't a problem in PDR because most
18 everything is allowed in PDR.

19 So, as we get to commercial and
20 residential, there might be a little of what
21 you're talking about, but in this chapter, I'm
22 fairly confident that it's all there.

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1 VICE CHAIRMAN SCHLATER: The last
2 comment I would have would go back to that
3 initial question on the FAR. It seems like
4 among the biggest pressures on these PDR zones
5 is retail development. You know, there's not
6 a lot of places in the District where you can
7 put big box retail and my read of this policy
8 prescription for preserving PDR use says that
9 this doesn't really do a lot because you'd
10 still be able to develop. You know, there's
11 very few big box retail sites that are going
12 to be over a .5 FAR.

13 MR. PARKER: Um-hum.

14 VICE CHAIRMAN SCHLATER: And we're
15 not really addressing that. So, I don't think
16 we should have any illusions up here that we
17 are -- we may be nudging PDR in a certain
18 direction, but we're not going to be stemming
19 the tide of development of these PDR zones
20 into other uses I don't think.

21 CHAIRMAN HOOD: Okay. Anybody
22 else?

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1 All right. We have before us a
2 request to set down for hearing action Zoning
3 Commission Case Number 08-06, Office of
4 Planning - Comprehensive Zoning Regulations
5 Review: Subtitle J: Production, Distribution
6 and Repair. I move that we set that down and
7 ask for a second.

8 COMMISSIONER SELFRIDGE: Second.

9 CHAIRMAN HOOD: Properly seconded.

10 Any further discussion?

11 All those in favor.

12 (Ayes.)

13 CHAIRMAN HOOD: Ms. Schellin, would
14 you please record the vote.

15 MS. SCHELLIN: Yes, staff records
16 the vote 5 to 0 to 0 to set down Zoning
17 Commission Case Number 08-06 with regard to
18 Subtitle J. This will be set down as a
19 rulemaking case. Commissioner Hood moving.
20 Commissioner Selfridge seconding.
21 Commissioners May, Schlater and Turnbull in
22 support.

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1 CHAIRMAN HOOD: Okay. Thank you
2 very much, Ms. Schellin.

3 ZRR Guidance, Zoning Commission
4 Case Number 08-06-13, Office of Planning- ZRR:
5 Mixed-Use Zones; Setbacks.

6 Mr. Parker and Mr. Giulioni.

7 MR. PARKER: Good evening. I'll
8 think we'll just walk through these one at a
9 time?

10 CHAIRMAN HOOD: That's how we
11 usually do unless -- let's get through it.

12 MR. PARKER: Absolutely. The first
13 one's very simple. Changing the definition of
14 lot line. Right now, the existing definition
15 makes, you know, the cardinal sin of
16 definitions and just repeats the words right
17 back at you. The definition of lot line is
18 the line bounding a lot.

19 So, we propose a little more
20 lengthy definition. A single straight or
21 curved line segment between two vertices of
22 any angle forming a boundary of a lot.

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1 CHAIRMAN HOOD: I think your
2 proposal is the one that's in parentheses.

3 MR. PARKER: The proposed.

4 VICE CHAIRMAN SCHLATER: I have a
5 comment about this.

6 CHAIRMAN HOOD: Sure.

7 VICE CHAIRMAN SCHLATER: I think
8 it's clear. I think it's a good definition.
9 I don't know if there's any less technical way
10 of saying between two vertices of an angle,
11 but I think if we're trying to, you know, make
12 this simpler and easier for people to
13 understand, it would be better if we could
14 come up with a better phrase.

15 MR. GIULIONI: Less technical.

16 VICE CHAIRMAN SCHLATER: I think
17 so. So, I agree with the intent of the
18 language, but maybe not the wording.

19 CHAIRMAN HOOD: Okay. I think I
20 see a lot of heads nodding. So.

21 MR. PARKER: Just one question, are
22 you particularly referring to the word

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1 vertices? Is that maybe the offender here?

