

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1218th MEETING SESSION
(20th OF 2006)

+ + + + +

MONDAY

OCTOBER 16, 2006

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

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

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

6:41 p.m.

CHAIRPERSON MITTEN: Good evening,
Ladies and Gentlemen. This is a meeting of
the Zoning Commission of the District of
Columbia for Monday, October 16th, 2006,
yeah, 2006.

My name is Carol Mitten and
joining me this evening are Vice Chairman
Anthony Hood and Commissioners Michael
Turnbull, John Parsons and Greg Jeffries.
The agenda for our meeting this evening is
available to you, and it's in the wall bin
by the door.

I'd just like to remind folks
that we don't have any public testimony at
our meetings, unless we specifically ask
someone to come forward. We're being
recorded by the Court Reporter, and also
being webcast live, so I'd ask you to
refrain from making any disruptive noises,
while we have our meeting, and also ask you

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1 to turn off your beepers and cell phones.

2 I do have a couple of changes to
3 the agenda that I'd like to make before we
4 get started. And that is that the two items
5 listed under the Consent Calendar, will be
6 moved to Hearing Action and they will become
7 cases D and E. So they'll become the fourth
8 and fifth cases that we take up under
9 hearing action.

10 And I think that is, that's all
11 the changes. So, we're ready to move to
12 action on minutes, which we haven't had in a
13 while. Mrs. Schellin, did you want to tee
14 this up or shall I?

15 MS. SCHELLIN: You may do so.

16 CHAIRPERSON MITTEN: Okay, they
17 are very helpfully grouped on the agenda.
18 The first grouping, which is under Letter A,
19 and these have, we've just gotten behind on
20 these because we were short of staff.

21 So the first grouping has all of
22 the Commissioners, except Mr. Turnbull,

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1 present. So we have four people eligible to
2 vote on the first batch. And I would move
3 approval of all of the meeting minutes under
4 Letter A, with the opportunity for non-
5 substantive editorial changes.

6 COMMISSIONER TURNBULL: Second.

7 CHAIRPERSON MITTEN: Any
8 discussion?

9 (No response.)

10 CHAIRPERSON MITTEN: All those in
11 favor, please say aye?

12 (Chorus of ayes.)

13 CHAIRPERSON MITTEN: None opposed.
14 Mrs. Schellin?

15 MS. SCHELLIN: The staff will
16 record the vote four to zero to one to
17 approve the meeting minutes listed under 2-
18 A. Commissioner Mitten moving, Commissioner
19 Parsons seconding, Commissioners Jeffries
20 and Hood in favor, Commissioner Turnbull not
21 voting having not participated.

22 CHAIRPERSON MITTEN: Okay, and

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1 then under Letter B, which are the meeting
2 minutes from May 23rd, only myself,
3 Commissioner Hood and Commissioner Parsons
4 were in attendance of the Commissioner's --

5 MS. SCHELLIN: Excuse me.

6 Actually Commissioner Jeffries, not
7 Commissioner Parson. He was on the last
8 grouping.

9 CHAIRPERSON MITTEN: Mr. Parsons
10 was or was not?

11 MS. SCHELLIN: Was not.

12 CHAIRPERSON MITTEN: Okay, I'm
13 sorry, these are, okay, gotcha. Okay, so
14 it's Jeffries, Mitten and Hood eligible for
15 Letter B, right? Okay. So I would move
16 approval of the meeting minutes from May
17 23rd.

18 VICE CHAIRMAN HOOD: Second.

19 CHAIRPERSON MITTEN: Thank you,
20 Mr. Hood. All those in favor, please say
21 aye?

22 (Chorus of ayes.)

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1 CHAIRPERSON MITTEN: None opposed.

2 MS. SCHELLIN: Staff will record
3 the vote three to zero to two, to approve
4 the meeting minutes of May 23rd, 2005.

5 Commissioner Mitten moving, Commissioner
6 Hood seconding, Commissioner Jeffries in
7 favor, Commissioners Parsons and Turnbull
8 not voting having not participated.

9 CHAIRPERSON MITTEN: Thank you.
10 So now for the last one, which is Letter C,
11 June 13th, it's Mitten, Hood and Parsons
12 eligible to vote, okay. So I'll move
13 approval of the meeting minutes from June
14 13th, and ask for a second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRPERSON MITTEN: Thank you.

17 Any discussion?

18 (No response.)

19 CHAIRPERSON MITTEN: All those in
20 favor, please say aye?

21 (Chorus of ayes.)

22 CHAIRPERSON MITTEN: Mrs.

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1 Schellin?

2 MS. SCHELLIN: Staff will record
3 the vote three to zero to two, to approve
4 the meeting minutes of June 13th, 2005.
5 Commissioner Mitten moving, Commissioner
6 Parsons seconding, Commissioner Hood in
7 favor, Commissioners Turnbull and Jeffries
8 not voting having not participated.

9 VICE CHAIRMAN HOOD: Madame Chair,
10 I just wanted to put on the record, I'm not
11 sure how we go about doing it, maybe we work
12 with OGC to see how we can do away with this
13 process.

14 Whether we can do them in
15 Executive Session or not do them at all. I
16 know we had mentioned that about a year ago,
17 and I think that just puts a lot of work on
18 the staff.

19 So hopefully we can look into, or
20 however we need to do that, I think we need
21 to do that. Thank you.

22 CHAIRPERSON MITTEN: I would agree

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1 with that. Thank you. All right, we're
2 ready for the status report from the Office
3 of Planning. Ms. Steingasser.

4 MS. STEINGASSER: Madame Chair,
5 Commissioners, I don't believe there's
6 anything on the status report that the
7 Commission hasn't already seen. It's more
8 of an update, so I'm available for any
9 questions.

10 VICE CHAIRMAN HOOD: Madame Chair.

11 CHAIRPERSON MITTEN: Mr. Hood.

12 VICE CHAIRMAN HOOD: Ms.
13 Steingasser, can you tell me a little more
14 about this emergency shelter use in the CM
15 Zones? I know we have a hearing coming up
16 shortly, I don't want to be caught by
17 surprise.

18 MS. STEINGASSER: Okay, well, what
19 --

20 VICE CHAIRMAN HOOD: I mean what
21 is it all about?

22 MS. STEINGASSER: Well, we filed

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1 that report today, so I'll be happy to give
2 you a quick briefing. We've originally
3 recommended that they be allowed in the CM
4 Zone, subject to special exception and a
5 spacing requirement of 1,000 feet from
6 certain types of noxious uses, recycling
7 facilities, solid waste transfer facilities.

8 We've expanded that list to
9 include land fills and other documented
10 brown sites or environmentally-contaminated
11 sites. And we coordinated more with the
12 Deputy Mayor for Children, Youth, Family and
13 Elders, to go over our numbers in the
14 proposal of the size of the facilities.

15 They concurred with our numbers
16 and we, so we're standing by that
17 recommendation. So it would be to allow the
18 facilities, by special exception with the
19 spacing requirement between the facilities
20 and the spacing requirement between the
21 certain types of uses.

22 And, then, also the standards by

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1 which the BZA could review it for any kind
2 of adverse impact, subject to special
3 exception.

4 VICE CHAIRMAN HOOD: And the
5 occupants would reside overnight, they would
6 stay overnight, I'm sure.

7 MS. STEINGASSER: They would stay
8 overnight. Some of the facilities, as we
9 talked with providers, have support
10 services. Where it's training, medical,
11 that kind of thing. Some of those may
12 continue during the day.

13 I believe the staff is also done
14 a little research on transportation and the
15 need to be near Metro. In those cases where
16 they're not near Metro, the types of busing
17 that goes on between the non-profit
18 providers and the clientele.

19 VICE CHAIRMAN HOOD: Okay, thank
20 you. Thank you, Madame Chair.

21 CHAIRPERSON MITTEN: Anyone else,
22 questions?

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1 (No response.)

2 CHAIRPERSON MITTEN: Thank you
3 very much. All right, then we're ready to
4 move to hearing action. And the first case
5 under hearing action is Case No. 04-24A,
6 which we had looked at at a prior meeting.

7 And this is the Second Stage PUD
8 Application for Ninth and Rhode Island. And
9 I do want to thank the Applicant for being
10 prepared to make a short presentation, but
11 the Commission decided to just go with the
12 materials that had been submitted.

13 So, I'll turn to the Office of
14 Planning for an update. Mr. Jackson.

15 MR. JACKSON: Good evening, Madame
16 Chairman, and members of the Commission. My
17 name is Arthur Jackson, I'm the Development
18 Review Specialist with the District of
19 Columbia Office of Planning. I will present
20 a brief summary of the Office of Planning
21 Supplement to our earlier preliminary report
22 on this application.

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1 On September 11th, 2006, the
2 Zoning Commission held a public hearing to
3 consider a request from Mid-City Urban, LLC,
4 and A&R Development Corporation, the
5 Applicants, to schedule a public hearing for
6 second-stage approval of the Rhode Island
7 Avenue Metro Station Planned Unit
8 Development.

9 The Commission decided to
10 continue that request to allow the Applicant
11 time to submit additional information into
12 the public record. In response, the
13 Applicant placed extensive plans and other
14 materials in the public record, including
15 color renderings of the proposed site and
16 building plans, detailed building
17 elevations, proposed site planning, record
18 information, other proposed building
19 materials and other items.

20 Tonight the Applicant also has
21 provided material samples and a massing and
22 scale model of the site. In addition, the

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1 Applicant's transportation consultants have
2 prepared a slide show and traffic simulation
3 to explain the anticipated pattern of
4 pedestrian and vehicular circulation on-
5 site.

6 Other representatives are also
7 present to address any other questions the
8 Commission may have about the submitted
9 materials.

10 The result is that the Office of
11 Planning thinks the Applicant has
12 substantially addressed the Commission's
13 requests. In light of the previous
14 determination by the Office of Planning that
15 the application generally complies with the
16 requirements of the Zoning Regulations and
17 Order 04-24, the Office of Planning
18 continues to recommend this request for a
19 Second Stage Approval of the planning and
20 development be scheduled for a public
21 hearing.

22 This concludes the brief summary

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1 of the Office of Planning submission on the
2 application and staff remains available to
3 answer questions.

4 CHAIRPERSON MITTEN: Thank you,
5 Mr. Jackson. I think, I do agree with you
6 that the Applicant has addressed the
7 questions to a greater extent than they had
8 originally, that the Commission had.

9 I'm just not sure I'm completely
10 comfortable with everything I'm seeing, now
11 that I understand it better. Let me see
12 what my colleagues have to say about the
13 additional submissions. Comments? Mr.
14 Hood?

