

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

+ + + + +

MONDAY

JUNE 9, 2008

+ + + + +

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

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
GREGORY N. JEFFRIES, Vice Chairman
CURTIS L. ETHERLY, JR., Commissioner
MICHAEL G. TURNBULL, FAIA, Commissioner
(OAC)
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON
TRAVIS PARKER
KAREN THOMAS
MAXINE BROWN-ROBERTS
MATT JESICK

The transcript constitutes the
minutes from the Regular Public Meeting held
on June 9, 2008.

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

6:36 p.m.

CHAIRPERSON HOOD: All right.

Good evening. We are ready to get started with our Public Meeting. This meeting will please come to order. Good evening, ladies and gentlemen. This is the June 9, 2008, public meeting of the Zoning Commission of the District of Columbia. My name is Anthony J. Hood. Joining me this evening are Vice-Chairman Jeffries, Commissioners Etherly, May, and Turnbull. We are also joined by the Office of Zoning Staff, Ms. Schellin and Ms. Hanousek, Attorney General, Mr. Ritting, and the Office of Planning, Ms. Steingasser and her staff.

All right. Copies of today's meeting are available to you and are located in the bin near the door. We do not take any public testimony in our meetings unless the Commission requests someone to come forward. Please be advised that these proceedings are

1 being recorded by a court reporter and it's
2 also web cast live. Accordingly, we must ask
3 you to refrain from any disruptive noises or
4 actions in the hearing room. Please turn off
5 all beepers and cell phones at this time.

6 Does the Staff have any
7 preliminary matters?

8 MS. SCHELLIN: No, sir.

9 CHAIRPERSON HOOD: Okay. If not,
10 we will proceed with the agenda. We have one
11 item for the Consent Calendar, Zoning
12 Commission Case No. 07-13A, (Trustees of the
13 Corcoran Gallery of Art -- Minor Modification
14 to PUD @ 65 I Street, S.W.). Ms. Schellin?

15 MS. SCHELLIN: Commissioner has
16 before it a request by the Applicant for minor
17 modification to their PUD and also there's a
18 response from the ANC. And, this evening, the
19 ANC felt that they may be giving testimony.
20 So I just handed you a copy of what they
21 thought they were going to get to say tonight.

22 CHAIRPERSON HOOD: Okay. Yes. We

1 don't take any public testimony. Colleagues,
2 we can look at that and we will submit it.
3 But I will tell you that we have the submittal
4 as from our Director and the office for the
5 request for the minor modifications is
6 proffered before us, according to submissions
7 that, by law, are supposed to be give to us
8 under 3030 under the Consent Calendar.

9 The next item we have, which is
10 Exhibit No. 07-13A. And we have -- okay, here
11 it is. I'm sorry. We also have a letter from
12 the ANC. I thought I had something from the
13 ANC, which is Exhibit No. 5, 07-13A, for the
14 same case. All right. This, I think, is a
15 request to develop in phases and the issue
16 from the ANC is how it's going to proceed, as
17 opposed to amenities package, is what I
18 believe is the issue. And they've mentioned
19 that they've had slight agreement with this in
20 moving forward. So what I'll do, at this
21 time, is to open it up. We've read what the
22 issues are about the phasing; we understand

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1 what the amenities question is; and what we
2 decided on in the beginning, when we decided
3 on this case in, was it April or March, in
4 March. And I understand now there's some
5 market issues, which refrain them from being
6 able to move forward, like they proceeded when
7 we dealt with this back in January and the
8 order was signed in March.

9 So let me just open it up and see
10 what our comments are. And, at any time, we
11 can just -- anyone want to make a motion to
12 accept or deny, we can go with it like that.
13 If nobody moves, I will -- I would do that.
14 Commissioner May?

15 COMMISSIONER MAY: I just want to
16 comment. You know, I appreciate the concerns
17 of the -- that have been expressed by the ANC
18 in this case. But it's very hard to see
19 whether they're -- to see that there was, in
20 the original agreement regarding the
21 amenities, a binding requirement that certain
22 things be delivered by a date certain.

1 Everything seems to be triggered by events in
2 the course of the development. And, you know,
3 that being the case, it's -- I don't see that
4 this -- that granting this change in the
5 phasing, necessarily, is the cause of delay.
6 I mean, you know, I think that what's causing
7 the delay is the reality of the financing
8 market, at the moment. And that's going to
9 delay the project, you know, no matter what.
10 Because, if you can't finance, you can't build
11 it and you can't deliver the amenities. So,
12 you know, I think that this is a reasonable
13 approach and I think that the Applicant is
14 asking for a reasonable accommodation to deal
15 with a change of circumstances.

16 CHAIRPERSON HOOD: I actually
17 would actually agree with you, Commissioner
18 May. I was actually trying to read ANC
19 Commissioner McBee's letter that was just
20 given to us while you -- trying to listen to
21 you and read at the same time. But I can tell
22 you that I kind of agree with you. But let me

1 open it up to my other colleagues. If not, --
2 Commissioner?

3 VICE CHAIR JEFFRIES: Yes. I
4 mean, you know, again, I agree with
5 Commissioner May. I mean, certainly I can
6 understand that the community is concerned
7 about the delivery of the amenities and so
8 forth. But there are some start realities
9 tied to real estate development. You know, I
10 mean, it's somewhat in different pots that you
11 really have to address here. And there just
12 a certain reality that, you know, the
13 financing market, the housing market is tough
14 and I think that this team needs time to, you
15 know, do this development in a much more
16 incremental fashion. And I think that we
17 should go forward and grant the request.

18 COMMISSIONER ETHERLY: Mr. Chair,
19 I'll also echo the comments of both my
20 colleagues and indicate, as has already been
21 said, that most certainly the work of the ANC
22 is to be applauded, in terms of its

1 collaboration with the Applicant. And it's
2 not unusual for Applicants and ANCs, at times,
3 to diverge. And I see that we are joined by
4 Commissioner Sobelson in the audience, and I'd
5 like to thank him for his work. Most
6 certainly, his ANC has noted there will, of
7 course, be some impact here. But, with
8 respect to the rationale that's been provided
9 by the Applicant and as both my colleagues
10 Vice Chairman Jeffries and Commissioner May
11 have indicated, there are just simply stark
12 realities with respect to this market that
13 impact developers, as well as everyday
14 residents. And those realities often times
15 have to be grappled with and often times we're
16 often forced to simply sort out whether or not
17 you stand in the way of moving a project
18 forward and still getting to the ultimate
19 objective that you want to get to, but perhaps
20 having to take a somewhat bumpier road, if you
21 will. That is not to down play. That is not
22 to ignore the impacts that are going to be

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1 extent on the community here. But I think
2 we've been presented with a plan for going
3 forward that still gets us where we ultimately
4 all agree we want to be with this project.
5 Thank you, Mr. Chair.

6 CHAIRPERSON HOOD: Okay. I was
7 just looking at what was handed to us tonight
8 and, I don't know if anyone wants to open it
9 up, but we have -- oh, I'm sorry.
10 Commissioner Turnbull?

11 COMMISSIONER TURNBULL: Mr. Chair,
12 I just wanted to add that we've already had
13 several applicants this year come before us
14 with their PUDs for modifications and going
15 even from for sale to apartments and small,
16 revised designs going to smaller units and a
17 lot of other changes. And I think, as has
18 already been said, that does reflect the
19 rather tough market that we're in right now.
20 And I think, in the Applicant's literature to
21 us tonight, they've already gone back and said
22 that, you know, a lot of the amenities called

1 for have already commenced, including the Arts
2 Mentoring Program, waiver of tuition for
3 public school for arts teachers for continuing
4 education classes, placement for graduate
5 students for community youth programs, fund
6 raising for scholarships meant for ANC 6D
7 residents, and etc., etc. So I think you've
8 got an applicant here who is not stepping
9 back, but is going ahead. And I think they're
10 just asking for a little patience, given this
11 market, to deliver the rest of what they can.
12 So I see someone, I mean, I don't see how you
13 can force an applicant to do something that
14 they aren't financially able to deliver. So
15 I would be in favor of granting the
16 modification.

17 VICE CHAIR JEFFRIES: Okay. All
18 right. With that I would move that we grant.
19 And I would tell you that even as late as what
20 we just got, because one of the issues that I
21 read in Mr. McBee's is to do the phase III
22 last and some other things. It's just

1 unfortunate we didn't have that with us
2 earlier. I don't necessarily think I agree
3 with that and I think the comments of my
4 colleagues will rest on that. And I would
5 move that we approve the Consent Calendar item
6 of Zoning Commission Case No. 07-13, with the
7 proposed phasing as described in the
8 Applicant's submission of Exhibit No. 1, dated
9 May 27, 2008.

