

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

MAY 14th, 2012

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, 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  
MARCIE COHEN, Commissioner  
PETER G. MAY, Commissioner (NPS)  
KONRAD W. SCHLATER, Vice Chairman  
MICHAEL G. TURNBULL, FAIA,  
Commissioner (OAC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

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

OFFICE OF PLANNING STAFF PRESENT:

PAUL GOLDSTEIN  
JENNIFER STEINGASSER, Deputy Director,  
Development Review & Historic  
Preservation  
ARTHUR JACKSON  
JOEL LAWSON  
MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.  
JACOB RITTING, ESQ.

The transcript constitutes the  
minutes from the Regular meeting held on May  
14th, 2012.

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

6:36 p.m.

CHAIRMAN HOOD: This meeting will please come to order. Good evening, ladies and gentlemen. This is the May 14, 2012 public meeting of the Zoning Commission of the District of Columbia.

My name is Anthony Hood. Joining me is Vice Chairman Schlater, Commissioner Cohen, Commissioner May, and Commissioner Turnbull. We are also joined by the Office of Zoning Staff Ms. Sharon Schellin. Also the Office of the Attorney General Ms. Nagelhout and Mr. Ritting.

Also the Office of Planning. Okay, the Office of Planning will be joining us shortly but right now we have Ms. Brown-Roberts and Mr. Jackson. I'm sure Ms. Steingasser and Mr. Lawson will be joining us very shortly.

Copies of today's meeting agenda are available to you and are located in the

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1 bin near the door. We do not take any public  
2 testimony at our meetings unless the  
3 Commission request someone to come forward.

4 Please be advised this proceeding  
5 is being recorded by a court reporter and is  
6 also webcast live. Accordingly, we must ask  
7 you to refrain from any disruptive noises or  
8 actions in the hearing room. Please turn off  
9 all beepers and cell phones.

10 Does the staff have any  
11 preliminary matters?

12 MS. SCHELLIN: No, sir.

13 CHAIRMAN HOOD: Okay. I've been  
14 granted permission to make an announcement.  
15 It's kind of a bittersweet meeting. One of  
16 the Commissioners is going to be leaving. We  
17 were just informed. He's done a lot for the  
18 city.

19 I think he has really exemplified  
20 himself well. I think he is well respected.  
21 I talk to people all the time who say, "I like  
22 that person." That person is a great person.

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1 He's a great guy, a nice guy.

2 I have personally as the Chairman,  
3 or even as the Vice Chairman, enjoyed working  
4 -- I'm not sure if I was the Vice Chairman  
5 with this person but I have enjoyed working  
6 with Konrad Schlater who is going to be  
7 leaving. Tonight is his last night. He's  
8 going to be leaving to do bigger and better  
9 things. I'll let him say a few words, however  
10 much he wants to say.

11 I can tell you from my standpoint  
12 Commissioner Schlater, Vice Chairman, I'm  
13 going to miss you. One of the things I really  
14 enjoyed with you was disagreeing with you so  
15 I'm going to miss that part of it. I'll open  
16 the floor up to you.

17 VICE CHAIR SCHLATER: We didn't  
18 disagree that much, Mr. Chairman, when it came  
19 down to it.

20 Thank you very much for the kind  
21 words. It has been a true honor and pleasure  
22 to work on this Commission. It's a lot of

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1 work but it is good work to be doing. I feel  
2 like as a Commission, the five of us here,  
3 we've been doing a pretty good job,  
4 particularly with the addition of Commissioner  
5 Cohen most recently.

6 One of the hardest parts about  
7 taking a new position out of state in Chicago  
8 is that I have to leave this Commission and  
9 will not have the same opportunities to help  
10 shape my city. It has been a pleasure to do  
11 so. It's been a pleasure to work with you  
12 all. I'm sorry I have to cut short my term  
13 like this, but thank you very much for this  
14 opportunity.

15 CHAIRMAN HOOD: Anybody else?  
16 Commissioner May.

17 COMMISSIONER MAY: Yeah, I would  
18 just like to say it's been a pleasure serving  
19 with the Vice Chairman. If the Chairman would  
20 like, the rest of us could try to disagree  
21 with you more.

22 CHAIRMAN HOOD: I was just saying

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1 that to try to get a laugh. Actually, he's  
2 right. We didn't disagree that much.

3 COMMISSIONER MAY: I'm just  
4 following your example. Anyway, it was a  
5 pleasure working with Vice Chairman Schlater  
6 both here and the minimal interaction we had  
7 I think even before you joined the Commission.  
8 It was a pleasure working with you and I think  
9 it's a loss for the city but it's a gain for  
10 the city of Chicago, I'm sure. Thanks.

11 CHAIRMAN HOOD: Commissioner  
12 Cohen.

13 COMMISSIONER COHEN: Yes,  
14 Chairman. Thank you. It's been short and  
15 sweet but I know that you're committed to some  
16 of the values that we share including the  
17 development and preservation of affordable  
18 housing so I wish you the very best in your  
19 new position in Chicago.

20 COMMISSIONER TURNBULL: Daniel  
21 Berman will be watching over you. It's been  
22 a pleasure working with you and sitting next

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1 to you. We'll miss you. We really will miss  
2 you. We've got to break in a rookie now.  
3 We've got to have someone else.

4 You're going to a great city,  
5 great food, great neighborhood. Baseball's  
6 got a problem. You're leaving just when the  
7 Nationals are on the rise. No, it's been a  
8 pleasure working with you and good luck.

9 CHAIRMAN HOOD: Okay. As we've  
10 done in the past, I would like for all of us  
11 just to give our colleague who is leaving a  
12 round of applause. Again, thank you and it's  
13 been a pleasure working with you.

14 Okay. Let's move right into our  
15 agenda tonight. What I'm going to do,  
16 Commissioners, if it's not a problem, that we  
17 move the Consent Calendar item after we take  
18 the Final Action item under B under Final  
19 Action.

20 Mr. Ritting, I think that's okay  
21 to do it in that fashion because we have to  
22 deal with the Final Action items before we

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1 deal with the Consent Calendar item.

2 Let's go right to Final Action on  
3 Zoning Commission Case No. 07-13C. This is  
4 Trustees of Corcoran Gallery of Art -- Two-  
5 Year PUD Time Extension at Square 644S.

6 Ms. Schellin.

7 MS. SCHELLIN: Yes, sir. If the  
8 Commission will recall back to the February  
9 13th agenda, the Zoning Commission voted to  
10 hold the request -- this request at abeyance  
11 for up to four months.

12 At Exhibit 8 you have an ANC-6D  
13 report which rescinded their earlier  
14 opposition. This report shows that they voted  
15 in support. Then at Exhibit 10 you have a  
16 supplemental submittal from the Applicant.

17 CHAIRMAN HOOD: Okay,  
18 Commissioners. You've heard the submissions  
19 that we have in front of us. We have a  
20 request in front of us. The ANC, I think, as  
21 Ms. Schellin already mentioned, that we did  
22 hold off because they needed an opportunity to

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1 be able to hear from the Applicant in which  
2 Exhibit 8 they actually did that.

3 They approved and, additionally,  
4 the Commission voted five to zero to one to  
5 support the extension not exceeding the two-  
6 year time period.

7 Let me open it up for discussion.  
8 Any discussion?

9 COMMISSIONER COHEN: Mr. Chairman,  
10 it appears that the Applicant made a great  
11 effort to meet with the ANC and work with  
12 them. I think that is very positive. The  
13 only other observation that I have is this  
14 particular neighborhood has often come out,  
15 and people I know within the neighborhood,  
16 they are often complaining about the kids in  
17 the neighborhood around the school, public  
18 housing projects.

19 So I would just hope the Corcoran  
20 would give special attention to maybe reaching  
21 out to these kids appear to create problems  
22 for neighbors. I think there are

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1 opportunities for this particular project to  
2 make the kids more inclusive in their own  
3 neighborhood. I just hope that will be taken  
4 into consideration during future negotiations  
5 with the community.

6 CHAIRMAN HOOD: Okay. Any other  
7 comments?

8 Commissioner May.

9 COMMISSIONER MAY: Yes. I'm a bit  
10 puzzled by this. We have three letters from  
11 the ANC. The first was the opposition letter.  
12 Then we had the letter in support five to zero  
13 to one. Then we have the letter requesting  
14 that the record be reopened so that the  
15 Commission may properly voice its comments  
16 regarding the case.

17 I'm not sure what we would do with  
18 that. I would think if we wanted -- I mean,  
19 if the record was open for the ANC to submit  
20 their comments now. I mean, we are reading  
21 their comments right now and there is really  
22 no substitute. I mean, the only way we could

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1 do this would be to defer again considering  
2 this and allow the ANC to send us another  
3 letter. I mean, am I missing something here?

4 COMMISSIONER COHEN: I guess, Mr.  
5 Chairman and colleagues, I interpreted it, and  
6 maybe I'm wrong, is that they felt that the  
7 record had been closed and they are asking to  
8 reopen it to allow this March 16th letter to  
9 be considered.

10 COMMISSIONER MAY: Oh, is that all  
11 it is?

12 COMMISSIONER COHEN: That's the  
13 way I interpreted it.

14 COMMISSIONER MAY: Okay.

15 COMMISSIONER COHEN: I thought it  
16 was just, you know, dotting the i's and  
17 crossing the t's.

18 COMMISSIONER MAY: We haven't  
19 taken it out.

20 COMMISSIONER COHEN: We did  
21 earlier. What happened was I think we allowed  
22 them an opportunity. I'm not sure if we did

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1 it earlier or when we did it but we did allow  
2 them an opportune time to respond. That is  
3 the second letter.

4 I think what they did, and I don't  
5 know if staff informed me if the record was  
6 closed, or whatever they did they made sure to  
7 request to leave the record open so we can, I  
8 guess, deal with Exhibit 8. That is the way  
9 I read it.

10 COMMISSIONER MAY: Okay. The fact  
11 that it came after made me think that maybe  
12 they were trying to say something more that  
13 they hadn't said in their letter. I apologize  
14 for any confusion.

15 CHAIRMAN HOOD: At least that is  
16 the way I saw it and I would agree with  
17 Commissioner Cohen.

18 Any other comments? Okay. I  
19 would move that we grant the request of Zoning  
20 Commission Case 0 -- which one is this? 07-  
21 13C. Okay. I'm looking at A. and B. 07-13C  
22 which we grant the two-year PUD time extension

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1 in Square 644S.

2 I ask for a second.

3 COMMISSIONER COHEN: Second.

4 CHAIRMAN HOOD: Okay. It's been  
5 moved and properly seconded. Any further  
6 discussion? Are you ready for the question?  
7 All those in favor aye.

8 COMMISSION MEMBERS: Aye.

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

12 MS. SCHELLIN: The staff would  
13 record the vote five to zero to zero to  
14 approve final action in Zoning Commission Case  
15 No. 07-13C. Commissioner Hood moving,  
16 Commissioner Cohen seconding, Commissioners  
17 May, Schlater, and Turnbull in support.

18 CHAIRMAN HOOD: Okay,  
19 Commissioners. Next is Zoning Commission Case  
20 No. -- after we do Zoning Commission Case No.  
21 07-18B under Final Action, I then would like  
22 to move the Consent Calendar item Zoning

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1 Commission Case No. 07-18C right after we do  
2 07-18B.

3 Okay. Zoning Commission Case No.  
4 07-18B, Jemal's Up Against the Wall two-year  
5 PUD time extension at Square 347.

6 Ms. Schellin.

7 MS. SCHELLIN: Yes, sir. This is,  
8 as you said, a request for a two-year  
9 extension to May 14, 2014. At Exhibit 4 there  
10 is an OP report that supports this request.

11 CHAIRMAN HOOD: Okay. Thank you,  
12 Ms. Schellin. That is Exhibit No. 4. Office  
13 of Planning makes that recommendation. It  
14 basically says the extension request was  
15 served on all parties by the Applicant and all  
16 parties are allowed 30 days. It goes on to  
17 talk about the different issues. They are  
18 recommending that we approve the time  
19 extension.

20 Also we have something from the  
21 Applicant.

22 COMMISSIONER TURNBULL: Mr. Chair,

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1 I was going to say that in their Exhibit 1,  
2 Tab D, they talk about the financial  
3 implications of the economic turndown. I  
4 think that meets the burden of proof after  
5 going through it.

6 CHAIRMAN HOOD: Okay.

7 Commissioner Cohen.

8 COMMISSIONER COHEN: Thank you,  
9 Chairman. I guess my questions or concerns  
10 are related to -- not that I don't believe  
11 that they met the burden of proof but when you  
12 indicate that you go to certain banks and  
13 these banks are banks that may have legal  
14 lending limits that don't suit the particular  
15 project or may have some credit issues related  
16 to the current owner, I mean, I just don't --  
17 it's a very modest threshold that they have to  
18 address.

19 This is the second extension and I  
20 just want to say that I would be concerned if  
21 this doesn't move ahead in a more timely  
22 manner. If it's not complete in two years, I

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1 just don't understand why it can't be because  
2 of its location and we are supposedly a very  
3 active market. As I said, it's just a  
4 question that I have and a concern.

5 CHAIRMAN HOOD: Vice Chairman.

6 VICE CHAIR SCHLATER: Mr.  
7 Chairman, I think we all know that the market,  
8 and particularly the office market in the last  
9 couple of years has been under great strain.  
10 Not too many buildings have gotten going  
11 without tenants in place. I think the  
12 extension is justified at this time.

13 However, I do agree with  
14 Commissioner Cohen that projects do get stale  
15 and can only justify so many extensions.  
16 Usually we give this speech when we are giving  
17 the second extension to a PUD. I'm in  
18 concurrence with Commissioner Cohen.

19 CHAIRMAN HOOD: Okay. I would  
20 agree with all the comments that I've heard.  
21 What is significant for me is the second part  
22 of this if we get there. I would agree with

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1 the comments I've heard from both of my  
2 colleagues -- all of my colleagues.

3 Any other comments or questions?  
4 Would someone like to make a motion?

5 COMMISSIONER TURNBULL: Mr. Chair,  
6 I would move that we approve Zoning Case No.  
7 07-18B, Jemal's Up Against the Wall two-year  
8 PUD extension at Square 347 and ask for a  
9 second.

10 VICE CHAIR SCHLATER: Second.

11 CHAIRMAN HOOD: Okay. It's been  
12 moved and properly seconded. Any further  
13 discussion? All those in favor aye.

14 COMMISSION MEMBERS: Aye.

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

18 MS. SCHELLIN: The staff records  
19 the vote five to zero to zero to approve final  
20 action in Zoning Commission Case No. 08-18B.  
21 Commissioner Turnbull moving, Commissioner  
22 Schlater seconding, Commissioners Cohen, Hood,

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1 and May in support.