2 VICE CHAIRMAN SCHLATER: You would
3 think people would understand. I don't
4 understand. Maybe this is where I'm getting
5 hung up. Is I'm not smart enough to
6 understand what between two vertices of any
7 angle means.

8 MR. PARKER: Okay. Fair enough.

9 VICE CHAIRMAN SCHLATER: Because I
10 didn't study hard enough in geometry.

11 CHAIRMAN HOOD: To well myself.

12 MR. PARKER: We'll work on that
13 phrase.

14 COMMISSIONER MAY: Do you want to
15 have my kids explain that to you?

16 CHAIRMAN HOOD: Yes, just tell them
17 to come to the hearing. We'll them to help
18 us.

19 Okay. Mr. Parker, I'll just let
20 you go with it.

21 MR. PARKER: Okay. Sorry. So,
22 guidance for option 1 with that proviso? Oh.

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1 CHAIRMAN HOOD: Kind of ease --
2 maybe ease the language some.

3 MR. PARKER: Fair enough.

4 CHAIRMAN HOOD: Okay.

5 MR. PARKER: So, number 2, street
6 lot line. The existing definition is there in
7 front of you and it has a lot of, you know,
8 excessive language in there. In the front,
9 you know, it's not a choice. Basically, every
10 lot line that abuts a street is a street lot
11 line rather than the existing terms street
12 frontage.

13 CHAIRMAN HOOD: Okay. We're fine
14 with that. Okay. We'll keep moving.

15 MR. PARKER: Option 1?

16 CHAIRMAN HOOD: I think what we'll
17 do is if you don't hear anything --

18 MR. PARKER: You're going with
19 option 1?

20 CHAIRMAN HOOD: -- we'll accept
21 your recommendation.

22 MR. PARKER: All right. Okay.

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1 Number 3, side and rear lot lines. Option 1,
2 a side lot line would be a lot line that
3 intersects a street lot line. A rear lot line
4 would be a lot line that does not intersect a
5 street lot line and is not one.

6 Any questions or concerns?

7 Number 4, setback definitions. We
8 want to create specific definitions that don't
9 exist now for setbacks.

10 VICE CHAIRMAN SCHLATER: All right.

11 Mr. Parker, just go back. I don't think that
12 this is a problem, but when you say a lot line
13 that intersects with a street lot line, you
14 just mean that touches a street lot line? Is
15 that the intent?

16 MR. PARKER: Yes, that runs into.
17 That ends in --

18 VICE CHAIRMAN SCHLATER: It doesn't
19 have to go through it.

20 MR. PARKER: Does not have to go
21 through it.

22 VICE CHAIRMAN SCHLATER: Okay.

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1 MR. PARKER: All right. Number 4,
2 setback definitions. So, a setback would be a
3 distance required between a building and a lot
4 line or a building and another point as
5 defined in this title.

6 A site setback would be a set back
7 from a side lot line. Rear from a rear lot
8 line. Front from a street lot line.

9 Questions or concerns?

10 All right. Number 5, yard
11 definitions. So, we would establish a
12 definition of front yard and this is
13 distinguished from a setback. A setback is
14 what is required. A yard is what results.
15 So, the yard, you know, could be equal. It
16 could be greater if you're set back further
17 than your required setback. But, a yard is
18 the exterior space from the ground that's
19 between the building facade and the street lot
20 lines. There will be graphics with these as
21 well.

22 Side yard, we'd change the

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1 definition to an exterior space between a side
2 lot line and a building facade.

3 And rear yard, the same. An
4 exterior space open from that ground between a
5 rear lot line and the nearest building facade.

6 VICE CHAIRMAN SCHLATER: Mr.
7 Parker, why do you need the yard definition if
8 the setback itself is the requirement?

9 MR. PARKER: Because there are
10 other regulations that directly relate to the
11 yard. For example, no parking in a front
12 yard. Your front yard might be greater than
13 your required set back. So, we need a
14 definition and also, there are things about
15 how much of your rear yard you can fill with
16 accessory structures. That applies to full
17 rear yard even if it's more than what's
18 required.