15 VICE CHAIRMAN HOOD: Madame Chair,
16 I'll just pick up from when I chaired the
17 first part of the first stage PUD. One of
18 my issues was the traffic circulation plan.

19 And in the Order of the first
20 stage PUD, it says, on Page 11-G, a traffic
21 circulation plan that addresses the repeated
22 request of the Commission for greater

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1 detail, ignored by the Applicant, during
2 this proceeding.

3 And when I look at the Submittal
4 T-1.4, we're still at the same point we were
5 in the first stage PUD. I made it clear,
6 under the first stage, the only way that I
7 would be supportive would that this be
8 looked into. And when I look at T1.4, it
9 looks, I don't want to say anything negative
10 about it, but it has not improved.

11 And the way I sit now, I will not
12 be voting to support to set this down. And
13 either, furthermore, my question is why has
14 the ANC not been notified?

15 I see the Brentwood Civic
16 Association has, Ms. Martin, I see that they
17 have wrote a letter of support. But I don't
18 see anything from ANC-5B. And although the
19 city, normally we go to ANCs, unless I just
20 missed it.

21 But, again, I think if you look
22 at T-1.4, that is a reason enough for this

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1 Commission not to move forward.

2 CHAIRPERSON MITTEN: I share your
3 concern about what, what the circulation
4 plan represents. And, that's I guess what I
5 was alluding to when I made my introductory
6 comment.

7 Which is I'm not sure I'm happy
8 with what I see there, but to your point
9 about what was required in a second stage
10 application, it's that the circulation plan
11 was required to show a greater level of
12 detail.

13 So, is there something more, by
14 way of detail, that you would want to see
15 from the Applicant.

16 I mean I'm willing to have a hearing on
17 this, but I'm still very concerned about the
18 circulation within the site.

19 Although I do understand it
20 better from what the Applicant has shown, in
21 this additional submission, I'm just not,
22 I'm not sold on its workability. But I

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1 don't what more detail I would ask them for
2 at this juncture.

3 VICE CHAIRMAN HOOD: Well, I just
4 don't want to raise any false hopes. I
5 approved the first stage, thinking it would
6 improve. I don't want to say it's gotten
7 worse, but I don't see any progress.

8 What I'm looking for is exactly
9 how things are going to work. They
10 mentioned that the core hours for Metro use,
11 I think it was recorded, and I'm going off
12 the top of my head.

13 Seven-thirty, I think it was, to
14 five. That is not correct. The core hours
15 down there, the place opens at 5:00, and the
16 core hours are between, they're between five
17 in the a.m., to around, about seven a.m.

18 And then in the evening, it's
19 from about 4:00 to about 6:30. So their
20 information, as far as, and I know that
21 because I use the place, so, you know.

22 And I know how traffic flows

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1 through that area. But I just see that this
2 right here will not suffice for the mixed
3 retail, the Metro riders and everything.

4 The combination of the Home Depot
5 and the Giant, I just don't see how this
6 circulation pattern is going to suffice for
7 that traffic. What I think needs to be
8 done, it needs to be revisited by the
9 traffic consultants.

10 Whether you put four lanes, or
11 whatever needs to be amendable. If you have
12 to decrease the size of what you're doing,
13 you need to do that. You need to make it so
14 it will work. This will not work.

15 And, again, I want them to go to
16 the ANC, and I don't know why they didn't do
17 that.

18 CHAIRPERSON MITTEN: Well, it is a
19 set down, so I think it may just be because,
20 I mean typically we don't take comments from
21 ANCs or interested individuals into account.
22 So that may be part of the thinking at this

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1 point.

2 VICE CHAIRMAN HOOD: But, Madame
3 Chair, you know I've been here a long time.
4 I'd say I'm a veteran, like Mr. Parsons.

5 CHAIRPERSON MITTEN: I know.

6 VICE CHAIRMAN HOOD: But I've been
7 here a long time and I know when people,
8 when I see a letter from a community civic
9 association, I know they could have went to
10 the ANC also. So that's where I am.

11 MR. JACKSON: Madame Chair, just a
12 point of information. In the Applicant's
13 original submittal there was a letter, a
14 resolution from ANC-5B, on his application.

15 CHAIRPERSON MITTEN: Thank you.

16 MR. JACKSON: And it was
17 favorable.

18 CHAIRPERSON MITTEN: Thank you.
19 Anyone else want to comment?

20 (No response.)

21 CHAIRPERSON MITTEN: Mr. Parsons.

22 COMMISSIONER PARSONS: Mr. Hood,

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1 are you suggesting that a four-lane primary
2 road is the kind of response you expected,
3 to accommodate this traffic down to the
4 Metro garage?

5 VICE CHAIRMAN HOOD: I'm not
6 saying four lanes, but if you remember, Mr.
7 Parsons, in the first stage and I think last
8 month we looked at this. We saw singular
9 traffic moving around through there.

10 And I think a number of my
11 colleagues raised concern. I just think
12 they need to show us something that will
13 work. This here, to me, I don't know
14 whether it's four lanes, and I know we don't
15 want to see a presentation.

16 COMMISSIONER PARSONS: It's two
17 lanes. That's what I though you were
18 complaining about.

19 VICE CHAIRMAN HOOD: It's two
20 lanes now. But I'm just saying I don't
21 think it's sufficient for the traffic that
22 is going to be going to the Metro and using

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1 the in-site retail, the residential, I just
2 don't see how that's going to work.

3 And, also, I think some of them
4 share the same lanes with the buses. I just
5 don't see how that's going to work.

6 CHAIRPERSON MITTEN: I, I, and
7 just to repeat, I share your concern. But I
8 think that's something that we should flesh
9 out where we can talk to their traffic
10 expert.

11 We can talk to DDOT and say, you
12 know, convince us that this is possible or
13 discuss with us alternatives that could make
14 it work. But I don't know what more we
15 would want now.

16 I just, I'm ready to go to a
17 hearing and at least hear how this might
18 work. I share your concern completely.

19
20 VICE CHAIRMAN HOOD: But I
21 understand where you're coming from, Madame
22 Chair. But I think when I, in the first

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1 stage when I set the strong ceiling on what
2 I wanted to see, it's been ignored. So I
3 will not be supporting a set down on this.

4 CHAIRPERSON MITTEN: I understand.

5 VICE CHAIRMAN HOOD: I will be at
6 the hearing, though.

7 (Laughter.)

8 CHAIRPERSON MITTEN: Anyone else?

9 (No response.)

10 CHAIRPERSON MITTEN: Anyone else
11 have comments? Mr. Jeffries.

12 MR. JEFFRIES: Well, I have to
13 say, you know, while I would like to move
14 forward with a hearing for this particular
15 case, I think that the Applicant has done a
16 very good job in terms of really trying to
17 be quite detailed in terms of responding to
18 our many, many questions.

19 Like you, Madame Chair, I don't
20 necessarily sign on to some of the answers,
21 but I do think it provides the, it provides
22 us with enough to really sit down and really

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1 engage this Applicant in terms of this
2 design.

3 I would like to say that I do
4 think the Applicant should understand that
5 if we do go forward with a set down, that
6 there is probably a tall order here to get
7 this through.

8 There's a lot of movement here.
9 I'm looking at that Legend on T-1, for, you
10 know, it's parking access. It's primary
11 vehicle movement, minor vehicle movement.
12 Primary pedestrian movement, station
13 entrance, bus bays.

14 I mean there's a lot of activity,
15 you know, that's traversing through this
16 overall development. And I think I
17 understand it better, I'm just wondering if
18 there could perhaps be a more simplistic way
19 of moving vehicles and pedestrians around,
20 and maybe there isn't.

21 But I do think that we should
22 allow this Applicant the opportunity to

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1 speak and to engage them on this
2 development. So that's where I'm at.

3 CHAIRPERSON MITTEN: Commissioner
4 Turnbull?

5 COMMISSIONER TURNBULL: Thank you,
6 Madame Chair. Obviously I wasn't here for
7 the original presentation by the Applicant
8 on this, but I do respect my colleague, Mr.
9 Hood's, concern. If you figure that there's
10 eight or more drawings that just deal with
11 the circulation plan, obviously there's a
12 lot to worry about with traffic, with buses,
13 taxis and cars.

14 But I would think that the only
15 way we're going to get to the bottom of it,
16 is to bring them in and to go through this.

17 CHAIRPERSON MITTEN: Okay. Well,
18 I will move that we set Case No. 04-24A down
19 for public hearing and ask for a second.

20 MR. JEFFRIES: Second.

21 CHAIRPERSON MITTEN: Is there any
22 further discussion?

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1 (No response.)

2 CHAIRPERSON MITTEN: All those in
3 favor, please say aye?

4 (Chorus of ayes.)

5 CHAIRPERSON MITTEN: Those
6 opposed, please say no.

7 VICE CHAIRMAN HOOD: No, opposed.

8 CHAIRPERSON MITTEN: Mrs.
9 Schellin.

10 MS. SCHELLIN: The staff will
11 record the vote four to one to zero to set
12 down Zoning Commission Case 04-24A.
13 Commissioner Mitten moving, Commissioner
14 Jeffries seconding, Commissioners Parsons
15 and Turnbull in favor, Commissioner Hood
16 opposed.

17 CHAIRPERSON MITTEN: Thank you.
18 Next we have Case No. 06-23, and this is a
19 text amendment to change some definitions
20 related to eating establishments.
21 Restaurants, Fast Food Restaurants, Delis,
22 Coffee Shops.

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1 And I can speak from experience
2 at the BZA that this is welcome. So, Mr.
3 Parker.

4 (Laughter.)

5 MR. PARKER: Good evening, Madame
6 Chair, I'm Travis Parker with the Office of
7 Planning. The existing Zoning Regs, as
8 you're well aware, have two categories of
9 eating establishments, Restaurant and Fast
10 Food Restaurant.

11 A Restaurant is allowed in all C
12 Districts, and Fast Foods are prohibited in
13 C-1. They're a special exception in the C-
14 2-A, and they have additional requirements
15 above Restaurants in the C-2-B and C-2-C
16 Zones.

17 Over the past couple of years
18 there's been increasing disagreement between
19 the Office of the Zoning Administrator and
20 certain neighborhoods, particularly along H
21 Street Northeast, regarding the distinction
22 between the two.

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1 Both ANC-6A and the Zoning
2 Administrator have expressed a strong desire
3 to both clarify and modernize the
4 definitions of Restaurants and Fast Food
5 Restaurants.

