

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

JULY 10, 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
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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
ART RODGERS
ELLEN MCCARTHY
STEVE COCHRAN
TRAVIS PARKER
MATT JESSICK
JOEL LAWSON

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

JACOB RITTING, ESQ.

MARY NAGELHOUT, ESQ.

The transcript constitutes the minutes
from the Regular Meeting held on July 10, 2006.

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

6:50 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen.

This is a Public Hearing of the Zoning Commission of the District of Columbia for Monday, July 10th, 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.

Copies of our agenda are on the table by the door. They're available to you if you would like to follow along.

I did just want to remind folks that we don't take any testimony at our public meetings unless we specifically invite people 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 in the hearing room during our meeting. I'd ask you to turn off all beepers and cell phones for the same reason.

Mrs. Schellin, any preliminary matters before I deal with the one --

ACTING SECRETARY SCHELLIN: No, ma'am.

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1 CHAIRPERSON MITTEN: Okay.

2 I just wanted to fast forward to one item
3 that we'd like to postpone until our Special Public
4 Meeting which we will have on July 24th. And that is
5 the item that is under Final Action which is Zoning
6 Commission Case No. 94-01A, the modification to the
7 1331 L Street PUD.

8 First, to deal with the fact that we've
9 received a submission from the Applicant after the
10 record was closed, I would move that we reopen the
11 record to receive the Applicant's submission so we can
12 actually talk about it.

13 COMMISSIONER PARSONS: Second.

14 CHAIRPERSON MITTEN: Is there any
15 discussion?

16 All those in favor please say aye.

17 (AYES)

18 CHAIRPERSON MITTEN: Those opposed please
19 say no.

20 Mrs. Schellin.

21 ACTING SECRETARY SCHELLIN: The Staff
22 would record the vote five to zero to zero to reopen
23 the record in Case No. 94-01A. Commissioner Mitten
24 moving, Commission Parsons seconding, Commissioners
25 Jeffries, Hood and Turnbull in favor.

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1 CHAIRPERSON MITTEN: Thank you.

2 Now that we've accepted the Applicant's
3 filing, in the Applicant's filing is the NCPC report
4 which we have not formally received, which we would
5 like to formerly receive. And there's an important
6 issue that's raised in the NCPC report and the
7 Applicant has addressed it, which is related to the
8 Height Act. We'd like to give ourselves some more time
9 to digest the material that we received.

10 We'd also be interested in having the
11 Office of Planning weigh in perhaps in consultation
12 with the Zoning Administrator, who is the ultimate
13 arbitrator of the Height Act for the District.

14 Mrs. Schellin, could you suggest when the
15 Office of Planning's submission would need to be
16 provided to us in time for the July 24th --

17 ACTING SECRETARY SCHELLIN: July 17th by
18 3:00.

19 CHAIRPERSON MITTEN: Can you guys provide
20 us with something by the 17th?

21 MS. STEINGASSER: We'll do our best.

22 CHAIRPERSON MITTEN: Okay.

23 MS. STEINGASSER: My concern is, I know
24 the Zoning Administrator was taking a vacation and I
25 don't know --

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1 CHAIRPERSON MITTEN: I think he's back.

2 MS. STEINGASSER: He's back? Okay.

3 CHAIRPERSON MITTEN: Yes. That's what I
4 heard.

5 We're giving you an opportunity. It's not
6 a requirement but we'd be very interested in your
7 views on the subject.

8 MS. STEINGASSER: And we're more than
9 happy and willing to provide that?

10 CHAIRPERSON MITTEN: Okay. Great.

11 So, if you could provide that by the 17th
12 then, we'd take up the item that's under final Action
13 on the 24th.

14 And that's the only change to our agenda.

15 So, I'll go next to the Office of
16 Planning's Status Report.

17 MS. STEINGASSER: Madam Chair,
18 Commissioners, the Status Report is in front of you at
19 the dias. Basically, it lays out the July cases. We
20 split July cases into two meetings, the 10th and the
21 17th. I'm sorry, the 10th and the 24th to try to move
22 the volume along and we appreciate the Commission's
23 help on that.

24 I stand available for any questions.

25 CHAIRPERSON MITTEN: One thing that I --

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1 I haven't had time to look down and see if it's on
2 here at all, but I didn't want to lose track of a
3 piece of correspondence that we had gotten at a
4 previous meeting where we had received a resolution
5 from ANC-1C about some of the intensity of some of the
6 proposals that they've been seeing lately. I think
7 specifically on the commercial corridors and they had
8 asked for some attention. And we would be relying on
9 the Office of Planning for that attention.

10 I just don't want to lose track of it.
11 So, I don't know if you all have --

12 MS. STEINGASSER: We do have a copy of
13 that and it's been coordinated with the Neighborhood
14 Planning Division and the Comprehensive Plan.

15 CHAIRPERSON MITTEN: Okay.

16 MS. STEINGASSER: To look at the language,
17 what they're trying to achieve and whether there's
18 sufficient language to move forward or how those
19 policies link together.

20 CHAIRPERSON MITTEN: Okay.

21 MS. STEINGASSER: So, it is in place.

22 CHAIRPERSON MITTEN: Okay. I just didn't
23 want to lose track of that.

24 Anyone else have questions for Ms.
25 Steingasser?

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1 Mr. Hood:

2 VICE CHAIRMAN HOOD: Yes. Madam Chair.
3 Thank you.

4 Ms. Steingasser on, I guess it's page 4 of
5 the Status Report, correctional facilities in the CN
6 Zone.

7 MS. STEINGASSER: Yes.

8 VICE CHAIRMAN HOOD: Where are we with
9 that? Obviously, if it's on the fourth page, it's not
10 to the front. But I'm just curious. Where are we?

11 MS. STEINGASSER: I believe that -- oh,
12 the correctional facilities was bifurcated from the
13 emergency shelters.

14 We have not had any communications back
15 from the Department of Corrections or the Probation in
16 working with that. We've left it dormant. We've put
17 in several calls and inquiries and we've gotten no
18 feedback whatsoever.

19 VICE CHAIRMAN HOOD: Well, meanwhile,
20 there's a statement like one in the facilities and one
21 in the ward now and is able to operate and exist. And
22 we're not getting any response back. So, if somebody,
23 I guess, was able to come up, they would be able to
24 locate again the CN Zone without --

25 MS. STEINGASSER: I believe they would not

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1 be able to locate. I think the BZA, if I remember
2 correctly, ruled that they did not qualify as
3 temporary and that that's what moved it into the
4 Zoning Commission's arena as to whether we needed to
5 do text amendments to allow their use.

6 MR. BERGSTEIN: That's correct and that
7 was affirmed by the Court of Appeals which agreed that
8 section that allows for temporary detention facilities
9 was intended to address a fairly narrow use and
10 requirement of the Department of Corrections.

11 So, eventually you might want to get
12 around to repealing that because the use was required
13 about 30 years ago. But the Court of Appeals did
14 affirm and the facility that was the subject of that
15 has shut down.

16 VICE CHAIRMAN HOOD: It has?

17 MR. BERGSTEIN: Yes. Yes. And all the
18 prisoners have been dispersed.

19 VICE CHAIRMAN HOOD: Do we know which
20 date? Do you know right off hand those dates?

21 MR. BERGSTEIN: Hold on one moment.

22 Ms. Monroe, who had the Board of Zoning
23 Adjustment case tells me May 2nd.

24 VICE CHAIRMAN HOOD: May 2nd of 2006?

25 VICE CHAIRMAN HOOD: Of 2006 they closed.

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1 VICE CHAIRMAN HOOD: All right.

2 Thank you, Madam Chair.

3 CHAIRPERSON MITTEN: Well, perhaps we
4 should take Mr. Bernstein's suggestion and maybe if
5 the Office of Planning could just for our next
6 meeting, not the 24th, but in September give us a
7 little report to remove that provision from the
8 ordinance and then we won't have to face this problem
9 again.

10 MS. MCCARTHY: Well, also as the
11 Commission remembers when we presented the industrial
12 land use study, there were some suggestions about
13 changing what uses were permitted as a matter of right
14 in industrial zones. And we'll probably be visiting
15 that issue in conjunction with the larger look at M
16 and CM Zones as well.

17 CHAIRPERSON MITTEN: Okay. Thank you.

18 Anyone else? Questions? Mr. Parsons?
19 You need to turn your mike.

20 COMMISSIONER PARSONS: Thanks.

21 Certainly, I wanted to thank you for
22 continuing open space on the report, even though it's
23 the last item. But I wanted to ask you about Florida
24 rock, which apparently something is scheduled for
25 September 18th. It says, a final report on the mixed

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1 use PUD and related Map Amendment, with the hearing
2 deferred until the baseball's area study was complete.

3 So, where will we be on September 18th?

4 MS. STEINGASSER: Well, we're meeting this
5 week with Florida rock again. They've come in several
6 times in the last few months. They have been
7 responding to the overall changes of both DDOT and the
8 relocation of a new bridge and realignment of South
9 Capitol. They've responded to some of the elements of
10 the South Capitol Street plan of NCTC and they're also
11 working with AWC as AWC fine tunes some of the more
12 general baseball area parameters and goals. I would
13 go with goals. There's not going to be a strategic
14 area plan coming forward. But they do have some
15 identified goals and objectives for that area.

16 COMMISSIONER PARSONS: So, what we would
17 have before us is a proposal for Florida Rock as it
18 is? I mean, just that property. Or will there be a
19 study of context?

20 MS. STEINGASSER: It will be just that --
21 it will be just that property. Just that PUD.

22 They've provided some context within -- at
23 least within what they've shown us to the stadium
24 itself and to the South Capitol realignment of the
25 bridge and the oval.

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1 COMMISSIONER PARSONS: Because Mr. Brandes
2 presented us with some studies during the ballpark
3 hearing. Showed a park and so forth that was
4 partially on Florida Rock's property. That's why I'm
5 curious.

6 MS. STEINGASSER: Right. Many people have
7 planned for Florida Rock's property.

8 COMMISSIONER PARSONS: Well, yes. But I
9 wonder if they're responding to those other plans?

10 MS. STEINGASSER: They -- yes and no.
11 they've worked with those that fit within their per
12 forma and within their development objectives. They
13 responded in some areas very dramatically to the
14 stadium and it's relationship to the water.

15 Some of the building heights have been
16 changed dramatically. They've been relocated. The
17 uses have been changed. There's some negotiation with
18 the realignment of the street. It's opened up the
19 western edge of the site differently. So, they've got
20 some alternatives that they're looking at that will be
21 presented to the Commission as well.

22 But there will not be a strategic area
23 plan that is similar to what we've seen for the near
24 southeast or something that actually directs
25 development in this area.