19 VICE CHAIRMAN SCHLATER: Okay.
20 Thank you.

21 MR. PARKER: Yes.

22 COMMISSIONER MAY: Did we get to

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1 rear yard?

2 MR. PARKER: Yes.

3 COMMISSIONER MAY: Okay. The
4 proposed definition of rear yard defines it as
5 the space between the rear lot line and the
6 nearest building facade. So, if there is a
7 free-standing garage that's abutting the rear
8 property line, that means there's no rear
9 yard?

10 MR. PARKER: No, that's a great
11 question. We should say nearest building
12 facade of the primary building.

13 COMMISSIONER MAY: Okay.

14 MR. PARKER: Yes.

15 COMMISSIONER MAY: Okay.

16 MR. PARKER: Okay. Number 6, right
17 now, we have definitions of corner and
18 triangular lots in the code. With the
19 addition of all of these definitions of what
20 different lot lines are, we no longer need
21 those. In other words, there's nothing that's
22 regulated differently or separately about

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1 corner or triangular lots that we need those
2 definitions to exist.

3 So, in the interest of, you know,
4 not having them cause interpretative problems,
5 we would just remove those definitions.

6 Number 7 has to do with interior
7 and through lots. We do need a definition of
8 these. Mainly because in low-density
9 residential zones, we've talked about doing
10 side yards by a ratio of the building width
11 and so, for that reason, it's important to
12 identify what interior lots and through lots
13 are because that applies to those types of
14 lots.

15 So, the proposed definition of
16 interior lot would be a lot that abuts one
17 street and the proposed definition of a
18 through lot would be -- and this again is
19 helped by graphics, but it's a lot with at
20 least four distinct points where the side lot
21 lines intersect street lot lines.

22 Yes.

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1 VICE CHAIRMAN SCHLATER: Can you
2 distinguish between streets and alleys?

3 MR. PARKER: Yes, we do.

4 VICE CHAIRMAN SCHLATER: Okay. So,
5 this is only streets?

6 MR. PARKER: Streets. So, alleys
7 will, yes, either be side or rear lot lines.
8 Okay.

9 Number 8, side setbacks. Right
10 now, no side setbacks are required in
11 commercial zones, but where one is provided,
12 it has to be -- you know, it varies by zone
13 and it varies by the height of the building.
14 We propose removing those variations and if a
15 side setback is provided by choice, it has to
16 be at least four feet. In that we define the
17 side setback to apply to any portion of the
18 building that's set back. So, what now would
19 be called a court where portions of building
20 is set back would be a side setback.

21 COMMISSIONER MAY: I would just say
22 the -- I know we talked about four feet.

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1 MR. PARKER: Um-hum.

2 COMMISSIONER MAY: And I know that
3 everything is still open until we actually
4 take a couple of votes on this, but the idea
5 of it being only 4 feet is still sort of an
6 open issue for me and when we get to the
7 hearing on the actual text, I want to make
8 sure we explore that again fully.

9 MR. PARKER: I wonder if you could
10 give us your thoughts on what your concerns
11 are.

12 COMMISSIONER MAY: Unfortunately, I
13 could not find my notes from the hearing, but
14 I remember hearing -- I mean just from the
15 hearing whether it was based on the specific
16 testimony or my own reactions to it, that it
17 just -- I'm not totally convinced that 4 feet
18 is the right number. I mean 8 feet I don't
19 think is the right number. Six feet is not
20 the right number for commercial zones or
21 whatever it was.

22 Is four feet? I don't know. I

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1 don't feel that we've fully put that one to
2 bed. That's all I'm saying.

3 MR. PARKER: And we will have some
4 information that we'll present at the hearing
5 as well. We'll address that. We also have
6 some information that we'll present about the
7 building code and how that regulates that
8 interaction as well.

9 COMMISSIONER MAY: Right. And
10 there are other aspects of the building code
11 that I'm hoping we will have demonstration of.

