

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF: :  
 :  
Text and Map Amendments to : Case No.  
Establish and Map the Hill : 04-05  
East (HE) District :  
 :  
-----:

Monday,  
May 5, 2008

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing of Case No. 04-05  
by the District of Columbia Zoning  
Commission convened at 6:30 p.m. in the  
Office of Zoning Hearing Room at 441 4<sup>th</sup>  
Street, N.W., Washington, D.C., 20001,  
Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
MICHAEL G. TURNBULL, FAIA,  
Commissioner (OAC)  
PETER 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:

HARRIET TREGONING, DIRECTOR  
JENNIFER STEINGASSER  
JOEL LAWSON  
TRAVIS PARKER  
STEPHEN MORDFIN  
KAREN THOMAS  
MAXINE BROWN-ROBERTS  
DOUGLAS WOODS  
STEVEN COCHRAN  
ARTHUR ROGERS  
MATT JESICK  
ARTHUR JACKSON  
STEPHEN RICE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.  
JACOB RITTING, ESQ.  
MARY NAGELHOUT, ESQ.  
LORI MONROE, ESQ.

The transcript constitutes the  
minutes from the Public Hearing held on May  
5, 2008.

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

2 6:38 p.m.

3 CHAIRMAN HOOD: Good evening,  
4 ladies and gentlemen.

5 This is a Public Hearing of the  
6 Zoning Commission of the District of Columbia  
7 for Monday, May the 5th, 2008.

8 My name is Anthony J. Hood.  
9 Joining me this evening as Commissioners May  
10 and Commissioner Turnbull. We are also joined  
11 by the Office of Zoning staff, Ms. Sharon  
12 Schellin and Ms. Donna Hanousek, Office of the  
13 Attorney General, Ms. Monroe of the Office of  
14 Planning Ms. Steingasser and Mrs. Brown-  
15 Roberts.

16 The proceeding is being recorded  
17 by a Court Reporter and it's also webcast  
18 live. Accordingly, we must ask you to refrain  
19 from any disruptive noises or actions in the  
20 hearing room.

21 The subject of this evening's

1 hearing is Zoning Commission Case No. 04-05.  
2 This is a request by the Office of Planning  
3 for Text and Map Amendments to zoning  
4 regulations to establish the Hill East Overlay  
5 District for the site known as Public  
6 Reservation 13.

7 Notice of today's hearing was  
8 published in the D.C. Register on March 21st,  
9 2008, and copies of the announcement are  
10 available to my left on the wall near the  
11 door.

12 The hearing will be conducted in  
13 accordance with the provisions of 11 DCMR 3021  
14 as follows.

15 Turn off all beepers and cell  
16 phones at this time so not to disrupt these  
17 proceedings. At this time, the Commission  
18 will consider any preliminary matters.

19 Does the staff have any  
20 preliminary matters?

21 MS. SCHELLIN: Yes, sir. We do  
22 have two.

1           One being a request for a waiver  
2           from the Office of Planning just filed at  
3           Exhibit 9. And also a request from ANC 6-B at  
4           Exhibit 7, requesting a further hearing.

5           CHAIRMAN HOOD: Okay. I'd like to  
6           take those up in the order in which Ms.  
7           Schellin just described them.

8           The Office of Planning's posting  
9           of the property, we would need to waive our  
10          rules. And depending upon how we move, I  
11          think we would ask the -- let me take that  
12          second. Let me take that second and I'll  
13          think about it.

14          First, let's do this.

15          Can we agree to waive our rules  
16          for the posting -- for the posting? Any  
17          problems? Okay. So be it. And we'll come  
18          back to this. There's a second piece of that  
19          that we need to deal with.

20          Let's take up the request from the  
21          ANC 6-B. We have a letter as Ms. Schellin  
22          said, Exhibit Number 7. And what struck me in

1 my reading and I open it up for my colleagues'  
2 comments.

3 ANC 6-B supports the basic thrust  
4 of the proposed zoning to connect and  
5 integrate Reservation 13 with adjacent  
6 neighborhoods and to connect Hill East  
7 Neighborhood and the city at large to the  
8 waterfront. However, we are not clear that  
9 this goal has been met. We believe that  
10 further discussion of the Office of Planning  
11 and Office of the Deputy Mayor for Economic  
12 Development and neighbors would likely resolve  
13 the outstanding issues.

14 We would, therefore, request that  
15 after the Acquisition hears the Office of  
16 Planning's presentation on May the 5th, the  
17 Commission continue the case and set a date  
18 for a future hearing. At that point, the ANC  
19 will have had time to discuss the matter  
20 further and make recommendations.

21 Colleagues, as you know, we --  
22 this Commission, in particular, is not able to

1 split up hearings. I like to hear them all so  
2 we can all of the gist and all the guts in one  
3 hearing and we can focus on that one  
4 particular hearing.