2 CHAIRMAN HOOD: Okay. Let's go to  
3 the Consent Calendar now which is the second  
4 part of the request. I think -- let me do  
5 this. Zoning Commission Case No. 07-18C,  
6 Jemal's Up Against the Wall minor modification  
7 to PUD at Square 347.

8 Ms. Schellin.

9 MS. SCHELLIN: Yes, sir. The  
10 Applicant is requesting to change condition 4  
11 which requires the relocation of the Waffle  
12 Shop from the PUD site to Square 45 by May 16,  
13 2013. They are basically asking that date be  
14 changed to May 14, 2014 to coincide with the  
15 time extension just granted. There is an OP  
16 report at Exhibit 4 that supports the request.

17 CHAIRMAN HOOD: I might have some  
18 confusion. I thought they were asking to May  
19 16, 2014. I may have it wrong.

20 MS. SCHELLIN: Maybe I wrote it  
21 down wrong. Let me check.

22 MR. RITTING: I believe that's

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1 correct. The current deadline is May 16, 2013  
2 so it would be another year to 2014.

3 CHAIRMAN HOOD: Which would put  
4 them in tandem with the time extension.

5 MR. RITTING: Correct.

6 CHAIRMAN HOOD: So we are looking  
7 at May 16, 2014.

8 MR. RITTING: Correct.

9 CHAIRMAN HOOD: Okay.  
10 Commissioners, I'll open it up for discussion.  
11 Any discussion?

12 COMMISSIONER TURNBULL: Mr. Chair,  
13 I think it's a reasonable request in light of  
14 the time extension.

15 CHAIRMAN HOOD: Especially when  
16 you put things together that makes it a lot  
17 easier for those of us -- well, for those of  
18 you who may be around whatever date this is.  
19 Let's go ahead and obtain a motion.

20 I would move that we approve the  
21 request of Zoning Commission Case No. 07-18C,  
22 minor modification to address the extension as

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1 requested by the Applicant for the minor  
2 modification in 07-18C and ask for a second.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRMAN HOOD: It has been moved  
5 and properly seconded. Any further  
6 discussion? All those in favor aye.

7 COMMISSION MEMBERS: Aye.

8 CHAIRMAN HOOD: Not hearing any  
9 objections, Ms. Schellin, would you please  
10 record the vote. Actually, I meant to mention  
11 the correction on the extension of condition  
12 No. 4. Hopefully that can be included.

13 Okay. Ms. Schellin, could you  
14 please record the vote.

15 MS. SCHELLIN: Yes. The staff  
16 records the vote five to zero to zero to  
17 approve final actions in Zoning Commission  
18 Case No. 07-18C, Commissioner Hood moving,  
19 Commissioner Cohen seconding, Commissioners  
20 May, Schlater and Turnbull in support.

21 I'm sorry, I read the wrong one.  
22 Commissioner Hood moving, Commissioner

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

3                   CHAIRMAN HOOD:   Okay.   Thank you.

4                   Let's go to Proposed Action.

5       Zoning Commission Case No. 06-11F/06-12F,  
6       George Washington University -- 2nd Stage PUD  
7       at Square 102.   Further Processing will be  
8       considered at final action.

9                   Ms. Schellin.

10                  MS. SCHELLIN:   Yes, sir.   At  
11       Exhibits 36 through 39, those are post-hearing  
12       submissions from the parties.   Exhibit 37 is  
13       a response from FEMS regarding who has  
14       authority to speak.

15                  CHAIRMAN HOOD:   Let's start right  
16       off with the authority to speak, as soon as I  
17       find it.   Okay, Exhibit -- I have it now.   It  
18       would be nice when I read it if I would put  
19       stuff back in order.

20                  Ms. Schellin, should I be reading  
21       the first email?

22                  MS. SCHELLIN:   The first email is

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1 the actual response that I received from the  
2 chief which was in response to my email to him  
3 asking who had the authority to speak on  
4 behalf of FEMS since it came up at the  
5 hearing.

6 CHAIRMAN HOOD: The captain does  
7 not have the authority to offer official  
8 comments on behalf of the agency. I just want  
9 to make sure. This comes from the chief and  
10 I asked for that because we had conflicting  
11 reports.

12 The captain -- I mean, I'm sorry,  
13 the Chief Ellerbe has made it clear who -- I  
14 don't know what happens internally but he has  
15 made it clear who speaks for the Department.  
16 That's at Exhibit 37.

17 Commissioners, as stated, we have  
18 a number of items that were submitted,  
19 Exhibit 39. I have a draft order in front of  
20 us also, some of the requests that we had.  
21 I'm looking for one other document. Here it  
22 is. Exhibit 36.

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1                   And response to some of the  
2                   actions that we asked for. I guess we can  
3                   just look at that or if you have anything else  
4                   that is outstanding, I'll just go ahead and  
5                   deliberate and talk about that at this point.  
6                   I'll open it up. Anyone? Everybody is happy?  
7                   No comments? I should really save my breath  
8                   then. I have a few but I will -- I didn't  
9                   know how far we wanted to go.

10                  Commissioner Cohen.

11                  COMMISSIONER COHEN: Yes. I have  
12                  just one observation, one comment. The ANC  
13                  had made some suggestions earlier about the  
14                  number of buses from schools as well as senior  
15                  centers. They actually had a specific number.

16                  I do believe that the museum said  
17                  they are probably get even fewer buses so I  
18                  would recommend that we not be specific if  
19                  there is going to be fewer buses than even the  
20                  ANC had thought would come to the site. I  
21                  don't know if anybody else has that  
22                  recollection.

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1 CHAIRMAN HOOD: Okay. Can you  
2 tell me exactly where you are? Where is that?

3 COMMISSIONER COHEN: "Based on  
4 current patterns of the existing location..."  
5 This is under Exhibit 36 from the Goulston &  
6 Storrs. "...there are 26 school visits per  
7 year and approximately 15 visits from adult  
8 senior groups per year." Actually, I think it  
9 does match what the ANC had mentioned so I'm  
10 actually okay with this. I'm sorry. I may  
11 have lent some confusion there.

12 CHAIRMAN HOOD: Actually, what I  
13 would like to do, I always -- I appreciate you  
14 bringing that up -- like to bring up the  
15 communities' concerns. We also have a letter  
16 from West End Citizen's Association which is  
17 Exhibit 38. The first part about the chief  
18 has already been addressed.

19 The only other thing I saw that I  
20 would address they mention, unfortunately, the  
21 Applicant's post-hearing response did not  
22 address BCD. It says, "Trash trucks do not

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1 operate during evening rush hour.

2 Continuous request for  
3 restrictions 1B and C deliveries, especially  
4 those with any delivery from right-side doors  
5 during the evening rush from 4:00 to 7:00.  
6 During this period of the week we believe the  
7 Applicant should require all deliveries to be  
8 made on G Street."

9 I saw that and after I looked at  
10 what was requested, recommending alternative  
11 bus loading and all that on the G Street side  
12 of the museum, I think the plan that we have  
13 here in Exhibit 36 from the Applicant at least  
14 satisfied me.

15 I do have a check mark by the  
16 Campus Plan Advisory Committee which, Mr.  
17 Barber, if you recall, came forward at the  
18 hearing and mentioned to me how that was  
19 working or what people thought and the ideas  
20 about the five five. I don't know if I want  
21 to rehash that right now but I do want it to  
22 work.

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1 I don't know if this is the time  
2 to do that but they also say here in what they  
3 submitted that, "The University and the ANC  
4 are engaged in dialogue regarding the advisory  
5 committee and both parties are committed to  
6 maintaining the advisory committee as a form  
7 for collaborative discussions of campus plan  
8 and development issues."

9 I guess from that I can live with  
10 that, but if it's not working -- in the next  
11 case if I hear it's not working, then I'm  
12 going to start looking at some other measures  
13 that need to be done because this is very key  
14 to me. This is important.

15 From my standpoint it would make  
16 campus plan hearings a lot quicker. Not that  
17 I'm trying to get through it but it would make  
18 it a lot easier and quicker on all parties  
19 involved.

20 Everything else actually what I  
21 see in the submission of 36 I'm fine with.  
22 I'll open it up to any more comments. Again,

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1 the fire department spoke for themselves.

2 Okay. Anybody like to make a motion?

3 COMMISSIONER TURNBULL: Mr. Chair,  
4 I would move that we approve Zoning Case No.  
5 06-11F/06-12F, George Washington University  
6 2nd Stage PUD at Square 102. Look for a  
7 second.

8 COMMISSIONER COHEN: I'll second  
9 that.

10 CHAIRMAN HOOD: It's been moved  
11 and properly seconded. Any further  
12 discussion? Are you ready for the question?  
13 All those in favor aye.

14 COMMISSION MEMBERS: Aye.

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

18 MS. SCHELLIN: I believe  
19 Commissioner Schlater did not participate in  
20 this case so staff would record the vote four  
21 to zero to one to approve proposed action in  
22 Zoning Commission Case 06-11F/06-12F.

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1 Commissioner Turnbull moving,  
2 Commissioner Cohen seconding, Commissioners  
3 Hood and May in support. Commissioner  
4 Schlater not voting having not participated.

5 CHAIRMAN HOOD: Do we -- no. I  
6 was going to ask -- let's go to Hearing  
7 Action. Zoning Commission Case No. 09-05A,  
8 United House of Prayer PUD Modification at  
9 Square 442.

10 Ms. Brown-Roberts.

11 MS. BROWN-ROBERTS: Yes. Good  
12 evening, Mr. Chairman and members of the  
13 Commission. For the record, I'm Maxine Brown-  
14 Roberts representing the Office of Planning.

15 The United House of Prayer request  
16 modification to Condition No. 5 of Zoning  
17 Commission Order 09-05 which will require the  
18 provision of eight affordable units in the  
19 development.

20 The Applicant owns a number of  
21 buildings within the square that provide  
22 housing for seniors and families and state

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1 that following the approval of the PUD the  
2 owner took further review of the housing stock  
3 and determined that there's a demand for  
4 affordable senior and family housing in the  
5 neighborhood.

6 To address the demand, the  
7 Applicant proposes to reduce the number of  
8 affordable units within the PUD from eight to  
9 two units and locate the other six units  
10 within two other of their buildings which are  
11 shown and identified in our report.

12 In addition, they propose to  
13 dedicate an additional 10 affordable units  
14 within these buildings thereby increasing the  
15 number of affordable units to 18. The  
16 application will continue to meet the IZ  
17 requirements on the PUD site, conform to all  
18 the standards and requirements of the PUD, and  
19 will not be inconsistent with the  
20 Comprehensive Plan.

21 The Office of Planning has been  
22 advised by OAG that the proposed revision to

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1 Condition No. 5 needs further modification and  
2 we will work with the Applicant and OAG to  
3 make the necessary changes prior to the public  
4 hearing notice.

5 The development will continue --  
6 sorry. The Office of Planning therefore  
7 recommends that the requested modification be  
8 set down for public hearing. Thank you, Mr.  
9 Chairman.

10 CHAIRMAN HOOD: Thank you, Ms.  
11 Brown-Roberts.

12 Commissioners, any questions of  
13 the Office of Planning?

14 Commissioner Cohen.

15 COMMISSIONER COHEN: Thank you,  
16 Chairman.

17 Ms. Brown, are they -- the units  
18 that are being moved to different sites, are  
19 those sites currently vacant, those units, or  
20 are they just substituted?

21 MS. BROWN-ROBERTS: Those are  
22 properties that are developed, already being

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1 developed. They were matter-of-right  
2 projects.

3 COMMISSIONER COHEN: So it's not  
4 new units that are affordable?

5 MS. BROWN-ROBERTS: Those units --  
6 the current units I don't think are designated  
7 as affordable.

8 COMMISSIONER COHEN: Thank you.

9 CHAIRMAN HOOD: Any other  
10 questions?

11 Vice Chairman Schlater.

12 VICE CHAIR SCHLATER: I think  
13 that's an important question whether or not  
14 they are designated as affordable. There is  
15 designated for affordable in the zoning sense.  
16 There is matter of right and clearly they are  
17 all eligible to be market rate from the zoning  
18 standpoint. But if they were financed with  
19 tax credits or other affordable housing --

20 MS. BROWN-ROBERTS: No, they were  
21 not.

22 VICE CHAIR SCHLATER: They

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1 weren't?

2 MS. BROWN-ROBERTS: I specifically  
3 asked that question of the Applicant and, no,  
4 they were not.

5 VICE CHAIR SCHLATER: Okay. Well,  
6 in that case, well, the question is will the  
7 rents be reduced from what is being currently  
8 offered now?

9 MS. BROWN-ROBERTS: I will have to  
10 follow up on that.

11 VICE CHAIR SCHLATER: That is  
12 basically what will be asked during the  
13 hearing and the focus of it. I don't think  
14 anybody has any problems with spreading out  
15 the affordable units but you want to be making  
16 sure that they are actually adding to the  
17 affordable housing of the city.

18 MS. BROWN-ROBERTS: That's  
19 correct.

20 CHAIRMAN HOOD: Any other  
21 questions?

22 COMMISSIONER TURNBULL: Yes, Mr.

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1 Chair. I just have one question.

2 Ms. Brown-Roberts, the units that  
3 are being moved to the other buildings, are  
4 the units being refurbished within those  
5 buildings or just providing units, the  
6 existing units, or are they being refurbished  
7 at all?

8 MS. STEINGASSER: They will be  
9 refurbished as part of the shift. They are  
10 looking -- they own several buildings within  
11 that block so they are looking at how they can  
12 use their proffer and commitment under the PUD  
13 in combination with their own mission of the  
14 existing buildings to create a more active  
15 senior community as well as larger housing for  
16 families.

17 COMMISSIONER TURNBULL: I was just  
18 curious whether they are moving into existing  
19 units without doing anything.

20 MS. STEINGASSER: They are looking  
21 at all three buildings.

22 COMMISSIONER TURNBULL: Okay.

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1 Thank you.

2 VICE CHAIR SCHLATER: Is this  
3 building almost complete? It's under  
4 construction?

5 MS. BROWN-ROBERTS: It's under  
6 construction, yes.

7 VICE CHAIR SCHLATER: I think it  
8 looks pretty good. I'm happy with it.

9 CHAIRMAN HOOD: Commissioner May?

10 COMMISSIONER MAY: I just want to  
11 comment that I'm glad to see this coming  
12 before us as a modification and not a minor  
13 modification because very often the first time  
14 we see these things it's a minor modification.

15 Then we look at it and say the  
16 unit mix is changing or something about the  
17 units is changing and we want to see it as a  
18 modification. I don't think it's going to be  
19 a very contentious issue but I'm just glad to  
20 see it come through the right way first time  
21 around.