10 COMMISSIONER MAY: Second.

11 CHAIRPERSON HOOD: Moved and
12 properly seconded. Further discussion? Any
13 further discussion? All those in favor? Aye.

14 ALL: Aye.

15 CHAIRPERSON HOOD: Those in
16 opposition? So ordered. Staff, would you
17 record the vote?

18 MS. SCHELLIN: The Staff records
19 the vote five to zero to zero to approve the
20 minor modification requested in Zoning
21 Commission Case No. 07-13A; Commissioner Hood
22 moving; Commissioner May seconding;

1 Commissioners Jeffries, Etherly, and Turnbull
2 in favor.

3 CHAIRPERSON HOOD: Okay. We're
4 going to pick up the pace a little bit. Thank
5 you, Ms. Schellin. Zoning Commission Case --
6 under Hearing Action, Zoning Commission Case
7 No. 70-15A, this is the PUD modification and
8 Map amendment at 4460 MacArthur Boulevard,
9 N.W., Athena Group, LLC. We'll go to the
10 Office of Planning. Ms. Brown-Roberts?

11 MS. BROWN-ROBERTS: Thank you, Mr.
12 Chairman. Good evening. And good evening
13 also to the members of the Commission. I am
14 Maxine Brown-Roberts from the Office of
15 Planning.

16 The Athena Group filed a proposal
17 to modify Zoning Commission Order 21, which
18 represents Zoning Commission Case No. 70-15A,
19 a PUD related amendment for a portion of the
20 property that was not included in the original
21 application and also to create a theoretical
22 lapse of division and replace the existing

1 Riverside Hospital with 41 three and four
2 bedroom row houses. Subsequent to the
3 submission, the neighbors adjacent to the
4 sites had many concerns regarding the density,
5 the height, preservation of wet lands and
6 flood planes, views, and traffic. Based on
7 these discussions, the Applicant revised the
8 application and is now proposing 37 units with
9 a height of 38 feet, closest to the residences
10 to the southwest and 48 feet on others. More
11 open space, enhancement and cleansing of the
12 wet lands and flood plane areas are also
13 proposed.

14 The Applicant is seeking zoning
15 flexibility to reduce some of the side yards
16 and also the rear yards. They have not
17 provided a turn-around area at the end of one
18 of the streets, as required by Section 2516,
19 and that is something that we will continue to
20 work with the Applicant on, if this is set
21 down.

22 The application proposes amenities

1 to include two affordable units, cleansing and
2 enhancement of the wet lands, and also some
3 open space. The proposal is consistent with
4 the neighborhood development and the Office of
5 Planning recommends set down of the proposal
6 and that they continue to work with the
7 community and DDOT. We also propose that they
8 supply justification for the requested
9 flexibility, a map showing the delineation of
10 each lot and the dimensions, the details of
11 the proposed low impact development elements,
12 and a first source agreement and memorandum of
13 understanding.

14 Regarding the proposed
15 modification, the Office of Planning does not
16 agree that this is a modification to the
17 original planned unit development. The
18 proposal has been completely changed and now
19 has a new use, a new site plan, circulation
20 pattern, traffic generation, and traffic
21 impasse, and the land area has also been
22 increased. Accepting this as a modification

1 would be contrary to the purposes of the PUD
2 as a planned unit and the PUD process would be
3 an evaluation of projects on a case by case
4 basis. Thank you, Mr. Chairman.

5 CHAIRPERSON HOOD: Thank you, Ms.
6 Brown-Roberts. And looking in your report,
7 the first line, it says the Office of Planning
8 cannot support the application as a
9 modification to an existing PUD. Have you,
10 and I'm sure you have, but I'm going to ask it
11 though, for the record; have you had a
12 conversation with the Applicant?

13 MS. STEINGASSER: Yes, sir. We
14 have.

15 CHAIRPERSON HOOD: Ms.
16 Steingasser.

17 MS. STEINGASSER: We have, on
18 several occasions.

19 CHAIRPERSON HOOD: Okay.

20 MS. STEINGASSER: And they
21 believed that this was a call for the Zoning
22 Commission to make.

1 CHAIRPERSON HOOD: Okay.
2 Everything changing from substantial use for
3 -- what was the Zoning Commission Case -- 22
4 or 21?

5 MS. BROWN-ROBERTS: No, 21. The
6 Zoning Commission Case 17-15A.

7 CHAIRPERSON HOOD: And help me
8 understand, you called off some changes
9 towards the end of your --

10 MS. BROWN-ROBERTS: Yes.

11 CHAIRPERSON HOOD: Can you repeat
12 that for me? Help me? I'm sorry.

13 MS. BROWN-ROBERTS: The -- there's
14 a new use. The original use was an
15 institutional use that has now changed to
16 residential use.

17 MEMBER JEFFRIES: Okay.

18 MS. BROWN-ROBERTS: There's a new
19 site plan, because it was a single building
20 and now we're having 37 units. It calls for
21 a new circulation pattern. The traffic
22 generation is different. It's going to be a

1 different traffic impact on the existing
2 roads. The land area has also been increased.
3 And those are the main things.

4 CHAIRPERSON HOOD: Well, that's
5 enough. You have six, Ms. Brown-Roberts. I
6 just didn't do it as eloquently, as well as
7 you did, when I was taking my notes. Let me
8 open that up for discussion, colleagues. We
9 have in front of us a request for a
10 modification. And, if we looked at the Office
11 of Planning's report, Exhibit 16, is basically
12 expresses the same concerns as Ms. Brown-
13 Roberts has already mentioned. And I'd like
14 to hear how we would like to proceed. Mr.
15 Vice Chair?

16 VICE CHAIR JEFFRIES: Well, you
17 know, I'm somewhat perplexed and startled. It
18 seems, given that the Applicant has spoken
19 with the Office of Planning several times and
20 the Applicant wants the Zoning Commission to
21 make the call, I mean, you know, this is a 38
22 year old PUD case; different use, you know,

1 different size. I mean, it's somewhat of a no
2 brainer to me. I'm somewhat surprised that
3 it's even here as a modification. I mean,
4 this is clearly a new application. So, you
5 know, I'd love to hear from my fellow
6 Commissioners or if we'd like to have the
7 Applicant come up and, you know, present some
8 sort of compelling argument. It just seems
9 somewhat straight forward to me.

10 CHAIRPERSON HOOD: Okay. Let's
11 hear it from the other Commissioners to see
12 which way we want to go.

13 COMMISSIONER TURNBULL: Mr. Chair,
14 I would agree with Deputy Chair Jeffries that
15 this project has changed so significantly that
16 it needs to be a new case.

17 CHAIRPERSON HOOD: Deputy Chair?
18 Is that a demotion or promotion?

19 COMMISSIONER TURNBULL: Whatever.

20 CHAIRPERSON HOOD: No, I'm just
21 playing. Okay. Thank you, Mr. Turnbull.
22 Anyone else? I've got to have some fun, Mr.

1 Turnbull.

2 COMMISSIONER MAY: I'll just add
3 my voice to the consensus on this. I mean,
4 it's absurd, frankly, and it shouldn't -- it's
5 very clear that it's not a modification to an
6 existing PUD.

7 VICE CHAIR JEFFRIES: Don't -- let
8 me just ask this, and maybe Ms. Steingasser
9 can help me or Mr. Ritting, PUDs usually have
10 to be re-looked at every two years or so?

11 MS. STEINGASSER: They have two
12 years to file for their building permits and
13 three years to --

14 CHAIRPERSON HOOD: Right. And
15 then they have to come back for extensions
16 like every so often until they're done?

17 MS. STEINGASSER: Right. If they
18 have not met their threshold, if they need to
19 continue, they would come back every year or
20 two years after the original was set down.

21 CHAIRPERSON HOOD: Yes. Because
22 38 years, I'm trying to figure out how it

1 outlasted --

2 ATTORNEY GENERAL RITTING: I would
3 just like to add to Ms. Steingasser's comments
4 that those rules only apply if the PUD is not
5 constructed.

6 CHAIRPERSON HOOD: Oh, okay.

7 ATTORNEY GENERAL RITTING: In this
8 case, this has been constructed for a long
9 time.

10 CHAIRPERSON HOOD: I got you.
11 Okay. I got you. Okay. All right. Thank
12 you, very much for that clarification. That's
13 the second time I made that mistake. Okay.
14 It sounds like which way we're going to move.