5 I think the request from ANC 6-B  
6 is legitimate and i will be willing to grant  
7 their request. But let's open it up and let  
8 me hear the discussion.

9 Any other comments?

10 Mr. Turnbull.

11 COMMISSIONER TURNBULL: Thank you,  
12 Mr. Chair.

13 I would have no -- I think you're  
14 right. I think that if we had a hearing  
15 tonight and OP presented the plan before us,  
16 and we don't have a rebuttal or questions,  
17 people and for, I think it's too long a time  
18 to then wait several weeks or a month and then  
19 have the ANC come back and start asking  
20 questions about things that were a month ago.

21 So, I think from a continuity of  
22 going before this, I think it would be better



1 to do it in one night rather than trying to  
2 split it up.

3 CHAIRMAN HOOD: Okay.

4 Commissioner May, you want to add  
5 to that?

6 Your time is up, Commissioner May.

7 COMMISSIONER MAY: Actually, I  
8 don't have a lot of add. I like the idea of  
9 hearing it all in one sitting and I do like  
10 the idea of getting all of the appropriate  
11 input. And as I understand it, we wouldn't  
12 have to wait too long to have the full  
13 hearing. And given the fact that this process  
14 has taken some time and the development will  
15 take some time, I don't see how, you know, an  
16 extra few weeks are going to be a real  
17 detriment.

18 CHAIRMAN HOOD: Okay. So, that's  
19 what we'll do. We will continue this hearing.

20 I know we have a few questions we  
21 want to ask before we continue. But let me  
22 just go back to the second part about the

1 waiver.

2 I will ask -- it appears that  
3 we're going to continue from discussions. So,  
4 I would ask the Office of Planning even though  
5 we waive the posting, that you post the site  
6 at this point.

7 MS. BROWN-ROBERTS: Yes, Mr. Hood.  
8 That's what we intend to do.

9 CHAIRMAN HOOD: Okay.

10 MS. BROWN-ROBERTS: Thank you.

11 CHAIRMAN HOOD: Okay. Ms.  
12 Schellin, do we have any dates?

13 First, let me just ask is the ANC  
14 represented? Okay.

15 We don't really -- I think -- I  
16 think we have a good win-win for everybody  
17 here.

18 MR. JARBOE: Can I speak to that?

19 CHAIRMAN HOOD: Let me get you a  
20 date and then you can speak to that, we'll go  
21 from there.

22 Ms. Schellin.

1 MS. SCHELLIN: June 30th.

2 CHAIRMAN HOOD: June 30th. And we  
3 know that the ANC will have met twice before  
4 that.

5 Okay. Mr. Jarboe, come up.

6 If you would just identify  
7 yourself.

8 MR. JARBOE: For the record, my  
9 name is Ken Jarboe. I'm Vice Chair of ANC-6B.

10 I'd just like to ask you to  
11 slightly reconsider the idea of having  
12 consistent hearings. The reason being is this  
13 is a very complicated case. And it may  
14 behoove you to hear the OP presentation now  
15 and that may, in fact, engender a number of  
16 questions in your own mind that then you can  
17 ask those questions of OP and then they can  
18 get back to you at the second -- I understand  
19 your reluctance to do that, but I throw that  
20 out for the record.

21 That was our recommendation to  
22 give the Commission a chance to hear it. We

1       went through a very long special call meeting  
2       on this and we're now at the point where my  
3       fellow commissioners now understand the  
4       issues. And so now we can frame the questions  
5       and start to look for answers.

6               On the second half, the June 30th  
7       date is fine with us. An earlier date would  
8       be fine as well.

9               I would echo Commissioner May's  
10      argument as we've taken awhile here to do this  
11      and we've been people who have been pushing to  
12      get this done. But to take a little bit  
13      longer and do it right is probably worthwhile.

14              Thank you.

15              CHAIRMAN HOOD: Thank you, Mr.  
16      Jarboe.

17              And I will tell you that we -- we  
18      took that under consideration. We operated on  
19      the auspice of the ANC letter.

20              We also know how we do. Between  
21      now and the second hearing, it may be, we're  
22      going to have so many hearings and it's just

1 the information. We get a voluminous amount  
2 of information. It's just that we want to  
3 make sure that we're able to grapple with  
4 everything in one night.

5 And I think you heard it strongly  
6 from my colleagues. And we want to make the  
7 best informed decision.

8 And we also have another bite of  
9 the apple before final action anyway.

10 So, basically, we will be dealing  
11 with it at two different times. But I think  
12 as you heard, we would rather have one  
13 hearing. And we went by what you guys had.  
14 We were trying to accommodate everyone.