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1 The AWC has some development plans that
2 are geared towards the developers that they're
3 partnering with, but it's not the same as a small area
4 plan that the Commission is used to seeing coming from
5 the Office of Planning.

6 COMMISSIONER PARSONS: So, the term of art
7 her is baseball area study.

8 MS. STEINGASSER: Study.

9 COMMISSIONER PARSONS: Is that something
10 you're doing? Not you personally, but in the Office
11 of Planning?

12 MS. STEINGASSER: It's more -- AWC has
13 been doing the baseball area study.

14 COMMISSIONER PARSONS: Is that complete or
15 will it be complete by September 18th?

16 MS. STEINGASSER: I don't know.

17 As I pointed out, the study we've seen, OP
18 has many issues with. We're not in complete agreement
19 on some of the proposals. It's a development plan.
20 It's not the same thing as the strategic area plans
21 that the Commission is used to seeing.

22 COMMISSIONER PARSONS: Yes.

23 MS. STEINGASSER: It's really geared
24 towards the development of parcels.

25 COMMISSIONER PARSONS: I wouldn't want us

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1 to be in a position of having to set this down if it
2 doesn't have a contextual plan. That's the reason for
3 me bringing it up.

4 MS. STEINGASSER: Well, there are several
5 plans.

6 There's this development plan that's
7 currently being worked on. There's also two plans
8 that have been prepared over the last two years. We
9 call them locally the Chan-Krieger Plan which is a
10 firm out of Boston that worked with AWC and OP to
11 collaboratively look at the area. And that also picks
12 up a lot of elements from the NCPC Plan.

13 And then there was a second plan created,
14 Roma. The Roma Plan, which was a firm out of
15 California that specializes in ballpark area
16 development. And they had a plan and now that there's
17 actual developers on board, they've teamed together,
18 AWC and the development teams, and hired this Cooper-
19 Robertson out of New York to prepare this ballpark
20 study area.

21 And it's a little bit more development-
22 oriented, less municipal-oriented defined. Split that
23 hair for you.

24 COMMISSIONER PARSONS: Well, I can assure
25 you, I won't be supportive of setting down Florida

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1 Rock unless we've got some plan that talks about the
2 context of it. Okay.

3 CHAIRPERSON MITTEN: Anyone else?

4 Thank you.

5 Okay. We'll move to the first item under
6 Hearing Action then is Zoning Commission Case No. 06-
7 27, which is the Consolidated PUD and Related Map
8 Amendment for Square 54.

9 Mr. Parker.

10 MR. PARKER: Good evening, Madam Chairman,
11 members of the Commission. My name is Travis Parker
12 with the Office of Planning.

13 The application for set down this evening
14 is a PUD and related map amendment for the entirety of
15 Square 54. The proposal includes a group of buildings
16 connected, built as one building, totaling
17 approximately 170,000 square feet containing 454
18 square feet of office, a 1,000 square feet of office,
19 342,000 square feet of residential and approximately
20 84,000 square feet of retail including a large grocery
21 store.

22 The project will have approximately 1,000
23 underground parking spaces, will contain a courtyard
24 of over a half an acre in the center of the project,
25 approximately half of which is open to the public,

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1 half of which is for the use of the residential units
2 to be built on the site.

3 Underneath the courtyard is the loading
4 for the enter area of the site including the retail,
5 the residential and the office building.

6 Significant design features of the
7 building include a multi-store glass atrium centering
8 the office building on Pennsylvania Avenue and a 60-
9 foot public space along I Street right-of-way for the
10 use of the retail shops and the public.

11 The total FAR of the project is proposed
12 at approximately 7.5 and the heights of the buildings
13 range from 90 to 130 feet as measured from the
14 Washington Circle.

15 The project is asking for approximately
16 460,000 square feet over the matter-of-right, R-5D and
17 to achieve that, they are offering several significant
18 amenities, one of which is a grocery store. It is
19 currently shown on the plans at approximately 45,000
20 square feet. OP has discussed with the Applicant
21 getting a firm commitment for that prior to the public
22 hearing for an actual grocery store, part of the
23 public hearing.

24 The second commitment is to affordable
25 housing. The current proposal shows affordable

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1 housing at 8 percent, at 80 percent AMI and 5 percent
2 workforce housing for a total of 13 percent of the
3 residential project under affordable housing
4 standards.

5 The third amenity offered by this project
6 is superior site design. The project includes
7 significant public open space. It includes years of
8 work with the community and OP to make the design both
9 a significant town center, a regional draw and related
10 to the surrounding area and properties.

11 And the fourth major amenity that OP has
12 discussed with the Applicant is participation in
13 location of a second Metro entrance for the Foggy
14 Bottom Station. This project will be adding
15 significant new trips to what is already a potentially
16 over-burdened Metro Station and we're currently
17 working with Metro in their study of the station and
18 hope to get a commitment from the Applicants to
19 participate in that project in helping to locate a new
20 entrance somewhere on the corner of 22nd and I.

21 In terms of the Comp Plan, OP finds that
22 the proposal is generally consistent with the general
23 themes of the plan as detailed in the written report
24 and is not inconsistent with the Ward 2 plan.
25 Specifically, the discussion of campus developments,

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1 respecting landscaping, lighting and community
2 policing.

3 The community has raised several issues
4 and concerns with this plan and OP is committed to
5 continuing to work with the Applicant to address these
6 issues. Specifically, the Foggy Bottom Association
7 has requested that this project be considered in
8 conjunction with the campus plan that will be up for
9 public hearing in September. OP has discussed this
10 with the Applicant and neither OP nor the Applicant
11 have objections should the Zoning Commission choose to
12 combine those hearings.

13 In general, OP believes that the PUD is
14 not inconsistent with the plan and recommends that the
15 application be set down for public hearing. We'll
16 continue to work with the Applicants and the community
17 to mitigate any potential adverse impact.

18 CHAIRPERSON MITTEN: Thank you.

19 Questions for Mr. Parker or comments on
20 the application?

21 Mr. Parsons.

22 COMMISSIONER PARSONS: Well, define what
23 you mean by participation and a new Metro stop. Does
24 that mean pay for or study together?

25 MR. PARKER: We're in discussions with the

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1 Applicant right now. Metro -- WMATA is still in the
2 early stages of looking at this stop and is just
3 currently looking at potential locations for where
4 that second entrance could come out. And one of my
5 early thoughts had been that this would be an ideal
6 location. It looks right now as if the timing of the
7 two projects would be significantly off to prevent it
8 from an entrance coming out in this project. So,
9 we're looking at other corners or other corners on
10 this intersection of 22nd and I and we're in
11 discussions right now with the Applicant as to what
12 their participation would be, whether that's
13 contributing to the design and engineering of the
14 station.

15 Obviously, the expense of constructing a
16 station is very significant and would be beyond the
17 bounds of this project. But their participation at
18 some level would certainly be a good amenity.

19 COMMISSIONER PARSONS: So, participation
20 is simply planning design?

21 MR. PARKER: I've discussed with them a
22 monetary contribution towards the design and
23 engineering of that station. We don't have numbers
24 from WMATA yet what that number could be. So, they're
25 not willing to make any commitments yet until we have

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1 a little firmer understanding of what they're getting
2 into. But they will certainly be involved with
3 planning the location of it since they're the property
4 owner on all four corners. And hopefully we'll be
5 monetarily involved as well.

6 COMMISSIONER PARSONS: Has Metro given you
7 any indication that they're interested in funding an
8 entrance? I presume not.

9 MR. PARKER: They're in the study process
10 now. This is, according to their studies, one of the
11 most congested or will be one of the most congested in
12 the next 30 years, stop. So, I think this is high on
13 their priority list but obviously they don't have
14 funding to construct an entrance yet.

15 COMMISSIONER PARSONS: Thank you.

16 MS. MCCARTHY: But Metro's interest in the
17 second entrance was independent of this project. So,
18 they already had identified this as a site where the
19 possibility of a second entrance was something that
20 they were looking for.

21 CHAIRPERSON MITTEN: Commissioner
22 Jeffries.

23 COMMISSIONER JEFFRIES: Mr. Travis, what
24 does a firm commitment from a grocery store look like?
25 I mean, what are you --

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1 MR. PARKER: Well, what I've asked for
2 from the Applicant prior to the public hearing is a
3 commitment from them that there will be a grocery
4 store. Right now, the application just says that it's
5 their goal to have a grocery store.

6 It's been an intention of theirs verbally
7 to have a grocery store as that part of their process.
8 I'd like that to be a firm commitment. What form that
9 takes, whether it's a letter of intent, I'd leave that
10 up to them, but I'd like to see something more firm
11 from them prior to the public hearing.

12 COMMISSIONER JEFFRIES: I mean, you don't
13 really anticipate a letter of intent?

14 MR. PARKER: Probably not.

15 COMMISSIONER JEFFRIES: Yes. Yes. Okay.
16 Thank you.

17 CHAIRPERSON MITTEN: I can tell you from
18 my perspective, if someone is trying to get the
19 benefit of providing an amenity, meaning a grocery
20 store, then whether they have a commitment from the
21 store itself, I think they need to represent to the
22 Commission that they made the commitment to use that
23 there will be a grocery store. Otherwise, there is no
24 amenity. You know, there's just an amenity for a lot
25 of retail. There's not a credit for that specific

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1 amenity.

2 Anyone else? Mr. Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Madam
4 Chairman.

5 Getting back to the Metro entrance. Do
6 you have any idea of what the footprint is needed or
7 what they would be looking at?

8 MR. PARKER: I have some preliminary
9 drawings, but that's in the very early stages. It
10 would be similar to what you see downtown in the
11 buildings for Farragut North Metro Center.

12 COMMISSIONER TURNBULL: Okay.

13 MR. PARKER: It would be the corner of a
14 building with three, perhaps four stairways/escalators
15 coming out of the ground. And most of the space would
16 be underground under the public right-of-way.

17 COMMISSIONER TURNBULL: But it would still
18 eat up a significant piece or a corner --

19 MR. PARKER: Of the first floor of the
20 building. Yes.

21 COMMISSIONER TURNBULL: Right. Okay.
22 Thank you.

23 COMMISSIONER JEFFRIES: I just want to
24 make certain that we're clear for the record. I just
25 didn't want to make certain that we weren't setting

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1 the bar too high. I mean, it's one thing for the
2 developer to say that they're going to, you know,
3 make a commitment for a grocery store. But I just
4 wanted to make certain that you weren't looking for a
5 letter of intent from a grocer?