22 CHAIRMAN HOOD: Okay. Anybody

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1 else? I would move that we set down Zoning  
2 Commission Case No. 09-05A and ask for a  
3 second.

4 COMMISSIONER MAY: Second.

5 CHAIRMAN HOOD: Okay. It's been  
6 moved and properly seconded. Any further  
7 discussion? All those in favor aye.

8 COMMISSION MEMBERS: Aye.

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

12 MS. SCHELLIN: The staff records  
13 the vote five to zero to zero to set down  
14 Zoning Commission Case No. 09-05A as a  
15 contested case. Commissioner Hood moving,  
16 Commissioner May seconding, Commissioners  
17 Cohen, Schlater, and Turnbull in support.

18 CHAIRMAN HOOD: Okay. Next is  
19 Zoning Commission Case No. 12-03, Asmara, LLC,  
20 Consolidated PUD and Related Map Amendment at  
21 Square 5113.

22 Mr. Jackson.

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1 MR. JACKSON: Good evening, Mr.  
2 Chairman, and members of the Commission. My  
3 name is Arthur Jackson. I'm a development use  
4 specialist in the D.C. Office of Planning  
5 representing the D.C. Office of Planning's  
6 report on this application.

7 While I do my summary, you might  
8 reference Exhibit No. 1 in your packet. It  
9 shows a lot and it will identify a lot of  
10 issues that were raised by this proposal.

11 I'm sorry. Exhibit 1 in the  
12 Office of Planning report will actually  
13 identify a lot of the issues related to this  
14 proposal on that map. The proposed tax lot  
15 encompasses nearly 2.5 acres of undeveloped  
16 wooded property with no frontage on any public  
17 right-of-way.

18 LLC filed an application  
19 requesting Zoning Commission approval of a  
20 consolidated PUD on this lot on Square 5113  
21 with a related zoning map amendment to change  
22 the current zoning from R-5-A to C-2-A. The

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1 proposed development would consist of 100,000  
2 square feet of four-story garage row  
3 dwellings, approximately 30,000 square feet of  
4 office space, and 15,000 square feet of retail  
5 pharmacy.

6 It's a large proposal and raises  
7 several issues besides the lack of public  
8 access to public right-of-way. There is  
9 existing zoning relief that is requested but  
10 not clear what it actually would be for this  
11 proposal.

12 The proposed parking area and  
13 vehicular access would be located on  
14 properties outside the PUD boundaries on  
15 properties that don't appear to be under the  
16 control of the Applicant.

17 The proposal is inconsistent with  
18 the 2010 Comprehensive Plan future land use  
19 designation of moderate density residential  
20 for Square 5113 and inconsistent with the  
21 policy map designation of the square but  
22 labeled it enhancement area.

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1           The current R-5-A zone in the  
2           subject property actually is not inconsistent  
3           with the moderate density residential  
4           designation. In the Office of Planning's  
5           report we indicate that the residential  
6           component of this proposal could be allowed as  
7           a special exception but that was an error.  
8           The residential component of this proposal  
9           could be allowed as a PUD under the current  
10          zoning. The rezoning of properties at C-2-A  
11          would be inconsistent with the current land  
12          use designation and would not allow commercial  
13          uses -- it would allow commercial uses that  
14          are inconsistent with the established  
15          community character and would create  
16          competition for the established commercial  
17          corridors along Kenilworth Avenue.

18                 Section 6-641.02 of the District  
19          of Columbia official code states that zoning  
20          amendments should not be consistent with the  
21          adopted Comprehensive Plan. Accordingly, the  
22          Office of Planning does not support setting

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1 down this rezoning petition and PUD  
2 application for public hearing.

3 That concludes the Office of  
4 Planning's brief summary of our report and we  
5 are available to answer questions.

6 CHAIRMAN HOOD: Thank you very  
7 much, Mr. Jackson.

8 First, is the Applicant present?  
9 The Applicant in this case?

10 Okay, Commissioners. Any  
11 discussion?

12 COMMISSIONER COHEN: Mr. Jackson,  
13 you did indicate that you attempted to reach  
14 out and meet with them but they have been  
15 unresponsive and unavailable?

16 MR. JACKSON: Yes. There was a  
17 telephone call, brief conversation, emails.  
18 They indicated they wanted to come in and  
19 talk. We set a date and a time. They never  
20 showed up and we haven't heard anything from  
21 them.

22 They just have been -- the lack of

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1 communication has been -- it's one of the  
2 principal reasons we have to make this  
3 recommendation because we don't have enough  
4 information. It's incomplete. Although some  
5 of those issues could be resolved with some  
6 communication, the ownership issue really is  
7 a principal one.

8 COMMISSIONER COHEN: I understand  
9 that. Plus, I think there are quite a few  
10 issues as you mention in your report which I  
11 thought was very good. I would agree with the  
12 Office of Planning that this is really not  
13 right for consideration.

14 CHAIRMAN HOOD: Any other  
15 comments? I was just wondering if we move  
16 forward with the recommendation, do we deny or  
17 do we dismiss? Okay. I know if we deny, I  
18 think it's so many months or years they have  
19 to come back. I wanted to give them an  
20 opportunity if they wanted to come back.  
21 Maybe they wanted to take Mr. Jackson up on  
22 his open invitation.

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1 MR. RITTING: I'm sorry. I missed  
2 your question.

3 CHAIRMAN HOOD: I just remember  
4 sometime before when we had something like  
5 this and the issue was whether we deny or  
6 dismiss. If, one, we deny I think it's a long  
7 period of time that they have to come back.

8 MR. RITTING: Yeah, that -- I'm  
9 sure of the exact wording that you're thinking  
10 of but there is language that says deny in the  
11 portion of the Zoning Regulations that deal  
12 with denial without setting it down and they  
13 use the word deny in that section.

14 CHAIRMAN HOOD: All right. Thank  
15 you, Mr. Ritting.

16 Okay, Commissioners. Any other  
17 comments?

18 Mr. May.

19 COMMISSIONER MAY: I just had a  
20 couple of quick questions. Did I miss  
21 something they are not showing in the  
22 drawings? Are they not showing the office

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1 space that is proposed? Okay. So it's not  
2 shown at all.

3 Then the last question I have is  
4 there by any chance any paper streets that are  
5 existing in the area that somehow they thought  
6 might be realized?

7 MR. JACKSON: Not to our  
8 understanding. We contacted the Department of  
9 Transportation to get clarification about the  
10 plans for roads around here but nothing at  
11 this point. Although it has been suggested  
12 because there is some in attempt to extend  
13 Anacostia to intersect Kenilworth but nothing  
14 is being worked on that right now.

15 COMMISSIONER MAY: Right, okay. I  
16 agree with the Office of Planning and  
17 Commissioner Cohen. I mean, this is really  
18 not a very well developed submission at all.  
19 There's really -- I mean, it needs so much  
20 work in so many areas. It's inconsistent with  
21 the Comp Plan.

22 The thinking is not very clear on

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1 it. The drawings are so far below the minimum  
2 we can't even begin to understand what's  
3 intended here. And the fact that there's no  
4 ownership of the property, or it's not  
5 demonstrated. I mean, it's absolutely  
6 astounding.

7 The only question I have is, I  
8 mean, we are required to afford them an  
9 opportunity to explain why they think this  
10 should be set down is simply calling for them  
11 to speak tonight if they are not available.  
12 Is that sufficient?

13 MR. RITTING: Well, the rule says  
14 to give them a reasonable opportunity. I  
15 think you've definitely -- they've had an  
16 opportunity to appear tonight and they've had  
17 previous opportunities to communicate with the  
18 Office of Planning so I think it is sufficient  
19 and you can go forward tonight.

20 COMMISSIONER MAY: And do we know  
21 that they received notice of this meeting  
22 tonight?

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1 MS. SCHELLIN: There was an email  
2 sent to them through ISIS because this was the  
3 first electronically filed case. When I put  
4 in the setdown date, an email shot off to them  
5 saying, "The case has been scheduled for  
6 setdown. You can check the day of to make  
7 sure it's still on the agenda." Staff has not  
8 heard anything from them.

9 COMMISSIONER MAY: Okay. For the  
10 purposes of completeness of this record, you  
11 may want to have a copy of that email that was  
12 sent out to them in the record so that we know  
13 that, in fact, they received it. Of course,  
14 this transcript, too, would be part of that  
15 record as well.

16 CHAIRMAN HOOD: Would somebody  
17 like to make a motion?

18 Commissioner Cohen.

19 COMMISSIONER COHEN: I move that  
20 we dismiss -- deny Zoning Case No. 12-03,  
21 Asmara, LLC Consolidated PUD & Related Map  
22 Amendment at Square 5113.

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1 CHAIRMAN HOOD: I'll second it.  
2 It has been moved and properly seconded. Any  
3 further discussion? I would just add they did  
4 call for the Applicant. I think the  
5 Government has done its part. I think the  
6 Commission has done their part and I'm  
7 definitely going to vote in favor of denying  
8 this setdown.

9 It's been moved and properly  
10 seconded. Any further discussion? All those  
11 in favor.

12 COMMISSION MEMBERS: Aye.

13 CHAIRMAN HOOD: Any opposition of  
14 denying the setdown?

15 Not hearing any, Ms. Schellin,  
16 would you record the vote?

17 MS. SCHELLIN: Yes. Staff records  
18 the vote five to zero to zero to deny setdown  
19 in Zoning Commission Case No. 12-03.  
20 Commissioner Cohen moving, Commissioner Hood  
21 seconding, Commissioners May, Schlater, and  
22 Turnbull in support of denial.

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1 CHAIRMAN HOOD: Okay. Next Zoning  
2 Commission Case No. 12-04, Office of Planning  
3 Map Amendment at Square 5749 & Reservation  
4 412.

5 Mr. Lawson.

6 MR. LAWSON: Thank you, Mr. Chair.  
7 The Office of Planning submitted this case on  
8 behalf of OPEFM and DPR. This is a case for  
9 initial zoning on a piece of land dedicated  
10 for a re-built Fort Stanton Recreation Center.  
11 There is an existing facility on the site  
12 right now. The plan is to replace it with a  
13 new and improved one.

14 The Applicant has already  
15 submitted building permit applications. It  
16 was only at this stage that it was discovered  
17 that the land is actually not zoned and that,  
18 of course, zoning is required because District  
19 projects, even if they are on federal land, do  
20 require zoning for a building permit to be  
21 reviewed.

22 The project is fully funded and it

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1 has been reviewed by CFA and HPO already. The  
2 project is not inconsistent with the  
3 Comprehensive Plan and, in fact, there is  
4 specific language in the Comprehensive Plan to  
5 upgrade these specific facilities.

6 I should note that in the Office  
7 of Planning Report we provided the description  
8 of the property. The description of the  
9 property actually should include a portion of  
10 one more square, that portion of Square 5818  
11 that was part of the -- transferring as part  
12 of the site. It includes Square 5749, that  
13 portion of the reservation 412, as well as  
14 that portion of Square 5818.

15 With that, I'll be happy to answer  
16 any questions. Thank you.

17 CHAIRMAN HOOD: Thank you very  
18 much, Mr. Lawson.

19 Commissioners, any questions of  
20 the Office of Planning? I think it's pretty  
21 straightforward. Let me just say this,  
22 though. Any objections to waive the rules for

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1 late submissions? We have a request in front  
2 of us. No objections. Any questions of the  
3 Office of Planning?

4 COMMISSIONER MAY: I just have  
5 one. Do you know whether OPEFM or the Office  
6 of Planning -- I guess maybe you might have --  
7 have had any -- what kind of discussions  
8 they've had with National Capital Parks East  
9 and their staff? That is the land that  
10 surrounds this site.

11 MR. LAWSON: Absolutely. That's a  
12 question we hope to get resolved before the  
13 hearing. This all came fairly quickly and I  
14 didn't have a chance for a lot of conversation  
15 but that's a good question. We'll make sure  
16 to answer that at the hearing.

17 COMMISSIONER MAY: Just to know.  
18 I can't imagine there are any issues because  
19 this has been happening in multiple sites  
20 across the city. It's always good to know  
21 that it's been discussed and that there are no  
22 complications.

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1 VICE CHAIR SCHLATER: How about  
2 the community? Have they been involved in the  
3 planning process for the new facility?

4 MR. LAWSON: That's also a  
5 question that I will have to get resolved with  
6 the Applicant. I'll have to find out what  
7 level of discussions have happened.

8 As I said, it has gone through the  
9 Historic Preservation and CFA processes so  
10 there may have been some consultations as part  
11 of that. Typically with the recreation center  
12 there is some level of discussion. I just  
13 have to find out exactly what level that was.  
14 We can get that to you certainly before the  
15 hearing.

16 VICE CHAIR SCHLATER: It's not for  
17 me to say anymore but if the community hasn't  
18 been properly consulted through the process,  
19 the Applicant shouldn't be surprised if they  
20 get stopped in their tracks.

21 MR. LAWSON: Right. Of course, in  
22 this case they weren't stopped in their tracks

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1 by the community. They were stopped in their  
2 tracks by DCRA.

3 CHAIRMAN HOOD: Okay. Any other  
4 comments? I would agree with Vice Chairman  
5 Schlater. It's going to be a very unfriendly  
6 hearing, I can tell you that now. Okay. Any  
7 other comments? Okay.

8 We also, Mr. Lawson, have a  
9 request for emergency action. Did you want to  
10 comment on that?

11 MR. LAWSON: Yes. They are hoping  
12 to move forward with this facility as soon as  
13 possible. They have submitted building permit  
14 applications. Those applications have  
15 actually already been partially reviewed.  
16 They are getting down to the level of dealing  
17 with zoning and code issues right now.

18 They would like to be able to  
19 proceed with those reviews and establishing  
20 the emergency zoning would assist in DCRA  
21 being able to move forward with their review.

22 It's not an enormous recreation

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1 facility but it is obviously pretty complex  
2 and it will take some time to go through the  
3 DCRA review process. This would facilitate  
4 that review. As far as I know there is no  
5 plan to start construction or anything before  
6 a hearing has happened.

7 VICE CHAIR SCHLATER: What would  
8 happen if we approved on emergency this map  
9 amendment which gave them the zoning  
10 necessary? If the building permit were  
11 approved and then we went through the process  
12 for the permanent map amendment and we found  
13 there were problems with the building, would  
14 they have the rights with that building permit  
15 to move forward?

16 MR. LAWSON: We have already  
17 fairly much determined that there aren't  
18 problems with the building because the  
19 building --

20 VICE CHAIR SCHLATER: We don't  
21 know if the community has weighed in on that..

22 MS. STEINGASSER: In order to

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1 appear before the Historic Preservation Review  
2 Board, ANC notice is required under the ANC  
3 act so we do know at least that level of  
4 community involvement has happened and notice.