6 And to this end, ANC-6A has
7 submitted a proposal to change the
8 definitions of these uses. Currently, the
9 definitions separate the uses by means of
10 queuing area, measurement of the percentage
11 of pre-prepared food, and the use of
12 disposal tableware.

13 The ANC proposal would amend the
14 definition of Restaurant to provide a
15 general definition followed by
16 characteristics that generally describe a
17 Restaurant.

18 And the same for Fast Food
19 Restaurant, a general definition supported
20 by five or six characteristics that would
21 generally describe the use.

22 They also propose adding a

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1 definition of Delicatessen and Coffee Shop,
2 as shown in the report. In general, OP
3 strongly supports the intent of the proposed
4 changes.

5 In my analysis, I've worked
6 closely with both ANC-6A and 3C, which have
7 had issues with these definitions in the
8 past. I've worked with the Zoning
9 Administrator and Alcoholic Beverage, as
10 well as contacting several times, the
11 Restaurant Association of Metropolitan
12 Washington.

13 And, in general, the DCRA Offices
14 and the ANCs are in favor of the
15 definitions, at least the intent, as
16 changed. A couple of issues that have come
17 up along the way.

18 In meeting with DCRA, they would
19 like to see definitions that are more
20 physical in nature in relating to the
21 building and that could be determined by
22 looking at plans.

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1 The definitions that we have in
2 existence, and the proposed definitions, are
3 largely operational in nature but in
4 attempting to find more physical
5 characteristics to separate Restaurants and
6 Fast Food Restaurants, OP has largely come
7 to the conclusion that there isn't much that
8 you can do at the building permit stage to
9 differentiate the two uses.

10 So, we support the general
11 characteristics approach of the ANC. In
12 addition, in meeting with the Office of the
13 Attorney General, several areas have come up
14 that required further refinement in the
15 text.

16 And those are listed in the OP
17 Report. There are six general areas that
18 OAG and OP will continue to work to refine
19 the text to make it more appropriate in the
20 context of the Zoning Regulations.

21 But, with that, we recommend set
22 down of the language and we'll present a

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1 more refined text prior to the public
2 hearing.

3 CHAIRPERSON MITTEN: Thank you. I
4 just want to clarify one thing. Is the
5 Petitioner in this case the Office of
6 Planning?

7 MR. PARKER: It is actually ANC-
8 6A.

9 CHAIRPERSON MITTEN: Okay, because
10 the reason I ask that is because the
11 introduction to the Office of Planning's
12 Report is that this Report serves as the
13 pre-hearing filing.

14 MR. PARKER: Uh huh, it sure does.

15 CHAIRPERSON MITTEN: So, that
16 confused me a little bit.

17 MR. PARKER: I apologize for that.

18 (Laughter.)

19 MR. PARKER: Understood. No, ANC-
20 6A was the Petitioner in this case and that
21 was a mistake.

22 CHAIRPERSON MITTEN: And will

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1 remain so?

2 MR. PARKER: And will remain so.

3 CHAIRPERSON MITTEN: Okay, so they
4 will have to make a pre-hearing filing?

5 MR. PARKER: They certainly will.

6 CHAIRPERSON MITTEN: Okay. Well,
7 I can certainly appreciate the fact that,
8 you know, I can appreciate the position of
9 DCRA wanting these things to be more
10 physical, but knowing that it's just as you
11 say.

12 These are operational issues and
13 I, and they have tried to get at these by
14 having the Applicants make or sign those
15 Affidavits. And they just need to be, you
16 know, they need to be, after they are
17 operational they need to go back and review
18 and see what's actually happening.

19 One thing that I was curious
20 about is, on a sort of broader scale,
21 because I know that this has been an issue
22 in my neighborhood, is that there are lots

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1 of Certificates of Occupancies for
2 Delicatessens.

3 And there's never been a defined
4 use as a Delicatessen before. So, have you
5 had any conversations with the Zoning
6 Administrator of DCRA about what happens to
7 all of those, what I'll call old CFOs, that
8 say Delicatessen, that, you know, you could
9 argue about their validity.

10 And then would they be sort of
11 just swept in, if we had a new definition of
12 Delicatessen, have you had any talk about
13 that?

14 MR. PARKER: I actually have not.
15 I know that the Zoning Administrator has
16 been aware of that problem for some time,
17 and has attempted, has at least stopped the
18 issuance of new Delicatessen CFOs, but I
19 will have a discussion with him about what
20 will happen with existing ones.

21 CHAIRPERSON MITTEN: Okay. And
22 maybe the same is true, I don't know if

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1 Coffee Shop is, if they've issued, if there
2 are any outstanding Certificates of
3 Occupancy for Coffee Shop, but it might,
4 that might be another one.

5 MR. PARKER: As I mentioned, it's
6 actually listed as a use in some zoning
7 categories, so there very well may be.

8 CHAIRPERSON MITTEN: Okay,
9 questions, comments from the Commission?

10 MR. JEFFRIES: I have a question,
11 Mr. Parker. On Page 2, under Proposed Text,
12 Amend Definition of Restaurant. The second
13 from the last sentence, it reads a
14 Restaurant may provide carry-out service as
15 an accessory use without being deemed a Fast
16 Food Restaurant, only if its carry-out
17 facilities are clearly subordinate to its
18 primary use as a Restaurant. Are you
19 comfortable with that, clearly subordinate?

20 It seems like there's a little
21 bit of an opening there.

22 MR. PARKER: So, you're saying,

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1 your suggestion would be a more defined
2 standard of what subordinate is?

3 MR. JEFFRIES: Yeah, I'm just
4 imagining that there could perhaps be some
5 case be made that, you know, exactly what
6 does that mean, clearly subordinate?

7 MR. PARKER: That's an issue
8 that's come up throughout these definitions,
9 in terms of when does a use become an
10 accessory use?

11 One of the issues that was
12 brought up by ANC-3A, was Restaurants or
13 Delicatessens within Grocery Stores, and do
14 they require a separate CFO and how would
15 that work?

16 And these are issues I think that
17 we need to further define prior to the
18 public hearing, absolutely.

19 MR. JEFFRIES: Thank you.

20 CHAIRPERSON MITTEN: I think there
21 are actually a number of those kinds of
22 things. Like, that are either vague or

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1 actually, I'll just toss a couple out there.
2 For Fast Food Restaurant, among the
3 characteristics is it presents food or
4 beverages solely on one or more printed
5 signs, placards, posters or boards.

6 Some of them have little xeroxed
7 menus and they don't necessarily have a
8 board, it depends on how sophisticated they
9 are.

10 Another is Coffee Shop, a limited
11 number of food items. And how would we know
12 when they've sort of crossed over, as
13 Starbucks sells more and more food. I
14 wonder when, you know, they'll kind of hit
15 that threshold.

16 But things like that, it will
17 help the Zoning Administrator in the long
18 run. I did want to ask you, because of
19 perceptions about what constitutes a
20 Delicatessen, is the key element of that the
21 actual selling of, what we used to call
22 where I come from, lunch meat, by the pound?

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1 So that you can walk in and you
2 can buy the contents of your sandwich
3 without, to go home and make your own
4 sandwich? Is that the sort of essential
5 quality?

6 MR. PARKER: It appears to be.
7 Yeah, based on the definition submitted by
8 6A, the key term in this seems by weight.
9 So the selling of food by weight.

10 CHAIRPERSON MITTEN: Uh, huh.

11 MR. PARKER: With the majority,
12 and that's undefined, being for off-premise
13 consumption.

14 CHAIRPERSON MITTEN: Yeah, it
15 would be interesting, because I think
16 there's a lot of things, a lot of places
17 that sell sandwiches that people would call
18 Delis, depending on where they're from, that
19 don't sell lunch meat by the pound.

20 COMMISSIONER TURNBULL: And those
21 Delicatessens are Restaurants.

22 COMMISSIONER PARSONS: Well, not

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1 always. The ones, well, I'll wait to bring
2 up my point.

3 CHAIRPERSON MITTEN: One is your
4 point, Mr. Parsons?

5 COMMISSIONER TURNBULL: I've been
6 to many Restaurants, Delicatessens that are
7 essentially Restaurants. You're waiter-
8 served and they're called Delicatessens.
9 Sure, in Silver Spring.

10 CHAIRPERSON MITTEN: Well, like
11 think of Loeb's, for instance. Loeb's, you
12 can't walk in there and go give me a pound
13 of corned beef, unless it comes between
14 bread, you know.

15 MR. PARKER: And I think those
16 uses would fall under the Restaurant or Fast
17 Food Restaurant category of this.

18
19 CHAIRPERSON MITTEN: Okay.

20 MR. JEFFRIES: But there are a
21 number of like, I think you mentioned it.
22 There are a number of Grocery Stores that

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1 are doing all the prepared foods. I mean,
2 you brought that up.

3 You know, they might have a
4 station where they have a bulk of meat that
5 they're cutting, but then also, I mean this
6 could get pretty hairy, pretty quickly.

7 MR. PARKER: Well, yes, certainly
8 we need to define accessory uses to Grocery
9 Stores. But I think you hit on the
10 Delicatessen issue as well.

11 A line needs to be drawn about
12 when a Delicatessen, as defined here,
13 becomes a Restaurant.

14 CHAIRPERSON MITTEN: This will be
15 fun. Anything else, Mr. Parsons.

16 COMMISSIONER PARSONS: Yeah, I
17 want to get back to Mr. Jeffries point on
18 Number 6, in Characteristics of Fast Foods.
19 I think it's an awkward structure of the
20 sentence to use the word not. I would say
21 facilities for, I shouldn't try to write it,
22 just reverse it.

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1 But if you, the trouble with this
2 subject is those of us who use Fast Food
3 Restaurants are experts, you see. So, I
4 would say two-thirds of the floor space in
5 normal Fast Food Restaurants are used for
6 tables, which have to do with the feeding on
7 premises.

8 So that's not subordinate from
9 the square footage standpoint.

10 MR. PARKER: I think the ANC was
11 trying to get away from measurements like
12 that, because the evolving business models
13 of Restaurants allow them to change their
14 floor plans to meet definitions like that.

15 I think that's the problem that
16 the ANC is having now, is that the existing
17 regulations rely on area for queuing space
18 and non-disposable dishware and things that
19 we would normally consider Fast Food, or one
20 might normally consider Fast Food
21 Restaurants, are changing their business
22 model to meet the standards.

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1 So they're trying to come up with
2 general characteristics so that businesses
3 know what's expected of them. Rather than
4 providing strong measurements.

5
6 COMMISSIONER PARSONS: Well, do
7 you think subordinate is 51 percent to 49
8 percent?