6 MR. PARKER: No, no. And I --

7 COMMISSIONER JEFFRIES: Okay. That's all.
8 I'm just --

9 MR. PARKER: I apologize if I made that --
10 no.

11 COMMISSIONER JEFFRIES: Thank you.

12 CHAIRPERSON MITTEN: I just want to follow
13 up on, you know, just that general theme which is, it
14 thing, nailing down the amenities more is important in
15 this case.

16 For instance, I mean, in addition to the
17 somewhat vague representation about the grocery store
18 and about the affordable housing, we also have, for
19 instance, that the Applicant will employ best
20 management techniques regarding energy conservation
21 and efficiency. You know, that's way too vague to get
22 any credit for actually doing that.

23 And so, I think, these things need to be
24 tightened up.

25 I did want to say something about the

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1 timing of the hearings for the Campus Plan and for
2 this project. And my feeling is that I want to have
3 a very strong sense of the Campus Plan before I turn
4 my attention to Square 54.

5 So, I think the timing of it is such that
6 we have a series of hearing dates for the campus Plan.
7 This clearly isn't ready to issue a public hearing
8 notice on. So, they really can't be together unless
9 we delay the Campus Plan. And my preference is, the
10 sequence that's been established has been a good one.
11 But I would like to, because I don't think we talked
12 about it as related to the Campus Plan, but whether or
13 not a second entrance, the timing of it and so on and
14 whether it goes on Square 54 elsewhere. I think we
15 have to talk about that both perhaps in the Campus
16 Plan and in this case because we want to make sure
17 even if it doesn't get built at the same time, we just
18 want to make sure we don't foreclose an opportunity
19 which, you know, there's no recovering from.

20 So, I was also interested if you could
21 share with us, Mr. Parker. The community they've
22 chosen, I think, many participants have chosen to
23 withdrawn from conversation, which is unfortunate.

24 Can you share with us what some of the
25 other concerns were as it related to Square 54?

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1 MR. PARKER: One of the major ones that
2 I'm aware of has to do with the environmental impacts
3 of the proposed development here. And the requests
4 that we have gotten have been for an Environmental
5 Impact Study. I think there's some legal action
6 proceeding right now and I don't know where that is.

7 But there are obviously concerns over the
8 amount of parking, the traffic that that will
9 generate, the types of uses, office rather than
10 residential, non-university rather than university.

11 I can't presume to come up with all of the
12 objections that have been raised and that will be
13 raised. But there are several significant. And
14 there's an objection to having a PUD at all. Having
15 anything over matter-of-right in general is one of the
16 strong objections we've heard as well.

17 CHAIRPERSON MITTEN: Okay. Thank you.

18 Anyone else? Mr. Turnbull?

19 COMMISSIONER TURNBULL: Just echoing your
20 concern. There is a provision for university parking
21 within the building?

22 MR. PARKER: Absolutely. I believe the
23 number is around 300 spaces. But there will be a
24 significant of university parking on the lower levels
25 of the building.

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1 CHAIRPERSON MITTEN: I'd like to
2 understand. That's again why I'd like to understand
3 what's going on with the Campus Plan. Because, I
4 mean, I don't have a complete recollection of
5 everything that had gone on in the original Campus
6 Plan. But I do remember that there was some portion
7 of their minimums being met maybe at the Kennedy
8 Center or something. So, I'd be curious when we get
9 into it be curious to know whether this is adding to
10 the supply or replacing something like that. But
11 we'll get into all that detail later, I guess, in
12 September.

13 Any other? Sure.

14 COMMISSIONER TURNBULL: I guess my only
15 question would be, in your further talks with them
16 you're going to have them elaborate more on green
17 architecture, green roofs and those kinds of elements?

18 MR. PARKER: We'll get that nailed down as
19 to what those commitments are, absolutely. And we'll
20 push for --

21 COMMISSIONER TURNBULL: Thank you.

22 MR. PARKER: -- for green building.

23 CHAIRPERSON MITTEN: Any other comments or
24 questions?

25 All right. We have a recommendation from

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1 the Office of Planning to set down Case No. 06-27 and
2 I would so move.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRPERSON MITTEN: Anything else? Any
5 further discussion?

6 All those in favor, please say aye.

7 (AYES)

8 CHAIRPERSON MITTEN: Those opposed, please
9 say no.

10 Mrs. Schellin.

11 ACTING SECRETARY SCHELLIN: The staff
12 would record the vote five to zero to zero to set down
13 Zoning Commission Case No. 06-27. Commissioner Mitten
14 moving, Commissioner Jeffries seconding, Commissioners
15 Hood, Parson and Turnbull in favor.

16 And this is a set down. It's a contest
17 case.

18 CHAIRPERSON MITTEN: Yes. Thank you.

19 Next is Case No. 06-33. A case I've been
20 waiting for for awhile, which relates to the parking
21 requirements for historic buildings and contributing
22 structures in historic districts.

23 Mr. Parker again.

24 MR. PARKER: You get me again.

25 This case is a modification of the

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existing language in Chapter 21 regarding parking for historic building and historic landmarks.

The intent of this change is to clarify the language in 2100.4 through 2100.9 as to the intent of the parking waiver for historic buildings. This section has -- well, I'll start with it.

2100.4 specifically says that when a use of a building is changed to another use, parking is required for the change. And 2100.5 then exempts historic landmarks and buildings or structures. That has since been interpreted to mean that any building that attaches or is an addition to a historic landmark or structure is there exempt from the parking requirement when it goes through a use change or as in 2100.6, when the intensity is increased.

The intent of this language is to clarify the meaning of these sections to specifically waive the parking requirements for the historic landmarks and contributing buildings as they existed when they became historic landmarks or contributing buildings. And reinforce the requirement for parking for new construction adjacent to or nearby those buildings where that construction is greater than 25 percent of the total building.

The simplest way to think about this is in

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1 the table presented on page 4 of the report. It lays
2 out the intent of the language. And I've done my best
3 working with OAG to draft the language that puts into
4 effect this table. But I'm happy to take suggestions
5 on how it might be made more clear. And I'd be happy
6 to take any questions you might have as well.

7 CHAIRPERSON MITTEN: Okay. Any questions
8 for Mr. Parker?

9 I just want to say, I mean, I'm serious.
10 This has bothered me for a long time. There have been
11 some wild interpretations of this. So, I'm really
12 glad we're going to clarify it at last in a sensible
13 way.

14 So, one thing that I would like to suggest
15 since the Historic Preservation Division is part of
16 the Office of Planning, the form that is used to
17 establish the eligibility for the exemption is
18 somewhat misleading. It suggests that they're
19 granting an exemption, not just determining
20 eligibility. And I think that could help also if the
21 form were clarified.

22 Anyone else? Okay.

23 And we have a recommendation that I
24 heartedly endorse from the Office of Planning to set
25 down Case No. 06-33 and I so move.

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1 COMMISSIONER PARSONS: Second.

2 CHAIRPERSON MITTEN: Any discussion?

3 All those in favor, please say aye.

4 (AYES)

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

7 Mrs. Schellin.

8 ACTING SECRETARY SCHELLIN: The staff
9 would record the vote five to zero to zero to set down
10 Zoning Commission Case No. 06-33. Commissioner Mitten
11 moving, Commission Parsons seconding, Commissioners
12 Hood, Jeffries and Turnbull in favor. And this would
13 be a rule-making case.

14 CHAIRPERSON MITTEN: Yes. Thank you.

15 Next up is Case No. 04-33A. The mapping
16 part of the inclusionary Zoning Case.

17 And Mr. Rodgers is here even if his name
18 tag isn't.

19 MR. RODGERS: Good evening members of the
20 Zoning Commission. My name is Art Rodgers, the senior
21 housing planner for the D.C. Office of Planning.

22 Given the schedule tonight, I'll very
23 briefly summarize OP's report and try to answer any
24 questions the Commission may have.

25 I'm please to introduce OP's approach to

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1 identifying the areas where inclusions zoning should
2 apply in the District of Columbia. After careful
3 consideration of the record and OP's research going
4 back several years, we've concluded that conclusionary
5 zoning requirements should be applied as evenly and as
6 uniformly as possible across the District.

7 In our report of last year, OP's approach
8 was to try to identify target areas based on
9 characteristics such as Metro stations, housing
10 opportunity areas and other factors. This resulted in
11 a complex set of target areas.

12 OP quickly learned from public testimony
13 and through discussions with stakeholders that the
14 boundaries of these target areas were already creating
15 confusion causing errors and raising issues of equity.

16 OP's new approach is based on three
17 concepts: equity, simplicity and effectiveness.

18 The first concept of equity is found in
19 both the Comprehensive Plan and the testimony from the
20 past year. It concerns equity toward the property
21 owners who are across the street from the boundary or
22 in the boundary. And from neighborhoods across the
23 District. And, essentially, it comes down to if
24 there's a burden to be shared, it should be shared
25 equally.

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1 Second, the concept of clarity and
2 simplicity of the regulations is a constant request of
3 developers who want no surprises in the business.
4 They want to know what they're getting themselves
5 into. And tying the affordability requirements to all
6 the appropriate zoning categories, rather than some
7 boundary we believe gives the greatest clarify and
8 simplicity.

9 Finally, the need for affordable housing
10 and the concept of creating an effective program, led
11 OP to applying inclusionary zoning to the widest
12 possible area.

13 In addition to these concepts, OP included
14 two things the Zoning Commission made very clear
15 during the public hearings and their deliberations.

16 First, that transit corridor should be
17 considered as a target area. And second, areas where
18 there was no opportunity for bonus density should be
19 exempted from the requirements.

20 Our research found that when it comes to
21 public transit, buses are of greater value than Metro
22 stations to the households targeted by IZ. Low income
23 workers are twice as likely to use buses over Metro
24 and four and a half times more like to use buses than
25 the average worker.

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1 The District's bus routes, therefore,
2 provide a definition of a transit quarter that has a
3 direct link to the households that IZ is trying to
4 serve.

5 In response to the Zoning Commission's
6 concern about balancing the IZ requirements with the
7 most density, OP has identified three areas where
8 conditions already enable developers to maximize their
9 potential FAR within their lot occupancy and heights
10 restrictions. These are essentially the downtown
11 development district, the transferrable development
12 rights receiving zones. And last coming a little bit
13 late to our analysis was the R5E zoning category.

14 We felt that given light and air
15 requirements, it was just too difficult to accommodate
16 bonus density in the R5E above it's 6 FAR.

17 The changes to the DD a couple of years
18 ago enabled developers to or freed developers from FAR
19 restrictions and they were limited only by lot
20 occupancy and height limit. And then in TDR receiving
21 zones enabled developers to purchase essentially that
22 same ability to maximize their development potential
23 within lot occupancy and height.