15 COMMISSIONER MAY: Mr. Chair?

16 CHAIRPERSON HOOD: Commissioner
17 May?

18 COMMISSIONER MAY: I'm sorry. I
19 just wanted to -- the question I think is open
20 is whether we consider the idea of setting
21 this down as a separate case?

22 CHAIRPERSON HOOD: Well, I think,

1 from what I heard from many of my colleagues,
2 the modification is out.

3 COMMISSIONER MAY: Right.

4 CHAIRPERSON HOOD: And it sounds
5 as though we're getting ready to deny. And
6 that was the request. I don't think the
7 Applicant -- and anyone can correct me if I'm
8 incorrect -- I don't think the Applicant has
9 stated that they want to make this a new case.
10 So, since before we deny, the rules is I want
11 to bring them up. We're going to deny the
12 modification, obviously. I guess it's you,
13 Mr. Feola? We're going to deny. So, before
14 we deny, we're going to bring you up, because
15 I think you've heard the comments of the
16 Commission about the new case issue.

17 VICE CHAIR JEFFRIES: So, in other
18 words, we might consider, you know, a set down
19 here for a new case. Is that what we're
20 talking about?

21 CHAIRPERSON HOOD: I think that's
22 where we're going. Because we have to give

1 them --

2 VICE CHAIR JEFFRIES: But we can't
3 do that until you --

4 CHAIRPERSON HOOD: We have to hear
5 from you before we deny it.

6 MR. FEOLA: The Applicant has no
7 problem with a new case. But there's land
8 record -- there's covenant in the land records
9 that this Commission has approved that
10 restricts this property to be used as a
11 psychiatric hospital, per Zoning Commission
12 Case 70-15. We can't do anything with the
13 property without releasing that covenant. And
14 only this Commission can give the Office of
15 the Attorney General the right to release that
16 covenant. So we have to go through a process
17 of modifying this PUD even to eliminate the
18 existing hospital. So, as part of that, it
19 seemed to make sense to tie that into a new
20 development, just like you were putting a new
21 skin on the building. It is a different
22 project; no question about it. And, if that's

1 the Commission's pleasure --

2 CHAIRPERSON HOOD: Substantial
3 difference.

4 VICE CHAIR JEFFRIES: It is a
5 procedural thing. Right.

6 MR. FEOLA: -- we will have to
7 file -- we will have to do two pieces; one to
8 continue the modification so that you can
9 decide to allow us to eliminate it --
10 eliminate the hospital, I mean; and then put
11 in place the new PUD.

12 CHAIRPERSON HOOD: Let me ask
13 this, Mr. Ritting, can the modification be
14 continued for a time certain?

15 ATTORNEY GENERAL RITTING: I'm not
16 quite sure I understand your question.

17 CHAIRPERSON HOOD: Yes. Well, for
18 example, if what I'm hearing from Mr. Feola,
19 obviously, there's a restriction on the land.
20 And I correct, Mr. Feola?

21 MR. FEOLA: Yes. You're correct.
22 There's PUD covenant that's been recorded.

1 CHAIRPERSON HOOD: Right. So, if
2 we were to -- because, obviously, the
3 Commission -- and I'm just trying to figure
4 out how we get to where I think my colleagues
5 and the Office of Planning report -- where we
6 all want to -- where we need to be.

7 ATTORNEY GENERAL RITTING: Right.
8 I don't believe that it's necessary to
9 completely extinguish the PUD covenant that
10 exists currently in order for you to grant a
11 new PUD order that, by its terms, would
12 extinguish the existing PUD. I can't tell you
13 exactly what the language would say, but you
14 would grant a new order from a new case that
15 would say these are what the new uses and the
16 new buildings on this piece of land will be.

17 CHAIRPERSON HOOD: So let me make
18 certain I understand it. If we were to deny
19 this modification today.

20 ATTORNEY GENERAL RITTING: Yes?

21 CHAIRPERSON HOOD: What are the
22 options available to the Applicant?

1 ATTORNEY GENERAL RITTING: One
2 option would be to file a new case immediately
3 that presents its development that it's
4 presented in this modification application as
5 a new application.

6 CHAIRPERSON HOOD: So then, you're
7 not recommending that we would look at doing
8 a set down for a new application if the
9 Applicant agrees today?

10 ATTORNEY GENERAL RITTING: That's
11 exactly what I'm suggesting.

12 CHAIRPERSON HOOD: That's what you
13 are suggesting? So it's not like they come
14 back, or whatever. We can do it today. So --
15 but there still seems to be some disagreement
16 here between the two of you, as it relates to
17 how to address the existing covenant on the
18 land and whether you would have to extinguish
19 the PUD order or not.

20 COMMISSIONER ETHERLY: If I may,
21 Mr. Chair, Mr. Feola is it your belief that
22 the existing PUD covenant would preclude or

1 prevent you from being able to even institute
2 a new application?

3 MR. FEOLA: I think, as Mr.
4 Ritting suggested, it would take an action by
5 this Commission to allow us to extinguish --
6 allow both the Government and the property
7 owner to extinguish the covenant. It may be
8 able to be done in a new order.

9 CHAIRPERSON HOOD: Simultaneously.

10 MR. FEOLA: But it will have to
11 address Order No. 21.

12 ATTORNEY GENERAL RITTING:
13 Absolutely. I agree with that.

14 CHAIRPERSON HOOD: Okay.

15 ATTORNEY GENERAL RITTING: Okay.

16 MR. FEOLA: But if I might, Mr.
17 Chair, we would like it to move, if it's the
18 Commission's inclination, to set down so we
19 can file immediately with a new application.

20 VICE CHAIR JEFFRIES: Just a
21 moment. So we're going to take two actions
22 here. First of all, I'm going to make a

1 motion that we deny the Planned Unit
2 Development modification to Zoning Commission
3 Case No. 07-15A, MacArthur Court -- 70-15A,
4 I'm sorry. And I look for a second.

5 COMMISSIONER TURNBULL: Second,
6 Mr. Chair.

7 CHAIRPERSON HOOD: Okay. It's
8 been moved and properly seconded. Any further
9 discussion? Any further discussion? All
10 those in favor? Aye.

11 ALL: Aye.

12 CHAIRPERSON HOOD: Any opposition?
13 So would the Staff please record the vote?

14 MS. SCHELLIN: The Staff records
15 the vote five to zero to zero to deny set down
16 for Zoning Commission Case No. 70-15A;
17 Commissioner Jeffries moving; Commissioner
18 Turnbull seconding; Commissioners Hood,
19 Etherly, and May in favor of denial.

20 VICE CHAIR JEFFRIES: Okay. And
21 so the second part two of this is that we're
22 going to create a new application for

1 MacArthur Court, and that will be a PUD
2 application, Zoning Commission Case No. 08-21.
3 And we are -- and I am making a motion that we
4 approve set down of that case, which will be
5 a consolidated PUD. And, of course, with
6 that, we'll have to -- the Applicant will have
7 to do corrected application forms and also pay
8 the applicable fees, and the related Map
9 amendment. There is a related Map amendment?
10 Okay. This is stringing along the motion.

11 CHAIRPERSON HOOD: That's all
12 right. Finish it.

13 VICE CHAIR JEFFRIES: Okay.

14 CHAIRPERSON HOOD: I think that's
15 very well done. And I'm looking for a second.

16 COMMISSIONER ETHERLY: I second
17 it, Mr. Chair.

18 CHAIRPERSON HOOD: Okay. It's
19 been moved and properly seconded. Any further
20 discussion? Mr. Ritting, let me just ask,
21 from your point of view, right quick, is that
22 sufficient -- legally sufficient?

1 ATTORNEY GENERAL RITTING: Sounds
2 good to me.

3 CHAIRPERSON HOOD: Okay. Sounds
4 good. Let's move. All those in favor? Aye.

5 ALL: Aye.

6 CHAIRPERSON HOOD: Any opposition?
7 So ordered. Staff, would you record the vote?

8 MS. SCHELLIN: Yes. Staff records
9 the vote five to zero to zero to set down
10 Zoning Commission Case No. 08-21, as a
11 consolidated PUD with a related Map amendment;
12 Commissioner Jeffries moving; Commissioner
13 Etherly seconding; Commissioners Hood, May,
14 and Turnbull in favor. And, just to confirm,
15 this is being set down as a contested case.