15 MR. JARBOE: I appreciate that,  
16 Mr. Chairman.

17 Thank you.

18 CHAIRMAN HOOD: Okay. All right.

19 So, we're going to continue on June  
20 30th with this hearing and hopefully there  
21 will be some more clarification given to the  
22 ANC and the community.

1           And we also have the Capitol Hill  
2 Restoration who submitted something this  
3 evening. I have not had a chance to review  
4 it, but I think they also are in agreement  
5 with ANC 6-B. Okay.

6           We had just a few comments. We  
7 probably are going to have a lot more, but  
8 what I'd like to do is just -- and we're not  
9 asking for a response tonight because we're  
10 not going to have the hearing, but we just  
11 want to throw a few things out so maybe when  
12 you come back you'll be prepared to answer  
13 them for us.

14           Who would like to start us off.

15           Commissioner Turnbull.

16           COMMISSIONER TURNBULL: Thank you,  
17 Mr. Chair.

18           I was just going through the  
19 Office of Planning Report. I'm just trying to  
20 and maybe I'm not understanding -- maybe one  
21 is a subset of another, but on page 2 of the  
22 OP Report, it talks about the Master Plan

1 providing a general land use framework and it  
2 goes on and it talks about the development and  
3 Massachusetts Avenue. And it says, the  
4 preliminary development program. I don't know  
5 if that's like Phase 1. Talks about 800 new  
6 housing units and over three million square  
7 feet of non-residential space, roughly  
8 doubling the total square footage for the  
9 building on the site.

10 But then on page 5, the summary of  
11 the proposal, talks about five million square  
12 feet of gross building area resulting in  
13 approximately 3,000 new dwelling units. Two  
14 million square feet of health care  
15 institutional office use and about 100,000  
16 square feet of retail.

17 And I'm just wondering, how do the  
18 two subsets where one talks about 800,000 and  
19 the other ne talks about 3,000. Is one Phase  
20 1 or how does that relate? I'm confused.

21 That's -- you don't have to  
22 answer. But that's the one piece that I'm not

1       sure about.

2                   I guess another thing in trying to  
3 go through all of this and I think that's one  
4 of the reasons where I think maybe -- there is  
5 a lot in this plan.

6                   One thing which going back to our  
7 notes at setdown, and as the Chair had pointed  
8 out, I made concerns about the roof top, the  
9 embellishments. And when I look in the  
10 guidelines, what's troubling or it sounds like  
11 it's a free hand to do -- I think it's page 31  
12 on the design guidelines.

13                   When it talks about roof line  
14 expression. It talks about distinctive roof  
15 forms, profiles and cornices shall be  
16 encouraged to provide visual interest to the  
17 tops of buildings.

18                   I think I hear Mr. Parsons rolling  
19 over somewhere. I'm just curious about what  
20 bunch of a free hand does that -- does that  
21 mean? Because from our setdown meeting, you  
22 know, Mr. -- just gets in to the height issue



1 too. Mr. Parsons was very concerned about  
2 building heights along C Street and how they  
3 would relate.

4 And so I guess it's difficult to  
5 get a handle on the heights and what we're  
6 looking at with embellishments and the --  
7 there's the 12 foot setback. There's still  
8 the concern about how penthouses would work or  
9 anything else on the roof top per se.

10 I don't know if that's totally  
11 addressed in those guidelines. And I guess  
12 what I'm -- the other -- it looks in going  
13 through this also that Phase 1 is developing  
14 along 19th Street and Massachusetts Avenue.  
15 And I'd just like -- is that -- what would be  
16 the impetus for that rather why not  
17 independence? What leads that development to  
18 happen along that street -- those streets  
19 first?

20 And health care. I guess there's  
21 often mention to health care. What is  
22 envisioned by health care? Are these simply

1 outpatient? Is this just doctor's offices?  
2 What -- when we talk about health care being  
3 developed in the area, to what extent are we  
4 looking at health care uses? What encompasses  
5 that?

6 And let me see. Go through it.

7 And I guess I'm looking at on page  
8 -- maybe I'm wrong, but maybe on page 14.  
9 Going back and forth between the OP Report and  
10 the design guidelines. And I'm trying to --  
11 I thought I read somewhere that there was no  
12 setback required on C Street. And I don't  
13 know if I'm correct or if I read that in the--  
14 I guess I would like in your -- whatever the  
15 presentation happens from OP to explain  
16 clearly or graphically somehow what the  
17 implications are of some of the things that  
18 we're reading in whatever PowerPoint you're  
19 going to -- because I think right now it's --  
20 it's difficulty to look at -- I mean, I know  
21 that in the design guidelines there are some  
22 sections, but I think it still is a little bit

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1       difficult to visualize in certain areas what's  
2       happening.