9 MR. PARKER: That certainly needs
10 to be defined, right.

11 MR. JEFFRIES: And if it's not
12 through square footage, I mean there needs
13 to be some parameters of some sort. I mean
14 because the Administrator is going to
15 continue to have a time in terms of this.

16 COMMISSIONER PARSONS: Well, this
17 will be an easy one, thank you very much.

18 CHAIRPERSON MITTEN: It's right up
19 there with the eating and drinking
20 establishments in the Neighborhood
21 Commercial Overlay. Anyone else?
22 Commissioner Turnbull.

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1 COMMISSIONER TURNBULL: Thank you,
2 Madame Chair. Yeah, I just sat on a case on
3 BZA a couple of weeks ago where there was a
4 small facility that wanted to open, not a
5 national chain, but a Mom and Pop-type
6 store.

7 And they would have sold
8 basically sandwiches and beverages that you
9 would take out, but they also had some
10 seating inside and a little café area
11 outside.

12 And clearly didn't fall into your
13 Fast Food. I mean it's not a national
14 chain, but it's still kind of the stuff that
15 you would take away. But it said Mom and
16 Pop kind of, not quite a Deli, but it's
17 somewhere in between.

18 And it's kind of a gray area as
19 to, is it a nuisance? You know, you provide
20 receptacles and you've got deliveries in a
21 certain amount of time. I mean where does
22 that kind of operation fall? How do you

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1 look at something like that?

2 CHAIRPERSON MITTEN: Well, I
3 think, I'm sorry, in deciding it it's
4 important to keep in mind like why do we
5 care about this distinction?

6 COMMISSIONER TURNBULL: Yeah.

7 CHAIRPERSON MITTEN: And the
8 reason we care is because in, and Mr. Parker
9 probably knows even more than this, but the
10 narrow thing that I've been involved in, is
11 in C-2-A, a Fast Food Restaurant requires a
12 special exception.

13 Well, why? Because there's a
14 higher volume of traffic and there's things
15 related to generating volumes of trash. I
16 don't know if there's other places where,
17 but it's really about what do we want to
18 capture through a special exception because
19 it has the ability to create an adverse
20 impact on a neighborhood and when do we not.

21 And that's the kind of thing,
22 those are the kinds of things that we should

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1 be thinking about when we craft the
2 definition. What creates that?

3 COMMISSIONER TURNBULL: I guess
4 that's what I'm thinking about, in looking
5 at this one little facility that was there.
6 It's clearly not your standard Fast Food,
7 like a national, like a recognized chain.

8 CHAIRPERSON MITTEN: Right.

9 COMMISSIONER TURNBULL: It does
10 have prepared sandwiches, maybe small cakes,
11 cookies, desserts or whatever and sodas or
12 coffee. And you can eat there and you can
13 still take it out, and it's kind of neither
14 fish nor fowl.

15 MR. JEFFRIES: Right.

16 COMMISSIONER TURNBULL: What is
17 it? It's a Mom and Pop.

18 MR. JEFFRIES: I mean this, I was
19 just, I mean, in New York a couple of weeks
20 ago, and there was a Delicatessen that if
21 you ate there, you had a plate that was not
22 disposable. You know, if you wanted to take

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1 out, you had disposable.

2 You know, if you wanted, there
3 were some people coming in and they would,
4 you know, get so many slices of smoked
5 turkey and then pack it and leave.

6 I mean this place did a little
7 bit of everything. But, I think, I hear
8 that you're trying to distinguish between
9 the two, but, I mean in terms of this whole
10 level of flexibility.

11 But I'm just concerned about the
12 Administrator, you know, and various
13 operators, you know, really trying to sort
14 of, and what we've been dealing with in
15 terms of blurring the lines.

16 In terms of what we're intending
17 on. Because a place like that would have a
18 lot of wear and tear on a neighborhood,
19 particularly a C-2-A Zone. You know, in
20 terms of the New York place.

21 MR. PARKER: I think what I've
22 found, working on this so far, is that no

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1 matter what definition we come up with, if
2 we've got two categories, there are some
3 things that are going to fall into the Fast
4 Food that we wouldn't normally think should.

5 And some things, vice versa. And
6 there's some things, like the little Mom and
7 Pop Shops, that we can't differentiate from
8 a Subway in zoning definitions. And
9 therefore, they're going to have to get the
10 same special exception that a national chain
11 might.

12 And that's just something that
13 might not be differentiable.

14 VICE CHAIRMAN HOOD: Madame Chair,
15 I just wanted to ask Mr. Jeffries, so what
16 would you consider that place where you were
17 in New York?

18 MR. JEFFRIES: I mean it was
19 clearly a, it was clearly a high, I mean
20 based on these definitions, it was a Hybrid.
21 I mean it just, I mean if you sat there they
22 gave you a plate that you could not throw in

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1 the garbage can.

2 It was a hard plate, it was
3 porcelain or whatever. And so, you know,
4 and so it did, people were using it, and it
5 was fairly large. Actually it was around
6 the corner from 9/11, the World Trade Center
7 site.

8 But, you know, I was just amazed
9 at the level of activity that was going on
10 in there. And, again, based on these
11 definitions, you know, I mean I think what
12 you're saying, I mean that would clearly be
13 a special exception. And the operator, or
14 whomever, would have to come in and really
15 walk us through to determine just what type
16 of traffic would be expected from an
17 operation such as that.

18 VICE CHAIRMAN HOOD: So it was
19 like a 50/50?

20 MR. JEFFRIES: Yeah, it was a
21 Hybrid, it did a little bit of everything.

22 VICE CHAIRMAN HOOD: All right,

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1 thanks.

2 CHAIRPERSON MITTEN: Okay, well,
3 we'll have a lively hearing on that. So, in
4 order to facilitate that, I will move that
5 we set down Case No. 06-23 for a public
6 hearing.

7 VICE CHAIRMAN HOOD: Second.

8 CHAIRPERSON MITTEN: Thank you,
9 Mr. Hood. Any further discussion?

10 (No response.)

11 CHAIRPERSON MITTEN: All those in
12 favor, please say aye?

13 (Chorus of ayes.)

14 CHAIRPERSON MITTEN: Mrs.
15 Schellin, we have none opposed.

16 MS. SCHELLIN: Staff will record
17 the vote five to zero to zero, to set down
18 Zoning Commission Case 06-23. Commissioner
19 Mitten moving, Commissioner Hood seconding,
20 Commissioners Jeffries, Parsons and Turnbull
21 in favor. And this will be set down as a
22 Rule-Making Case.

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1 CHAIRPERSON MITTEN: Yes, thank
2 you. Next is Case No. 06-34. This is for
3 PUD and related Map Amendment at 1705
4 through 1729 East Capitol Street. Ms.
5 Brown-Roberts, good evening.

6 MS. BROWN-ROBERTS: Good evening,
7 Madame Chairman and members of the
8 Commission. I'm Maxine Brown-Roberts from
9 the Office of Planning. The Application by
10 Comstock East Capital, LLC, is requesting a
11 consolidated PUD and a related Map Amendment
12 for a four-story apartment building with
13 approximately 136 units, at 1705 to 1729
14 East Capitol Street.

15 The re-zoning is from the R-4
16 District to the R-5-B District. The
17 Applicant proposes to demolish the existing
18 apartment building and redevelop with the
19 apartments, which would also accommodate a
20 meeting room, a recreation room and 117
21 parking spaces.

22 The facade of the building will

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1 be of brick and cement siding material, with
2 the base and ornate crown molding. The
3 building has been proposed as a multi-family
4 building, but it's, with its massive facade,
5 broken up by provisional space and multi
6 entrances along the East Capitol Street.

7 There are also courtyards on the
8 front and to the rear of the building, which
9 will further break the building mass. The
10 materials proposed on the side of the
11 building are continuous from that on the
12 front, and there is proposed siding on the
13 rear.

14 The Applicant is requesting some
15 flexibility in relation to the area
16 requirement. The subject property is 931
17 square feet less than the required 43,560
18 square feet.

19 The property is outside of the
20 central employment area and proposed
21 development will be exclusively for
22 residential development. The Applicant has

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1 stated that they believe that the proposed
2 development is of exceptional merit and will
3 provide evidence of this prior to and during
4 the public hearing.

5 Other flexibility includes
6 increasing the lot occupancy from 60 percent
7 to 66 percent, and a reduction in the rear
8 yard from 16 feet to three feet. There are
9 adjacent properties within the square and,
10 which are separated by a 20-foot alley to
11 the rear.

12 The Applicant is working with the
13 neighbors to address ways of mitigating
14 their concerns about reduction in the rear
15 yard. And the Office of Planning has
16 proposed that they either widen the rear
17 yard, or have some setback of the upper
18 floors to lessen potential impacts.

19 The Applicant is also requesting
20 flexibility from the loading requirement, in
21 that they are proposing a 20-foot square
22 foot loading platform and one 40-foot wide

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1 combined loading and delivery birth.

2 The Applicant has stated that the
3 request is based on prior reduction that has
4 been granted by the Zoning Commission. DDOT
5 has requested that the Applicant provide
6 justification for the requested reduction,
7 as each application has to be assessed on
8 its own merit.

9 There's also some concerns about
10 the turning radius into the loading birth,
11 which is not sufficient to accommodate the
12 trucks from the alleys onto the loading
13 birth.

14 The Applicant has stated that
15 they have done some studies and this has to
16 be provided to DDOT for further review. The
17 Applicant is also proposing flexibility from
18 the roof structure requirements to have one
19 enclosure.

20 This request is due to the shape
21 of the building and they are proposing three
22 enclosures. The Office of Planning has

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1 requested that they provide dimension plans
2 showing the location of all items that would
3 be accommodated on the roof, on their roof
4 plan.

5 The Office of Planning also has
6 some concerns about the penthouses that give
7 access to private units. We are concerned
8 that they are too large and could easily be
9 converted to living space.

10 Therefore, we have requested that
11 they be reduced to a size only to
12 accommodate mechanical equipment and access
13 to private terraces. The rear of the
14 property the Applicant has committed that
15 materials will be cemented siding rather
16 than the vinyl siding that is noted on the
17 drawings.

18 And we have suggested that
19 materials used on the front, be also carried
20 around to the back. And this is because of
21 the wide alley, the 20-foot alley. In
22 addition to that, the residents, the

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1 residents along the alley have an extended
2 rear yard, and so the rear of the building
3 will be very exposed and visible.

4 The Office of Planning believes
5 that the use of the siding alone and the
6 facade is undesirable and not indicative of
7 a building that is of superior quality.