16 CHAIRPERSON HOOD: Thank you. Our
17 next Zoning Commission Case No. 08-07 (Four
18 Points, LLC on behalf of Curtis Properties,
19 Inc, et al - 1st Stage PUD, Consolidated PUD,
20 and Related Map Amendment at Squares 5772,
21 5783, 5784, and 5785.) Ms. Brown-Roberts
22 again? All right. Okay.

1 MS. BROWN-ROBERTS: Thank you, Mr.
2 Chairman. Again, I'm Maxine Brown-Roberts,
3 for the record. The application by Four
4 Points, LLC proposes a mixed use development
5 consisting of residential, office, and retail
6 uses for the area generally bounded by U
7 Street to the North, Martin Luther King, Jr.
8 Avenue to the east, Chicago Street to the
9 south, Railroad Avenue to the west. The
10 proposal is being reviewed as follows:
11 consolidated PUD for phase one, which applies
12 to properties south of W Street; a first stage
13 PUD, which would be phase two, to the north of
14 W Street; and a related Map amendment for the
15 properties currently zoned C-2-A, C-M-1, and
16 C-3-A, which would be rezoned. The entire
17 property would now be rezoned to C-3-A.

18 The site is across from the
19 Anacostia Historic District and a few of the
20 parcels proposed for the first phase PUD are
21 within the Historic District. The proposal is
22 to redevelop the site as a neighborhood center

1 with approximately 335 residential units,
2 87,000 square feet of retail, 166,000 square
3 feet of office, and underground shared
4 parking.

5 Significant aspects of the
6 development include the dedication of five
7 feet of property along Martin Luther King, Jr.
8 Avenue to allow for a wider pedestrian way and
9 on-street parking; the relocation of the Big
10 Cheer from its existing location to the
11 intersection of Martin Luther King, Jr. Avenue
12 and W Street, to be in a more prominent
13 location at this intersection; the widening of
14 W Street by an additional 20 feet; the
15 relocation of V Street through the property to
16 align with the existing V Street right-of-way
17 to the east of the site; the lowering of
18 heights along Martin Luther King, Jr. Avenue
19 to be more in scale with those adjacent to the
20 Historic District; and the opportunity for a
21 grocery store.

22 The consolidated PUD portion of

1 the site will have eight buildings,
2 approximately 117 residential units, 505
3 square feet of office space, 88,000 square
4 feet of retail space. The retail use would be
5 concentrated along Martin Luther King Avenue
6 and W Street. The Applicant is seeking
7 flexibility to the roof structure to have more
8 than one enclosure, rail yard set back, lot
9 occupancy, parking and loading, multiple
10 buildings on a single lot, and phasing of the
11 development and variation of number of
12 residential units.

13 Public benefits include dedication
14 of property for the widening of W Street,
15 dedication of property in order to have a
16 wider sidewalk; the relocation of the Big
17 Cheer in a more -- in a larger setting and in
18 a more prominent location. The proposal is
19 not inconsistent with the Comprehensive Plan
20 for moderate density residential and a mix of
21 moderate density commercial and medium density
22 residential. It is also not inconsistent with

1 the Anacostia Transit Area Plan, which makes
2 recommendation for the development of the
3 properties, most of which have been included
4 in the proposal.

5 The Office of Planning recommends
6 that the Commission set the requested and
7 proposal for public hearing and that the
8 Applicant spend some time in coordination with
9 the Poplar Point Development Team to provide
10 a connection to Poplar Point and Martin Luther
11 King Avenue. The Office of Planning will work
12 with the Applicant to facilitate such a
13 discussion. Further, the Applicant should
14 provide the following, prior to a public
15 hearing: details of the relief requested, a
16 checklist of how the lead initiatives will be
17 achieved, the level of affordability for the
18 proposed affordable units, the details of
19 flexibility requested, additional details on
20 the phasing plan, including the approximate
21 scheduling and development priorities, details
22 of shared parking and the loading program, and

1 refinement of the architectural building
2 facade and materials and landscaping. Thank
3 you, Mr. Chairman.

4 CHAIRPERSON HOOD: Okay. Ms.
5 Brown-Roberts, how many items are there that
6 you're -- that's eight items, right? Okay.
7 Just eight? Eight total items on the back of
8 your report that you're talking about?

9 MS. BROWN-ROBERTS: Yes.

10 CHAIRPERSON HOOD: Yes. I'm -- it
11 seems like it was much more, but I only see
12 eight. Okay. All right. Colleagues, any
13 questions of Ms. Brown-Roberts?

14 VICE CHAIR JEFFRIES: Yes.

15 CHAIRPERSON HOOD: Vice Chairman
16 Jeffries?

17 VICE CHAIR JEFFRIES: So was there
18 ever any discussions about this project being
19 two phased?

20 MS. BROWN-ROBERTS: It is going to
21 be two phased.

22 VICE CHAIR JEFFRIES: Phase one,

1 the entire project, phase one, and then a
2 phase two?

3 MS. BROWN-ROBERTS: No. Not that
4 I know of. No.

5 COMMISSIONER MAY: Okay. I'm
6 getting confused. Phase one, stage one? I
7 mean, we've got --

8 VICE CHAIR JEFFRIES: Sorry. I'm
9 sorry. I'm not even saying this right.

10 COMMISSIONER MAY: -- the building
11 is -- the project is developed in phases.

12 VICE CHAIR JEFFRIES: Stage one
13 and Stage two, that's it.

14 MS. BROWN-ROBERTS: Your question
15 is, have there been any discussions about
16 doing a first phase on the entire site --

17 VICE CHAIR JEFFRIES: No, stage
18 one and stage two.

19 MS. BROWN-ROBERTS: Stage one PUD
20 for the entire site.

21 VICE CHAIR JEFFRIES: Yes.

22 MS. BROWN-ROBERTS: And then

1 coming back and doing a stage two for each --
2 no.

3 VICE CHAIR JEFFRIES: Right.
4 Given just the size and the scope and Poplar
5 Point and the universe here, I mean, there was
6 never any discussion of a stage one and two?

7 MS. BROWN-ROBERTS: Not that I --
8 not that I know of. But --

9 VICE CHAIR JEFFRIES: So what's
10 the acreage here? What's the total acreage?

11 MS. BROWN-ROBERTS: It's
12 approximately I think 11 -- a little over 11
13 acres. Nine -- nine acres.

14 VICE CHAIR JEFFRIES: This is
15 rather large development, a lot of retail, a
16 lot of office, residential, critical location.
17 So that was really part of why I was asking
18 the question about whether we might want to --
19 or was there any discussion around this being
20 a stage one -- getting comfortable with the
21 envelope and so forth, and then moving to a
22 stage two. And there's a number of aspects of

1 this that don't seem to be fully developed and
2 cooked. And I think you've covered some of
3 it, obviously, in your eight non-points in the
4 back. In some ways, it looks rather dense to
5 me, but I don't know. The architecture is --
6 you know, doesn't seem rather defined. I have
7 questions about the development program. So
8 I just want to put that out there. I just
9 have some questions about this application.

10 MS. BROWN-ROBERTS: Okay.

11 VICE CHAIR JEFFRIES: And where it
12 stands, at this point.

13 CHAIRPERSON HOOD: Okay. Any
14 further discussion? Commissioner May?

15 COMMISSIONER MAY: Yes. I would
16 have to echo Commissioner Jeffries' comments.
17 This is a really big project; obviously a very
18 important project and there's really a lot
19 going on with it. And, you know, on the most
20 basic level, there's certain questions about,
21 you know, where stuff is and which direction
22 things are facing and, you know, the sort of

1 the major moves of it that, you know, I'm not
2 even totally confident of. And then, when you
3 move past that to the look of the
4 architecture, itself, to say that it requires
5 refinement is an understatement because really
6 what we see is almost a cartoonish character
7 in what's drawn here. And it's very hard to
8 evaluate this, you know, very seriously. I
9 mean, I see some very thick lines that, you
10 know, that imply, you know, things going on.
11 You know, we see sort of, you know, undulating
12 shadows. And does that really mean that the
13 glass is moving in and out? It seems very --
14 it doesn't seem coherent. It seems highly
15 underdeveloped. And it's very difficult for
16 me to imagine that the part of this that's
17 going to be the stage one is really going to
18 mature enough to be evaluated as a
19 consolidated PUD. I would feel much more --
20 I mean, I would feel very comfortable if what
21 we were looking at were a stage one
22 application for the whole thing. But to set

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1 down part of this as a consolidated makes me
2 uncomfortable.