5 VICE CHAIR SCHLATER: Okay. I  
6 guess I would just be concerned. You'll have  
7 to take it from our perspective; we know  
8 nothing about this project. We are being  
9 asked to change the zoning on a parcel so that  
10 the project can move forward. With this  
11 action we are going to approve the granting of  
12 a building permit that cannot be then  
13 rescinded.

14 MS. STEINGASSER: If the building  
15 permit is not consistent with the zoning, then  
16 they would have to come back and request  
17 variances simultaneously with the --

18 VICE CHAIR SCHLATER: Presumably  
19 they are only asking for the map amendment  
20 because that is all they need to get their  
21 zoning approval.

22 MS. STEINGASSER: But there is

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1 nothing to imply that your action on an  
2 emergency basis would grant them anything  
3 beyond matter-of-right so no variances or  
4 anything like that.

5 VICE CHAIR SCHLATER: I think I  
6 understand that. I'm just saying if we were  
7 to be surprised at the hearing with some  
8 opposition to the project, there is nothing we  
9 could do to take back that building permit.  
10 Correct?

11 MR. LAWSON: Again, I would just  
12 note that this is a direct -- the action to  
13 replace the facility is a direct action from  
14 the Comprehensive Plan which was also a very  
15 public process. This recreation center was  
16 identified for replacement through that  
17 process.

18 This is really just fulfilling the  
19 direction that came from the community through  
20 the Comprehensive Plan as well. I don't think  
21 there are any surprises this facility is being  
22 replaced.

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1                   COMMISSIONER MAY: I would just  
2                   tend to agree. I mean, I think the notice  
3                   about replacing recreation centers is a very  
4                   well discussed topic within any individual  
5                   neighborhood. It's unfortunate that this one  
6                   got missed because I recall when this first  
7                   started happening a long time ago, it was  
8                   probably eight or 10 years ago, when there was  
9                   an emergency amendment to allow the first rec.  
10                  centers to get rebuilt.

11                 In this circumstance it's actually  
12                 the kinds of concerns you might have because  
13                 of the physical circumstance I don't think are  
14                 likely to exist. It's surrounded by other  
15                 park land so it's not like it's going to be a  
16                 case of over-building on a constrained city  
17                 block which is one of the concerns that we had  
18                 in that original case so many years ago.

19                 I think this is a fairly safe move  
20                 in this circumstance. I think I would be very  
21                 surprised if had significant objection to the  
22                 fact of redoing the rec. center. There may be

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1 concerns about does it have all the right  
2 stuff. Those are the sort of questions we  
3 might wind up hearing and not being able to  
4 answer.

5 CHAIRMAN HOOD: One of those rec.  
6 centers was Turkey Thicket. I know a lot of  
7 people had issues with that lot occupancy.  
8 It's unfortunate that it was a missed  
9 opportunity because it still should have had  
10 some more coverage from the lot.

11 Be that as it may, it's working.  
12 The neighborhood was very happy. Some of the  
13 folks who complained were some of the main  
14 users of the rec. center. I know because I'm  
15 down there. I don't have a problem moving  
16 forward with this and also granting the  
17 emergency. Any other discussion?

18 COMMISSIONER TURNBULL: Yes, Mr.  
19 Chair. I have a point of clarification. On  
20 the map that we received it shows the site as  
21 olive green and then you had a little piece of  
22 418. Does the other part that's olive green

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1 also going to become R5 or has that remained  
2 unzoned?

3 MR. LAWSON: The rest of the land  
4 is all MPS land but the lighter color green  
5 would all remain unzoned.

6 COMMISSIONER TURNBULL: No, but  
7 there's a part of the -- you've got the thing  
8 marked "site" and there's a line but the piece  
9 on the other side of the line is that not part  
10 of the site?

11 MR. LAWSON: If I'm understanding  
12 the question, that is actually the additional  
13 land that I mentioned in Square 5818 that  
14 would be part of -- that is part of the site  
15 and would be part of the action.

16 COMMISSIONER TURNBULL: Okay. I  
17 understand. I'm sorry. Thank you.

18 CHAIRMAN HOOD: Okay,  
19 Commissioners. Any other discussion? Then I  
20 would move that we setdown Zoning Commission  
21 Case No. 12-04 and also grant the emergency  
22 action as requested and waive the rules. I

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1 would ask for a second.

2 COMMISSIONER MAY: Second. Mr.  
3 Chairman, can I ask one question before we  
4 vote?

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

8 COMMISSIONER MAY: Yes. Ms.  
9 Schellin, do you have any idea when this case  
10 will be heard? How quickly?

11 MS. SCHELLIN: At the very  
12 earliest September.

13 CHAIRMAN HOOD: Do we have a  
14 Wednesday when we can do this?

15 MS. SCHELLIN: We always have  
16 Wednesdays.

17 COMMISSIONER MAY: Well, but are  
18 there other hearings that we're having that  
19 are going to be short that we could double up?

20 MS. SCHELLIN: If we can find one  
21 in September we will.

22 COMMISSIONER MAY: Is there time

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1 to do it in July?

2 MS. SCHELLIN: I don't think we  
3 have anything in July that can be doubled up.  
4 It's mainly the Southwest Waterfront case.

5 COMMISSIONER MAY: I would not  
6 object to doing a hearing on a different  
7 night. Wednesdays are wide open in the  
8 summer. Tuesdays are the problem.

9 CHAIRMAN HOOD: Tuesdays? Do we  
10 have a Tuesday?

11 MS. SCHELLIN: We need lots of  
12 Tuesdays.

13 CHAIRMAN HOOD: Okay.

14 COMMISSIONER MAY: I would be find  
15 with doing a short hearing on a Wednesday in  
16 July just because we don't want -- if we need  
17 to consider this quickly, we should act  
18 quickly rather than waiting three months.

19 COMMISSIONER COHEN: Mr. Chairman,  
20 I also agree with Commissioner May. How long  
21 will it take to actually do the improvements  
22 because, again, they want to get it ready for

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1 the summer as well.

2 MR. LAWSON: I'm not sure exactly  
3 what their construction phasing is. Again, we  
4 can get a bit more information on that for the  
5 hearing. We do anticipate that this hearing  
6 will be fairly short and concise. We are  
7 perfectly comfortable with this case being  
8 doubled up with another case.

9 Potentially even one of the  
10 Southeast Federal Center ones, although --  
11 Southwest Waterfront, sorry. I'm getting my  
12 waterfronts mixed up. We would be comfortable  
13 with doubling them up. We could also work  
14 with the Office of Zoning.

15 We can get a bit more information  
16 from -- we can have more discussions with the  
17 Applicant to find out the level of community  
18 involvement in the planning so that we can  
19 have a better sense of what we might expect at  
20 the hearing and if it's determined that this  
21 could be a very short hearing doubling this up  
22 we'd be comfortable with.

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1 CHAIRMAN HOOD: Okay. If we  
2 could, let's just leave it up to staff to see  
3 whether it would be a Wednesday night. I  
4 think they've heard it loud and clear with  
5 Office of Planning to try to move this as fast  
6 as possible.

7 MS. SCHELLIN: Is the Commission  
8 willing to double up with one of the Southwest  
9 Waterfront cases?

10 COMMISSIONER MAY: I would prefer  
11 that we not.

12 MS. SCHELLIN: That's what I  
13 thought.

14 COMMISSIONER MAY: Just because I  
15 think we're going to need every minute for  
16 those.

17 MS. SCHELLIN: Okay.

18 COMMISSIONER MAY: I'm worried  
19 about getting all of them in. I would rather  
20 do a Wednesday.

21 MS. SCHELLIN: All right. We'll  
22 work it out.

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1 COMMISSIONER MAY: I mean, I  
2 really think it's going to be a short short  
3 hearing.

4 CHAIRMAN HOOD: Wednesday or  
5 Tuesday, either one of those days works well.

6 COMMISSIONER MAY: I think it  
7 would be short enough that even a Tuesday  
8 wouldn't be a problem. Do you want to start  
9 at 8:30 or 9:00?

10 CHAIRMAN HOOD: On a Tuesday?

11 COMMISSIONER MAY: Yes. That  
12 won't interfere with my volley ball game.

13 COMMISSIONER COHEN: Why don't we  
14 start it when it gets dark like at 9:30.

15 CHAIRMAN HOOD: Why don't we start  
16 it tonight and then we can go ahead and finish  
17 it.

18 Okay. We'll go ahead and leave it  
19 up to staff to come up with a Wednesday. I  
20 was just joking about Tuesday. I'm just  
21 trying to get a Peter. It's been moved and  
22 properly seconded. No more discussion I don't

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1 believe. All those in favor aye.

2 COMMISSION MEMBERS: Aye.

3 CHAIRMAN HOOD: Any objections?

4 No objections, so ordered.

5 Ms. Schellin, would you record the  
6 vote.

7 MS. SCHELLIN: Yes. Staff would  
8 record the vote five to zero to zero to set  
9 down Zoning Commission Case No. 12-04  
10 including taking emergency action.

11 Commissioner Hood moving,  
12 Commission May seconding, Commissioners Cohen,  
13 Schlater, and Turnbull in support. Staff is  
14 unsure whether this is going to be considered  
15 a rulemaking or a contested case since it's  
16 one property. I don't know. It's up to the  
17 Commission.

18 CHAIRMAN HOOD: Whether it's a  
19 rulemaking or contested case, Mr. Ritting, how  
20 should we --

21 MR. RITTING: I think given that  
22 you are taking emergency action and the

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1 established process for doing that is to issue  
2 a notice of emergency rulemaking so this  
3 should be a rulemaking case.

4 Your rules authorize to hear map  
5 amendment cases as rulemakings when they are  
6 initiated by public agencies such as this one  
7 so I think that is the course of action that  
8 I would recommend.

9 CHAIRMAN HOOD: Okay. We've heard  
10 the recommendation, Commissioners. Any  
11 objections?

12 Okay. We will accept that  
13 recommendation. Thank you, Mr. Ritting.

14 Okay. I'm going to move the  
15 agenda around just a little bit. I'm going to  
16 do the ZRR, the letter from Council Member  
17 Brown, the ZRR last, the update of the  
18 process. We'll do all that last.

19 I'm going to ask Mr. Lewis Brown,  
20 the Department of Employment Services  
21 representative, to come forward. I want to  
22 thank him for being patient. Also I want to

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1       thank him for coming down this evening to give  
2       us a presentation on the new First Source Law  
3       here in the District of Columbia.

4               Any chair you want. Thank you,  
5       again, Mr. Brown, for coming down and giving  
6       us a brief presentation on First Source.

7               MR. BROWN: Okay. All right.  
8       Good evening. My name is Lewis Brown. I'm  
9       the Associate Director of the D.C. Office of  
10      Apprenticeship. Recently I was given  
11      responsibility to oversee the Office of First  
12      Source. I appreciate being asked to come down  
13      to go over the new First Source Law.

14              The new First Source Law is on  
15      Bill 19-50 which is known as the Work Force  
16      Intermediary Establishment and Reform of the  
17      First Source Amendment Act of 2011 which was  
18      signed December 2011 by the Mayor. The law  
19      took effect February 24, 2012. It is  
20      currently in effect.

21              The initial First Source Law was  
22      established in 1984. There have been -- there

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1 are some significant changes. The initial law  
2 had a dollar amount of \$100,000 or more where  
3 contractors would have to hire 51 percent of  
4 new hires -- D.C. residents as new hires.

5 The First Source Law has been an  
6 issue in terms of how people wanted to look at  
7 it and as far as District residents being  
8 employed or having employment opportunities on  
9 projects, particularly construction and  
10 renovation projects that are being financed by  
11 or receiving District government assistance,  
12 financial or otherwise.

13 In the new law the dollar amount  
14 will change from \$100,000 to \$300,000 and  
15 above. It still will have 51 percent new  
16 hires from the dollar amount of \$300,000 until  
17 it reaches contracts that are \$5 million or  
18 more.

19 Contracts or projects for  
20 construction that receive \$5 million or more  
21 will require contractors, prime contractors  
22 and subcontractors, to employee 20 percent of

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1 journey workers employed -- journey worker  
2 hours performed, I should say, shall be D.C.  
3 residents.

4 Sixty percent of apprenticeship  
5 hours will require the employment of District  
6 residents. Fifty-one percent of skilled  
7 laborer hours must be D.C. resident. Seventy  
8 percent of common labor hours employed on  
9 those projects must be D.C. residents.

10 That is what is very significant  
11 because you are looking at real actual  
12 percentage of District residents across the  
13 board in all of the classification of workers.

14 As far as apprenticeship, there  
15 is, or has been, a mandatory requirement for  
16 apprenticeship. That was a law that was  
17 passed in 1978 that required prime contractors  
18 or subcontractors whose contract amount is  
19 \$500,000 or more will be required to register  
20 in an apprenticeship program.

21 From 1978 until 2004 there was no  
22 -- there was no requirement or nothing stated

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1 in that law requiring District residents. It  
2 was the assumption or the intent that  
3 apprenticeship opportunities will be available  
4 for District residents.

5 In many cases it did provide  
6 apprenticeship opportunities for District  
7 residents but there are a number of  
8 contractors who pushed back and looked at the  
9 law literally and said, "Well, there is  
10 nothing in the law that says you have to have  
11 D.C. residents.

12 We are complying. We do have a  
13 registered apprenticeship program we want to  
14 give our initial workers, or existing workers,  
15 apprenticeship opportunities, but when we get  
16 more work we will eventually hire a District  
17 resident.

18 While I was enraged by the push-  
19 back or those contracts circumventing the law,  
20 I knew what the game was. Fortunately,  
21 Council Member David Catania amended the  
22 mandatory apprenticeship law that required 35

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1 percent of apprenticeship hours performed --  
2 35 percent of apprenticeship hours must be  
3 performed by a District resident on a trade-  
4 by-trade basis.

5 I have to say virtually overnight  
6 that law worked. Not only did that law meet  
7 the 35 percent but it exceeded it. There has  
8 been a range of anywhere between 48 to 92  
9 percent of District residents employed as  
10 apprentices on these projects. But it did  
11 leave a gap in the other classification of  
12 workers such as skilled laborers, common  
13 laborers, and journey workers.

14 I was particularly troubled by  
15 skilled laborers and common laborers where  
16 there were so few District residents. I would  
17 see as many -- my staff and I would see as  
18 many as 30 skilled laborers or 20 common  
19 laborers, or unskilled laborers, and maybe one  
20 and, in some cases, no District residents in  
21 those classifications.

22 I think Council Member Michael

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1 Brown looked at this law. He decided we are  
2 going to cover all of the classifications of  
3 workers. That is why this law is in effect.  
4 I think you'll see a significant number of  
5 District residents in all the classifications  
6 of workers in the construction trade employed  
7 on these projects.