12 MR. PARKER: Courts as well and
13 other things.

14 COMMISSIONER MAY: Right. Yes,
15 because I know I have concerns about that.

16 MR. PARKER: Okay.

17 COMMISSIONER MAY: Thanks.

18 MR. PARKER: So, rear setbacks.
19 The first option here is to cut down on the
20 number of ways that we do it and standardize
21 eight rear yard setbacks into four and you'll
22 see them graphically depicted as A, B, C and D

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1 and this, you know, basically, makes the angle
2 for C and D the same across all zones where
3 that applies, standardizes in B and D that
4 it's a 25-foot exemption or a two-story
5 exemption where those zones would apply and,
6 you know, avoids different setback standards
7 in the same zone where the use is changed.

8 Option 2 in this one is just to
9 have two models. Use only C and D for all
10 zones and not have even four.

11 So, I actually look to your -- our
12 guidance had been option 1, but I am
13 interested in an affirmative statement on this
14 one.

15 VICE CHAIRMAN SCHLATER: In terms
16 of usability and understandability --

17 MR. PARKER: Um-hum.

18 VICE CHAIRMAN SCHLATER: -- are you
19 at all concerned that the 78, you know, degree
20 angular plane starting above 25 feet, you
21 know, could create some confusion among the
22 laypeople?

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1 MR. PARKER: The laypeople aren't
2 designing a lot of buildings, but I'll let
3 Mike speak to that as well.

4 MR. GIULIONI: I guess, you know,
5 when you look at the options, the potential of
6 maintaining four options is that were a person
7 to look at, you know, the simplest version,
8 it's a real easy interpretation and that
9 applies in most instances where buildings are
10 in zones with lower height limits and things
11 like that.

12 So, when you're getting to a larger
13 scale site, the measure becomes harder because
14 it is now in the DD and other larger scale
15 areas of the city.

16 So, practically speaking, what
17 you'd be doing is presenting somebody a rule
18 in C and D that may never apply to them. So,
19 that angle, it's more matter of -- as they
20 apply it, they're like oh, this doesn't apply
21 to me because my building's under the 56 feet
22 in height.

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1 So, it's just a little bit extra
2 text to make it a little simpler I guess.

3 VICE CHAIRMAN SCHLATER: How does
4 the 78 percent angular plane relate to the 1
5 foot for every X feet in height standard that
6 we're --

7 MR. GIULIONI: It replicates the 22
8 inch per foot standard that currently exists
9 in the zones.

10 VICE CHAIRMAN SCHLATER: But, it's
11 not changing anything.

12 MR. GIULIONI: No, it's just
13 reframing it.

14 VICE CHAIRMAN SCHLATER: It's just
15 saying it in a different way.

16 MR. GIULIONI: Yes. Yes.

17 VICE CHAIRMAN SCHLATER: Okay.
18 Well, in that case, I think I'm okay with
19 option 1.

20 MR. PARKER: Okay.

21 VICE CHAIRMAN SCHLATER: Except you
22 might want to also say 1 foot per every 22

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1 feet.

2 MR. PARKER: I think the difference
3 is --

4 VICE CHAIRMAN SCHLATER: Because
5 it's --

6 MR. PARKER: The difference is
7 right now you're drawing a line 2 inches per
8 foot, but then when you reach the height of
9 your building, you're going straight down from
10 there.

11 In the future, you could have a
12 building that steps down at this angle.
13 That's the difference that we've proposed in
14 that and that's why it's now a line drawn at
15 78 degrees.

16 I suppose you could say that no
17 point of the building should be -- yes, the
18 distance between any point of the -- it's just
19 gets complicated to say it when you're not
20 defining a line for the whole building.
21 Rather you're defining a --

22 VICE CHAIRMAN SCHLATER: You're

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1 trying to encourage --

2 MR. PARKER: Not necessarily
3 encourage, but allow for.

4 VICE CHAIRMAN SCHLATER: Allow for.

5 COMMISSIONER MAY: I think the idea
6 of including the equivalent 22 inch per foot
7 description of what 78 degrees means would be
8 useful for anybody who's designing it.