8 Air condition units are also
9 shown on the ground and the Applicant has
10 since committed to providing them on the
11 roof. The proposal is not inconsistent with
12 the Comprehensive Plan, as the generalized
13 land use plan recommends the site for
14 moderate-density residential with row houses
15 and garden apartments and also includes low-
16 density housing.

17 The density allowed under the
18 proposed R-5-B District is within the
19 moderate-density residential category. The
20 proposal is also consistent with the housing
21 element, urban design element, land use
22 element, and policies and actions indicated

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1 in the Ward 6 Plan.

2 Regarding the amenities package,
3 that the Applicant has proposed, they are
4 recommending to set aside 11 of the units,
5 or eight percent of the total number of
6 units.

7 Improvements to the rear alley,
8 insulation of trash receptacles at the four
9 corners of their block. The Office of
10 Planning is not convinced that this is an
11 amenity.

12 Proposed provision of energy
13 efficient and environmental sustainable
14 building materials. Exterior improvements
15 to the Drummond Condominium at a cost of
16 \$50,000.00, and these improvements will
17 include pressure washing, brick and mortar
18 point up and exterior painting.

19 And, similarly on the Mount
20 Mariah Baptist Church property which is also
21 adjacent to the subject property. They're
22 also proposing resurface and repair or

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1 replacement of equipment on the baseball
2 courts at the Eastern High School.

3 Rodent abatement on properties
4 located within the block. They have also
5 stipulated that they will participate in a
6 first source agreement and also with
7 Department of Employment Services, they will
8 enter into Memorandum of Understanding.

9 They will also propose a
10 \$10,000.00 donation to Super Leaders Program
11 at Eastern High School. The Applicant has
12 proposed all these items as amenities,
13 however we are still working with them to
14 get additional details on some of these
15 proposals.

16 The Office of Planning recommends
17 that the application be set down and that
18 the Applicant continues to work with the
19 adjacent neighbors, the Capitol Hill
20 Restoration Society and the ANC.

21 We also recommend that the
22 Applicant provide detailed roof plans,

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1 detailed landscape plan, traffic and parking
2 study, additional loading and alley access
3 analysis, details of the proposed green
4 building elements, improvements to parts of
5 the proposed amenities package, exterior
6 lighting, and a clarification of the
7 building materials on all elevations. Thank
8 you, Madame Chairman.

9 CHAIRPERSON MITTEN: Thank you,
10 Ms. Brown-Roberts. There's an awful lot
11 that you just recited that needs to be done.
12 And I'm going to have a tough time
13 recommending that we set this one down with
14 this degree of uncertainty.

15 (Laughter.)

16 CHAIRPERSON MITTEN: But I do
17 appreciate your efforts to point it all out
18 to us.

19 (Laughter.)

20 MR. JEFFRIES: And you did a good
21 job of that, whew.

22 CHAIRPERSON MITTEN: I don't want

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1 to repeat all the concerns that you raised,
2 but I think a big part of this is the
3 amenities package and just the quality of
4 the design itself.

5 I mean I would say the most
6 substantial proffer is really not
7 quantified, which is the degree of
8 affordability of the units. I mean, you
9 know, we don't have any sense of the range.

10 And then I frankly will have to
11 have someone tell me why making exterior
12 improvements to adjacent privately-owned
13 property, even though it is a church that
14 owns one piece, is a public amenity, unless
15 these are really, really in bad shape and
16 not otherwise capable of being improved.

17 So, those are just my general
18 comments, but I do appreciate the work that
19 you went into articulating the deficiencies
20 in the application. Anyone else? Mr.
21 Jeffries?

22 MR. JEFFRIES: Yeah, I would echo

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1 this. You know, I had some concerns
2 beforehand, but then after listening to you,
3 I'm like wow, this doesn't seem like it's
4 quite as marinated quite enough here.

5 I'm also, in addition to
6 affordability and the architecture and the
7 landscaping, I mean it just seemed to be,
8 there just didn't seem to be much --

9 MS. BROWN-ROBERTS: It hasn't been
10 developed.

11 MR. JEFFRIES: Yeah, at all. I
12 mean you've got southern exposure there, off
13 the alley, and, you know, there's wonderful
14 opportunities and those courtyards just,
15 it's --

16 MS. BROWN-ROBERTS: The rear
17 courtyard isn't going to be landscaped. I
18 think they're having some patios with those
19 units there. I think that the landscape is
20 on the front.

21 MR. JEFFRIES: Of the north
22 elevation?

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1 MS. BROWN-ROBERTS: Yes.

2 MR. JEFFRIES: Okay, so they're
3 just doing paving and that's it on those,
4 just patios?

5 MS. BROWN-ROBERTS: To the rear.

6 MR. JEFFRIES: To the rear?

7 MS. BROWN-ROBERTS: To the rear,
8 yes.

9 CHAIRPERSON MITTEN: Mr. Parsons.

10 COMMISSIONER PARSONS: I'm a
11 little confused about the roof. Maybe we
12 could go to Drawing A-12, and then I want to
13 go to A-18, but we'll start with A-12, which
14 is called Site Roof Plan.

15 And it shows in the penthouses
16 there a dashed line, labeled AC. And it
17 also has the dashed line on the ground which
18 is AC, on either end of the building. So
19 are they in the process of moving them up to
20 the roof?

21 MS. BROWN-ROBERTS: They're in the
22 process of moving the ones on the ground to

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1 the roof. Because we were concerned about
2 those, because of the closeness to the
3 adjacent apartment buildings.

4 COMMISSIONER PARSONS: Right, so,
5 they just haven't erased the ones on the
6 ground?

7 MS. BROWN-ROBERTS: Yeah, they
8 just haven't provides us yet, but they have
9 stated that that's something they're working
10 on. Because we did bring it to their
11 attention.

12 COMMISSIONER PARSONS: Let's go to
13 A-18, keep your finger on A-12, because it
14 gets confusing. A-18 then, shows these
15 lofts or whatever we'll call them, with the
16 spiral staircases, to come up into the air
17 conditioning units.

18 MS. BROWN-ROBERTS: Right.

19 COMMISSIONER PARSONS: So is this
20 inaccurate now?

21 MS. BROWN-ROBERTS: Yes, because
22 that is something that we called out in the

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1 report that these two plans were
2 conflicting. And so they should provide us
3 with something that shows us what's going
4 on, on the roof. So that's something they
5 are working on, they're aware of that.

6 COMMISSIONER PARSONS: So it would
7 seem there probably will not be access from
8 the fourth floor to the roof in these
9 individual apartments, then?

10 MS. BROWN-ROBERTS: These are the
11 individual, right. These are for the, these
12 terraces are for the individual apartments
13 on the fourth floor.

14 COMMISSIONER PARSONS: But they
15 will be gone?

16 MS. BROWN-ROBERTS: They may have
17 access still, but our concern was the size
18 of those.

19 COMMISSIONER PARSONS: Yes.

20 MS. BROWN-ROBERTS: Of those
21 areas. So there may be access still, but not
22 of this size that they're proposing on this

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1 plan.

2 COMMISSIONER PARSONS: Okay, on
3 the same drawing, A-18, in the courtyard,
4 which would be the east courtyard, I guess,
5 it shows an exhaust fan.

6 MS. BROWN-ROBERTS: Umm hmm.

7 COMMISSIONER PARSONS: And that's
8 coming out of the garage, I believe. If we
9 go to A-5, it appears to be there as a
10 chimney, a brick chimney. It just seems
11 like the worst possible thing we could place
12 into a courtyard, which I assume is to be
13 used by the residents for recreational space
14 or whatever.

15 MS. BROWN-ROBERTS: Right, right.

16 COMMISSIONER PARSONS: And there
17 doesn't seem to be any landscape plan to go
18 with those courtyards. And, admittedly,
19 it's over a garage, but maybe there could be
20 some planters or something to give it a
21 sense --

22 MS. BROWN-ROBERTS: Right, it was

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1 my understanding that these areas would not,
2 they would be more like a patio and not a
3 landscaped area. So units adjacent to them
4 would have access out to there, but it
5 wouldn't be part of the open landscape area.

6 COMMISSIONER PARSONS: Maybe it
7 could be embellished somewhat.

8 MS. BROWN-ROBERTS: Yes.

9 MR. JEFFRIES: I mean it's the
10 second Commissioner to bring it up, I don't
11 know.

12 COMMISSIONER PARSONS: Now you
13 mentioned in your report on Page 11, the
14 Applicant stipulates they will continue to
15 work with the community to address their
16 concerns. Do you know what those concerns
17 are?

18 MS. BROWN-ROBERTS: There was a
19 concern about the rear yard setback, since
20 the requirement was for 16 and they reduced
21 it to 3. And so there was a concern about
22 that.

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1 And then the adjacent neighbors,
2 the two apartment buildings, they've been
3 working with them to see what sort of
4 amenities they can get and the power washing
5 and that sort of thing, was an agreement
6 that, was something that the adjacent
7 neighbor in the condominium agreed to.

8 COMMISSIONER PARSONS: So there's
9 not a concern expressed about the zoning
10 change, the bulk of the building, the
11 height, the traffic?

12 MS. BROWN-ROBERTS: The Capitol
13 Hill Restoration Society has expressed some
14 concerns about that. But they haven't gone
15 to the full ANC as yet, so we don't know
16 really what the full extent is.

17 The Drummond Condominium which is
18 adjacent, they have submitted a letter to us
19 stating that they will support the
20 application if certain things are met.

21 COMMISSIONER PARSONS: All right,
22 thank you.

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1 CHAIRPERSON MITTEN: Anyone else?
2 Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Thank you,
4 Madame Chair. I would like to just pick up
5 something on which Commissioner Parsons was
6 talking which is on the roof.

7 And I guess what, this roof does
8 not have a parapet. It basically just has a
9 very small curve. Now most of the
10 elevations do not show anything around these
11 little walkways that you'd come out, these
12 little decks.

13 So there is one or two elevations
14 that show like a little fence on some of
15 them. And I'm just concerned that, one of
16 the concerns, the roof plan hasn't really
17 been thought out on what they're trying to
18 do up there.

19 I'm assuming that you're not
20 going to require them simply to paint a
21 yellow line at the end of the deck, and say
22 no one goes any further.

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1 It just seems that there's a big
2 safety issue. They've got that roof deck up
3 there and people can come up by the elevator
4 and walk there, but there's no, there's no
5 terrace, there's no railing, there's nothing
6 on this roof, which seems like it's a big
7 issue for safety.