24 All these factors led to the proposal that
25 you see before you. In our final reports to the

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1 Commission, OP will analyze the impacts to the
2 District from the proposed regulations. Our analysis
3 will build on the information that we've already
4 provided in our set down report and include more
5 information on the effects of the program on
6 population growth in the District, neighborhood
7 character, including the historic and non-historic
8 districts. Schools, transportation and parking. And,
9 finally, sewers.

10 To conclude, OP believes that there is
11 support in the Comprehensive Plan for our approach and
12 recommends that the Zoning Commission set it down for
13 public hearing.

14 That ends my presentation. I'll be happy
15 to try to answer any questions the Commission may
16 have.

17 CHAIRPERSON MITTEN: Thank you, Mr.
18 Rodgers.

19 Questions? Mr. Jeffries.

20 COMMISSIONER JEFFRIES: You said there is
21 support for your approach?

22 MR. PARKER: In the Comprehensive Plan.
23 Yes.

24 COMMISSIONER JEFFRIES: Oh, I thought you
25 -- so, in terms of your discussions with various

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1 public groups and so forth, you haven't taken this out
2 and --

3 MR. PARKER: No. Not yet. We are waiting
4 for the Zoning Commission to proceed. But certainly
5 the campaign, I think, and their support of this.

6 CHAIRPERSON MITTEN: Questions? Comments?
7 Well, then I'd like to address a couple of
8 things.

9 First is, I don't want you to be
10 discouraged by anything that I'm about to say because
11 I appreciate your aggressiveness in presenting this.
12 But my fear is that in your striving for simplicity,
13 I can fast forward into something very complicated
14 that the Commission will have to manage if we go
15 forward too quickly and too generally.

16 You noted a couple of things that were
17 priorities for us when we've talked about inclusionary
18 zoning in the past. And one of them was that if
19 there's no opportunity for bonus density that an area
20 should be exempted. And you talk about one category
21 of properties, in particular, in the report which is
22 properties that are in historic districts. And yet
23 you kind of -- well, what you said is that you worked
24 with HRB staff to examine these in greater detail.

25 There's a lot of -- there are a lot of

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1 issues associated with property owners' ability to cap
2 into the additional density in historic districts.
3 You know, over the years, I've heard complaints, first
4 of all, that when we map a historic district, we don't
5 then turn around and examine the zoning that's in
6 place to make sure that there's not an inherent
7 pressure that's been created where the zoning hasn't
8 responded to the new condition which is that a
9 historic district was mapped. And then here we're
10 going to be creating pressure again and we haven't
11 really examined that in any level of detail.

12 And I think of certain areas. The one
13 that comes most readily to mind because HRB has been
14 so explicit about their desires. And you noted it for
15 other reasons. I guess I'd be interested in knowing
16 more about it. But it has to do with the 14th Street
17 Corridor and the arts overlay.

18 And, you know, HRB has been really
19 explicit about where they want the height to go and
20 they want it to go no further. And, you know, there
21 is some flexibility in terms of setbacks and so on.
22 But I'm just really concerned.

23 If you remember at all the roundtables.
24 You know, we had a couple of sessions of roundtables
25 before we even ventured into inclusionary zoning. And

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1 we had people coming with a lot of detail about their
2 neighborhood and their concern about the capacity of
3 their neighborhood to bear this additional burden of
4 density.

5 And so if we open this open up to like
6 city-wide, just open it up by putting all these broad
7 zoning categories without trying to limit it in
8 anyway, I think we're going to be at -- we're going to
9 have the longest hearing we've ever had. Because it
10 will be unmanageable, because we'll have people just
11 coming from different areas. And I suspect they'll be
12 at a pretty high level of detail that they'll want us
13 to scrutinize those area.

14 So, I mean, at a minimum, we need to
15 manage this. We need a way to manage the hearing or
16 hearings. And so I'd like you to spend some time
17 thinking about how, first of all, we could give a
18 little bit more thought about eliminating areas that
19 really don't have any capacity to bear this density.
20 And I'm just not sure that there's been enough thought
21 given to that yet.

22 And another area that we said we would
23 exclude that I don't want to forget are areas where
24 the income levels are already low that they can't --
25 they struggle to get market-rate housing. They don't

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1 need affordable housing as a requirement. So, I
2 didn't see that, you know, an effort to exercise those
3 areas from this mapping exercise.

4 And then just in terms of how we will be
5 able to give the kind of consideration that we said we
6 would for areas -- individual neighborhoods and their
7 capacity to absorb this additional density. I see
8 this as being unmanageable if we take on the entire
9 city, I mean, all these domain categories at one. So,
10 I need some help to figure out how to manage this
11 because it will be tough.

12 So, I'd ask for comments from some of my
13 colleagues on the subject. But those are my concerns.

14 Anyone else? Guess not.

15 COMMISSIONER JEFFRIES: Well, you know, I
16 mean, are we managing process or are we trying to get
17 as many affordable housing units as we can? And, you
18 know, I think, you know. I guess the concern I have
19 in terms of how you would organize this. I mean, if
20 we're going per ward and sort of dealing with those
21 issues. You know, all wards, you know, act very
22 differently. And has different resources in various
23 wards to sort of, you know, really make the case for
24 why lines should be drawn one way versus another.

25 So, I mean, I agree with Madam Chair this

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1 can get very complicated and extended. But I'm really
2 hopeful, even though I was very much opposed to the
3 text, you know, now that we're here, I would, you
4 know, hope that we don't do surgery in such a way in
5 terms of figuring out, you know, carving out various
6 areas and so forth that, you know, you're not hitting
7 those numbers that you were hoping to hit in terms of
8 trying to capture as much affordable units as you
9 wanted to.

10 So, I mean, that's more of a comment than
11 anything.

12 MS. MCCARTHY: We definitely understand
13 your concerns. But if you think back to the original
14 case that we brought, a lot of what's in the original
15 language about changes in lot occupancy and other
16 adjustments that are specific to particular zoning
17 categories were as a result of in detail looking at
18 those zoning categories, how they could accommodate
19 additional bonus density without having an adverse
20 impact on the character of those neighborhoods.

21 And then with regard to 14th Street, that
22 one was a particular useful case study because of the
23 arts overlay permitted bonus density. And a number of
24 cases did take advantage of it. And so we looked at
25 those cases and how the bonus density had been

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1 accommodated even within the historic district
2 constraints.

3 We're conscious of the fact that, you
4 know, that we continue -- we do continue the need to
5 look at other historic districts because 14th Street
6 by virtue of the fact that it had been a major
7 commercial district with auto dealerships as one of
8 its primary industries, may have some building volumes
9 and some height -- the ability to tolerate height that
10 might be the case in some other historic districts
11 that have typically a lower scale and lower density.

12 But I think in terms of -- I think we have
13 tried to anticipate some of the concerns that you
14 mentioned in our mapping. And I think in terms of
15 managing this, our conclusion was, if the Commission
16 had to deal with detailed examinations of not on this
17 street but on that street, it was going to be a lot
18 more complicated, more difficult to predict on the
19 developers side and more contentious within citizens
20 if the feeling was some people had successfully gotten
21 out of their requirements and other people had not.
22 So, we thought something that was as -- if we could
23 even the field as much as possible, we minimized the
24 concerns that the Zoning Commission was going to hear
25 in that respect.

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1 CHAIRPERSON MITTEN: I guess, you know,
2 maybe you can help me with this part. But, if we just
3 decide, okay. We're going to take on, you know, all
4 the R-5s with the exception of R-5E and we're going to
5 take on all these other zones, we're not going to
6 prevent people from coming forward and saying, that's
7 all well and good, but let me tell you about this
8 block. And let me tell you about that block. It's
9 not going to prevent it. And I don't know -- it puts
10 a tremendous burden on the community to have to do an
11 analysis to come and say, hold up. You know, this is
12 not the right place.

13 And another thing that we had sort of made
14 a commitment to was the idea that we weren't going to
15 create an environment where everyone had to go to BZA
16 to try and get relief. So, I don't know how to strike
17 the right balance. But I just am struggling with what
18 I see as -- well, maybe, I mean. I just think we have
19 to, at a minimum, we have to manage the hearing.
20 That's just a process issue. But I think in doing
21 that, we're going to find that there's an awful lot of
22 texture here that we're going to be forced to deal
23 with, whether we want to or not.

24 Mr. Jeffries, I'm really to hear your
25 feedback.

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1 COMMISSIONER JEFFRIES: No, no. I mean,
2 we always knew --

3 CHAIRPERSON MITTEN: It's kind of
4 interesting that we --

5 COMMISSIONER JEFFRIES: We always knew
6 that the more difficult aspect of this would be the
7 mapping --

8 CHAIRPERSON MITTEN: Yes.

9 COMMISSIONER JEFFRIES: -- and less the
10 text. And so here we are. And, you know, I'm just --
11 I mean, I hear what you're saying is really to the
12 historic districts and so forth. But I am concerned
13 that, as I said before. Have we gotten to and I don't
14 know if we're looking to go. And maybe we should hear
15 from some of the other commissioners.

16 If we're looking at ward by ward, we deal
17 with each ward in terms of how they think this all
18 pans out. I'm just concerned again about the
19 resources per ward and how they sort of deal with it.
20 And I think some wards might get short-changed and
21 other might, you know, mount a very good defense in
22 terms of really reducing the amount of affordable
23 units in their area.

24 And the one attractive thing that I
25 thought about this IZ text is that, you know, the hope

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1 is that we can really diversify and get affordable
2 units throughout the District and not just in Shaw and
3 Columbia Heights.

4 So, you know, I'm fine with really dealing
5 with this whole notion of trying to manage our process
6 here. But I think the longer term goal is to really
7 capture as many affordable units and make certain that
8 they are dispersed throughout the District.

9 COMMISSIONER PARSONS: So, the proposal is
10 to zone half the city as I see it just graphically.
11 And I think maybe we have imagined horribles as to a
12 ten-week hearing on this issue or I do of people
13 trying to address issues in their own individual
14 blocks, which will result in the other approach, an
15 overlay of the whole city. All right. We'll go
16 around this one and we'll go around that one and we'll
17 be back to an overlay based on mountains of testimony
18 as to why this block, this square shouldn't be
19 included.

20 Do you have a response to that? Saved by
21 the phone.

22 MS. MCCARTHY: Well, I think that if the
23 Commission -- I think the Commission needs to be clear
24 that argumentation about where the map would apply
25 would need to be based on the ability of that zone

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1 category to accommodate increased density and not --
2 well, my neighborhood already has too much affordable
3 housing. Or, you know, my neighborhood already has
4 too many cars being parked. Because then you do open
5 yourself up to neighborhoods feeling that they have to
6 come and explain their individual neighborhood and
7 their individual issues and concerns that may not have
8 anything to do with the ability of that neighborhood
9 to accommodate the bonus density to make inclusionary
10 zoning work.