8 Also with the apprenticeship law  
9 there was a five percent penalty fine for  
10 those contractors who failed to comply with  
11 employing 35 percent or more of district  
12 residents. I'm happy to say that my office  
13 collected over \$100,000 in those monetary  
14 fines for those contracts.

15 It applied to both union and non-  
16 union contractors who did not comply with the  
17 law. The unions aren't exempt with their  
18 signatory contracts. They by no means are  
19 exempt from complying with the law. There is  
20 no finger pointing where the union is saying,  
21 "Well, the contractor bid on the work."

22 The contractor said, "Well, the

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1 unions are the ones whose supply us with our  
2 workers including D.C. residents." My  
3 position is you both are at fault. The  
4 contractor -- you know, if you can't convince  
5 your unions, who you are signatory to, to  
6 provide you with more District residents, you  
7 have to ask yourself a couple of questions.

8 Is being a union contractor an  
9 asset or liability because you're going to pay  
10 that fine. Well, you know, the unions have  
11 worked very, very well with us across the  
12 board and we are seeing significant headway in  
13 the number of District residents being  
14 accepted as apprentices with the unions. As  
15 well as non-unions hiring District residents  
16 as apprentices.

17 The new first law also includes a  
18 monetary fine of 5 percent, but it also  
19 includes debarment of contracts who have  
20 failed to comply. I have no problems with the  
21 employers being debarred from District  
22 government assisted projects if they fail to

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1 comply with hiring of District residents as  
2 apprentices or any of the other classification  
3 of workers.

4 During the bidding process the  
5 contractors will have to submit an employment  
6 plan that outlines a strategy of meeting local  
7 hiring requirements which will be evaluated by  
8 the agencies that are overseeing the bids or  
9 reviewing the bids. It could be worth up to  
10 10 percent of the overall bid score.

11 The bid will -- the law will also  
12 require the bidders to submit a prior  
13 practices of hiring District residents for the  
14 past three projects or meeting those goals.  
15 What could be beneficial of the contractor's  
16 bidding there is a rollover of hours.

17 If contractors exceeded the  
18 percentages on prior projects, they will  
19 receive another 10 percent of credit on the  
20 next projects. Those are some of the  
21 significant changes.

22 There is also a change where

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1 contractors can receive double count of hours  
2 percentages if they hire to employ residents  
3 who are ex-offenders or residents who have  
4 been on some public assistance that can be  
5 verified by the District government including  
6 DOES. They can receive a 15 percent credit  
7 for employing hard-to-employ residents.

8 When the contractors are  
9 submitting bids, they also must submit not  
10 only their past hiring practice but also  
11 status of any Davis-Bacon issues that they've  
12 had. District Government projects that  
13 receive District monies of \$2,000 or more are  
14 subject to federal Davis-Bacon law.

15 If they have any pending -- if any  
16 contracts have any pending Davis-Bacon issues  
17 on prior projects whether they are federal  
18 projects or projects in other jurisdictions  
19 under the federal Davis-Bacon law could be  
20 problematic for those contractors.

21 My office, the apprenticeship  
22 office, myself and my staff, we do have the

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1 expertise in reviewing certified payroll  
2 records. We also have the authority by the  
3 U.S. Department of Labor-Wage and Hour to  
4 enforce the Davis-Bacon law and to request the  
5 withholding of fines -- I'm sorry, not  
6 withholding of fines -- withhold of payments  
7 to those contractors until those Davis-Bacon  
8 issues are resolved.

9 If they are not resolved we will  
10 simply submit that issue to the Department of  
11 Labor. They will take a much harsh course  
12 than we would. That would be automatic  
13 debarment from any federal Davis-Bacon project  
14 for those contractors so they would rather  
15 work with my office than for us to submit to  
16 turn that issue over to the Department of  
17 Labor.

18 Contractors will have to provide  
19 us with an ongoing report of the projects of  
20 new positions that are created through  
21 attrition. They would have to provide a  
22 projection of workers when they submit their

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1 bids, projection of the number of hours that  
2 would be performed by journey workers and the  
3 number of hours that would be performed by  
4 District residents along with the other  
5 classification of workers. That is pretty  
6 much it.

7 CHAIRMAN HOOD: Mr. Brown, I want  
8 to first of all thank you for coming down.  
9 I'm sure we have a few questions but we won't  
10 hold you long.

11 MR. BROWN: No problem.

12 CHAIRMAN HOOD: We have a few  
13 questions.

14 Would you like to start off,  
15 Commissioner Cohen?

16 COMMISSIONER COHEN: Thank you. I  
17 do have a few questions. Your definition for  
18 new hires, it sounds to me like these  
19 positions could be just one-off positions. In  
20 other words, when the job is complete, then  
21 that person has to look for another position.

22 However, are these positions

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1       sustainable? In other words, your new hires  
2       and District residents, do they get employed  
3       job after job after job?

4               MR. BROWN: Well, as far as new  
5       hires, the way the First Source Law was  
6       created when employers are hiring new workers,  
7       whatever number of new workers they plan to  
8       hire, 51 percent of that must be D.C.  
9       residents.

10              We are required to also monitor  
11       the training activity. Not only just the job  
12       site but also the school as far as the  
13       required related instruction. We also conduct  
14       compliance reviews. Compliance reviews are a  
15       procedure that is like an audit where  
16       companies have five or more apprentices  
17       registered. They are conducted once a year  
18       for each apprenticeship sponsor that has five  
19       or more apprentices registered. We are almost  
20       at 40 percent of the apprentices registered  
21       are D.C. residents.

22              COMMISSIONER TURNBULL: How about

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1 women in apprenticeships?

2 MR. BROWN: That's a tough one.

3 Not a very good percentage.

4 COMMISSIONER TURNBULL: I've  
5 walked job sites and I'll see some women  
6 painters. I'll see a few electricians. Then  
7 it kind of peters out.

8 COMMISSIONER COHEN: The painter's  
9 union likes women because they are very neat.  
10 Seriously. That's what I've been told.

11 MR. BROWN: Women who pursue  
12 apprenticeship in the trade areas, that is a  
13 group that really are on a mission. That's  
14 what they want to do. As much as we do  
15 outreach through women organizations,  
16 opportunity for women and women in trades,  
17 most of the women are looking for areas that  
18 are traditionally in the woman area as far as  
19 construction.

20 The women who chose construction  
21 they thought through on this and this is what  
22 they want to do and succeed in it. I would

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1 say the percentage of women may be around 10  
2 percent or so, something like that.

3 COMMISSIONER TURNBULL: Okay.

4 Thank you.

5 MR. BROWN: If that.

6 CHAIRMAN HOOD: Mr. Brown, let me  
7 change the subject a little bit and you can  
8 help me if I'm not understanding the  
9 apprenticeship. I understand that Tom Blanton  
10 and all the guys do. I know all about what  
11 they do.

12 My issue for the First Source is  
13 something I brought up some years ago on the  
14 Commission. On the Commission we have what is  
15 called a Planned Unit Development. I was  
16 raising the issue from the dias, and this was  
17 under the former Chairman Cropp, the  
18 chairperson of the council.

19 That was one of the things we were  
20 really driving, Chairperson Mitten and myself,  
21 and other Commissioners at the time. One of  
22 the things that it seems as though, we got the

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1 report sometime back, I guess in the early  
2 2000's, that the first source agreement was a  
3 joke.

4 Developers would come into DOES  
5 and getting that agreement signed. I don't  
6 know if you've seen one yet but getting an  
7 agreement signed with the PUD, Planned Unit  
8 Development, and it wasn't happening.

9 At that time I asked the Office of  
10 Planning to give me a report. What we had as  
11 far as the First Source was we had three  
12 percent of qualified employees that are  
13 District residents so we started trying to  
14 work on that and we started trying to hold  
15 these developers and applicants' feet to the  
16 fire.

17 I guess the question is what are  
18 we doing to enforce it? We've had meetings  
19 with your predecessors. You said you just got  
20 First Source.

21 MR. BROWN: My leg and my arm and  
22 everything was twisted. It's not something I

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1 jumped up in the air and said I wanted to do  
2 it. The director asked me to do it and I  
3 agreed. I will support her efforts with DOES.  
4 After being asked several times I agreed.

5 CHAIRMAN HOOD: My issue is  
6 important. I know it's going to take you time  
7 but it's important. When people come down and  
8 proffer and make offers to us about their  
9 interest and agreement, more happens than just  
10 what happened in the past. I think DOES at  
11 the time -- I can't thin of the former  
12 director's name, a lady.

13 MR. BROWN: Susan Gilbert.

14 CHAIRMAN HOOD: Ms. Gilbert. Is  
15 she still here?

16 MR. BROWN: No, she retired a  
17 couple of years ago.

18 CHAIRMAN HOOD: Just because she  
19 retired I want the program to retire because  
20 we need to move that thing forward. We need  
21 to move that piece forward because this is  
22 very important to the residents who are

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1 looking for jobs in the city.

2 When applicant's come down -- I  
3 will follow up and do whatever we need to do  
4 -- when applicant's come down and present us  
5 with the DOES signed agreement of First  
6 Source.

7 More needs to happen when they  
8 leave out the room and that is the end of it.  
9 I'm going to tell you, the word out there is  
10 that it's a joke.

11 Here's what we need to do and I'm  
12 going to ask the Office of Zoning and the  
13 Office of Planning, and I'm also gong to talk  
14 to the Deputy Mayor myself personally. I'm  
15 going to ask because here is the thing. I  
16 don't know how my colleagues feel but we  
17 accept these proffers.

18 We give people some credit, I  
19 guess is the word I want to use, so when they  
20 come down before us and as soon as they walk  
21 out the door nothing ever happens. So what  
22 needs to happen is a coordinated effort.

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1                   Mr. Brown, you just got on board  
2                   with the First Source. You definitely know  
3                   the apprenticeship piece of it but with the  
4                   new law our office will explain the Planned  
5                   Unit Developments, how that whole process is  
6                   done along with Ms. Steingasser and others so  
7                   we can make sure that something is actually  
8                   happening once they leave out the door.

9                   MR. BROWN: Absolutely. What I  
10                  liked about the agencies that I mentioned,  
11                  OPEFM, now a lot of those officials are under  
12                  the umbrella of the Department of General  
13                  Services, they worked hand-and-glove with my  
14                  office on the apprenticeship side to withhold  
15                  money, to take action.

16                 There were issues of noncompliance  
17                 or hiring compliance. The prime contract  
18                 along with their subs, those contractors that  
19                 were subject to any violations or had issues,  
20                 all had to come before the agencies that  
21                 oversaw that project and the issues were  
22                 spelled out.

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1                   They were put on notice, "You're  
2                   not getting anymore money until the  
3                   Apprenticeship Office gives us the okay that  
4                   they are satisfied with taking corrective  
5                   action."

6                   Whether it's restitution or you're  
7                   hiring additional residents in this case would  
8                   apply to the other classification of workers  
9                   whether they are skilled laborers, common  
10                  laborers, or what have you. I was frustrated  
11                  prior to this new law seeing the  
12                  apprenticeship numbers being met or exceeded,  
13                  but that was the only thing that was really  
14                  riding or carrying the number of residents.

15                  That's because something had to be  
16                  put in place to penalize these contractors.  
17                  Now with this new law it's \$5 million for a  
18                  project. Now, this doesn't mean \$5 million  
19                  for each contract. This is for the entire  
20                  project so every subcontractor for that \$5  
21                  million project, or more, have to conform or  
22                  comply with those percentages in those

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1 classifications of workers.

2 CHAIRMAN HOOD: Here's what we're  
3 going to do.

4 MR. BROWN: Not to cut you off,  
5 but if we see -- just like we worked with  
6 those other agencies to force those contracts  
7 to come into compliance. I don't tell Office  
8 of Planning what ammunition you all have to  
9 withhold money or to cut them off for any  
10 zoning --

11 CHAIRMAN HOOD: Let me say this,  
12 Mr. Brown. Not to cut you all but I've been  
13 doing this awhile. We're going to get to the  
14 bare bones and we're going to get it done.  
15 That's the whole thing. Like with your  
16 predecessors I told them let's just get it  
17 done.

18 MR. BROWN: Sure.

19 CHAIRMAN HOOD: There is a  
20 mechanism where we can explain what our  
21 process is. I think it's very beneficial. I  
22 think this administration deserves it and it's

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1 out there to be done so we need to find out  
2 what the process is from our standpoint, work  
3 with your office and make sure those  
4 agreements when they come down here and flash  
5 them in front of us that something is being  
6 done once they walk out the door.

7 MR. BROWN: Absolutely.

8 CHAIRMAN HOOD: A few more  
9 questions and then we're going to cut it off.

10 COMMISSIONER COHEN: I'm sorry.

11 I'm just being the contrary in here. I  
12 believe the reason why First Source does not  
13 work happens to be that the District of  
14 Columbia has had a very inferior education  
15 program and it hasn't had the technical  
16 schools. Now Phillips, I believe, has come  
17 back online.

18 We have a population of people who  
19 are unprepared for the first hires program.  
20 I think to make this a more successful  
21 venture, not only do we need to have Mr. Brown  
22 but we need to have the people who are working

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1 on pre-apprenticeship, pre-training programs,  
2 addiction programs, Show Up To Work programs.

3 I don't think it's the  
4 contractors. They want the workers. They  
5 want good workers. The problem is we don't  
6 necessarily have many workers who show up who  
7 are prepared for their jobs and that is a big  
8 problem that I think we all face.

9 I've been in this business for 40  
10 years and that still isn't being corrected.  
11 The mayor has realized it and he wants  
12 technical training introduced into the city so  
13 that we can get people ready for jobs. That  
14 is an important step that we should not  
15 overlook.

16 CHAIRMAN HOOD: Let me just say  
17 this. I prefaced my comments, Commissioner  
18 Cohen, with 3 percent qualified. I know there  
19 are other tools in the tool box that need to  
20 take place. What I'm saying is when we sit  
21 here until 11:30 and quarter to 12:00 at night  
22 and people come down here and make all these

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1 offers to us and we sit here and say, "Oh,  
2 okay. Accepted." And that's the end of it.

3 All I'm just saying is I want some  
4 action after it's all done. That's what wrong  
5 with us now. We sit down here and once it  
6 goes out the door we done with it. I will  
7 tell you I've done it. Ten years ago I did  
8 the same thing and I'm bringing the issue back  
9 up again. I know there are some other issues.

10 I'm discounting that. What I'm  
11 saying is if everybody just does a little  
12 piece of it, then maybe we can try to all get  
13 together and work it out. I'm doing the piece  
14 from the Zoning Commission.