3 CHAIRPERSON HOOD: Okay. Thank
4 you, Commissioner May. And I would tell you,
5 Ms. Brown-Roberts, I'm trying to wrap my arms
6 around exactly why we're not doing a stage one
7 for the entire project, as opposed to a -- I'm
8 trying to figure out why it's broken up. And
9 I looked at your report -- consolidated PUD,
10 versus a stage one PUD for the site across on
11 W Street. I just -- I don't see the
12 significance of doing a consolidated PUD on
13 one end. I would have to probably agree with
14 my colleague, Commissioner May. Like we had
15 other cases where we looked at the whole
16 general area first, and then we come back and
17 maybe deal with a second stage.

18 VICE CHAIR JEFFRIES: What was the
19 -- I remember, we did the New York Avenue, the
20 Abdo case. I don't know how large that was.
21 This was the Abdo case on New York Avenue. It
22 was much smaller? Can you get -- I'm sorry.

1 MR. LAWSON: My memory is that it
2 was a little bit smaller than this, but don't
3 quote me on that.

4 VICE CHAIR JEFFRIES: Yes. I just
5 -- I mean, I just think this is not like a one
6 building, mixed use development that has
7 ground floor retail. I mean, there's new
8 streets and there's retail in places that, you
9 know, I'm sort of questioning; and, you know,
10 the amount of office and where it is and, you
11 know, Poplar Point. I just -- it's just a lot
12 to sort of absorb in one sitting. And I, you
13 know, I'm familiar with the architecture firm
14 and I just -- I'm just sort of concerned, sort
15 of where we are at this point. So I -- so
16 it's similar to that Abdo case where we looked
17 at the entire project in a stage one; we
18 looked -- I keep confusing stage one with
19 phase one, but where we looked -- we got
20 comfortable with the envelope, you know, and
21 the general sort of, you know, lot occupancy
22 and some of the more, you know, zoning

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1 questions before we got into some more
2 refinement. It just seems that we might have
3 to babysit this a little bit, I mean, from
4 what's been presented here. I feel like we
5 might need to hold a hand for a minute or two,
6 as much as I hate to say that. Because it's
7 so critical to move development here in Ward
8 8, but also I don't want to do a disservice to
9 Ward 8 residents. They should get quality
10 projects, even though I recognize that it's a
11 different world in terms of rents achieved and
12 sale prices and so forth. You know, I've,
13 you know, I would not feel comfortable -- I
14 wouldn't sign on to something like this in
15 Ward 3, so I'm just not so happy to go forward
16 now for Ward 8 here.

17 CHAIRPERSON HOOD: Mr. Vice Chair,
18 I'm going to tell you I appreciate your
19 comments. We do projects all over the city
20 and I'm going to make sure that we continue to
21 do the same scrutiny and the same balance
22 regardless of the ward. And I really

1 appreciate your comments and I'm hoping that
2 the Applicant -- and I'm sure they will --
3 take them very seriously. Because, as you
4 stated, we do this all across the city. And
5 we're going to do the same scrutiny in Ward 3
6 and Ward 5 that we do in Ward 8.

7 Ms. Steingasser, did you have
8 something you wanted to add?

9 COMMISSIONER ETHERLY: And,
10 perhaps before we hear again from --

11 CHAIRPERSON HOOD: Oh, I'm sorry,
12 Commissioner.

13 COMMISSIONER ETHERLY: Please, no
14 apologies necessary. I'm still trying to get
15 my hands around Commissioner Jeffries'
16 absorption rate. I'm going to have use that.
17 I wrote it down. Here's where I'm at. I
18 agree, to an extent, with where my colleagues
19 are coming from. And, as kind of a -- as I
20 still like to think of myself as a junior
21 member on the Commission here, I somewhat
22 definitely want to be deferential to the long

1 years of experience that my colleagues bring
2 to getting arms and hands and minds around big
3 projects. And there is absolutely no doubt
4 that this qualifies as a big project. I will
5 also, to an extent, be deferential around
6 perhaps the experience that my colleagues
7 bring to how traditionally the Commission may
8 deal with these kinds of big projects. It is
9 big, but I also think it's big for a good
10 reason. And that is, given the iconic
11 location that we are dealing with -- I mean,
12 whenever I see anything that talks about the
13 Big Cheer, I mean, of all of the things that
14 I focused on, when I saw something talking
15 about the Big Cheer, that moved me. You know,
16 that moved me because that landmark has
17 significance for me, as my colleagues know.
18 And they get tired of me saying it. Any time
19 I talk about any project that's within a
20 stone's throw, so to speak, of Baliou Senior
21 High School and portions of Ward 8 that I
22 called home for many years as a young person,

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1 I'm going to say it. No Chicago Boosterism
2 from that side. That's not to understate the
3 seriousness of the comments of my colleagues.
4 That is not to understand, perhaps, what may
5 be a better approach. Again, as a junior
6 member, I'll be somewhat deferential. But, at
7 the same time, I don't want to -- as the Cheer
8 indicated, it's important that we see
9 development move forward when we have an
10 opportunity to do it. And I don't hear
11 anything in my colleagues comments to suggest
12 that we are talking about doing anything other
13 than that. But if it means biting into it
14 more deeply perhaps in the not most ideal way
15 of approaching it, that's fine. I can live
16 with that. The substance of what was said, I
17 agree with, in significant extent, in terms of
18 working around, understanding the programming
19 a little better, both in terms of the retail
20 space, the residential space. You're talking
21 about major thoroughfare on Martin Luther King
22 Avenue; you're talking about bringing some new

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1 programming and vitality to side streets that
2 haven't seen it for quite some years. There's
3 a lot to do here. There's no doubt about
4 that. But I don't see enough and I haven't
5 heard enough, given all the deferential
6 posturing that I've talked about, I haven't
7 heard enough to give me pause from moving
8 forward at this step, at least. There's still
9 a lot of work to be done. It isn't signed,
10 sealed, and delivered. But I think this is
11 most certainly, from just this one
12 Commissioner's perspective, a starting point
13 that puts on the track towards programming and
14 activating a significant, again, iconic
15 location in our city, and most certainly
16 within Ward 8. Thank you, Mr. Chair.

17 CHAIRPERSON HOOD: Thank you,
18 Commissioner Etherly. Mr. Turnbull, would you
19 like to make a comment?

20 COMMISSIONER TURNBULL: Thank you,
21 Mr. Chair. I guess I'm more in the camp of
22 Commissioners May and Jeffries. I'm concerned

1 that, although -- I mean, this is a prime
2 location and we're very concerned about how it
3 goes forward. But I'm just concerned that the
4 level of detail we have here, as related to a
5 consolidated, and again, looking at a first
6 stage PUD, it's basically the same. I mean,
7 the level of detail we have here right now is
8 very minimal. And I think there's been enough
9 questions asked by some of the other
10 Commissioners as to the relationships between
11 phase one and phase two. And, basically, the
12 two stages, the two phases that they've shown
13 are basically almost comparable in size, in
14 gross square footage. They're very close.
15 And so, to jump on one without understanding
16 how the other one totally relates to it, I
17 think we have enough questions to ask us how
18 they -- what's the meshing between? How did
19 they get to where it was? And what's the
20 rationale for doing the way it is? So I'm a
21 little bit concerned about the way it is now,
22 as a consolidated and a first stage.

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1 CHAIRPERSON HOOD: Ms.
2 Steingasser, do you -- do my colleagues have
3 any other comments? Correct me if I'm wrong,
4 we're more in tuned of looking at this as a
5 first stage -- all of it as a first stage PUD.
6 Am I -- is that what I'm hearing? With the
7 exception of -- okay, I won't say that. Ms.
8 Steingasser, can you add to that and help us?

9 MS. STEINGASSER: The Applicant
10 would appreciate the case being set down, if
11 the option is between no set down and first
12 stage, they would prefer the first stage.
13 And, obviously, they would prefer a
14 consolidated with an opportunity to work on
15 refining those elevations.

16 CHAIRPERSON HOOD: If --

17 COMMISSIONER MAY: I think this
18 goes past just elevations. I don't want to
19 make it seem like it just has to do with the
20 look of the elevations. I think it has to do
21 with some of the major planning moves and the
22 mass of the site.

1 VICE CHAIR JEFFRIES: Yes. The
2 zoning program, the siting, it's just a lot
3 here.

4 CHAIRPERSON HOOD: Okay. Well, I
5 think that's going to negate what I was going
6 to say. I was going to ask Mr. Ritting if we
7 set this down as a first stage PUD and, at the
8 hearing, decide to go along with what the
9 Applicant has in front of us now, if he comes
10 down and he makes a case about the
11 consolidated PUD, is that doable, or do we
12 have to set it down one way or the other? And
13 I think I know the answer, but I --

14 ATTORNEY GENERAL RITTING: I think
15 you need to set it down one way or the other.

16 CHAIRPERSON HOOD: Okay.

17 ATTORNEY GENERAL RITTING: Because
18 you have to give notice to the community about
19 what it is that you're discussing at the
20 hearing.