11 And I think as long as people have to
12 ground their comments to why this zoned category and
13 the building stock that relates to that zoned category
14 is incapable of receiving extra density without a
15 change in the character of the area, that helps focus
16 the comments on the issues that we're trying to deal
17 with.

18 COMMISSIONER PARSONS: So, if the Capitol
19 Hill Restoration Society came forward and wanted to
20 testify about Capitol Hill, you'd say, ah, no. We're
21 not going to take any testimony on that. You got to
22 address it city-wide as to why these zones can't
23 accommodate?

24 MS. MCCARTHY: Well, no. I'm not saying
25 city-wide. For example, Capitol Hill which is

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1 predominately an R-4 District and an historic district
2 as well, could come in and make arguments as to why
3 there is something inherent in the R-4 or inherent in
4 row house neighborhoods or inherent in historic
5 districts that mean that the provisions of the IZ as
6 they apply could not be accommodated without changing
7 the character of R-4 historic row house neighborhoods.

8 COMMISSIONER PARSONS: So, you would ask
9 us to preclude any testimony about specifics in their
10 historic district? Other than to be illustrative, but
11 not asking for exemptions?

12 MS. MCCARTHY: I don't know if I'd use the
13 word "specifics."

14 MR. RODGERS: Well, I was going to point
15 out that it's actually -- OP's initial concern in our
16 set down report of last year was row house districts.
17 But over the past year we, and I think we included
18 some of those concerns in our reports. But by the time
19 we actually presented to the Commission for the final
20 hearing, I think we actually mentioned that and I'm
21 getting a little fuzzy. But in R-4 Districts it
22 actually works fairly well and is already a common
23 form. Because in R-4 districts we weren't suggesting
24 that you would go from a row house to a garden sell
25 apartment. We were suggesting that you would go from

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1 an 18 foot minimum lot width to a 15 foot minimum lot
2 width. And we found that that is historically a very
3 common form throughout the District that in some cases
4 the lot widths go down to 12 feet. And I don't think
5 we wanted to go that small. But certainly lot widths
6 that were less than 18 feet, which is the current R-4
7 zone category, are very common in Georgetown, in Shaw
8 and in Capitol Hill.

9 So, I think with those concerns we
10 actually felt more comfortable in how IZ might
11 interact with R-4 zones and historic districts.

12 With regards to the 14th Street, again, we
13 looked. There were 11 projects that were in both the
14 historic district and the Uptown Arts District and a
15 majority of them did get some bonus from the Uptown
16 Arts Overlay. And we felt that that was one but not
17 all of them and we thought that was interesting.
18 Because, one, we thought there is legitimate
19 opportunity to achieve bonus density. But, two, in
20 the cases where the Historic Preservation Review Board
21 felt that, you know, this particular site after review
22 cannot get bonus density, that it was protecting the
23 integrity of the historic district.

24 So, I thought given that, we felt that
25 there was a fairly balance in the overlap between the

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1 14th Street historic district and the Uptown Arts
2 district. And so I think those were things that we
3 were making us feel more comfortable about expanding
4 over what we had initially proposed for the target
5 areas.

6 COMMISSIONER PARSONS: so, you don't share
7 our concern that this could be months of hearings on
8 this with people testifying about their particular
9 neighborhoods?

10 MR. RODGERS: I think there will be a lot
11 of testimony. I would certainly think the Commission
12 should schedule three nights, the same way the
13 Commissioners did for the --

14 COMMISSIONER PARSONS: Is there anyway to
15 reduce this? Trying to pass this burden back to you
16 frankly, rather than us siting here trying to carve
17 this up. We're a clumsy instrument here, you know,
18 when it comes to that kind of refinement.

19 MR. COCHRAN: Well, the Commission did
20 almost inevitably move in this direction by
21 bifurcating the proposal. And it inevitably put this
22 kind of discussion at a neighborhood level into this
23 round as opposed as into the discussion of the
24 regulations that you've already passed. I don't see
25 how one can get around that.

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1 CHAIRPERSON MITTEN: I think one thing
2 that maybe we should do is say that when we get to the
3 public hearing notice that we do it, you know, two
4 wards at a time. And so the first night is one and
5 two and the next night is three and four. And at
6 least so we can sort of collect things in some kind of
7 -- so we can hear about it all at once and not have
8 the first person come up and testify about something
9 in Ward 8 and the next person come and testify about
10 something in Ward 2. And it's all over the map and we
11 can't even think of it in any cohesive way.

12 That's, I guess, one way that we could
13 manage it and just advertise that those nights are for
14 those areas and then maybe have a clean up night for
15 anybody that can't make it or something. I don't
16 know.

17 MS. MCCARTHY: One suggestion that Ms.
18 Steingasser made was if the Commission was
19 particularly concerned about historic districts, we
20 could proceed with the set down of the map without
21 historic districts and come back to you with that as
22 a further rule-making after looking at everyone of the
23 -- what are we up to, 26. We keep getting more
24 historic district. And we probably will get more if
25 they're exempt from inclusionary zoning.

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1 COMMISSIONER PARSONS: That may be better
2 than my proposal which is to exempt them now. So, I'm
3 willing to compromise to what you just said but that's
4 where I'm coming from.

5 MS. MCCARTHY: Okay.

6 COMMISSIONER JEFFRIES: I would not be in
7 favor of exempting historic districts at this point.

8 MS. MCCARTHY: On a permanent basis?

9 COMMISSIONER JEFFRIES: Yes.

10 CHAIRPERSON MITTEN: Just so I can get a
11 feel for it though.

12 What would you think about setting down
13 the mapping without the historic districts knowing
14 that we'd come back in a second round with the
15 historic districts? What do you think about that?

16 COMMISSIONER JEFFRIES: Which is
17 effectively what Ms. --

18 CHAIRPERSON MITTEN: Yes. I was just
19 trying to feel you out for --

20 COMMISSIONER JEFFRIES: Yes. I just
21 didn't want to, you know, leap over historic
22 districts.

23 CHAIRPERSON MITTEN: No. I hear that. I
24 hear you.

25 Mr. Hood.

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1 VICE CHAIRMAN HOOD: I know that you just
2 threw that out there about Ward 5 and 6 and maybe Ward
3 1 and 2. But I shared a concern that I heard my
4 colleague, Commissioner Jeffries, about some wards
5 possibly being short-changed. And I'm sure you can
6 correct me if I didn't say it. Some wards are more
7 reactive as opposed to proactive. I just think that
8 however we're doing this, maybe in hearing those, some
9 wards will not react unless it eventually affects them
10 right off and they understand it. So, maybe put in
11 layman's term a description exactly what's going on so
12 we can get that reaction. Because I will tell you, I
13 would hate for Ward 5 to be noticed and the night we
14 have Ward 5 and 6 and nobody is here from Ward 5. So,
15 I think we need to work hard to make sure we educate
16 and that we have that showing that we need so we can
17 move forward.

18 And about the process of the hearing,
19 Madam Chair, that's why you're the chairperson.

20 CHAIRPERSON MITTEN: I'm ready for
21 whatever. I'm just thinking of you guys and I know
22 how you get tired sometimes.

23 VICE CHAIRMAN HOOD: We tried to modify
24 it. We didn't get to that.

25 MS. MCCARTHY: And to help us assuage your

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1 concerns, Mr. Vice chair, we could schedule meetings
2 with the combined ANCs of the various wards to brief
3 them on the proposed map and inclusionary zoning so
4 that they don't have to go out and do a lot of
5 research on their own. They can sort of have the
6 facts and figures and then figure out how it relates
7 to them. You know, we could schedule a meeting with
8 Ward 5 and Ward 6 together or 7 and 8. However, we
9 would propose to do it for the hearings.

10 VICE CHAIRMAN HOOD: Thank you, Ms.
11 McCarthy, but I still say we need to put that layman's
12 term in the notice for those people who don't even
13 participate in the ANCs that may want to come down.
14 And that way they won't come down after the fact.

15 Thank you. Thank you, Madam Chair.

16 CHAIRPERSON MITTEN: Anyone else?

17 COMMISSIONER JEFFRIES: Well, it's also
18 about making, you know, beyond just resources. I
19 mean, we have certain wards here where, you know, half
20 the people that walk in here live in Ward 3 and
21 they're attorneys. And they're land-use attorneys.
22 So, you know, they're already sort of, you know, sort
23 of stacked in whereas we might get other wards.

24 So, you know, I think that's a good one
25 that you really, you know, prep the neighborhoods and

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1 so forth. But I do think there still might, you know,
2 in terms of, you know some wards or areas that are
3 just not organized and I just want to make certain and
4 all my comments are just really around making certain
5 that this is -- whatever we do that it is fair and
6 transparent and that it is, you know, across the board
7 on all wards or neighborhoods. And that we're not
8 short-changing any.

9 CHAIRPERSON MITTEN: Mr. Turnbull.

10 COMMISSIONER TURNBULL: I just had one
11 question, may be two. It's just a clarification.

12 Do we know what size of a footprint the
13 historic areas represent in the area that we're
14 looking at? Is it quarter?

15 MS. STEINGASSER: Not off hand. It would
16 be a very large percentage. We're leaving out all the
17 R-1 and R-2, which takes out mostly large chunks of
18 the Northwest. A lot of historic districts are
19 downtown I want to say and east of the river.

20 I want to say it's probably going to be a
21 third to a half.

22 COMMISSIONER JEFFRIES: Third to a half.

23 MS. STEINGASSER: I'm just guessing.

24 COMMISSIONER JEFFRIES: Well, I was just
25 kind of guessing that myself, but I thought you might

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1 have a better handle on what that was.

2 And I'm just looking at it from the
3 standpoint of going through all of this that it does
4 sounds like it's maybe a way to be able to deal with
5 this on a more reasonable manner, dealing with those
6 areas that we not, I mean that we can handle better
7 and then come back with the historic areas. And then
8 look at those a little bit more carefully though.

9 CHAIRPERSON MITTEN: You know, just as I
10 sit here and I think about this.

11 One of the things that I think is good
12 around -- I mean, I think the idea is good. But
13 another especially compelling reason why I think the
14 idea of, at least on the first pass, excluding the
15 historic districts is because I think the historic
16 districts are going to require a lot more attention,
17 I think we might get to an end point where we get it
18 mapped and get it in place quicker if we don't sort of
19 weight ourselves down with something that's more
20 problematic and try and move everything at the same
21 rate. I think we could actually move more quickly
22 with the first round and maybe we'll take more -- need
23 to take more time on the second round because it's
24 more complex.