3               All right. Mr. Chair, I think  
4       those are mine for now.

5               CHAIRMAN HOOD: Okay. Thank you.

6               Commissioner May.

7               COMMISSIONER MAY: Yes. I just  
8       had a couple of quick ones to start off and  
9       one is just a graphic request, I guess.

10              It's a little confusing between  
11      the original plans that were approved or, I  
12      guess, the draft design guidelines for the  
13      Zoning Commission setdown from 2004, which  
14      some of our information is based on. And I  
15      know that that plan of streets doesn't apply  
16      anymore because of saving Ann Archibald Hall.  
17      But we don't have -- and we have the updated  
18      plan for within Reservation 13, but we don't  
19      have anything that shows the alignment and how  
20      it relates to the armory to the north.

21              And I think it works out just  
22      fine. I just don't see it on a plan. So, a

1 plan that shows a little bit bigger context  
2 that is the current plan.

3 It would also be very helpful, I  
4 think, to see and you know we have street  
5 sections and we have diagrams that show the  
6 building heights, but we don't have any sort  
7 of three-dimensional representation of what  
8 that means, you know, for the whole area. So,  
9 an aerial that just shows sort of a massing  
10 diagram.

11 We have something like that that  
12 was submitted by I think the Restoration  
13 Society but I'm not sure whether that's truly  
14 accurate and I'm not sure what takes into  
15 consideration graves and so on.

16 So, I think it would be helpful to  
17 see how the form based code creates this form.

18 And then the last question I have  
19 is. What the current plan is for the jail in  
20 the long term? So, what's the thinking now  
21 about what will happen 20 years from now or 25  
22 years from now because it's already 30 years

1 old and I know that in a past life, I tried to  
2 get an answer to that question. I wasn't  
3 successful. I don't know if there's been any  
4 further thinking on that.

5 But I think it's worth at least  
6 asking the question now. So, that's it for  
7 me.

8 CHAIRMAN HOOD: Thank you both.

9 I just have one question that I'm  
10 going to ask at the hearing and would like an  
11 answer.

12 And it goes into our review  
13 procedures. We say the Zoning Commission  
14 Review Plan, Unit Development Applications but  
15 will not be able to grant flexibility for  
16 building height or FAR. This limitation needs  
17 an order to provide consistency to the  
18 building form in terms of height and bulk  
19 consistent with the Master Plan.

20 Real simple. I just want to know  
21 why are we even doing PUDs? Why do we even  
22 consider it when we have other tools, I think,

1 if we're going to do review under the Capital  
2 Gateway, we have a review mechanism that we  
3 can use. I'm not sure if it's applicable in  
4 this case. But I'm just wondering why we even  
5 delve into the PUD? Okay.

6 Okay. Any other questions?

7 Mr. Turnbull.

8 COMMISSIONER TURNBULL: I just had  
9 one.

10 Going through and I don't know if  
11 it's in the -- I think it's in the design  
12 guidelines they talk about monument location.  
13 And I think there was three areas picked up at  
14 the end of Mass. I wonder if any discussions  
15 with NCPC or the Memorial Commission to review  
16 possible thoughts on locations for memorials?

17 CHAIRMAN HOOD: Okay. Again, we  
18 will -- I'm hoping and I looked at what the  
19 ANC and a lot of this was contemplated or  
20 pushed because of what we read in the ANC,  
21 trying to get a win-win and work -- for all  
22 sides to work it out. And I understand they

1 want us to hear it tonight and come back, but  
2 I think for us to be better advised, I think  
3 it's better for us to try to do it in one  
4 hearing.

5 Also, with the Capitol Hill  
6 Restoration Society also concur with ANC 6-B.

7 But I will say that hopefully and  
8 it's between now and June 30th what I saw in  
9 the letter about working out some of the  
10 issues and concerns and more clarification.  
11 At the hearing, because this is rule-making,  
12 we will not -- there's no cross examination.  
13 So, I would encourage everyone to -- the cross  
14 examination if it's done so to speak would  
15 come from us. So, I would encourage you to  
16 hopefully try to filter out all your questions  
17 and working with the Office of Planning, the  
18 ANC, Capitol Hill and all of the other parties  
19 involved and try to work out your issues  
20 before June the 30th. Because, unfortunately,  
21 there's no cross examination.

22 Okay.

1 All right. Anything else, Ms.

2 Schellin?

3 MS. SCHELLIN: No.

4 CHAIRMAN HOOD: Is everything in  
5 order?

6 MS. SCHELLIN: Yes.

7 CHAIRMAN HOOD: Okay. I will not  
8 adjourn this hearing like I did once before.  
9 I will continue this.

10 So, appreciate everybody's time  
11 tonight and this hearing will be continued to  
12 June 30th at 6:30.

13 Good night.

14 (Whereupon, the above matter was  
15 concluded at 6:58 p.m.)

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