15 I can't go out there and have a  
16 class on Come To Work. I have enough of that  
17 on my own job. I can't go out and do all  
18 these other things but I can do the piece that  
19 I took the oath to do and that's from the  
20 Zoning Commission standpoint.

21 Now, Mr. Brown. Sorry to cut you  
22 off.

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1                   MR. BROWN: I disagree with you  
2 where you said District residents aren't  
3 qualified or contractors are not at fault. I  
4 have to disagree with you on that. Yes, you  
5 do have some residents who if given an  
6 opportunity they don't follow through. So  
7 does Maryland and so does Virginia but --

8                   CHAIRMAN HOOD: So does the  
9 federal government and everybody.

10                  MR. BROWN: Absolutely. Listening  
11 to you it's across the board that our kids  
12 aren't properly educated or --

13                  COMMISSIONER COHEN: Excuse me. I  
14 have to say you're misinterpreting what I'm  
15 saying because I do not disrespect the people.  
16 I disrespect the government that hasn't served  
17 them.

18                  MR. BROWN: Also I disagree.  
19 There are contractors who I've had to really  
20 lock horns and bump heads to force them to  
21 hire D.C. residents. I've been out there by  
22 myself toe-to-toe with some of the largest

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1 contractors in the city --

2 COMMISSIONER COHEN: And I respect  
3 you.

4 MR. BROWN: -- and brought them to  
5 the table. That's one of the reasons Council  
6 Member David Catania changed the law because  
7 of the actions that I took by myself.

8 CHAIRMAN HOOD: I'm glad to hear  
9 that. I think we're on the same page.

10 MR. BROWN: Sure.

11 CHAIRMAN HOOD: I think from our  
12 standpoint you learn what we're doing and we  
13 learn what you're doing and then that  
14 connection because I'm going to be asking the  
15 Office of Planning in a couple of months, six  
16 or eight months. I don't want to have the  
17 number and this predates you. I don't want to  
18 have 3 percent qualified. I want us to work  
19 on it. I've asked DOES -- I've asked  
20 applicants to come down and say, "Look, are  
21 you working with DOES to make sure that we  
22 have a qualified pool?" Do that up front.

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1                   Anyway, I'm going to leave that up  
2                   to Ms. Schellin, the Office of Planning, and  
3                   yourself, Mr. Brown. I really appreciate it.  
4                   It sounds like we're well on the way. We just  
5                   need to make it happen.

6                   MR. BROWN: Right. I just need  
7                   support. If I see something that is non-  
8                   compliant, I don't want to see the same  
9                   contracts get another project. I want to see  
10                  contracts debarred and I want to see them  
11                  fined if they don't comply with the law.

12                 CHAIRMAN HOOD: We can't fine them  
13                 but I can tell you when they come back down  
14                 here for another project and they proffer  
15                 that --

16                 MR. BROWN: Whatever needs to be  
17                 done. That's good.

18                 CHAIRMAN HOOD: Okay. I really  
19                 want to thank you. It sounds like we are well  
20                 on the track.

21                 Hopefully, Ms. Schellin, if you  
22                 could follow Mr. Brown and kind of explain

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1     what our process is and what goes over to DOES  
2     and we'll go from that point.  Maybe Alan and  
3     others and Ms. Steingasser can work with you  
4     on that.

5                     MR. BROWN:  No problem.

6                     CHAIRMAN HOOD:  Okay, Mr. Brown.  
7     Thank you very much.  We appreciate you coming  
8     down.

9                     CHAIRMAN HOOD:  Okay.  Is that it?  
10    Just joking.  We are going to go to the ZRR.  
11    Let's go to the correspondence first.  The  
12    dress code will be real easy.  From this point  
13    on let me just do that.  Marcie wants to talk  
14    about the dress code.  The dress code from  
15    this point on is relaxed.

16                    Gentlemen, you can take your ties  
17    off if you want to.  Come in with your short-  
18    sleeve shirts.  We're not looking for any  
19    ties.  I guess if we can get the word out  
20    hopefully.  We just come in relaxed in shorts  
21    because when it gets 90 degrees it's kind of  
22    hot sitting up here with a tie on and your

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1 shirt all tight and sweating.

2 That goes for not just the Zoning  
3 Commission members but the Office of Planning  
4 and Office of Zoning, as well as the Office of  
5 the Attorney General, and as well to people  
6 who come down and present in front of us.  
7 Hopefully they are watching this. I'm sure  
8 they don't have anything to do tonight but to  
9 watch the Zoning Commission meeting.

10 We're not going to be much longer.  
11 Let's talk about this correspondence letter  
12 from Council Member Brown.

13 Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. The  
15 letter that was addressed to Chairman Hood was  
16 received in the office on April 30th. That  
17 was the last meeting we had but it didn't  
18 allow time for the Commission to read and be  
19 able to prepare a response or for OP if they  
20 needed to weigh in either. Staff put it on  
21 tonight's agenda for the Commission to  
22 consider.

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1 Behind that from Greater Greater  
2 Washington David Alpert actually provided a  
3 response also because of the letter that was  
4 written.

5 CHAIRMAN HOOD: Okay. I  
6 appreciate everyone responding including Mr.  
7 Alpert but we are capable of responding  
8 ourselves, which we did. I'll just read  
9 excerpts.

10 "Dear Council Member Brown, I am  
11 in receipt of your letter dated April 25,  
12 2012, regarding the above-referenced matter.  
13 The Zoning Commission will take your concerns  
14 into consideration as it moves forward with  
15 this docket.

16 We are well aware of the community  
17 concerns and will ensure that the public  
18 hearing process will provide a forum for all  
19 members of the public to share their issues  
20 with the Zoning Commission.

21 Unfortunately, I cannot address  
22 the specific zoning issues cited in your

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1 letter since the Commission has not publicly  
2 deliberated on any of these issues other than  
3 to provide general guidance to the Office of  
4 Planning.

5 I would, therefore, suggest that  
6 you contact the Office of Planning concerning  
7 these questions. If you have any questions  
8 that require additional information, please do  
9 not hesitate to contact me. Sincerely,  
10 Anthony J. Hood."

11 That was the response. I will  
12 tell you there is a buzz going around and I'm  
13 hearing it from all sides, everyone. I heard  
14 it at the D.C. Value dinner the other night.  
15 I'm hearing a lot of the way we move forward  
16 with the ZRR.

17 It's not just from the community  
18 but from the people that use this took all the  
19 way around, or that's in this process all the  
20 way around. I have a few questions that I  
21 want to ask the Office of Planning to get this  
22 started, this discussion. I'm getting older

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1 so I have to write things down and email them  
2 and everything else.

3 Ms. Steingasser, what were the  
4 guidelines when the task force was first  
5 established?

6 MS. STEINGASSER: Well, the task  
7 force was established to create an interface  
8 between the Office of Planning as we work  
9 forward with certain proposals and stakeholder  
10 groups.

11 Every ward had a council. Several  
12 interest groups including DCBIA who, by the  
13 way, is one of our most involved  
14 representatives on the task force. I would  
15 say he is probably one of the top three  
16 individuals who participates.

17 We've also spoken directly with  
18 DCBIA on several occasions with relevant  
19 issues. We've also had the American Institute  
20 of Architects, the Federation of Citizen's  
21 Association, Committee of 100. There is the  
22 Federation of Citizen's Association and the

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1 Association of Civic Groups. Both of those  
2 have had representatives.

3 We tried to do a broad base of  
4 stakeholder representation. On average we  
5 have about a 30 percent representation at the  
6 meetings. We have also had, of course, the  
7 work groups which the task force also served  
8 on. Our expectation of them was that they  
9 would take the different ideas back to their  
10 stakeholders and then bring their  
11 representative comments back.

12 CHAIRMAN HOOD: Let me follow up  
13 with these other two questions. You can  
14 answer these at the same time. What is the  
15 mechanism to allow nonmembers to speak at task  
16 force meetings and how is the attendance at  
17 the task force meetings been? I know we did  
18 an update some months back, or maybe some  
19 years back.

20 I can't remember now but I know  
21 then we did -- I think all of us went to a  
22 meeting to try to engage and bring back the

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1 spirit of what the task force was created to  
2 do.

3           Apparently, from what I've been  
4 advised by a number of people, the attendance  
5 is back where it was prior to us having that  
6 meeting. What has the attendance been like  
7 and how are people who are not on the task  
8 force or who want to be a part, how are they  
9 being allowed to be engaged?

10           MS. STEINGASSER: Let's step back  
11 a second and recognize we have not released an  
12 official draft document. We are trying very  
13 hard to get that draft document done while we  
14 are interfacing with the public. The  
15 interface mechanisms are very straight  
16 forward. They are very, very public.

17           We take phone calls directly. We  
18 have a website that is interactive. When that  
19 website went down for six weeks we had the  
20 staff names with emails and phone numbers  
21 posted so they could still interact with us  
22 directly.

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1                   We take phone calls. We take  
2 emails. There are notices sent from the  
3 Office of Zoning on behalf of the Zoning  
4 Commission to every single ANC in the city  
5 for, I think, over a dozen different hearings.  
6 We've gotten written correspondence.

7                   Of course, we have made multiple  
8 presentations to the community this year alone  
9 since 2012 we have been to eight separate  
10 community meetings outside of the six task  
11 force meetings and then, of course, the  
12 updates that we give here to the Zoning  
13 Commission.

14                  There is a sense that people are  
15 getting the word about certain policy issues  
16 that are upsetting them because of the way  
17 they are being presented, but it's not because  
18 the ability to engage is not there. It is  
19 there.

20                  We have a spreadsheet of over 400  
21 public comments that we've gotten this year.  
22 We keep that spreadsheet and put the name of

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1 who sent it to us. We put whether we reacted  
2 to it already, whether it's been incorporated  
3 into the drafts.

4 Right now we are drafting text.  
5 We don't have a text that is loose out there  
6 that we haven't educated anybody. As you  
7 know, when the Zoning Commission came to the  
8 task force, we all agreed at that point that  
9 it was the desire that the Office of Planning  
10 stop going out with individuals and write a  
11 full document.

12 That is basically what we've done.  
13 We've been focusing on that. I would like to  
14 talk to you this evening about possibly  
15 bringing some items to you in isolation. Some  
16 items that we are discovering through our work  
17 with the task force and through the work with  
18 community groups are important enough that  
19 they need a more focused discussion.

20 We are finding that the formatting  
21 of the new text in combination with some of  
22 these new policy shifts is very confusing and

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1 it's creating a whole lot of misinformation.  
2 All the blogospheres grab it, seize it, and it  
3 just spins immediately out of control.

4           Some of them we would like to  
5 bring forward to you separately in the  
6 language of the current code so that people  
7 understand it. We would like to discuss the  
8 policy shift. We don't think there are that  
9 many but we think they are critical and there  
10 are some that have made the communities very  
11 uncomfortable.

12           There are some that other  
13 communities find very, very desirable. We  
14 also want to have certain things in place. We  
15 are seeing the market start to warm up and  
16 projects are coming lose. There are a lot of  
17 these things we would like to have in place.

18           If we continue with the full  
19 rewrite and then wait for the mapping and then  
20 wait for the effective date, it can be another  
21 two years before some of our more major policy  
22 initiatives that the Commission gave us

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1 guidance on two years ago could come into  
2 effect. That would be the parking, the  
3 loading, the Bike Share, the GAR. We would  
4 like to bring some of those forward to you.

5 As far as attendance at the task  
6 force, it fluctuates. I'm not going to say  
7 it's fabulous but we have 22 members. The  
8 smallest meeting we ever had was Ms. Gates by  
9 herself got a tutorial on the industrial zones  
10 but it was not a controversial particular  
11 chapter. On average we have about five to  
12 seven members which is about 30 percent.

13 CHAIRMAN HOOD: Okay. Let me just  
14 -- I'm going to hold your last comment in the  
15 parking lot.

16 MS. STEINGASSER: Okay.

17 CHAIRMAN HOOD: I can tell you  
18 when I start getting phone calls and people  
19 start hanging up on me and every time I go  
20 somewhere I get the same and I'm getting a lot  
21 of it.

22 First of all, I haven't been going

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1 around -- Ms. Schellin and I have tried to go  
2 around to a couple of ANCs and say, "Look, get  
3 involved." I've been doing that for a long  
4 time now.

5 I want to go back and I've asked  
6 staff to help me go back to some of the things  
7 that we talked about early on in the process  
8 in 2007. It goes back to Commissioner  
9 Parsons.

10 A lot of times I sit up here and I  
11 think that was a wise guy. I should never  
12 have disagreed with anything he ever said  
13 because a lot of stuff has come back to show  
14 me the opposite way. I will tell you that one  
15 of them is in my neighborhood.

16 Anyway, Commissioner Parsons says,  
17 "I'm concerned with a sentence in your report  
18 that says, 'All of this leads us to the  
19 conclusion that regardless of whether the  
20 policies found in the document change at all,  
21 a fundamental reorganization or rewrite is  
22 necessary because I did not hear that from our

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1 round table.'" "

2 Then he goes on to say, "I would  
3 agree with you that the word `rewrite' is  
4 misleading. I think what you did here at the  
5 round table was a lack of clarity. Everyone  
6 says they have a hard time finding what they  
7 need to find and understand what they need to  
8 find.

9 That's what that is intended to  
10 convey that we need to look at how things are  
11 organized and try and address single issues in  
12 single places." Maybe that's where we're  
13 going. "That sounds like a major edit to me  
14 rather than the word `rewrite.'" "

15 This is from Mr. Parker,  
16 "Absolutely it may have been a mistake with  
17 the word `rewrite.'" Commissioner Parsons:  
18 "Then I must offer that I'm -- I don't know if  
19 you are going this way but I would caution  
20 that I think you shouldn't. This current fad  
21 of form base codes to me is not right for this  
22 city." And he goes on.

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1                   Here is another thing, Ms.  
2           Steingasser, where you commented. "I would  
3           like to add just to put everyone's mind at  
4           ease because we have gotten a lot of startled  
5           reaction to the phrase `comprehensive  
6           rewrite.'

7                   We do plan to have a comprehensive  
8           review. We don't plan to rewrite every single  
9           word but it will be a comprehensive review and  
10          we have made notes to ourselves to us the word  
11          `review' instead of `rewrite.' I couldn't  
12          agree with you more, Ms. Mitten." It goes on.

13                   Here is what really struck me, and  
14          this is a comment by Mr. George Clark, June  
15          21, 2007. "I'm not sure I'm going to contract  
16          with what the Chairman has said here but  
17          updating the regulations doesn't mean throwing  
18          them out in their entirety and starting from  
19          scratch with a totally different concept.

20                   I'm not saying that a lot of  
21          things don't need to be thrown out but the  
22          question is we have a built-up city. We have

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1 many hundreds of thousands of people who have  
2 made significant investments in their property  
3 based on certain sets of assumptions about  
4 what happened.