25 COMMISSIONER JEFFRIES: But you're not

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1 saying that the other districts, the non-historic
2 districts, we're going to go ahead, you know, with
3 full mapping of those and then wait? Or are going to
4 wait until we get -- is that just really around the
5 hearings and how we organize the hearings?

6 CHAIRPERSON MITTEN: No. What I would
7 suggest is that -- well, I think the Office of
8 Planning needs to do some more study before we -- I
9 would ask them to do more study before we launch
10 wholesale into the historic district.

11 So, what I would like to do and I will
12 move this is that we set down the mapping portion of
13 the inclusionary zoning case as proposed by the Office
14 of Planning in their June 30th report with the
15 exception of historic districts that overlap in those
16 zones. And we'll take those up at a subsequent round
17 of hearings. But that we would move forward with the
18 R-3 through R-5D C-1 through C-4, CR/SP, W-1 through W-
19 3 that are in non-historic districts. And I do want
20 to also include in my motion that the set down rule
21 would not apply and that we would waive the posting
22 retirement.

23 COMMISSIONER PARSONS: Second.

24 CHAIRPERSON MITTEN: I just want to make
25 sure that I made myself clear to Mr. Jeffries.

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1 COMMISSIONER JEFFRIES: Well, I'm clear
2 that you want to carve out the discussion around the
3 historic districts. I just want to make certain that
4 we're not having half the city with IZ text that, you
5 know, becomes an order and we'll still sort of going
6 through months of working through historic districts.

7 I mean, we'll wait until we're through
8 with going through the historic districts and then --
9 okay.

10 CHAIRPERSON MITTEN: No. Wait. I'm
11 sorry.

12 I see it as two decisions. We have a set
13 of hearings on the non-historic districts and then
14 when we're ready which may be before or after we
15 actually map the first set of -- the first set of
16 overlays or however we'll manage it. Then we may have
17 started on the historic districts or we may decide and
18 then start on the historic districts. But we won't
19 wait for the first round.

20 COMMISSIONER JEFFRIES: So, you're saying
21 that the non-historic districts that developers, it
22 might take effect sooner than historic districts?

23 CHAIRPERSON MITTEN: Yes.

24 MS. MCCARTHY: Madam Chair, just for the
25 Commission's information, there is the map from the

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1 Comp Plan that has the historic districts so you get
2 a relative sense of the size of the districts relative
3 to the rest of the district. There are 40 historic
4 districts now.

5 CHAIRPERSON MITTEN: Okay. Is there any
6 further discussion on the motion?

7 COMMISSIONER JEFFRIES: So, let me ask the
8 Office of Planning.

9 What would be the impact of something like
10 this? I mean, we've effectively based on what the
11 motion is, that the non-historic districts, you know,
12 IZ will take effect. And then we might spend months
13 working through the historic districts. And there
14 might be a lag time of -- I mean, what's the impact?

15 MS. STEINGASSER: I sense that what you're
16 concerned about is creating an artificial pressure of
17 development on the historic district?

18 And there might be a slight increase. But
19 historic districts already bear about 40 percent of
20 the residential development in the city. So, the
21 staff is quite used to dealing with that.

22 I think the Preservation Review Board is
23 there also as kind of a backstop to having development
24 go wild in those areas if that's what the concern is.

25 I mean, there may be more development

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1 pressure, but I'm not sure it's going to result in
2 unwanted development because there is a review board
3 and a review staff that will serve as gatekeepers to
4 that development. It may result in fewer units being
5 built in the meantime.

6 MS. MCCARTHY: Well, I think another part
7 of the concern that we've discussed before with regard
8 to mandatory inclusionary zoning is just creating
9 uncertainty in the marketplace. And dragging this out
10 and the uncertainty associated with where will IZ
11 apply and where will it not apply?

12 So, to the extent that that is a concern,
13 I think we already have looked at historic districts.
14 We will take another look at them in more detail, but
15 we will be conscious of the fact that we are -- we
16 don't want them to lag behind the Commission's
17 consideration of the area of the District so that we
18 can conclude this in a relatively expeditious fashion.

19 COMMISSIONER JEFFRIES: I guess my read
20 concern is that, you know, again certain parts of the
21 District will get IZ and other parts, some of the
22 historic districts, I mean, they will be able to mount
23 the arguments and so forth. And we're not going to get
24 this text really dispersed. But I understand this
25 whole notion of, you know, trying to organize this

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1 because, you know, I mean, the historic is -- I'm
2 probably not going to go forward with this. I mean,
3 I'll probably vote no.

4 MS. MCCARTHY: Well, let me just ask a
5 clarifying questions.

6 Was the Chair proposing that mandatory
7 inclusionary zoning would go into effect -- full blown
8 effect in everything other than the historic districts
9 once you have those hearings and make that decision.
10 Or you were just bifurcating the consideration of
11 where inclusionary zoning would apply, but in the end
12 it wouldn't go into effect until you'd made a decision
13 about all of the areas in which it would be
14 applicable?

15 CHAIRPERSON MITTEN: No. I was suggesting
16 that each of these if we call them the historic and
17 the non-historic. They would have a life of their own.

18 MS. MCCARTHY: Okay.

19 COMMISSIONER JEFFRIES: I just don't agree
20 with the bifurcation and, you know, my understanding
21 on what you saying, Madam Chair, that the non-historic
22 will take effect and we'll be waiting months to figure
23 out the rest of the city. Something just does not
24 seem equitable about that.

25 CHAIRPERSON MITTEN: Okay. Well, I mean

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1 -- I just want to see where we are. Because I'm just
2 trying to find a clear path to go forward.

3 Something that I think is most expedient
4 and if everyone doesn't share that then I'd like to
5 know that.

6 COMMISSIONER JEFFRIES: I would prefer
7 different hearings. It's just the whole notion of the
8 IZ taking effect at different times, at different
9 parts of the city seems complicated to me.

10 CHAIRPERSON MITTEN: Mr. Hood?

11 VICE CHAIRMAN HOOD: I would agree, Madam
12 Chair.

13 I think I was with you up until that
14 point. I think once we do the non-IZ -- I mean, the
15 historic and then we put the historic -- I think that
16 decision has to come out at one time.

17 CHAIRPERSON MITTEN: Okay.

18 VICE CHAIRMAN HOOD: That's my --

19 CHAIRPERSON MITTEN: So, you're
20 preferences would be that that's a way of organizing
21 the hearings but not that we should in anyway limited
22 what's under consideration?

23 VICE CHAIRMAN HOOD: And I think and go
24 back to Commissioner Jeffries as far as doing the non-
25 historic and then coming up later with -- we're

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1 sitting around for two or three years. I'm not saying
2 we would do that because this Commission moves very
3 quickly. But I think we need to deal with all of it
4 as quick as possible and get it done and get our sound
5 out there, instead of putting it out in pieces.

6 CHAIRPERSON MITTEN: Okay.

7 VICE CHAIRMAN HOOD: That's where I am.

8 CHAIRPERSON MITTEN: I mean, I'm happy if
9 that's the way you want to organize it and if you all
10 are committed to working through what is I think going
11 to be some tough sledding to get through -- issues.
12 And I know, Mr. Jeffries, we knew this was going to be
13 the tough part. I'm not suggesting -- I'm just, you
14 know -- my mouth is only so big to wrap around these
15 things.

16 COMMISSIONER JEFFRIES: You do such a good
17 job of that though.

18 CHAIRPERSON MITTEN: I can tell you'd like
19 me to revise my motion so I will.

20 COMMISSIONER PARSONS: I'm going to ask
21 that we vote on the motion.

22 CHAIRPERSON MITTEN: All right. Fine.

23 Well, I actually wanted to revise my
24 motion because I'm willing to vote against my own
25 motion if you force it.

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1 COMMISSIONER PARSONS: I'd like to vote on
2 the motion.

3 CHAIRPERSON MITTEN: All right. Then we
4 shall. Okay.

5 All those in favor of the motion which
6 would basically create two separate mapping cases.
7 One for the zones for which the Office of Planning has
8 proposed that we may IZ that does not involved
9 historic districts and one that involves the historic
10 districts. And those would have two independent
11 tracts.

12 All those in favor of that motion?

13 VICE CHAIRMAN HOOD: Discussion. This has
14 nothing to do with the time of the decision that we
15 just talked about?

16 CHAIRPERSON MITTEN: It does have to do
17 with the timing of the decision. Because my original
18 motion, which I just want to make clear I'm no longer
19 wedded to, creates two separate cases, mapping cases,
20 that would have lives of their own. So, they would
21 potentially have different decision dates. They would
22 definitely have different hearing dates and
23 potentially have different decision dates.

24 COMMISSIONER JEFFRIES: So, the motion
25 that's on the table is not -- is two potential

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1 decision dates?

2 CHAIRPERSON MITTEN: Correct.

3 COMMISSIONER JEFFRIES: That's what's on
4 the table?

5 CHAIRPERSON MITTEN: Yes. That bottom
6 lines it. Okay.

7 VICE CHAIRMAN HOOD: Okay. Go ahead.

8 CHAIRPERSON MITTEN: I just want to
9 respect what Mr. Parsons requested.

10 So, all those in favor, please say aye.

11 (AYE)

12 CHAIRPERSON MITTEN: Those opposed, please
13 say no?

14 (NO)

15 CHAIRPERSON MITTEN: Okay. My pleasure to
16 vote against my own motion.

17 Wonders will never cease. Mrs. Schellin.

18 ACTING SECRETARY SCHELLIN: The staff
19 would record the vote two to three to zero so the
20 motion fails to set down the two separate mapping
21 cases along with the set down rule not applying and
22 the posting requirements being waived.

23 CHAIRPERSON MITTEN: Okay. And who were
24 the two? Just Mr. --

25 ACTING SECRETARY SCHELLIN: I'm sorry.

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1 Commissioner Mitten moving, Commissioner Parsons
2 seconding, Commissioners Jeffries, Hood and Turnbull
3 opposed.

4 CHAIRPERSON MITTEN: Okay. I was opposed
5 also. I made the motion --

6 ACTING SECRETARY SCHELLIN: Oh, you made
7 the motion.

8 CHAIRPERSON MITTEN: -- but I voted
9 against the motion after the discussion.

10 ACTING SECRETARY SCHELLIN: Okay.

11 CHAIRPERSON MITTEN: Because one should
12 keep the motion --

13 ACTING SECRETARY SCHELLIN: Then I correct
14 the vote. One to four to zero.

15 CHAIRPERSON MITTEN: Okay.

16 ACTING SECRETARY SCHELLIN: Commissioner
17 Mitten still moving, Commissioner Parsons seconding,
18 Commissioners Mitten, Hood, Jeffries and Turnbull
19 opposed.