21 CHAIRPERSON HOOD: Right. Okay.

22 COMMISSIONER ETHERLY: So, Mr.

1 Chair, if you could just help me make sure I
2 understand, so what would the options be in
3 terms of how we move forward?

4 CHAIRPERSON HOOD: Well, right
5 now, the majority of the Commission would like
6 to set this down as a first stage PUD.

7 VICE CHAIR JEFFRIES: The entire.

8 CHAIRPERSON HOOD: The entire,
9 which comes up with -- give me some of those
10 fancy words you guys use -- programmatic and
11 uses -- you know, it makes you look at the
12 whole site in its totality.

13 COMMISSIONER ETHERLY: Right.
14 Yes. I understand.

15 CHAIRPERSON HOOD: In the first
16 stage PUD. It's pretty much what we have
17 here. But they wanted the first phase to be
18 consolidated PUD.

19 COMMISSIONER ETHERLY: Okay.

20 CHAIRPERSON HOOD: We'll still
21 hear the case and, as Ms. Steingasser said,
22 they would rather have -- I think they would

1 rather have it set down.

2 VICE CHAIR JEFFRIES: So do we
3 have to deny this?

4 CHAIRPERSON HOOD: No.

5 VICE CHAIR JEFFRIES: Or we can
6 just go right to a set down of a full first
7 stage PUD and related Map amendment?

8 ATTORNEY GENERAL RITTING: That's
9 correct.

10 VICE CHAIR JEFFRIES: Okay.

11 CHAIRPERSON HOOD: Was that a
12 motion?

13 VICE CHAIR JEFFRIES: No. I will
14 make the motion, I think, if -- I want to hear
15 from Commissioner Etherly. He seems to have
16 another question, perhaps.

17 CHAIRPERSON HOOD: I'm sorry.

18 COMMISSIONER ETHERLY: No. It's
19 more a desire just make sure I kind of
20 understand the process. From a timing
21 standpoint, the difference between the two
22 approaches, I would take it, could conceivably

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1 have some substantial differences?

2 VICE CHAIR JEFFRIES: Absolutely.
3 Consolidated PUD, I mean, they're looking to
4 get everything, you know, tied up and moved
5 quickly. And what we're saying is that we
6 need to look at this in totality. We don't
7 want to have a major line of demarkation.
8 There's a lot of things to consider between
9 the programs, between the first stage and the
10 second stage. So we want to look at this
11 thing comprehensively and not break it up and
12 have them move one part of it forward too
13 quickly.

14 COMMISSIONER ETHERLY: Yes. Well,
15 I mean, yes, I've expressed my preference for
16 how we'd like to proceed, but I most certainly
17 want to continue to move this forward. And if
18 that is the route that stands in front of the
19 Commission as the way to do it, then let's
20 move forward. I mean, I certainly won't be an
21 obstructionist in that regard.

22 VICE CHAIR JEFFRIES: And also,

1 Mr. Chair, I mean, I don't know. I mean, we
2 can, you know, and I'm going to make the
3 motion here, but if it's possible, you know,
4 we can work with this Applicant to, you know,
5 move it as quickly as possible, in terms of
6 what they can present to us. I mean, we can
7 sort of accommodate them, I would imagine, in
8 terms of scheduling. But I think, you know,
9 I'm not going to get caught up in the
10 importance of a project with, you know, some
11 procedural things that we're dealing with
12 here. If I'm going to have to pick, I'd
13 rather pick have a quality project in a very
14 critical location for years to come. I mean,
15 this project should really set the stage for
16 a lot of things. And so I was just -- so I'm
17 going to make a motion for Zoning Commission
18 Case No. 08-07, Four Points LLC on behalf of
19 Curtis Properties, Inc., et al, 1st stage PUD
20 and related Map amendment. It is not a
21 consolidated PUD. For Squares 5772, 5783,
22 5784, and 5785.

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1 CHAIRPERSON HOOD: And I ask for a
2 second.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRPERSON HOOD: Okay. It's
5 moved and properly seconded. Any further
6 discussion. So let me make sure I understand,
7 Mr. Jeffries, we set this down in totality as
8 a first stage PUD and Map amendment?

9 VICE CHAIR JEFFRIES: Yes. All
10 nine or 11 acres or whatever.

11 CHAIRPERSON HOOD: Okay. Okay.
12 All right. Any further discussion? Any
13 further discussion? All those in favor? Aye.

14 ALL: Aye.

15 CHAIRPERSON HOOD: Any opposition?
16 So ordered. Staff, would you record the vote?

17 MS. SCHELLIN: Yes. Staff will
18 record the vote five to zero to zero to set
19 down Zoning Commission Case No. 08-07 as a
20 first stage PUD and consolidated Map
21 amendment; Commissioner Jeffries moving;
22 Commissioner Turnbull seconding; Commissioners

1 Hood, Etherly, and May in support. I'm sorry.
2 Not yet. And this is being set down as a
3 contested case, also.

4 CHAIRPERSON HOOD: Okay. Let's
5 move right along with our agenda. Zoning
6 Commission Case No. 08-09, it's ANC 4C Map and
7 Text Amendments to the Sixteenth Street
8 Heights Overlay District, Squares 2708 - 2716.
9 Ms. Brown-Roberts -- oh, I'm sorry, Ms.
10 Thomas?

11 MS. THOMAS: Good evening, Mr.
12 Chairman and members of the Commission. ANC
13 4C has petitioned for a Map and related Text
14 Amendment to the Sixteenth Street Heights
15 Overlay District, to include all lots of
16 Squares 2708 through 2716, which covers all
17 our 1B zoned properties from Colorado Avenue
18 to Decatur Street, between Fourteenth and
19 Sixteenth Street.

20 Decatur Street represents a
21 natural boundary, as properties on the south
22 side of Decatur Street are zoned R-4 and C-1,

1 As provided in Sections 1553 of the Zoning
2 Regulations, the overlay is intended to
3 conserve and enhance the stability of the low
4 density, single family neighborhood for
5 housing and neighborhood related issues and to
6 control the further conversion of residential
7 housing to non-residential uses through the
8 special exception review process.

9 The amendments proposed by the ANC
10 are consistent with the character of the
11 existing Sixteenth Street Heights Overlay and
12 is not inconsistent with the Comprehensive
13 Plan and Future Land Use Map. And we are,
14 therefore, recommending a public hearing for
15 the ANC's recommended changes to the Sixteenth
16 Street Heights Overlay District, as discussed
17 in our report. Thank you.

18 CHAIRPERSON HOOD: Thank you, Ms.
19 Thomas. Any questions, colleagues, of Ms.
20 Thomas? Again, we have a Map and Text
21 Amendment to the Sixteenth Street Heights
22 Overlay District. The Office of Planning is

1 recommending a set down. And this would
2 extend southward to Decatur Street, including
3 Squares 2708 through 2716. Any discussion?
4 Mr. Turnbull?

5 COMMISSIONER TURNBULL: Thank you,
6 Mr. Chair. Ms. Thomas, I guess you've had
7 discussions, if this is instituted at the
8 request of the ANC, are there concerns with
9 the extended area? Do they see, is there
10 development or worries that this is -- they
11 see things happening in this other area that
12 are incongruous with what's happening in the
13 present zone?

14 MS. THOMAS: In the present zone
15 or the proposed zone?

16 COMMISSIONER TURNBULL: No, in the
17 present. Do they see things happening or
18 things out there?

19 MS. STEINGASSER: Yes. They feel
20 that there are some threats to the
21 neighborhood character as they exist. The
22 overlay is in existence north of them.

1 COMMISSIONER TURNBULL: Right.

2 MS. STEINGASSER: And they feel
3 it's created some pressure for the R-1
4 properties to the south. So that's why
5 they've proposed to bring the entire overlay
6 down.

7 COMMISSIONER TURNBULL: Okay.
8 Thank you.

9 CHAIRPERSON HOOD: Okay. Any
10 further questions? Okay. With that, I would
11 move that we set down Zoning Commission Case
12 No. 08-09 and ask for a second?