5           Zoning can always change but  
6 fundamentally changing the approach to zoning  
7 risk the property values and destroying what  
8 I call the goose that has laid the golden eggs  
9 for the resurgence of property values in the  
10 city."

11           When I went back and revisited  
12 some of the things that were said in 2007, I  
13 know it's been a lot of time since then. Some  
14 of the same things that were said in this  
15 transcript are some of the same things that  
16 are now coming to light.

17           I will tell you -- let me just  
18 finish. I will tell you that we lead the  
19 final way and here's the thing. People have  
20 jumped on me. I have not gotten an attitude  
21 with them. What I try to do is try to find a  
22 way to resolve their issues because at the end

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1 of the day they are the ones that's going to  
2 have to endure.

3 We are the ones who's going to  
4 have to live here and deal with whatever code.  
5 I'm going to tell you the truth. Anthony Hood  
6 does not want to go down being one of the  
7 worst Zoning Commission members in the city.

8 I would rather do like my Vice  
9 Chairman and find a job somewhere else and  
10 move on. On a serious note, we need to make  
11 sure Office of Planning -- I know they have  
12 done a lot of work. I'm not discounting that.

13 I think we the Zoning Commission  
14 members we've done a lot of work. I'm hearing  
15 from developers. I'm hearing from the public.  
16 I really think, though, at some point in time  
17 we've got to find a way. The catcher was when  
18 I got the call from Ward 7.

19 We've got to find a way and I  
20 think, Ms. Steingasser, you may have that way  
21 that we do a little piece, let it run its  
22 course. Run a piece of it out. Maybe that's

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1     what we need to do. We need to give a piece  
2     of it a chance and run it out. Four or five  
3     members or eight members, or whatever it is on  
4     the task force, I will honestly admit I'm one  
5     of the members that is not there.

6                   MS. STEINGASSER: Well, Mr.  
7     Chairman, before you go on record in a  
8     position on the Zoning Regulations that we  
9     have not yet released --

10                   CHAIRMAN HOOD: Let me correct  
11     you. I have not went on a position. What I  
12     am trying to do is get input from whoever. At  
13     the end of the day I'm not going to get upset  
14     with whoever it is.

15                   MS. STEINGASSER: If I could  
16     respond.

17                   CHAIRMAN HOOD: If somebody has a  
18     concern, I'm not going to be upset with them.

19                   MS. STEINGASSER: Okay.

20                   CHAIRMAN HOOD: I'm going to  
21     listen to them like I do all the time down  
22     here in the Commission.

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1 MS. STEINGASSER: I would  
2 appreciate the opportunity to be listened to  
3 here this evening. That is true from 2007  
4 when we had that round table, but the Office  
5 of Planning has made no major moves -- I  
6 repeat, no major moves without the sanctioning  
7 of this Zoning Commission.

8 We came through with our first  
9 reports. We came back with public hearings  
10 and then we came back with guidance reports  
11 from the Zoning Commission. If the Commission  
12 is now unhappy, I would point out that the  
13 voices you hear that were unhappy in 2007 are  
14 the same people. The fact that they --

15 CHAIRMAN HOOD: Correction.  
16 Correction.

17 MS. STEINGASSER: -- are  
18 consistent.

19 CHAIRMAN HOOD: I heard from  
20 somebody just last week. But here is the  
21 thing. Let me say this.

22 MS. STEINGASSER: Yes, sir. She

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1 was upset that we couldn't make a meeting --

2 CHAIRMAN HOOD: Let me say this to  
3 you.

4 MS. STEINGASSER: -- that was held  
5 this evening.

6 CHAIRMAN HOOD: No, no. Let me  
7 say this to you, Ms. Steingasser. That  
8 meeting is tomorrow night but I've got that  
9 taken care of. You and I are going to attend  
10 that meeting June 19th.

11 What I'm saying is, and I said  
12 this just last week, whoever got this email  
13 that I have never seen that is going around  
14 about the ZRR, obviously that's what it took  
15 to get people engaged. I have been to many  
16 meetings trying to get people engaged.

17 Whatever mechanism it took to get  
18 other people who are not the same people that  
19 we talk about, George Clark and whoever you  
20 want to name, the other people, there are  
21 different people now who are trying to get  
22 engaged.

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1 MS. STEINGASSER: Sir, I would  
2 rather not have a public -- this kind of  
3 public discord with the Zoning Commission. I  
4 have nothing but great respect for this  
5 Commission and our work with the Commission on  
6 the ZRR.

7 While it may not be the same exact  
8 people, it is the same community and it is the  
9 same voice of people who want very little, if  
10 any, change. That is why I'm proposing that  
11 we bring forward these hot button issues, this  
12 hysteria that has been created.

13 We have not publicly released --  
14 we made a commitment to the Zoning Commission  
15 and at the request of the Zoning Commission  
16 that the task force have the first feedback on  
17 all zoning text.

18 That is where we are. We have not  
19 gone through our public education program that  
20 the Commission asked us and that we committed  
21 to and that the Zoning Commission publicly  
22 committed to.

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1           That will start once the task  
2           force completes its review of the text. Then  
3           the Zoning Commission ask that you have the  
4           next bite of that text. Then we would set the  
5           case down and then we would go public with a  
6           large education campaign.

7           We've hired an education  
8           specialist to help us formulate the message to  
9           get it out but there are certain things that  
10          represent a bit of change. Some of that  
11          change is significant and some communities are  
12          very frightened by it whether it applies to  
13          them or not.

14                   CHAIRMAN HOOD: Well --

15           MS. STEINGASSER: Things like  
16          corner stores do not apply to the single-  
17          family-detached areas, yet those are some of  
18          our most ferocious opponents so we would like  
19          to bring some of those particular issues to  
20          the Zoning Commission and have hearings on  
21          those in the context of the current zoning  
22          language so people understand it, so there is

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1 a familiar context, and so that we don't spend  
2 all this time and lose the momentum and miss  
3 the market when the real estate comes back up  
4 and we have an opportunity to start  
5 implementing some things.

6 The Zoning Regs are not about  
7 taking people's cars away. It's about choice.  
8 It's about creating the city that we want in  
9 the future and how we want to get there.

10 CHAIRMAN HOOD: I think my point  
11 -- I hear you loud and clear and, again, I'm  
12 not dismissing the work that we've done  
13 because my first response when I got the  
14 letter -- we've been doing this since 2006.  
15 That's when the discussion, as far as I  
16 remember, started. But what I am concerned  
17 about, and I hear we are saying the same  
18 people.

19 I'm not -- let me just say it like  
20 this. I'm not concerned about any given group  
21 of people who have been engaged. I'm more  
22 concerned about the group that I heard from

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1 last week that has not been engaged.

2 Again, I don't know what kind of  
3 email this is that went out but whatever it  
4 did, we need to take note from it because we  
5 are starting to get attention from people who  
6 were not engaged. I'm more concerned about  
7 the people who know absolutely nothing.

8 In many meetings -- I think Ms.  
9 Schellin can verify that many of the ANC  
10 meetings that I have attended I have asked  
11 them to get involved with the ZRR process. I  
12 think we talked about -- I think you all are  
13 doing -- go to the ward and do one. It may  
14 take more than that because everybody is not  
15 up on zoning.

16 MS. STEINGASSER: We committed to  
17 a minimum of one to make sure that every ward  
18 gets representation. We did a series of these  
19 three or four years ago on just the PUDs, how  
20 does the PUD process work. We got very little  
21 outcome but we want to commit.

22 As I said, we have already done

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1 eight this year and we haven't even released  
2 the text officially. To represent that the  
3 Office of Planning is not available for  
4 information or that the Office of Zoning is  
5 not available for information, that's a  
6 failure to communicate. There is also these  
7 things that come out that are fear based. We  
8 are not out to destroy anybody's neighborhood.

9 CHAIRMAN HOOD: I don't think the  
10 citizens will let that happen honestly. I'm  
11 not going to record to defend any of it. What  
12 I'm going on record to do is make sure the  
13 process, which I think it has but, again, it's  
14 about getting people engaged.

15 I don't know, again, what this  
16 email is. I keep referring to this email  
17 because this email seems to have triggered a  
18 letter from Council Member Brown, a call from  
19 Ward 7, a call from my own Ward 5. These are  
20 people that have not been at those work force  
21 meetings.

22 There is one person, and I can

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1 tell you the one name that was at the work  
2 force meetings early on in Ward 5. Not only  
3 one person was there. I have pleaded with  
4 people to come and get involved with the  
5 process.

6 Here is another thing and then I  
7 want to hear from my colleagues. The reason  
8 why I'm doing it like this is because if I go  
9 to a community meeting about another issue, I  
10 hear about this issue and I'm there for  
11 something else.

12 I think it's important that we at  
13 least -- I'm not being disrespectful to the  
14 Office of Planning. I'm not upset with the  
15 Office of Planning. Ms. Steingasser, I am  
16 definitely not upset with you. You and I have  
17 had a great working relationship. But I want  
18 to make sure that at the end of the day we  
19 have exhausted all our resources.

20 I think you've heard me say this.  
21 From this dias we have done all we can to  
22 listen. Not just so the people are engaged

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1 but get it out to the folks that are not  
2 engaged. I do like the piece about taking a  
3 piece of it and let it run its course.

4 I think once that piece gets  
5 through, then we can come back with the other  
6 piece and do more and more and more. Then it  
7 will give those who may be engaged a comfort  
8 level, and it will also give those who are not  
9 engaged a way of understanding what exactly is  
10 taking place instead of going at them all at  
11 once in one gamut.

12 I think that may be a win/win for  
13 those engaged and those not engaged. I'm not  
14 going to keep talking but I wanted us to try  
15 to go back to what we started off to do and  
16 make sure we get back on track. I'll open it  
17 up now. My colleagues may not agree with me  
18 but that is the fashion, I think. Those are  
19 my comments. That is this Commissioner's  
20 comments.

21 Commissioner Cohen.

22 COMMISSIONER COHEN: Thank you,

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1 Chairman. Again, you have the long-term  
2 experience on the Commission and I'm just  
3 going into my six months, but I have to tell  
4 you that when I sat down with those huge books  
5 before I was even -- when I was told by the  
6 Mayor that he was going to appoint me, I sat  
7 down and read the Zoning Regulations.

8 I am a highly educated woman.  
9 I've been in the business for 40 years of  
10 housing community development and planning but  
11 I had a hard time with that. As I see at the  
12 BZA meetings and I see at the PUDs, there is  
13 an industry of lawyers, planners, and  
14 architects that work on this and make their  
15 living off of this.

16 Then there are a lot of people,  
17 including the person who may have sent that  
18 email, that are totally misinformed. I do  
19 believe since, again, I'm the newest member  
20 here so I'm sort of open to everybody's  
21 information, that we need to, again, maybe  
22 look at one particular area that is

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1 controversial, work it through.

2 I know there are many cities in  
3 this country who have done rewrites, that have  
4 made it into more plain English, that have  
5 done some very unique thinking. These cities  
6 have experienced as much input as we have at  
7 public hearings.

8 They have gone through it  
9 successfully so I think we need to give the  
10 Office of Planning a chance. Again, I respect  
11 you a great deal, Chairman. I know that you  
12 are -- you know, I'm walking down the street  
13 and nobody recognizes me thank goodness.

14 I really do believe that we are  
15 doing the right thing. I support the Office  
16 of Planning because this needs to change.  
17 It's too dense. It's too complicated. People  
18 do not need to make their livings off of other  
19 people coming forward.

20 CHAIRMAN HOOD: I want you to hold  
21 that point because the way I understand it,  
22 and this may be a question, is exactly what

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1     you're saying. We started off that we wanted  
2     to make this easy to read, layman's terms.

3                   Ms. Steingasser, do you find -- I  
4     know you haven't finished the text. Do you  
5     find that the book is getting thicker or  
6     thinner?

7                   MS. STEINGASSER: We don't do  
8     zoning by the pound so I would say that there  
9     is some repetition in it but I think the  
10    useability is much easier.

11                  Again, it's the useability that we  
12    went over with the Zoning Commission in a  
13    format over two years ago that had tables so  
14    that rather than have things be topically  
15    separated, they are consistent with the zone  
16    so that you would go to your zone and all your  
17    information, or as much as possible, would be  
18    there.

19                  We found that to be a desirable  
20    way. The Zoning Commission sanctioned that  
21    through a guidance hearing and we proceeded  
22    that way.

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1 CHAIRMAN HOOD: I want to correct  
2 my good friend here to my right. It's not  
3 that I support the Office of Planning. I  
4 support the Office of Planning just like I  
5 support the Office of Zoning, just like I  
6 support the community, just like I support the  
7 developers, just like I try to find balance  
8 all the way across. That's where my support  
9 is.

10 Any other questions,  
11 Commissioners? Commissioner Turnbull.

12 COMMISSIONER TURNBULL: Thank you,  
13 Mr. Chair. I think when we started this, I  
14 think we knew it was going to be a complicated  
15 and difficult process. It's not easy.  
16 There's a lot of different interest at play  
17 here.

18 I would like to say the Office of  
19 Planning lost a key staff member who had been  
20 leading it, but I think they have regrouped  
21 and, again, they have been doing -- trying to  
22 keep that job going. I think I would like to

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1 let Ms. Steingasser and the Office of Planning  
2 come back with a proposal -- I mean, as Ms.  
3 Steingasser was saying, they would like to  
4 come back to us with some increments of this.

5 Maybe she could come back with a  
6 better layout of what that actually means, a  
7 timeline of some sort how we can get back into  
8 this. If the Zoning Commission needs to go to  
9 some more meetings or whatever, maybe we do  
10 that. I don't know.

11 Whatever it takes, let's get this  
12 thing jumpstarted again. It could be, and  
13 maybe I'm misreading Ms. Steingasser, but I  
14 don't think she feels that it is exactly as  
15 some of the comments that we are getting in  
16 the email. I think she is feeling that it's  
17 still going forward.

18 Oftentimes there are emails out  
19 there that are from a certain point of view  
20 and they can become infectious and maybe not  
21 really -- I'm not saying there is not a  
22 concern out there but I think what we need to

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1 do is have maybe --

2 I would like to hear from the  
3 Office of Planning who is really into this  
4 come back with us and maybe give us their  
5 feeling of the pulse of where the process is  
6 and what they think they need to do in  
7 response to maybe your concern about the  
8 emails on this.

9 CHAIRMAN HOOD: Well, these were  
10 brought to my attention. Unfortunately, my  
11 other four colleagues up here, I don't know if  
12 I'll call you up but I'm going to get a list  
13 of you all's numbers and stuff so some of the  
14 stuff that happens to me, I'm going to share  
15 the love.