20 CHAIRPERSON MITTEN: Okay. Thank you.

21 So, now for something that might survive.

22 I would move that we set down the mapping
23 case as proposed by the Office of Planning and that we
24 organize the hearings in such a way that we deal with
25 the non-historic districts in one set of hearings and

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1 we deal with the historic districts in a second set of
2 hearings. And that we waive the applicability of the
3 set down rule and that we waive the posting
4 requirement. And that these hearings would all lead
5 to a single set of decisions as to the mapping.

6 COMMISSIONER JEFFRIES: Second.

7 MR. BERGSTEIN: Clarification. Did you
8 also want the hearings be broken down by wards or
9 would the first hearing simply be everybody taking
10 about all areas except those historic districts in the
11 second historic districts?

12 CHAIRPERSON MITTEN: I guess is it
13 possible to leave that open to further refinement?
14 Maybe after the Office of Planning starts having some
15 of these outreach meetings, they'll have a sense of
16 how we can organize that if we need to break it down
17 further?

18 MR. BERGSTEIN: that would require us to
19 wait on publishing the hearing notice until we got
20 that because you would want to let people know at the
21 time of the hearing notice --

22 CHAIRPERSON MITTEN: Right.

23 MR. BERGSTEIN: -- so what you're
24 authorizing staff to do is to wait until the Office of
25 Planning has a better sense of how that might

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1 breakdown.

2 CHAIRPERSON MITTEN: Hold that thought.

3 Do you guys have a sense of how we can
4 organize this if we've already decided we're going to
5 organize it non-historic and historic if we were to
6 break it down further to manage the hearings? Do you
7 have a sense of how we should do that? Or do you want
8 to think about it? Because we can just leave that
9 open.

10 MS. MCCARTHY: Well, one possibility is
11 the one you suggested of doing it on a ward or a by-
12 ward basis. The other possibility which would track
13 better with the provisions that were made that are
14 designed to accommodate different zoned districts and
15 their different conditions, would be to do it R-5A, R-
16 5B, which would track better with the concerns. But
17 probably is more difficult for citizens to figure out
18 and to participate effectively.

19 And especially if they're concerned about
20 a neighborhood which may have a variety of zoned
21 districts in it.

22 CHAIRPERSON MITTEN: We're potentially
23 having people come out twice anyway if their
24 neighborhood, you know, is part in and part out.
25 Okay.

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1 Well, for now, let's just say we'll lump
2 it all together.

3 MR. BERGSTEIN: We will lump it all
4 together.

5 CHAIRPERSON MITTEN: We'll lump all the
6 non-historic districts and we'll lump all the historic
7 districts.

8 MR. BERGSTEIN: Okay. And if we, by any
9 chance, hear something from OP before we're ready to
10 issue the hearing notice, then we have the discretion
11 to sequence it as the Office of Planning might
12 suggest.

13 CHAIRPERSON MITTEN: Yes.

14 MR. BERGSTEIN: Good.

15 CHAIRPERSON MITTEN: Okay. Now, I think
16 we are -- we didn't vote on that yet did we? We
17 didn't vote yet? Okay.

18 Mr. Bergstein distracted me.

19 Okay. Is there any further discussion on
20 the motion?

21 All those in favor, please say aye.

22 (AYE)

23 CHAIRPERSON MITTEN: Those opposed, please
24 say no.

25 (NO)

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1 CHAIRPERSON MITTEN: Mrs. Schellin.

2 ACTING SECRETARY SCHELLIN: The staff
3 would record the vote four to one to zero to set down
4 Zoning Commission Case No. 04-33A to be organized in
5 two separate hearings. One dealing with non-historic
6 and one dealing with historic. To also waive the
7 posting requirements and that the set down rule would
8 not apply.

9 Commissioner Mitten moving, Commissioner
10 Jeffries seconding, Commissioners Hood and Trumbull in
11 favor, Commissioner Parsons opposed.

12 CHAIRPERSON MITTEN: Thank you. Okay.

13 Thanks everybody. That was the first
14 indication it's not going to be smooth. But we're all
15 moving in the same direction, so that's good.

16 Okay. Next is Case No. 02-51A, the PUD
17 modification at 1616 Rhode Island Avenue.

18 MS. STEINGASSER: Madam Chair,
19 Commissioners.

20 This case is out of Arthur Jackson who is
21 out of the office today, so I'll be covering this
22 presentation for him.

23 OP does recommend set down of the PUD
24 modification and supports the infield development and
25 completion of this PUD as well as the street scape sod

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1 along the street.

2 In December of '05 the Zoning Commission
3 considered the application and the extension --
4 approved the extension and asked the Applicant to
5 revisit the design elements of the PUD modification.
6 They expressed concern that it felt a little bit
7 downtown. Too much like K Street and not quite like
8 Dupont.

9 The architect responded to that with this
10 revised modification and has provided a design that
11 reflects more vertical elements. It concludes both
12 some masonry vertical elements and glass bays that
13 pick up a more familiar rhythm along the street as it
14 goes by.

15 They have maintained the continuation of
16 the cornice line between its two neighboring buildings
17 that I believe is around 100 feet. And they've
18 recessed the upper two floors so that they step back
19 and reduce the feel of the height from the street.

20 The height overall was reduced by a full
21 floor which lowered the overall height of the building
22 and also allows for the architect to create higher
23 floor to ceilings within the remaining floors.

24 The result was a building that integrates
25 more carefully into the block in which it sits and

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1 recognizes the elements of both its neighbors.

2 Overall, the OP believes the project is
3 worthy of set down, is consistent with the
4 Comprehensive Plan and we do recommend it be set for
5 public hearing.

6 CHAIRPERSON MITTEN: Thank you.

7 Questions or comments? Any questions?

8 This one, if you recall, we had it under
9 correspondence at our last meeting because the
10 Applicant had submitted the revision and now we're
11 taking it up for set down.

12 Any comments or questions from the
13 Commission?

14 COMMISSIONER PARSONS: I was disappointed
15 that this was not a residential development, frankly,
16 but given that it's not, I see no reason not to move
17 forward.

18 So, I would move we set this down for a
19 hearing.

20 CHAIRPERSON MITTEN: And I'll second
21 that.

22 Any discussion?

23 All those in favor, please say aye.

24 (AYE)

25 CHAIRPERSON MITTEN: All those opposed,

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1 please say no.

2 Mrs. Schellin.

3 ACTING SECRETARY SCHELLIN: Before I
4 record the vote, I just want to go back and confirm
5 that 04-33A was set down as a rule-making case.

6 CHAIRPERSON MITTEN: Yes.

7 ACTING SECRETARY SCHELLIN: And then I
8 would record the vote five to zero to zero to set down
9 Zoning Commission Case 02-51A. Commissioner Parsons
10 moving, Commissioner Mitten seconding. Commissioners
11 Hood, Jeffries and Turnbull in favor.

12 CHAIRPERSON MITTEN: Thank you.

13 ACTING SECRETARY SCHELLIN: This is a
14 contested case.

15 CHAIRPERSON MITTEN: Yes. It is. Thank
16 you.

17 Next is Case. No. 03-12C/03-13C, and this
18 is another second stage PUD as part of the
19 Arthur/Capper Carrolsburg Project. And this one is an
20 office building at 250 M Street, S.E.

21 MR. COCHRAN: Good evening, Madam Chair.
22 Thank you.

23 This is the second in a series of second
24 stage PUDs for the Capper/Carrolsburg Hope VI PUD.

25 The Applicant is requesting approval of a

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1 200,780 square foot office building at 250 M Street,
2 S.E. It's bordered by Second and Third Street, S.E.
3 It would be nine stories and 110 feet high. There
4 would be ground floor retail.

5 The site is zoned CG C-3C. And there's
6 also zoning relief requested for roof structures
7 requirements under 770.6 and 411.5.

8 OP recommends that the application be set
9 down for a hearing and that the CG design review
10 required by Chapter 16 be incorporated with the PUD
11 review.

12 The application is consistent with the
13 approved preliminary PUD that the Commission has
14 adopted. However, OP believes that if the Commission
15 does set down the application, the Applicant should
16 address seven matters in greater detail.

17 The Applicant should review the design of
18 sidewalks on M Street and on Second Street in
19 consultation with DDOT and with AWC. This will be
20 important because the design will set a precedent for
21 the sidewalks along the canal blocks.

22 Second, there should be additional
23 architectural studies for the M and Second Street
24 facades, particularly, for the south to north recess
25 facing the canal blocks on the first floor of the

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1 Second Street facade and the relationship between the
2 curtain walls and the masonry or precast elements in
3 the building.

4 Third, clarification that the retail
5 spaces will be devoted to the retail not prohibited by
6 the CG overlay. This is relatively perfunctory. It
7 just hasn't been stated.

8 Fourth, the clarification that the CG
9 requirements for the type and amount of clear glass
10 will be met, again perfunctory but still need to be
11 stated.

12 Five, demonstration of how the request for
13 roof structure with horizontally and vertically
14 sloping walls meets the special exception criteria
15 that would apply to the requested relief if it were
16 not a Planned Unit Development.

17 Six, there's a need to supply additional
18 information on the proposed green roof system.

19 And, finally, seventh there's a need to
20 submit additional information about the design and the
21 intended use of 2,600 square feet of roof space that's
22 in the center of the penthouse.

23 OP has talked with the Applicant and we're
24 received oral indications that this will be used only
25 as unoccupied space or space related directly to

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1 penthouse functions. But we need to see a few more
2 details on that.

3 I'd be happy to answer questions.

4 CHAIRPERSON MITTEN: Thank you, Mr.
5 Cochran.

6 Questions? Comments?

7 Mr. Turnbull.

8 COMMISSIONER TURNBULL: I would just echo
9 Mr. Cochran's concern about some of the detailing of
10 the building architecturally, especially comparing it
11 to the other building across the street which they are
12 obviously trying to reflect a little of the same
13 character on.

14 I guess I am concerned about the penthouse
15 aspect. It just seems like it's the new year's model
16 that somehow they want to be adding something on.

17 When you look on A2 01(a), I think you're
18 right. It needs a lot more study. There's just
19 something about it that doesn't harken quite back to
20 the other one which is, if that's what they're doing,
21 I think there needs to be a little bit more study.