8 CHAIRPERSON MITTEN: I agree.

9 COMMISSIONER TURNBULL: So I just
10 think the whole roof plan hasn't been
11 thought out very well. It's got a lot of
12 strange issues with it.

13 And the other question I had was
14 on there's area-wells shown on the ground
15 floor apartments. But I can't really tell by
16 the elevations or the sections, it looks
17 like they're only half windows in those
18 units, but they've got area-wells.

19 But it doesn't really clearly
20 show what's going on. Now some of the, and
21 they show sections which may be cut through
22 the parking garage, which would not have an

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1 area-well, but it's very deceptive as to is
2 it a full window?

3 Does it go all the way down? Do
4 you, or what they're really doing with, why
5 those area-wells, area-wells sort of implies
6 that it's a full window that goes all the
7 way down and you've got a grate over it.

8 But I can't really tell as to
9 what's going on. So I think it's one of the
10 other issues that they really, don't really
11 tell us what they're doing with the, those
12 sort of English Basement units. Thanks.

13 CHAIRPERSON MITTEN: Mr. Hood.

14 VICE CHAIRMAN HOOD: Madame Chair.
15 Ms. Brown-Roberts, you mentioned in your
16 report that discussions are taking place for
17 the alley entrance. First, let me ask, I
18 probably could have asked Mr. Turnbull, but
19 I didn't want to distract him.

20 How can we get into, how do we
21 get access to the loading dock? And I'm
22 looking at A-12, if that's the figure, the

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1 correct rendering to look at. How do we get
2 access to the loading dock?

3 Is it the same way that you enter
4 into the parking in the building?

5 MS. BROWN-ROBERTS: No, the
6 parking --

7 VICE CHAIRMAN HOOD: Okay, I figured it
8 out. It's been shown to me, thank you, that
9 will save you a little bit. That's been
10 shown to me.

11 But let me ask this. They're
12 talking about making this proposal of making
13 this a one-way. Which way are they talking,
14 east or west?

15 MS. BROWN-ROBERTS: They haven't
16 determined that as yet, that's something
17 they have to work with DDOT on.

18 VICE CHAIRMAN HOOD: And the
19 rationale of thinking about doing one way,
20 what is that? Because, do we have traffic,
21 I mean trash pickup in the alley?

22 MS. BROWN-ROBERTS: Yes, there

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1 will be trash pickup in the alley. There'll
2 be, now there will be the, going to the
3 garage and the loading.

4 Also the Drummond Condominium, on
5 Sheet A-12, there's a parking area right
6 here that the Drummond Condominium people
7 park, so there's a lot of activity in the
8 alley.

9 So I think that they're, the
10 proposal is to try and coordinate that with
11 the one-way. But that is not something that
12 DDOT has looked at, as yet, because they
13 haven't done a traffic study.

14 VICE CHAIRMAN HOOD: But we never
15 said which way, whether it's east or west?

16 MS. BROWN-ROBERTS: Right, no,
17 that's not something that's been worked out.

18 VICE CHAIRMAN HOOD: That alley is
19 going to be pretty busy with two lanes.
20 Very busy, tight. And who is going to look
21 at it again, DDOT?

22 MS. BROWN-ROBERTS: DDOT, yes.

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1 VICE CHAIRMAN HOOD: Okay, thank
2 you.

3 CHAIRPERSON MITTEN: Anyone else?

4 (No response.)

5 CHAIRPERSON MITTEN: All right,
6 then I will recommend that we ask Ms. Brown-
7 Roberts to continue to work with the
8 Applicant to refine the proposal before
9 we're ready to consider setting it down for
10 public hearing, unless any of my colleagues
11 have an objection to that?

12 (No response.)

13 CHAIRPERSON MITTEN: All right,
14 then we're now going to pick up the two
15 items from the Consent Calendar. The first
16 is Case No. 04-22A. This is a request for a
17 minor modification from Broadway Capital,
18 LLC.

19 The fact that it was removed from
20 the Consent Calendar might suggest that the
21 Commission doesn't agree that it's minor.
22 Is there someone from OP that's going to

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1 handle this, Mr. Parker? Are you going to?

2 MR. PARKER: Sure, yeah.

3 CHAIRPERSON MITTEN: Okay. Would
4 you like to just give us a little summary.

5 MR. PARKER: We're on 4-22A. This
6 is a minor modification to the Broadway
7 Capital at 22, or 220 H Street, the
8 Children's Museum. I believe at the
9 hearing, and this wasn't my case at the
10 time, but I believe the Commission had some
11 issues with the roof structures on this and
12 tower structures on the corners of the
13 building.

14 The Applicant changed the plans
15 to minimize those things at the public
16 hearing, and promised to come back with a
17 Request for Minor Modification in the future
18 to show the final layout of the roof
19 structure, which is I believe what you have
20 in front of you now.

21 CHAIRPERSON MITTEN: I think, I
22 appreciate that and I'm sure my colleagues

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1 do, as well. It's more, these two cases are
2 related for one particular reason.

3 And that is that, the two Consent
4 Calendar cases, because in addition to the
5 sort of articulated reason why the
6 Modification is being proposed, there are
7 facade changes that are not discussed at
8 all.

9 And I was wondering if the Office
10 of Planning had focuses on those at all.
11 They're much less dramatic in the Broadway
12 Capital case, but did you focus on those?

13 MR. PARKER: No. I focused on the
14 roof structures in particular. You're
15 talking about changes to the elevations?

16 CHAIRPERSON MITTEN: Yeah, I'm
17 going to encourage you to look at, just as
18 an example, the Third Street elevation. So
19 Pages 4 and 5.

20 We've got changing materials. We
21 have just the different window treatments.

22 MR. PARKER: Absolutely.

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1 CHAIRPERSON MITTEN: It's, when we
2 get to the next one it's even more dramatic.

3 MR. PARKER: Yeah, we certainly
4 didn't consider those to, we didn't see a
5 problem with the changes in the elevations
6 or in the facade treatments.

7 MR. JEFFRIES: So you noticed the
8 changes in the elevations, you just didn't
9 think they were major?

10 MR. PARKER: You're talking about
11 just the material change? I mean the
12 structure is the same, they've just changed
13 the brick?

14 MR. JEFFRIES: Well, I'm sorry.

15 CHAIRPERSON MITTEN: Go ahead.

16 MR. JEFFRIES: There's, in the bay
17 there's a change in the window treatment.
18 Now I don't know whether they're just
19 showing shadows or what they're doing.

20 MR. PARKER: Ah.

21 MR. JEFFRIES: But then also
22 there's a change in material color.

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1 MR. PARKER: Yeah, the only change
2 that I had noted was the change in material
3 color. I see what you're saying, the window
4 treatment. I hadn't noticed that.

5 COMMISSIONER TURNBULL: It looks
6 almost like there's balconies in areas where
7 there weren't.

8 MR. JEFFRIES: Yeah.

9 COMMISSIONER TURNBULL: Or they've
10 moved balconies from one unit to another
11 unit.

12 CHAIRPERSON MITTEN: Well, I think
13 it's that there are no balconies where
14 there, perhaps, used to be balconies. And
15 then some of the, just the rhythm of the
16 windows has changed in certain places.

17 MR. JEFFRIES: Yeah, like you have
18 three windows across the bay versus, unless
19 I'm looking --

20 MR. PARKER: We're looking at Page
21 4 and 5?

22 MR. JEFFRIES: Yeah, yeah. So you

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1 have three windows that are the amended, and
2 then the approved there were two.

3 MR. PARKER: It's a smaller bay,
4 you're right, I hadn't noticed that change.

5 COMMISSIONER TURNBULL: There
6 seems to be a new addition, as small as it
7 is. The word name appears above every
8 window, on the building on the left. I
9 don't know what that's supposed to do.

10 CHAIRPERSON MITTEN: Which page
11 are you looking at?

12 COMMISSIONER TURNBULL: I'm on
13 Number 5. Do you see on the building on the
14 left.

15 MR. JEFFRIES: Right on the
16 frieze, right at the little top frieze,
17 right under the --

18 COMMISSIONER PARSONS: And then a
19 tower is at the left end of the building, as
20 well.

21 CHAIRPERSON MITTEN: Well, I think
22 the point is that we'd like to have a

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1 hearing so we can discuss these and
2 understand them. And then, also, I think
3 we'd like to understand better what exactly
4 is going on, on the roof level that is
5 making the penthouse larger.

6 We understand, I think the
7 Commission understands that it's not as tall
8 as it was, and that there's a, you know, the
9 architectural treatment at the top has
10 changed, but as one of the citizen's groups
11 noted, you know, it is a much larger
12 structure overall. We'd like to understand
13 that better. Anyone else?

14 MR. JEFFRIES: And also I mean,
15 Madame Chair, you mentioned also the north
16 elevation if there's changes as well.
17 There's even changes in the proportion of
18 the windows. So, I mean, you know, some of
19 that is clearly, might be minor, but I just
20 wanted, you know, noted for the record.

21 CHAIRPERSON MITTEN: I think it's
22 taken in the aggregate it becomes less than

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1 minor. So, with that, I would move that we
2 set down the Request for Modification in
3 Case No. 04-22A for public hearing.

4 MR. JEFFRIES: Second.

5 CHAIRPERSON MITTEN: Thank you,
6 Mr. Jeffries, any further discussion?

7 (No response.)

8 CHAIRPERSON MITTEN: All those in
9 favor, please say aye.

10 (Chorus of ayes.)

11 CHAIRPERSON MITTEN: Mrs.
12 Schellin, we have none opposed.

13 MS. SCHELLIN: The staff will
14 record the vote five to zero to zero to set
15 down Zoning Commission Case 04-22A as a
16 Modification to a PUD.

17 Commissioner Mitten moving,
18 Commissioner Jeffries seconding,
19 Commissioners Hood, Parsons and Turnbull in
20 favor, and this is a Contested Case.

21 CHAIRPERSON MITTEN: Thank you.

22 Okay, the next one, I'll just, this is, the

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1 next one, I'm sorry, the next case is Case
2 Number 05-17A and 05-32A. And this is the
3 group of properties that are known as
4 Broadway Atlantic. One at 9th and V and
5 thereabouts, and this one, I'm just going
6 to, for the dramatic difference, ask Mr.
7 Parker, do you have your package there?

8 MR. PARKER: I do, I do.

9 CHAIRPERSON MITTEN: Okay, then
10 the elevations for, just as a for instance,
11 this would be Pages 6 and 7. And these, and
12 I'm pointing this out because what was
13 called out to us as the changes that were
14 being made, were the number of units, the
15 amount of retail on the first floor.