9 MR. GIULIONI: I'm going to speak
10 from a position of somebody who used to
11 interpret a code which used this method. It's
12 actually much easier because it's simply a
13 matter --

14 COMMISSIONER MAY: It's not easier
15 to design that way.

16 MR. GIULIONI: Well --

17 COMMISSIONER MAY: Have you
18 designed buildings that way?

19 MR. GIULIONI: Yes, because what
20 you can do is you can simply read the
21 requirement and apply the standard and design
22 with that envelope. The --

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1 COMMISSIONER MAY: Right. Let me
2 just tell you. Having been on the design side
3 of this, too, that when you're designing
4 things in a certain number of inches per foot,
5 it's a very common way for designers to think.

6 When you're thinking about an ADA
7 ramp, it's one in 12. If you're thinking
8 about one without hand rails, it's one in 20.

9 So, 22 inches per foot, you know rise and run
10 and roofs, it's a very common way that
11 designers think.

12 So, I think not just saying 78, but
13 saying 22 inches per foot is good.

14 MR. GIULIONI: So, sorry. Okay.
15 So, I'm clear. What we're talking about is
16 not -- we're not talking about -- we're
17 talking about restating it in another manner
18 in line with the text.

19 COMMISSIONER MAY: Right. I'm not
20 saying that instead of 78.

21 MR. GIULIONI: Okay. Excuse me.

22 COMMISSIONER MAY: I'm saying that

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1 it just would be -- explaining where the 78
2 comes from --

3 MR. GIULIONI: Understood.

4 COMMISSIONER MAY: -- is all I
5 would suggest.

6 MR. PARKER: Okay. We can do that.

7 So, option 1 and we'll state it both ways.

8 Number 10 is courts. Our proposed
9 option is removing court requirements and
10 regulating courts through setback requirements
11 as discussed in number 8 and we can provide
12 more discussion about building code and that
13 at the hearing as well.

14 Okay. Number 11 --

15 VICE CHAIRMAN SCHLATER: I'm sorry.

16 I'm not sure on this one I guess is what my
17 vote would be. Is I haven't been convinced
18 one way or another. I know that it's been
19 stated that the building code covers you on
20 this, but I haven't been convinced of that and
21 I know courts have been an important part of
22 Zoning Codes for a long time. So, I'm not

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1 willing to just say be done with it yet.

2 MR. PARKER: Okay.

3 CHAIRMAN HOOD: Okay. Does anybody
4 else share Vice Chairman Schlater's option on
5 that?

6 COMMISSIONER MAY: I have a similar
7 concern, but, you know, when we had the
8 hearing, we had some discussion of this and I
9 was willing to be convinced that relying on
10 building codes as the method of making sure
11 that the courts are adequate was a reasonable
12 path, but there were gaps in that discussion
13 and I think we asked for some additional
14 information and so, I'm hopeful that whence we
15 -- I other words --

16 VICE CHAIRMAN SCHLATER: I don't
17 think I disagree with you. I think we're in
18 the same place.

19 COMMISSIONER MAY: Yes.

20 VICE CHAIRMAN SCHLATER: I just
21 don't want there to be an impression when we
22 get down the road that we've said oh --

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1 COMMISSIONER MAY: Yes, we'll be
2 let's get rid of courts. No.

3 VICE CHAIRMAN SCHLATER: We all
4 said no courts anymore.

5 MR. PARKER: On this one, we will
6 go into greater detail on the relationship
7 with the building code.

8 CHAIRMAN HOOD: Okay.

9 MR. PARKER: All right. Number 11,
10 floor area ratio limits in commercial uses.
11 This has two components: existing buildings
12 and new construction.

13 For existing buildings, we proposed
14 allowing existing buildings that contain
15 commercial use to do commercial use on the
16 full first and second story even if the result
17 is greater than 1.5 FAR.

18 For new construction, allowing
19 this, you know, this two-story exemption as a
20 matter of right on mixed-use buildings. So,
21 buildings with a residential component and as
22 a special exception for commercial-only

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1 buildings.