16 I can tell you that this stems  
17 from -- again, it's not just from the people  
18 who have been involved, the George Clarks and  
19 people that have been involved, Ms. Gates and  
20 others who have been involved. It's not just  
21 from the applicants who come down here.

22 It's from everybody. I'm hearing

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1 from everybody. I'm not diminishing the  
2 Office of Planning. All I've ever said is I  
3 want to do what we can do and I try to do my  
4 part on nights when we don't have hearings.

5 I'll tell you, Thursday before  
6 last we didn't have a hearing. I tried to go  
7 out to an ANC meeting and do my part and say,  
8 "Look, get in touch. Go to the Office of  
9 Planning." I've been to Ward 8. I've been to  
10 Ward 7. I've been to Ward 4. I've been to  
11 Ward 5. I've been across the city to Ward 1.  
12 Go to the Office of Planning's website.

13 I'm doing the same thing. Even  
14 though I don't speak at the Office of  
15 Planning, I'm saying get involved, get  
16 engaged, get involved with the process.  
17 Whatever this email was that went out from the  
18 Federation of the Citizens Association, which  
19 I have not seen, seemed to trigger.

20 I don't know what was in it. I  
21 have not seen it. I've been told about it but  
22 it's gotten a response. Even to the point

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1 that Council Member -- we have a letter  
2 tonight from Council Member Brown. What I'm  
3 saying is I'm taking all of that and I'm not  
4 getting upset with nobody.

5 I'm not upset with any of my  
6 colleagues. I'm trying to figure out how can  
7 we balance all that out. Yeah, we're going to  
8 be all unhappy. Some people are going to be  
9 unhappy. First of all, some of it is change  
10 and some is different. I accept all that.

11 All I'm saying is moving forward I  
12 have to, at least from my standpoint, feel as  
13 comfortable as possible knowing that I have  
14 given everybody a fair shot and an opportunity  
15 to be able to comment or weigh in, whoever  
16 wanted to. Those who don't want to I still  
17 would like to hear them weigh in and get  
18 involved and get engaged. No more or no less.

19 COMMISSIONER TURNBULL: My only  
20 thought was let's ask Ms. Steingasser and her  
21 staff to shake up the barrel and see what  
22 ideas are out there, or what they feel they

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1 need to do at this point in time to get the  
2 program at a point where we can put some of  
3 these measures or some of these issues to  
4 rest.

5 CHAIRMAN HOOD: Okay. I'm done  
6 with that. I think Ms. Steingasser is getting  
7 ready to lay out a plan so I'm going to allow  
8 her time to do it. I think we may be ready  
9 tonight for a plan that she's going to roll  
10 out.

11 MS. STEINGASSER: No, sir. As  
12 with all cases, before we made such a drastic  
13 move, we wanted to get the Zoning Commission's  
14 input on whether that was the direction you  
15 were interested in. We believe it would be  
16 very helpful. We think it would help in the  
17 overall speed of the document being completed.  
18 We think it would provide great input both to  
19 the community and the Commission.

20 CHAIRMAN HOOD: I actually think  
21 that's an excellent idea. Right now with all  
22 the comments I've received -- Commissioner

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1 Cohen gave me her phone number. She better  
2 watch it. I will give it out now. I think  
3 that is an excellent idea to move forward.  
4 Was that related to the task force? I think  
5 you had a meeting last week? Or you came to  
6 use first?

7 MS. STEINGASSER: We did briefly  
8 talk about it with the task force at the end  
9 of the meeting. Those present at that time  
10 didn't seem to have any objection to this  
11 approach.

12 CHAIRMAN HOOD: Ms. Steingasser,  
13 let me ask this. I know we've been through  
14 this and I know sometime it gets rather  
15 frustrating to be redundant. What would it  
16 take for us to get either the members to come  
17 back or new members? Do we need to come to  
18 those meetings?

19 MS. STEINGASSER: Well, I think we  
20 are too far into the system to have new  
21 members come on board unless we are going to  
22 abandon and just start over. I don't think we

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1 want to reboot. I know I don't want to  
2 reboot.

3 People come as the topic interest  
4 them. Like I said, on average we have almost  
5 always a minimum of five. We have up to six  
6 to eight depending on the evening.

7 CHAIRMAN HOOD: The night that we  
8 came we had a nice crowd there that night.

9 MS. STEINGASSER: Yes. When the  
10 Zoning Commission shows up you have almost 100  
11 percent participation.

12 CHAIRMAN HOOD: Okay. You know  
13 what? I think we need to show up again.  
14 Commissioners, I know you have busy schedules  
15 but I think for the sake of -- if we're the  
16 draw, we need to show up. Even though we're  
17 going to hear it again, I think we need to  
18 show up at another task force meeting. When  
19 is the next one?

20 MS. STEINGASSER: It would be in  
21 two weeks. At this point, though, what we're  
22 doing is we are going through the draft text.

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1 When the Commission came the first time you  
2 had a reason.

3 You wanted to talk to them about  
4 going forward, to hear from them about whether  
5 we needed to do a complete document and the  
6 education thing. We would love to have you  
7 there but it really is just working through  
8 the sausage.

9 MR. LAWSON: Actually, I would  
10 just add to that. The task force meetings  
11 we're having actually are really really  
12 productive. I think there was a really great  
13 discussion with the members who were there and  
14 the staff. I know we have learned a lot.

15 We've heard some of the task force  
16 members say that they have heard -- they have  
17 learned a lot as well. That is not the only  
18 opportunity for a task force member to  
19 participate. Community information is sent to  
20 the task force members.

21 Their comments are invited. Any  
22 task force member who has an interest in a

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1 particular topic or has a particular issue to  
2 raise with us, they are certainly welcome to  
3 do so.

4 Now, we obviously encourage the  
5 task force members to come to the meeting  
6 because there is this synergy of sitting  
7 around the table and having that discussion.  
8 As Ms. Steingasser said, at this point we  
9 really are going through the nitty gritty of  
10 this draft.

11 Again, I want to really stress  
12 this is just a draft that we are bringing out  
13 for discussion at this point. We are going  
14 through that nitty gritty and if a task force  
15 member is not really interested in spending  
16 the time to kind of go through that nitty  
17 gritty discussion, then, you know, we can't  
18 force a task member to come.

19 It really is important that a task  
20 force member comes who is really interested in  
21 that topic and really wants to get into that  
22 level of discussion.

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1 CHAIRMAN HOOD: Okay. All right.  
2 I really appreciate that. I just think that  
3 the task force meetings should be reflective  
4 of the city and we need to try to get people  
5 other than one side of the city or one corner,  
6 or whatever, actively engaged and I don't know  
7 how to do that. If we have to come, then  
8 that's what we do.

9 Mr. May.

10 COMMISSIONER MAY: Well, if we  
11 decide that it's appropriate and help for us  
12 to all attend the task force meeting,  
13 certainly I would be interested in doing that.  
14 I just want to say I'm rather puzzled about a  
15 lot of this whole discussion and a lot of it,  
16 I think, is just because I haven't heard what  
17 Chairman Hood has heard from folks about the  
18 Zoning Regulation rewrite.

19 I have been comfortable with the  
20 process. It doesn't mean that I have been  
21 comfortable with every aspect of it or that I  
22 feel like we are satisfying everybody during

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1 the course of it. This is not a radical  
2 reinvention of the Zoning Regulations.

3 There are a few areas where there  
4 are some changes in policy and those have been  
5 discussed quite exhaustively. I don't think  
6 they have been resolved completely. We have  
7 been consulted at an early stage to be able to  
8 give direction, to be able to hear comment  
9 from people.

10 It's been an arduous task from the  
11 very beginning and it has been made worse by  
12 the challenges of communicating something that  
13 most people never have to deal with until that  
14 moment when they want to do something to their  
15 property and they are held back by the zoning  
16 or they see a neighbor doing something that  
17 concerns them. It's difficult to make sure  
18 that all of the casual users of zoning are  
19 educated about it.

20 I just want to say up to this  
21 point I think OP has done some great work in  
22 getting us to the point where we are. I think

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1 that all the members of the task force and the  
2 working groups have also done that.

3 The ANC's who have sounded off,  
4 the citizens' groups, all the people who come  
5 and testify, it has all been very useful so  
6 far and we have made great progress. This  
7 Commission, I think, has done a lot of good  
8 hard work in advancing us to the point where  
9 we are.

10 It is unfortunate that there had  
11 to be sort of a restart when there was a kind  
12 of change in direction on how we would  
13 complete the process. When things stalled  
14 like that, I think it was, as they say, nature  
15 abhors a vacuum. Even if it's not a real  
16 vacuum, it just felt that way perhaps to some.  
17 People will tend to imagine the worst.

18 I am totally confident that we  
19 will get through to the other side of this and  
20 that we will get good public comment and that  
21 the document in the end will be better, easier  
22 to use, and will enhance the value of people's

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1 property and not reduce it. I look forward to  
2 hearing what else the Office of Planning has  
3 to show us and tell us on this. If we decide  
4 to attend a task force meeting, I will gladly  
5 be there.

6 CHAIRMAN HOOD: What I would  
7 suggest -- I will tell you I've got most of my  
8 comments out. What I would suggest is that we  
9 take the recommendation or the guidance that  
10 Mrs. Steingasser has talked about as far as  
11 moving forward about doing a piece of it.  
12 Let's let it run its course.

13 Ms. Steingasser, I don't want to  
14 put any words in your mouth but I think if we  
15 do a piece of it, let's let it run its course.  
16 Then that way we will have a track record to  
17 see exactly how the rest of the pieces will  
18 follow. Maybe that will take care of some of  
19 the concerns I've heard.

20 Again, I'm going to do my part  
21 personally until I am otherwise told not to  
22 because I was told I could go to ZRR meetings

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1       so I have been telling people to get involved  
2       with the process and to come and testify in  
3       front of us and do whatever you need to do to  
4       get educated, follow it, get on top of it.  
5       When it comes out, that is not going to be the  
6       time to come down and tell us in what I call  
7       an after-the-fact meeting.

8                       I think, Ms. Schellin, you heard  
9       me mention that at the ANC meeting. Let's not  
10      keep having these after-the-fact meetings.  
11      That's kind of where I am. I think that piece  
12      might be the resolve. I think the Office of  
13      Planning will go back to the task force.

14                     Then we continue to try to get  
15      other wards and other people involved because,  
16      I can tell you, east of the river feels like  
17      they haven't been involved and they probably  
18      have. They just didn't pay that much  
19      attention to it because they are not the  
20      zoning people.

21                     They don't follow the zoning. We  
22      wait in my community also. We wait until

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1 after the fact and then get involved. It's  
2 going to be an arduous task and is incumbent  
3 upon all of us to push and try to get people  
4 involved. That is part of the job in this  
5 case is the way I see it.

6 Okay. Anyone else? Vice Chairman  
7 Schlater.

8 VICE CHAIR SCHLATER: Mr.  
9 Chairman, I am sorry that I won't be here for  
10 the final result of this process but I have  
11 taken part in many, many hearings and heard a  
12 lot of testimony and read a lot of information  
13 on this. I'm just going to put in my two  
14 cents as the last order of business.

15 I think the Office of Planning is  
16 doing an outstanding job on this. I agree  
17 with Council Member Michael Brown that our  
18 planning staff are superb professionals. This  
19 is a huge undertaking and a necessary  
20 undertaking. The zoning code that we have  
21 today isn't adequate to help guide the future  
22 growth of our city.

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1                   We need a better tool and we are  
2                   getting there. I think we are giving people  
3                   an enormous amount of opportunities to have  
4                   their input into the process. I think for  
5                   those who say we are moving too fast I think  
6                   just the fact that the number of hearings that  
7                   we have had over the past five years, the  
8                   number of community outreach meetings that we  
9                   have had belies that fact.

10                   I would just say -- I would  
11                   encourage everybody to keep pushing, keep  
12                   reaching out to the community, keep educating  
13                   the community. I have seen some of the things  
14                   that have been going around about the zoning  
15                   rewrite and it's full of untruths and  
16                   misinformation.

17                   The only way that can be pushed  
18                   back against is with information and getting  
19                   the right information out there and answering  
20                   those questions and having public hearings.  
21                   This should not be decided on email listservs.  
22                   It should not be decided on blog posts.

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1           It should be decided right there  
2           on the dias where people can come up here and  
3           give their public testimony and tell us what  
4           they like or they don't like about the  
5           proposed changes. Then we can based on the  
6           testimony on the record make a decision. Good  
7           luck. I'm rooting for you and I'll be  
8           tracking it from Chicago. Thank you.

9           CHAIRMAN HOOD: Thank you. I just  
10          want to say this, though, Vice Chairman. I  
11          don't want to say this on your way out but one  
12          thing I was taught when I was young is always  
13          read the whole letter.

14          When I read this letter and had to  
15          digest it days before you guys got it, when it  
16          got down to this point, since you brought up  
17          Council Member Brown's letter, he says, "We  
18          cannot consider this outreach to be public.

19          Educating the public on the nature  
20          and range of issues at play is challenging.  
21          Many aspects are complicated and obscure but  
22          that should not deter us from making the case.

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1 The code has to make sense."

2 That's also part of his letter.

3 While he calls us professionals, the Office of  
4 Planning professionals, he still demands us  
5 and calls us back to make sure we do outreach.  
6 Apparently from his view, or whoever he's  
7 talking to, we cannot consider this outreach  
8 to be public.

9 That's in his letter. I didn't  
10 write this letter. The letter was addressed  
11 to me and I've been grappling with this  
12 letter. I don't know how many times you guys  
13 have read it but I've probably read it about  
14 15 times. That's why I had to figure out some  
15 type of response.

16 Anyway, that's where we are. I'm  
17 looking forward to hearing from Ms.  
18 Steingasser as soon as possible so we can at  
19 least get that little piece going. Maybe it  
20 will give everyone a comfort level. These  
21 issues were raised and I would agree with you  
22 this much, Vice Chairman, it should be decided

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1 here but we have to start somewhere.

2 The Office of Planning's  
3 recommendation is a start. I'm sure if anyone  
4 from the Office of Zoning is watching, the  
5 telephone number is 727-6311, not Anthony  
6 Hood.

7 Okay. Do we have anything else?

8 MS. SCHELLIN: I'm sorry. Nothing  
9 else.

10 CHAIRMAN HOOD: Ms. Steingasser,  
11 you want to close anything on that note?

12 Okay. All right. With that this  
13 meeting -- again, we want to wish the Vice  
14 Chairman well as he moves on to bigger and  
15 better things. Best of luck to you.

16 With that, this meeting is  
17 adjourned.

18 (Whereupon, at 8:55 p.m. the  
19 meeting was adjourned.)  
20  
21

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