16 The inclusion of, or the now
17 exclusion on D and one other thing, no
18 mention of the facade. But these facades
19 are quite different.

20 MR. PARKER: And, I suppose,
21 Office of Planning had been under the
22 assumption that there were, that there were

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1 changes to the facade coming in. And that
2 may not have been made clear earlier on.

3 This facade, I know the Architect
4 had been working on this throughout. And
5 I'm also, some of the changes are to do
6 with the interior remodeling. The units
7 have changed.

8 The layout of the floors have
9 changed, as it involved some changes to the
10 facade of the building.

11 CHAIRPERSON MITTEN: I guess, you
12 know, this is just, when you change it this
13 dramatically, this is clearly not minor. So
14 that's, you know, that's where a lot of the
15 concern comes from. Mr. Jeffries.

16 MR. JEFFRIES: I guess, as I read
17 this, I was, you know, somewhat shocked. I
18 mean, you know, I'm certainly happy with the
19 amount of retail that they're going to now
20 be putting on the ground floor.

21 I'm curious about who the tenant
22 is going to be, but I mean that clearly has

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1 serious impact on the community. And it
2 would seem, I mean I just don't see how that
3 could ever be a minor modification.

4 So I was surprised. I thought
5 perhaps I had missed something in terms of
6 the definition of minor modification. But I
7 think these changes really do merit, you
8 know, additional hearing.

9 CHAIRPERSON MITTEN: All right.

10 MR. JEFFRIES: Although I would
11 add, I don't know if, you know, in terms of
12 scheduling this, whether this could get in
13 sooner rather than later. I would hate that
14 they would have to get thrown way back in
15 the --

16 CHAIRPERSON MITTEN: To the end of
17 the line?

18 MR. JEFFRIES: Yeah, the end of
19 the line. Because, I mean they're clearly
20 large-scale major catalytic projects.

21 CHAIRPERSON MITTEN: Right. Well
22 I think we can, if the Commission, well

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1 there's two things. One is Mr. Hood
2 suggested that if we set this case down,
3 that we can hear the two Broadway cases
4 together, in a single evening, so that would
5 help with some efficiency.

6 MR. JEFFRIES: Okay.

7 CHAIRPERSON MITTEN: And then if
8 the Commission is amenable when Mrs.
9 Schellin schedules it if she can shoehorn
10 another night in for us. I don't know how
11 you feel about Wednesdays, but we're pretty
12 booked up.

13 So we'll have to, we can talk
14 about that later.

15 MR. JEFFRIES: Yeah, I would
16 really like, hopefully we can do that,
17 because these are really large-scale
18 projects.

19 CHAIRPERSON MITTEN: Right, right,
20 I understand. Okay, well, with all those
21 comments, unless there are others? Mr.
22 Bergstein reminds me that we could,

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1 depending on what our schedule would work
2 out to be, but at least if we, we can waive
3 our requirement for the pre-hearing
4 statement to be filed before the case can be
5 advertised.

6 So that way they would save some
7 time, in the event that we had time in our
8 schedule to schedule the case earlier.

9 MR. JEFFRIES: I don't want to
10 circumvent the community's response to these
11 changes.

12 CHAIRPERSON MITTEN: No, they've
13 already been served.

14 MR. JEFFRIES: They've been
15 served, okay.

16 CHAIRPERSON MITTEN: Yeah, the
17 parties have been served. This is just a
18 requirement to file a pre-hearing statement.
19 So I would move that we waive that
20 requirement in this case.

21 MR. JEFFRIES: Second.

22 CHAIRPERSON MITTEN: Any

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1 discussion?

2 (No response.)

3 CHAIRPERSON MITTEN: Then all
4 those in favor, please say aye?

5 (Chorus of ayes.)

6 CHAIRPERSON MITTEN: Mrs. Schellin
7 I believe there are, oh, well you can
8 participate now, if you like? Okay, Mr.
9 Parsons is, I will say abstaining on that
10 particular item. Abstaining on the waiver
11 part.

12 MS. SCHELLIN: Okay. Staff will
13 record the vote four to zero to one to waive
14 the pre-hearing statement requirement in
15 Zoning Commission Case No. 05-17A/05-32A.

16 Commissioner Mitten moving,
17 Commissioner Jeffries seconding,
18 Commissioners Hood and Turnbull in favor,
19 Commissioner Parsons not voting, having
20 abstained.

21 CHAIRPERSON MITTEN: Right. And
22 now to set the case down, I will move that

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1 we set Case 05-17A and 32A down for public
2 hearing and ask for a second?

3 VICE CHAIRMAN HOOD: Second.

4 CHAIRPERSON MITTEN: Thank you,
5 Mr. Hood. Any further discussion on that?

6 COMMISSIONER PARSONS: We're not,
7 again, this is not considering minor
8 modifications. These are --

9 CHAIRPERSON MITTEN: These are now
10 modifications. This is off the Consent
11 Calendar, this for hearing on the
12 Modification.

13 COMMISSIONER PARSONS: Okay.

14 CHAIRPERSON MITTEN: All right,
15 then all those in favor, please say aye?

16 (Chorus of ayes.)

17 CHAIRPERSON MITTEN: Those
18 opposed, please say no? Okay, Mr. Parsons
19 is not, yeah, he's abstaining. Okay.

20 MS. SCHELLIN: Okay. Staff will
21 record the vote four to zero to one to set
22 down Zoning Commission Case 05-17A/05-32A.

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1 Commissioner Mitten moving, Commissioner
2 Hood seconding, Commissioners Jeffries and
3 Turnbull in favor, Commissioner Parsons not
4 voting, having abstained.

5 And I would just state that the
6 two will be a Contested Case.

7 CHAIRPERSON MITTEN: Right, and
8 we'll work with you to schedule it as soon
9 as we can, given the constraints of the
10 schedule.

11 All right. Next up under
12 Proposed Action is Case No. 06-01. This is
13 the Steuart Investment Application at Third
14 and H Street. We had taken up at our
15 September meeting and requested some further
16 changes, which I'm happy to say the
17 Applicant made, and I think there are enough
18 improvements here to make me happy.

19 And with the reduced height of
20 the center wing and the combination of more
21 parking for the retail area and a smaller
22 grocery store, I think that's all helped

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1 with the parking ratio.

2 And a few other more, a little
3 bit more minor modifications that they made.
4 So, I'm open to other people's comments.
5 Anyone else? Anybody else?

6 (No response.)

7 CHAIRPERSON MITTEN: Okay, well
8 then I move approval of Case No. 06-01, with
9 the modifications at presented by the
10 Applicant in their October 10th, submission.

11 MR. JEFFRIES: Second.

12 CHAIRPERSON MITTEN: Thank you.
13 Any discussion?

14 (No response.)

15 CHAIRPERSON MITTEN: All those in
16 favor, please say aye?

17 (Chorus of ayes.)

18 CHAIRPERSON MITTEN: Those
19 opposed, please say no?

20 (No response.)

21 CHAIRPERSON MITTEN: Mrs.
22 Schellin.

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1 MS. SCHELLIN: Staff will record
2 the vote five to zero to zero, to approve
3 Zoning Commission Case No. 06-01, for
4 proposed action.

5 Commissioner Mitten moving,
6 Commissioner Jeffries seconding,
7 Commissioners Hood, Parsons and Turnbull in
8 favor.

9 CHAIRPERSON MITTEN: Thank you.
10 Next up under Proposed Action is Case No.
11 05-30, and this is the West Group
12 Application at 6000 New Hampshire Avenue.

13 MS. SCHELLIN: Commissioner
14 Mitten, we did receive one document that
15 came in after the record closed.

16 CHAIRPERSON MITTEN: Yes, we did.
17 And that is the filing by Citizens Aware,
18 and that came, what date did we close the
19 record?

20 MS. SCHELLIN: The record was left
21 open until September 21st, for three specific
22 requests. Traffic study from the Applicant,

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1 a traffic study from Citizens Aware and a
2 new site plan from the Applicant.

3 CHAIRPERSON MITTEN: Okay, so the
4 item that was received, that we're speaking
5 of, has a cover letter dated October 3rd,
6 right, with a series of attachments?

7 MS. SCHELLIN: Correct.

8 CHAIRPERSON MITTEN: All right, so
9 unless one of my colleagues would like to
10 move to reopen the record, that particular
11 document will not be admitted, because it
12 came in after the close of the record.

13 So is there anyone who would like
14 to move to reopen the record for that
15 particular document?

16 (No response.)

17 CHAIRPERSON MITTEN: Okay, then
18 what is marked as Exhibit 90, is not in the
19 official record of the case.

20 VICE CHAIRMAN HOOD: Let me ask a
21 question, Madame Chair. Was that from a
22 community group?

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1 CHAIRPERSON MITTEN: It was from
2 the party in opposition.

3 MS. SCHELLIN: It was from a
4 party.

5 VICE CHAIRMAN HOOD: And the
6 record was closed?

7 CHAIRPERSON MITTEN: Yes, and we
8 left the record open for three specific
9 requests.

10 VICE CHAIRMAN HOOD: Oh, okay, we
11 had specified.

12 CHAIRPERSON MITTEN: So it came in
13 after the --

14 VICE CHAIRMAN HOOD: And this
15 wasn't one of them?

16 CHAIRPERSON MITTEN: I think
17 that's right.

18 VICE CHAIRMAN HOOD: Okay, all
19 right, thank you.

20 CHAIRPERSON MITTEN: But the more
21 important thing is it came in late, it came
22 in after the record was closed. Okay. So,

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1 then to the issues.

2 If you recall at the last session
3 of the hearing, the Applicant did make a
4 final, some final changes that reduced the
5 number of units in the project to 169, and
6 further reduced the density and made some
7 other modifications to the site plan, in
8 response to concerns that the Commission had
9 raised.

10 And then, so first I'll ask
11 whether the final submissions, that the
12 Commission found responsive, before we speak
13 to the larger issues in the case.

14 Because I think, Mr. Parsons, one
15 of them was, you were the champion of the
16 one that called for the reconfiguration of
17 the swapping of land with the individual
18 whose house is --

19 COMMISSIONER PARSONS: I think
20 that worked out very nicely.

21 CHAIRPERSON MITTEN: Okay.

22 COMMISSIONER PARSONS: And of

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1 course they've re-contoured the great lawn
2 to accommodate that concern that it become a
3 regional soccer field.

4 CHAIRPERSON MITTEN: Right. So
5 the major issues that were raised by the
6 folks who testified in opposition, related
7 to concerns about traffic and congestion.