13 COMMISSIONER ETHERLY: Second, Mr.
14 Chair.

15 CHAIRPERSON HOOD: Moved and
16 properly seconded. Any further discussion?
17 All those in favor? Aye.

18 ALL: Aye.

19 CHAIRPERSON HOOD: Let me also
20 state that we have a -- I should have given
21 them to Ms. Schellin, an absentee proxy from
22 Commissioner May. And he approves also for

1 set down. Ms. Schellin, if you could record
2 the vote?

3 MS. SCHELLIN: Staff records the
4 vote five to zero to zero to set down Zoning
5 Commission Case No. 08-09 as a rule making
6 case; Commissioner Hood moving; Commissioner
7 Etherly seconding; Commissioners Jeffries and
8 Turnbull in favor; Commissioner May in favor
9 by absentee ballot.

10 CHAIRPERSON HOOD: Okay. Thank
11 you, Ms. Schellin. Next is Zoning Commission
12 Case No. 08-16, Office of Planning Text
13 Amendment to the definitions of Child
14 Development Home and Child Development Center,
15 and our provisions 199. Ms. Steingasser?

16 MS. STEINGASSER: Yes. I'll be
17 doing this one.

18 CHAIRPERSON HOOD: Oh. Okay.

19 MS. STEINGASSER: This is a
20 straight forward Text Amendment proposal to
21 bring the definition of child development home
22 in the zoning regs into compliance with the

1 Department of Health's Child and Residential
2 Care Facility Licensing Requirements. In
3 April of '07, they upped the number from five
4 children to six and the Zoning Regs still stay
5 at five. So people have been applying for
6 licenses but they can't get their Certificate
7 of Occupancy. This just came to light to us
8 this last month, so we brought that forward
9 for consistency.

10 CHAIRPERSON HOOD: Ms.

11 Steingasser, do we expect this case to be --
12 it looks relatively straight forward as you
13 stated -- do we expect to have a lot of --
14 well, I guess you can't predict it, but do you
15 think this will be a major issue. Will we be
16 here all night?

17 MS. STEINGASSER: No, sir.

18 CHAIRPERSON HOOD: Okay. I wonder
19 if we could schedule this case with something
20 else. I'll just leave that up to Staff.
21 Okay. Any further questions? Any other
22 questions? Okay. I would move that we set

1 down Zoning Commission Case No. 08-16 and ask
2 for a second?

3 VICE CHAIR JEFFRIES: Second.

4 CHAIRPERSON HOOD: Moved and
5 properly seconded. Any further discussion?
6 Any further discussion? All those in favor?
7 Aye.

8 ALL: Aye.

9 CHAIRPERSON HOOD: Any opposition?
10 We also have a proxy in favor from
11 Commissioner May.

12 MS. SCHELLIN: Staff records the
13 vote five to zero to zero to set down Zoning
14 Commission Case No. 08-16 as a rule making
15 case; Commissioner Hood moving; Commissioner
16 Jeffries seconding; Commissioners Etherly and
17 Turnbull in favor; Commissioner May in favor
18 by absentee ballot.

19 CHAIRPERSON HOOD: And Ms.
20 Schellin, I just mentioned that, but you
21 handle that every time I get in and I mix it
22 up or mess it up. So I'll just let you handle

1 that. But that is a request, if it's doable,
2 I'm sure. Okay. Zoning Commission Case No.
3 08-17, this is the Office of Planning Text
4 Amendment to the Reed-Cooke Overlay District
5 in our Regs, 1401. Ms. Brown-Roberts.

6 MS. BROWN-ROBERTS: Thank you, Mr.
7 Chairman and members of the Commission.
8 Maxine Brown-Roberts, representing the Office
9 of Planning. The Office of Planning, on
10 behalf of the Reed-Cooke Neighborhood
11 Association requests a Text Amendment to
12 Section 1401 to prohibit the uses listed in
13 Section 1401-1A-Y, as primary uses or
14 accessory to any other use. A recent appeal
15 to the BZA resulted in a decision that the
16 uses listed in Section 1401 are allowed as a
17 matter of right as accessory uses. The Reed-
18 Cooke Neighborhood Association, who initiated
19 the overlay, stated that it was their
20 intention that the uses were prohibited in all
21 forms. The proposed amendment is therefore to
22 explicitly state their intentions.

1 Since submission to the Office of
2 Planning, OIG has recommended that the
3 proposed language be stated as follows: at a
4 new subsection 1401-2, which states, in any of
5 the principal uses prohibited by 1401-1 would
6 be permitted as an accessory use in the
7 underlying zone district, that accessory use
8 is also prohibited in the RC Overlay District.
9 The proposal is not inconsistent with the
10 Comprehensive Plan to protect the neighborhood
11 and not affect the residential community.

12 The Office of Planning therefore
13 recommends that the proposal be set down.
14 Thank you, Mr. Chairman.

15 CHAIRPERSON HOOD: Thank you, Ms.
16 Brown-Roberts. Colleagues, we have before us
17 a request to set down this language in 1401.1
18 as amended, as Ms. Brown-Roberts has already
19 mentioned. Anybody like to make a motion?

20 COMMISSIONER TURNBULL: Well, I
21 just have kind of a question.

22 CHAIRPERSON HOOD: I'm sorry.

1 COMMISSIONER TURNBULL: The new
2 language in 1401.1, the basic change is
3 principal or accessory --

4 MS. BROWN-ROBERTS: That's
5 correct. Yes.

6 COMMISSIONER TURNBULL: Is what
7 you're adding. In light of the recent BZA
8 case, for a -- I'm looking at, under off
9 premises alcoholic beverage sales, how does
10 that affect a supermarket then?

11 MS. BROWN-ROBERTS: Well, in that
12 case, the BZA ruled that those uses listed on
13 1401 --

14 COMMISSIONER TURNBULL: Right.

15 MS. BROWN-ROBERTS: They are
16 allowed as accessory uses.

17 COMMISSIONER TURNBULL: But now
18 you're saying principal would be prohibited.

19 MS. BROWN-ROBERTS: So the
20 alcoholic beverage was -- right. So, in this
21 case, what we're trying to do is -- is to say
22 that these uses are not permitted as a primary

1 use and neither as an accessory use.

2 COMMISSIONER TURNBULL: So if the
3 BZA case were before us with this new language
4 --

5 MS. BROWN-ROBERTS: That alcohol
6 would not be permitted.

7 COMMISSIONER TURNBULL: So what,
8 are they grandfathered in now, or what?

9 MS. BROWN-ROBERTS: No, they are
10 not.

11 MS. STEINGASSER: Well, they
12 wouldn't be grandfathered in, because the BZA
13 has authorized them to get their Certificate
14 of Occupancy and proceed.

15 COMMISSIONER TURNBULL: Okay

16 MS. STEINGASSER: The interesting
17 thing about the Reed-Cooke Prohibited Uses, it
18 actually should say special exception uses,
19 because while they're prohibited as a matter
20 of right, they're permitted by special
21 exception under another section.

22 COMMISSIONER TURNBULL: Oh, okay.

1 Right.

2 MS. STEINGASSER: So it's a
3 confusing twist of language.

4 COMMISSIONER TURNBULL: Yes.

5 MS. STEINGASSER: That we will be
6 correcting as we go through the zoning review.

7 COMMISSIONER TURNBULL: Okay.

8 MS. STEINGASSER: But, in this
9 case, OIG has already told us they want to
10 fine tune that wording a little bit to make it
11 clear that it says what it should be saying.

12 COMMISSIONER TURNBULL: Right.

13 VICE CHAIR JEFFRIES: And Ms.
14 Brown-Roberts, be careful. I mean, in Harris
15 Teeter, the wine section is very, very nice.

16 COMMISSIONER TURNBULL: I was just
17 curious how that was related to this.

18 CHAIRPERSON HOOD: Okay. Ms.
19 Brown-Roberts, I did have a question.

20 COMMISSIONER TURNBULL: Thank you.

21 CHAIRPERSON HOOD: Thank you. Any
22 other questions? Let me just ask, do we know

1 what the definition, and forgive me, of bar
2 is?

3 MS. STEINGASSER: I don't think
4 it's defined in Zoning.

5 MS. BROWN-ROBERTS: No, I don't
6 know.

7 MS. STEINGASSER: It may be --

8 CHAIRPERSON HOOD: Is it defined
9 in the Zoning orders?

10 MS. STEINGASSER: It is not
11 defined in Zoning.

12 CHAIRPERSON HOOD: It is not?

13 MS. STEINGASSER: No. I don't
14 think so. I think it may be defined through
15 the ABC laws, the Alcoholic Beverage Control?