2 I can talk about the reasons or
3 would you like me to go into the background of
4 this one? Okay.

5 This is really a function of
6 looking at a lot of the variances that we've
7 seen over the last, you know, ten years. One
8 of the problems with a straight limitation on
9 commercial FAR of 1.5 is that unless your lot
10 occupancy's exactly 75 percent which would
11 mean two stories of commercial, you're left
12 with some remainder and for existing buildings
13 especially row buildings or smaller commercial
14 buildings, it's difficult to do partial
15 floors. You know, partial floor commercial
16 and residential.

17 So, if you're 1.5 at 80 percent lot
18 occupancy, allow something like 2 or 1 and
19 4/5ths of a floor to be commercial. So, you
20 are technically allowed to use most of your
21 second story as commercial, but not all of it
22 and it really creates an awkward position

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1 where people have to come in for variances for
2 that second floor.

3 We want to encourage that use in
4 general and so, the thought is avoiding those
5 simple variances where you have existing
6 buildings that aren't exactly 75 percent lot
7 occupancy.

8 VICE CHAIRMAN SCHLATER: In C2A and
9 C2B zones, the allowable commercial FAR is 1.5
10 in both?

11 MR. PARKER: Correct.

12 VICE CHAIRMAN SCHLATER: Okay. I
13 don't think I have a problem.

14 MR. PARKER: Okay. Number 12,
15 residential lot occupancy in mixed-use zones.

16 In these zones, there is no required lot
17 occupancy for commercial stories. So, if you
18 have a multi-story commercial building, it can
19 all be 100 percent.

20 If some of those stories are
21 residential, the residential portions are
22 limited to 60 or 75 or 80 percent depending on

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1 the zone.

2 This conflicts with a few problems
3 that we found. First, a general principle
4 that we've tried to push in the new code is
5 not having different building standards based
6 on use. So, when an existing commercial
7 building is being redone as residential, it
8 has to get variances for, you know,
9 residential within that building that wasn't
10 designed at some percentage lot occupancy.

11 But, more importantly, this is
12 something that again was designed in an
13 earlier time through the Zoning Code, but is
14 now handled through protections in the
15 building code in terms of protection of light
16 and air to the existing residence.

17 In terms of protection to the
18 surrounding area, that's handled through side
19 setbacks, FAR controls and transition buffers.

20 It actually isn't accomplished by lot
21 occupancy because lot occupancy can be built
22 anywhere in the lot.

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1 So, Zoning controls and other ways
2 handle surrounding properties. Building code
3 handles light and air to the building. So,
4 this is not a standard that is necessary as
5 distinct from, you know, having a distinct lot
6 occupancy for residential versus commercial.

7 Okay. Number 13, zone-to-zone
8 transition regulations. Right now, the ARTS
9 Overlay has transition regulations. Basically
10 height transitions where you shift from a
11 residential zone into one of the ARTS Overlay
12 commercial zones.

13 We talked about standardizing those
14 rules and making them available city-wide.
15 So, we wouldn't implement them anywhere, but
16 it would become one of our general Subtitle B
17 chapters, would be applied, you know,
18 automatically where it is applied now in the
19 ARTS and would be available in other zones and
20 it involves some minor transitions to how you
21 measure that boundary. But, in general, it's
22 taking the existing transition.

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1 Okay. Number 14, plaza
2 requirements. Right now, this is done in the
3 CR zone. It's not called plaza. It's called
4 open space, but it doesn't necessarily result
5 in open space because you can meet it in a lot
6 of different ways. So, we've called it plaza
7 requirement.

8 We're retained the standard except
9 in the ARTS Overlay where it conflicts with
10 other requirement. ARTS Overlay requires, you
11 know, a certain amount of street frontage and
12 this CR requirement requires that a bunch of
13 that be open space. So, you've got
14 conflicting requirements.

15 So, taking it out of the ARTS, we
16 would recommend retaining it elsewhere, but
17 modifying it a bit, requiring it only on large
18 lots, reducing it from 10 to 8 percent,
19 reducing the ability to count arcades and a
20 few other minor things.