8 And they related to the changing
9 character of the neighborhood, with the
10 introduction of townhouses. And the
11 approach that the Applicant had taken was
12 that they would face like with like.

13 So, to the extent that the site
14 was surrounded with single family dwellings,
15 and I will say the one departure that they
16 had on that point, was along Peabody Street.

17 Which they then changed with a
18 subsequent submission. So we do now have
19 like facing with like. But there is a fair
20 amount of variety in the neighborhood.

21 One of the things that struck me,
22 though, is that the density, to the extent

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1 there's a concern about increased density,
2 the density that's being proposed is fairly
3 low. Particularly when you look at it from
4 a FAR standpoint.

5 The number of units is more,
6 perhaps than you could get under a
7 traditional R-1-B configuration. But the
8 amount of building mass is fairly consistent
9 with what's present in the neighborhood.

10 And the principle reason for
11 introducing the R-5-A designation is because
12 we have the existing building that they need
13 to convert or existing buildings to convert
14 to multi-family.

15 So, I think, in my view, the, we
16 did have expert testimony that the traffic
17 that's generated by the project is not going
18 to deteriorate, that the traffic conditions
19 in the neighborhood are not going to worsen
20 appreciably by this development.

21 And, in fact, I mean I don't
22 think, even though we heard concerns about

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1 traffic, these are not some of the worst
2 intersections in the city. They're actually
3 operating quite efficiently, notwithstanding
4 people's individual experience.

5 So, I think that the large issues
6 have been sufficiently dealt with in the
7 revised plans from the Applicant. And I'll
8 ask other Commissioners to comment. Mr.
9 Jeffries.

10 MR. JEFFRIES: I think that this
11 application has, quite frankly, improved
12 dramatically from the set down which, if I
13 recall, was a 3-2.

14 Clearly this Commission had some
15 concerns about the density, as well as how
16 the project was being sited. And I think
17 the Applicant has, you know, really
18 responded quite dramatically on a number of
19 fronts.

20 I'm still struck with the fact
21 that they are providing, you know, brick
22 facing on all four corners of these homes.

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1 I mean I think that's just a huge public
2 benefit.

3 And I think it really will do
4 much in the way of home values in the
5 surrounding area. I also think it's great,
6 I mean there's been very few times that I've
7 seen single family detached homes being, you
8 know, presented to the Zoning Commission.

9 I mean we're seeing so many
10 condominiums and so forth, so I think it's
11 wonderful for diversity of housing to have
12 this. And then I think the park, I mean,
13 you know, that is the 800 pound gorilla in
14 the room.

15 I mean, you know, you just can't
16 ignore that as a clear public benefit. So,
17 in many ways, I think, you know, this
18 project really represents, I mean some of
19 the best of what PUD should be doing.

20 And I think that they've
21 responded with the single family homes that
22 are on the perimeter facing the overall

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1 area. You know, I think that, you know,
2 neighbors, and I know these neighbors are
3 very concerned about new neighbors and
4 density and those types of things.

5 But, I think, over time, I mean
6 they will come to see that this is, you
7 know, a very good project. And in terms of
8 how new development comes along.

9 So, I will definitely be voting
10 in favor of this project.

11 CHAIRPERSON MITTEN: Thank you.
12 Anyone else? Mr. Turnbull.

13 COMMISSIONER TURNBULL: I would
14 agree with Commissioner Jeffries. I think
15 we struggled, I mean I struggled with the
16 townhouses on the one section of Peabody.

17 And then they got rid of the one
18 lone townhouse, and then there was another
19 lone townhouse that sort of was sitting
20 sideways. And I just, it just looked
21 strange.

22 And then when they came back at

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1 the next hearing and they said we've met
2 with the community and we've decided to put
3 in single family homes all the way along
4 there, it's just a gesture that I think it
5 recognizes some of the issues that they had,
6 in trying to ameliorate concerns of the
7 neighborhood.

8 And I think the plan, you could
9 nitpick it to death, but I think it does a
10 lot for the neighborhood. I think it will
11 do a lot.

12 CHAIRPERSON MITTEN: Anyone else,
13 Mr. Hood.

14 VICE CHAIRMAN HOOD: I would also
15 agree. I will tell you that that
16 intersection concerns me, but I know that
17 the signal could be signalized and changed
18 with the timing mechanism, so maybe that
19 will defray some of the traffic there on New
20 Hampshire Avenue.

21 I know I expressed that concern
22 at the hearing. I think that as, I think it

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1 was Commissioner Jeffries has mentioned that
2 we've come a long way from a set down.

3 It kind of materialized as we set
4 it down, as we went through the hearing and
5 I think this Applicant has really come to
6 standards with the character in that
7 neighborhood.

8 So, I also will be voting in
9 support of it. But I do have one issue,
10 which was raised, I can't remember if the
11 gentleman was in opposition or support, and
12 it was about one of the amenities.

13 And I hope that the Applicant
14 will make sure that this happens. I think
15 one of the schools were opposed to get some
16 computers. I think it was Coolidge, it
17 might have been LaSalle, one of them.

18 And he came, I don't know if he's
19 in the PTA or what, but he was mentioning
20 that the school was not electrically wired
21 to take that capacity. And I'm hoping that
22 that type of amenity will not fall short.

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1 So I would just impress upon the
2 Applicant to make sure that that happens,
3 and to do whatever it does to make sure that
4 that happens. If not, I believe if they
5 change it, they have to come back in front
6 us anyway.

7 But I can let you know, that I'm
8 hoping not to see that back down here.
9 Because if the school is not wired for it,
10 then that's something you can't proffer, you
11 won't be able to give them.

12 So hopefully that is not the case
13 and that that will definitely happen. Other
14 than that, thank you, Madame Chair.

15 CHAIRPERSON MITTEN: Mr. Parsons.

16 COMMISSIONER PARSONS: I want to
17 agree with everything that's been said, and
18 would move we approve the Application.

19 MR. JEFFRIES: Second.

20 CHAIRPERSON MITTEN: Thank you,
21 Mr. Jeffries. I just wanted to, we do have
22 a proposed findings of fact and conclusions

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1 of law in front of us. And I just want to,
2 Ms. Thomas, were you on this case? Is this
3 your case?

4 I just want to verify my
5 recollection, because I don't want to lose
6 this particular amenity, so I just want to
7 make sure that this is included in the
8 motion.

9 I believe that DDOT had requested
10 the installation, that the Applicant install
11 a traffic light and that the Applicant had
12 committed to installing said traffic light.
13 Is that your recollection? I'll tell you
14 where.

15 MS. THOMAS: I do believe so.

16 CHAIRPERSON MITTEN: Okay, because
17 that's not showing up in their proposed
18 Order as an amenity. And I just want to
19 make sure that we don't lose track of it.

20 So, with that additional amenity,
21 I would ask, Mr. Jeffries, is that, or who
22 made the motion? Mr. Parsons, I'm sorry. I

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1 just want to make sure that that's included.

2 VICE CHAIRMAN HOOD: Madame Chair,
3 where was that traffic light at?

4 CHAIRPERSON MITTEN: I'm going to
5 tell you in a second, I'm sorry. Quackenbus
6 and New Hampshire. And install reflective
7 striping for the crosswalk connections.

8 MS. THOMAS: Yeah.

9 CHAIRPERSON MITTEN: We're
10 confirmed that that's an amenity?

11 MS. THOMAS: I remember the
12 striping.

13 CHAIRPERSON MITTEN: Okay. So, I
14 just want to be sure that's included, and it
15 sounds like it. So, Mr. Parsons accepts
16 that and the second accepts that too?

17 MR. JEFFRIES: I second.

18 CHAIRPERSON MITTEN: All right, is
19 there any further discussion?

20 (No response.)

21 CHAIRPERSON MITTEN: Then all
22 those in favor, please say aye?

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1 (Chorus of ayes.)

2 CHAIRPERSON MITTEN: Those
3 opposed, please say no?

4 (No response.)

5 CHAIRPERSON MITTEN: Mrs.
6 Schellin.

7 MS. SCHELLIN: The staff will
8 record the vote five to zero to zero, to
9 approve Proposed Action in Zoning Commission
10 Case 05-30. Commissioner Parsons moving,
11 Commissioner Jeffries seconding,
12 Commissioners Hood, Mitten and Turnbull in
13 favor. And this is approved as modified.

14 CHAIRPERSON MITTEN: Yes, thank
15 you. And for final action we have Case No.
16 88-34A. This is the PUD Modification for
17 the Children's National Medical Center.

18 There was no objections from NCP
19 for this and I don't think there were any
20 outstanding issues for the Commission. So I
21 would move approval of Case No. 88-34A.

22 COMMISSIONER TURNBULL: Second.

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1 CHAIRPERSON MITTEN: Any
2 discussion? All those in favor, please say
3 aye?

4 (Chorus of ayes.)

5 CHAIRPERSON MITTEN: Those
6 opposed, please say no?

7 (No response.)

8 CHAIRPERSON MITTEN: Mrs.
9 Schellin.

10 MS. SCHELLIN: The staff will
11 record the vote five to zero to zero, to
12 approve Final Action on Zoning Commission
13 Case 88-34A.

14 Commissioner Mitten moving,
15 Commissioner Turnbull seconding,
16 Commissioners Hood, Jeffries and Parsons in
17 favor.

18 CHAIRPERSON MITTEN: Thank you.
19 And last is Case No. 05-23. This is the
20 Request from CSX and Fairfield Realty for
21 the PUD in Effington, and again we received
22 no objections from NCPC, and I don't believe

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1 there were any outstanding issues for the
2 Commission. So I would move approval.

3 MR. JEFFRIES: Second.

4 CHAIRPERSON MITTEN: Thank you.
5 Any discussion?

6 (No response.)

7 CHAIRPERSON MITTEN: All those in
8 favor, please say aye?

9 (Chorus of ayes.)

10 CHAIRPERSON MITTEN: Those
11 opposed, please say no?

12 (No response.)

13 CHAIRPERSON MITTEN: Mrs.
14 Schellin.

15 MS. SCHELLIN: The staff will
16 record the vote five to zero to zero to
17 approve Final Action 05-23. Commissioner
18 Mitten moving, Commissioner Jeffries
19 seconding, Commissioners Hood, Parsons and
20 Turnbull in favor.

21 CHAIRPERSON MITTEN: Any further
22 business for us tonight, Mrs. Schellin?

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1 MS. SCHELLIN: No, ma'am.

2 CHAIRPERSON MITTEN: Thank you,

3 then we're adjourned.

4 (Whereupon, the above-entitled

5 matter was concluded at 8:07 p.m.)

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