16 CHAIRPERSON HOOD: Yes. I think
17 our laws tell us to go to the Websters'
18 Unabridged Dictionary. So that's going to be
19 something we can deal with at the set down.
20 Okay. All right, with that, did somebody make
21 a motion? Oh, okay. Any further questions?
22 I would move that we set down Zoning

1 Commission Case No. 08-17, Text Amendment to
2 the Reed-Cooke Overlay District and our Regs
3 1401. Can I ask for a second?

4 COMMISSIONER TURNBULL: Second.

5 CHAIRPERSON HOOD: All those in
6 favor? Aye.

7 ALL: Aye.

8 CHAIRPERSON HOOD: Any opposition?
9 So ordered. Staff, would you record the vote.
10 Also, we had a proxy from Commissioner May in
11 favor.

12 MS. SCHELLIN: Okay. Staff
13 records the vote five to zero to zero to
14 approve Zoning Commission Case No. 08-17, set
15 down as a rule making case; Commissioner Hood
16 moving; Commissioner Turnbull seconding;
17 Commissioners Jeffries and Etherly in support;
18 Commissioner May in support by absentee
19 ballot.

20 CHAIRPERSON HOOD: Okay. We don't
21 have anything other than our reminder
22 schedule. And, other than that, we'll go to

1 Ms. Steingasser for the status report.

2 MS. STEINGASSER: I apologize for
3 arriving a few minutes late. I didn't get a
4 chance to pass these out. So, in school
5 style, take one and pass them down.

6 We don't have that much of an
7 update. We will be bringing forward some text
8 amendments to the June 16th Special Meeting,
9 which I believe the Commission has authorized
10 OZ to allow us to file for those text
11 amendments regarding the re-use of the D.C.
12 public schools. Beyond that, we're going to
13 give you a quick update on the Zoning Review.
14 And that's been going forward. We have a
15 hearing coming up on height. We advertised
16 that for July 10th. We'll be working with the
17 task force and getting some refined language
18 and be coming forward on that one. And I
19 believe Mr. Lawson wants to update us on a
20 case last week that has some quick corrections
21 in it.

22 VICE CHAIR JEFFRIES: Excuse me.

1 Before you go, Mr. Lawson, you said June 16th,
2 Ms. Steingasser, for the -- you said schools?

3 MS. STEINGASSER: A special public
4 meeting.

5 VICE CHAIR JEFFRIES: Oh, that's a
6 special public meeting? Oh wow. Okay. Thank
7 you.

8 MS. STEINGASSER: Okay.

9 MR. LAWSON: Good evening. Just
10 very quickly, with regard to Case No. 08-12,
11 and that's John Moore's case for rezoning
12 portions of the R-5-A zoned lands in Ward 8
13 from R-5-A to other zones. We just wanted to
14 inform the Commission that, as we got down
15 kind of to the nitty gritty detail of
16 preparing the public hearing notice, we found
17 a couple of errors in the lot and square
18 description. The principal one was that there
19 were a couple of properties that we thought
20 were in one square. Once we got down to the
21 detail, we realized they were in another
22 square that wasn't included in your set down.

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1 So we have included that in the notification.
2 It was shown on the map. It just wasn't
3 included in the list of squares. There were
4 a couple of other squares also that, as again,
5 as we got down to the detail, we realized that
6 they really shouldn't have been included.
7 They were basically mainly individual
8 properties that, as we kind of got down to the
9 detail, we thought it was prudent to leave
10 them off of the notification. They would have
11 just raised concerns and OP would have been
12 strongly recommending that they be removed at
13 some point anyway. So we've removed those
14 from the notification, but, as far as I know,
15 the notification is -- has actually gone out
16 now. So thank you.

17 VICE CHAIR JEFFRIES: How many
18 individual?

19 MR. LAWSON: It affected four
20 squares in total. I can't actually remember
21 the actual number of lots.

22 VICE CHAIR JEFFRIES: Okay.

1 MR. LAWSON: One of the squares,
2 for example, was one lot. The entire square
3 was one lot.

4 VICE CHAIR JEFFRIES: Oh, okay.

5 MR. LAWSON: In other cases, they
6 were squares that have a little bit of R-5-A
7 in it. So it wasn't the whole square that we
8 had proposed to be rezoned in the first place.
9 But those R-5-A portions of the property, it
10 made sense to leave them out.

11 VICE CHAIR JEFFRIES: Well, I
12 mean, it's inherent. I mean, the notice, you
13 know, part of this is difficult anyway. You
14 know, it's just inherently difficult. So, I
15 mean, thank you for letting us know.

16 MR. LAWSON: It's a very difficult
17 notice. It's a very long notice. This made
18 it slightly shorter, especially for those
19 properties that we were convinced wouldn't be
20 included. And frankly, we expect that as we
21 get into the process, the other issues like
22 this may come up.

1 VICE CHAIR JEFFRIES: Right.

2 MR. LAWSON: And certainly at the
3 hearing, other owners may come forward and
4 question why their properties were included.
5 We don't know yet. But it could happen. So
6 there's still a lot of properties being
7 rezoned.

8 VICE CHAIR JEFFRIES: Right.
9 Okay. Thank you.

10 CHAIRPERSON HOOD: Okay. Anything
11 else? Any other questions, colleagues. We
12 have Mr. Parker here and I've asked him to
13 signal -- to come up and he reads sign
14 language very well, to talk about the task
15 force in which I guess I'm a part of. I
16 participate sometimes. Even though I got
17 there late the last time, but I understand
18 there's going to be an additional meeting.
19 There were some concerns. But kind of let us
20 know what you're doing and --

21 MR. PARKER: Absolutely. As we
22 fully expected, in getting in this, we're sort

1 of getting our sea legs as far as what the
2 appropriate process should be, moving forward
3 with our different subject areas. And one
4 thing that we've sort of learned from the
5 first few subject areas is that it's probably
6 going to be better to start with a more
7 conceptual viewpoint and bring forward
8 recommendations as far as policy changes to
9 you first and to the task force first, before
10 we present language and get into the pros and
11 cons of sentence structure and organization of
12 sections.

13 And so we're going to have another
14 meeting with the Task Force June 25th, a
15 supplemental meeting. And we're going to talk
16 a lot about the process and maybe lay out some
17 new order of business in terms of bringing
18 things to the task force and bringing things
19 to the Zoning Commission for each -- each
20 working group. It won't necessarily affect
21 the schedule of hearings that we've arranged
22 with you. But I expect that when we come

1 forward with height and with parking, our
2 reports will focus more on the concepts of the
3 conceptual policy changes that we're proposing
4 than the language itself and that the language
5 itself may be further updated or changed as we
6 go along. And that's something that we'll
7 further refine with you as we have these first
8 couple of hearing.

9 CHAIRPERSON HOOD: Mr. Parker, let
10 me just ask this. I know I've seen the e-
11 mails. You've got a lot of e-mails going back
12 and forth about different comments. I know
13 you've got a large record of different
14 comments. Will that come in the first -- I
15 don't want to say first phase, but will that
16 come in the first phase when you come to us?

17 MR. PARKER: Absolutely. In every
18 report that we turn into you, what we will do
19 is we will not only, as an appendix, attach
20 every comment that we received, word for word,
21 throughout the entire process, but in the body
22 of the report we'll take and we'll summarize

1 and we'll respond to every issue that comes up
2 in those comments, so that you'll have not
3 only a general summary of all of the comments
4 with responses and the changes that we've made
5 and the justifications for making changes or
6 not, but you'll also be able to refer back to
7 each individual comments, as well.

8 CHAIRPERSON HOOD: Okay. Thank
9 you. Any further questions? Okay. Let me
10 thank the Office of Planning. Your reports
11 are very well done and the information you
12 provide us definitely helps us to make
13 informed and educated decisions. So we want
14 to thank you. And let me also thank Mr.
15 Ritting. I did not thank him once before when
16 I did this and I will tell you that the work
17 that he does for us is tireless and is
18 something that we definitely need. And we
19 appreciate all the work that you do for us,
20 Mr. Ritting, and I apologize for the oversight
21 the last time. And also, I want to thank the
22 Office of Zoning Staff, because they really,

1 really make us, again, educated. They make us
2 look good. Well, some of us. But anyway, I
3 didn't say anything. I just touched you.

4 Okay. Ms. Schellin, do we have
5 anything else?

6 MS. SCHELLIN: Not that I can
7 think of.

8 CHAIRPERSON HOOD: Okay. I thank
9 everybody for their participation. This
10 meeting is adjourned.

11 (Whereupon, the meeting was
12 adjourned at approximately 7:47 p.m.)
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