21 VICE CHAIRMAN SCHLATER: Why are we
22 reducing the requirement from 10 to 8 percent?

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1 MR. PARKER: Because as you get to
2 these larger lots, that 8 percent does result
3 in a usable plaza space. The 10 percent was
4 certainly a necessity on smaller lots in order
5 for it to be a worthwhile space, but 8 percent
6 on a 10,000 square foot lot is an 800 square
7 foot, you know, open space or plaza area.

8 VICE CHAIRMAN SCHLATER: But, it
9 could be 1,000 square feet. I just don't
10 understand why it's changing.

11 MR. PARKER: I would have to remind
12 myself of that. It's been awhile since we
13 wrote these. I could go back to the report.

14 Yes, if you give us a second, we'll
15 --

16 VICE CHAIRMAN SCHLATER: I think
17 the rest of it is -- I think having the design
18 requirements is a good idea, remove the
19 ability to count arcades for the public space
20 requirement and to limit it to lots that are
21 greater than 10,000 square feet to make it a
22 usable space.

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1 But, it seems like if the goal is
2 to make usable space, then you would probably
3 want the plaza to be bigger and not smaller.

4 MR. PARKER: The argument that we
5 gave in the report was that this was a
6 counterbalance to removing the flexibility of
7 arcades and we've removed the opportunity to
8 provide these through arcades and we've
9 removed some of the other things that count
10 towards this. So, this was intended as
11 flexibility to counterbalance the lack of ways
12 you are allowed to provide this space.

13 MS. STEINGASSER: The staff
14 actually went out and surveyed every plaza
15 built in this zone and calculated that which
16 was covered by arcade and that which was truly
17 open space and the effective open space was
18 the 8 percent and since we had already through
19 text amendments several years ago allowed for
20 the enclosure of the arcades, this was the
21 effect of -- the result of what's actually on
22 the ground and effective.

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1 VICE CHAIRMAN SCHLATER: But, we've
2 subsequently changed the regulations so that
3 you can't -- so that the arcades are no longer
4 encouraged. Correct? In the CR zone.

5 MS. STEINGASSER: That's correct.
6 In the city at all. In general.

7 VICE CHAIRMAN SCHLATER: So, as it
8 stands now, they're not encouraged, but they
9 would count towards your 10 percent
10 requirement now.

11 MR. PARKER: They would.

12 VICE CHAIRMAN SCHLATER: Count
13 towards your 10 percent requirement right now.

14 MR. PARKER: Correct.

15 VICE CHAIRMAN SCHLATER: We didn't
16 catch that.

17 MR. PARKER: So, as written?

18 VICE CHAIRMAN SCHLATER: I'd like
19 to see it at 10 percent.

20 MR. PARKER: At 10 percent. Is
21 that --

22 CHAIRMAN HOOD: Does everybody say

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1 that?

2 COMMISSIONER MAY: I'm flexible. I
3 mean some of these things it's just -- it's
4 okay for us to have some flexibility. I think
5 when we get to see the actual language, we can
6 make decisions at that point. So, I mean --

7 MR. PARKER: Well, this one's
8 pretty set. It's either going to say 8 or
9 it's going to say 10.

10 CHAIRMAN HOOD: Let's not start the
11 argument, the 30-minute argument, about maybe
12 9 percent. Let's not do that.

13 COMMISSIONER MAY: No. I mean my
14 tendency on these sorts of things is to -- us
15 to note where we might have some disagreement
16 and if they want to -- if you want to propose
17 text that has 8 percent and we know it's an
18 issue, we just say to the Office of Planning
19 you really got to prove the 8 percent.
20 Otherwise, we're going to want to push to 10.

21 CHAIRMAN HOOD: Well, we already
22 have a request to push it to 10.

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1 COMMISSIONER MAY: Well, I'm --

2 CHAIRMAN HOOD: Either way we look
3 at it when we get the text. I mean, you
4 know --

5 COMMISSIONER MAY: Yes.

6 CHAIRMAN HOOD: -- we're not going
7 to go 30 minutes.

8 COMMISSIONER MAY: Well, okay. I
9 mean we can do it at 10 and let them make the
10 argument to cut it to 8 at the hearing.

11 MR. PARKER: I think we're looking
12 for your guidance. I don't think we have a
13 strong feeling.

14 CHAIRMAN HOOD: Okay. So.

15 COMMISSIONER MAY: All right. Well
16 --

17 CHAIRMAN HOOD: We'd rather put
18 that in the parking lot and when we get to
19 that point, somebody may remember.

20 MS. STEINGASSER: If we advertise
21 it at 10, 10 would be more restrictive. So,
22 we could always back down to 8 without any

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1 additional hearing. If we advertise at 8,
2 we'd have to --

3 COMMISSIONER MAY: I'm convinced.

4 CHAIRMAN HOOD: Okay. Thank you,
5 Ms. Steingasser. You saved us about 20
6 minutes.

7 MR. PARKER: Onto the last one. On
8 this one, you actually have two options. So,
9 again, we'll need some affirmative action on
10 your part.

11 Option 1, this is use
12 concentration. So, basically, the 25 percent
13 restaurant limitation that's in our
14 neighborhood commercial zones. Option 1 is to
15 create a series of new rules that clarify how
16 that works. So, similar to what we did.

17 Similar, but even more exact than
18 what we did in the ARTS Overlay recently.
19 Precise delineation that this applies to food
20 and alcohol service uses, limiting the
21 geographic scope from an entire corridor to a
22 block-by-block measure, clear guidance on how

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1 we measure street frontage and what's
2 measured, requirement encouraging the creation
3 of maintenance of a database, occupancy
4 rights.

5 That's what we didn't establish in
6 the ARTS. You know, what vests and what
7 doesn't vest and providing for the divesting
8 of occupancy rights if the use is abandoned.

9 So, option 1 is to do all of that
10 and leave the restrictions in place.

11 Option 2 is to put the onus on OP
12 and yourselves to just, you know, determine
13 now which is over 25 percent and under 25 and
14 just make it a special exception where it's
15 over and non-special exception.

16 So, it take the onus off the Zoning
17 Administrator to make a calculation in every
18 instance and we just say special exception in
19 this area and non-special exception in another
20 area and update it over time.

21 COMMISSIONER MAY: Can I just note
22 that I think that based on the records that I

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1 have here, we had specifically asked the
2 record to be left open because ANC 2F wanted
3 to comment and they commented on this specific
4 point and recommended option 1 over option 2
5 in summary. It's a 22 page recommendation,
6 but it's a reasoned argument they make.

7 And I think since they've lived
8 this issue, there's some good advice.

9 VICE CHAIRMAN SCHLATER: And we
10 just had a very long hearing and approvals
11 process on that revised methodology and I
12 think we reaffirmed it in many ways. So, I
13 would advocate applying those standards more
14 broadly.

15 CHAIRMAN HOOD: I think they also
16 mentioned that in their letter about the
17 hearing and the exhaustive discussion that was
18 had. So, are we all in agreement with -- okay.

19 MR. PARKER: Okay.

20 CHAIRMAN HOOD: Do you have
21 anything else, Mr. Parker?

22 MR. PARKER: Thank you very much.

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1 CHAIRMAN HOOD: Well, thank you for
2 helping us get through that in 30 minutes. We
3 greatly appreciate that.

4 MR. PARKER: You're very welcome.

5 CHAIRMAN HOOD: Also, Ms.
6 Steingasser and Mr. Giulioni and Mr. Lawson.
7 We appreciate all your work you all are doing
8 on this ZRR.

9 Ms. Hanousek, do we have anything
10 else before us tonight?

11 MS. HANOUSEK: No.

12 CHAIRMAN HOOD: Does the Office of
13 Planning want to do the status report?

14 MS. STEINGASSER: No, sir.

15 CHAIRMAN HOOD: Okay. Good.

16 MS. STEINGASSER: That was it.

17 CHAIRMAN HOOD: Okay. With that,
18 this meeting is adjourned.

19 (Whereupon, at 9:13 p.m., the
20 meeting was concluded.)

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