22 CHAIRPERSON MITTEN: Thank you.

23 Anyone else?

24 COMMISSIONER PARSONS: I wanted to really
25 focus on A2 01 and A2 01(a). What is going on here?

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1 What is going on on the streets of this
2 penthouse. It's all set back. It seems to be right
3 out of --

4 MR. COCHRAN: Excuse me, sir, on the
5 Second Street side or the Third Street side?

6 COMMISSIONER PARSONS: Third.

7 MR. COCHRAN: Where it is simply --

8 COMMISSIONER PARSONS: An extension of the
9 facade?

10 MR. COCHRAN: Extension of the facade of
11 the building. Yes.

12 COMMISSIONER PARSONS: All right.

13 MR. COCHRAN: I can't explain why --

14 COMMISSIONER PARSONS: The embellishment.
15 Are we in to that? I mean --

16 MR. COCHRAN: They have not called it an
17 architectural embellishment. It is part of the roof
18 structure. As I think you're implicitly noting, they
19 have not requested any relief from the setback
20 requirements.

21 COMMISSIONER PARSONS: Well, they're
22 wrong. I mean, just on the face of it, this is wrong.
23 And I guess you're agreeing with that. But it's
24 gotten more problems with what are they going to use
25 it for. Right?

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1 MR. COCHRAN: They have given me
2 assurances orally again that they're going to use it
3 only for legal purposes, that there aren't going to be
4 bathrooms up there, that there won't be conference
5 space up there, etcetera. But we need to see more on
6 that if you do set it down.

7 COMMISSIONER PARSONS: There really is no
8 roof plan that helps us. Right? There's a roof
9 planting plan, but no roof plan.

10 MR. COCHRAN: The roof plan could use more
11 detail.

12 COMMISSIONER PARSONS: Well, I don't want
13 to see this, you know?

14 MR. COCHRAN: Excuse me. I may be
15 emulating Joel at the last meeting.

16 COMMISSIONER PARSONS: I don't want to see
17 this penthouse.

18 CHAIRPERSON MITTEN: Okay. Let the word
19 go forth.

20 COMMISSIONER PARSONS: That's direct -- if
21 we reschedule it now rather than go through a hearing
22 and say, now let's restudy this.

23 CHAIRPERSON MITTEN: Right. No. I agree.

24 COMMISSIONER PARSONS: It's just wrong and
25 it's -- I think this has some bearing on the 1331 16th

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1 whatever. Rhode Island Avenue that we postponed.

2 MR. COCHRAN: Excuse me, Mr. Parsons.

3 I've been informed that indeed the
4 penthouse proper is setback from Third Street. There
5 is a green roof element that is at the level that's
6 basically the bottom of the penthouse. But then there
7 is an architectural tower screen that goes out
8 perpendicularly to Third Street.

9 So, what you're looking at over on the
10 Third Street side is just a screen on both on the
11 north and the south side.

12 COMMISSIONER PARSONS: Yes. I'm trying to
13 let you know I'm absolutely, adamantly opposed to it.

14 So, that's all I want to let people know.

15 MR. COCHRAN: And I simply wanted to
16 answer the question.

17 COMMISSIONER PARSONS: Whether it's legal
18 or illegal, it's wrong. Aesthetically wrong. So,
19 that's all I'm trying to offer the Applicant here.
20 But I don't want to pull up this important project
21 over that. So, me voting four to one won't help.

22 CHAIRPERSON MITTEN: you're not alone on
23 this one, Mr. Parsons.

24 COMMISSIONER PARSONS: We've got to
25 address the new architecture of the penthouses and if

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1 this is the project to do it on, we'll do it on. But
2 they're coming once a week.

3 CHAIRPERSON MITTEN: Well, this one I find
4 -- well, it's different and it's -- I think it's
5 unattractive and I don't think it's a worthy sister or
6 brother or --

7 COMMISSIONER PARSONS: Companion.

8 CHAIRPERSON MITTEN: Stepsister or
9 whatever to 1100 New Jersey. So, I think we just want
10 it to be a worthy sibling, which is what I took Mr.
11 Turnbull's comments to indicate as well. But I join
12 yo in resisting that tower screen.

13 COMMISSIONER JEFFRIES: Excuse me, Mr.
14 Cochran. The screening, can you just walk me through?
15 I mean, how does this screening work?

16 MR. COCHRAN: Excuse me. As I understand
17 it, it would be metal screening that would give a
18 unified appearance to the roof from M Street and also
19 from the north.

20 Yes. It is architectural decoration. It
21 is this current period's approach to how the
22 appearance of a roof structure would look. It's not
23 what we've looked at in the past. I think one could
24 just as easily argue that although the roof structure
25 does appear larger it also appears cleaner and more

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1 consciously designed as an element of the building
2 than have been the sort of added on roof structures in
3 the past.

4 On the other hand, I can understand the
5 Commission's concern that they might be setting
6 precedents that could eventually lead to where one
7 doesn't want to go.

8 You know, there's a difference between a
9 Cadillac of 1954 and the tail fins of 1959.

10 COMMISSIONER JEFFRIES: Well, I don't know
11 where all the Commission is going. I mean, I
12 certainly don't have a problem with roof top
13 embellishments and things of that sort. So, I mean,
14 I can' speak for everyone else. But I just wanted to
15 -- is there a volumetric?

16 MR. COCHRAN: I'm sorry, do you mean the
17 exometric?

18 COMMISSIONER JEFFRIES: A volumetric
19 anywhere in this --

20 MR. COCHRAN: I'm sorry. I don't
21 understand the term. Like an exometric?

22 COMMISSIONER JEFFRIES: Yes. A block
23 study or something that shows us in three dimension.

24 MR. COCHRAN: No.

25 COMMISSIONER JEFFRIES: No.

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1 MR. COCHRAN: The closest to three
2 dimension you get is the sketch on the cover of the
3 application.

4 COMMISSIONER JEFFRIES: Okay.

5 MR. COCHRAN: The Applicant has produced
6 computer simulations that show how the building would
7 look in the context of its so-called sister or brother
8 building on the other side of the park and I've
9 included that in the OP report.

10 COMMISSIONER JEFFRIES: Okay.

11 CHAIRPERSON MITTEN: Anyone else?

12 Mr. Turnbull?

13 COMMISSIONER TURNBULL: I guess just going
14 back and looking at the plan, I guess, this roof
15 penthouse, this screen, is screening another green
16 roof area which doesn't look like you can get to it
17 from anywhere. It looks like it's a little pen up
18 there. There's no doors to it. It looks like it's
19 just a --

20 MR. COCHRAN: I think you have raised a
21 good point that it does look like that green roof
22 would be difficult to weed it.

23 COMMISSIONER JEFFRIES: Yes. Unless
24 you're having sheep in there.

25 MR. COCHRAN: In which case it would be

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1 difficult to give supplementary feedings.

2 COMMISSIONER JEFFRIES: Right. I would
3 repeat Mr. Parson's concern and the Chairman's concern
4 that the roof plan, the penthouse, has some serious
5 issues with it that need to be addressed.

6 COMMISSIONER PARSONS: Mr. Cochran, my
7 issue is that it's increasing the height of the
8 building visually by 18-1/2 feet. And the rule in
9 this city is that anything that's at 18-1/2 feet be
10 set back 18-1/2 feet, not brought out to the facade of
11 the building.

12 And maybe somebody thinks it's time to get
13 more creative in this city, but we don't have
14 regulations to deal with that. And that's what it's
15 about.

16 MR. COCHRAN: So, if that were pulled back
17 to --

18 COMMISSIONER PARSONS: If they want to
19 test this issue on this case, have at it. But if they
20 want to get the building built, maybe they should take
21 another look.

22 MR. COCHRAN: Right.

23 COMMISSIONER JEFFRIES: So, the rendering
24 that's on the front of Exhibit A that clearly shows
25 the architectural screening, what I'm seeing, that is

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1 not a setback. I mean, was it a mistake? This notch
2 here.

3 CHAIRPERSON MITTEN: Can we see what
4 you're pointing to?

5 COMMISSIONER JEFFRIES: Exhibit A.

6 MR. COCHRAN: I believe because you're
7 looking at it in perspective and I am somewhat
8 speculating on this and it's unfortunate the Applicant
9 can't speak for it, but I believe that you're looking
10 at a perspective. And so, of course, the lower floors
11 are going to appear to be further to the east when, in
12 fact --

13 COMMISSIONER JEFFRIES: Right, right,
14 right.

15 MR. COCHRAN: -- they're simply more to
16 the front.

17 CHAIRPERSON MITTEN: I think if you look
18 at A-110, you can see where the difference is. So,
19 you see how the architectural tower screen is that L
20 shaped thing. And it goes right up to the Third
21 Street side but it's set back on the M Street side.

22 So, that's what I think you're picking up
23 from that angle.

24 COMMISSIONER JEFFRIES: Right, right,
25 right, right.

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1 MR. COCHRAN: Actually, Madam Chair, if
2 you look at A202.

3 CHAIRPERSON MITTEN: Okay.

4 MR. COCHRAN: I'm sorry. I wish I had
5 picked this up earlier, but it does look like it's
6 raising even more questions.

7 There is a precast -- this appears to be
8 showing the building from Third Street. And you're
9 seeing a precast concrete panel but then the metal
10 panel system does seem to go up completely with the
11 wall. It's not just a screen that screens it on the
12 north and the south. It appears to cover it on both
13 the north and the south and the east side also.

14 CHAIRPERSON MITTEN: Right.

15 MR. COCHRAN: So, yes. It's not just a
16 screen. It's a screen wall.

17 CHAIRPERSON MITTEN: Right.

18 MR. COCHRAN: It's a screen enclosure.

19 CHAIRPERSON MITTEN: Yes. And now that I
20 look at A110 again, now that you pointed that out, I
21 see it.

22 I don't think this is going to work for
23 the majority of the Commission.

24 MR. COCHRAN: I think I may have gotten
25 that impression.

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1 CHAIRPERSON MITTEN: Okay. But I'm sure
2 you can guide them to something suitable.

3 MR. COCHRAN: Thank you for your
4 confidence.

5 CHAIRPERSON MITTEN: All right. Well,
6 with all those helpful comments, I would move approval
7 of Case No. -- I mean, not approval. I'm sorry. Set
8 down. Yes. Jumping right ahead.

9 Sorry. Sorry about that, Mr. Parsons.
10 Are you all right?

11 COMMISSIONER PARSONS: I may not recover.

12 CHAIRPERSON MITTEN: Move to set down Case
13 No. 03-12-C/03-13C.

14 COMMISSIONER JEFFRIES: Second.

15 CHAIRPERSON MITTEN: Any further
16 discussion?

17 All those in favor, please say aye.

18 (AYE)

19 CHAIRPERSON MITTEN: Those opposed, please
20 say no.

21 Mrs. Schellin.

22 ACTING SECRETARY SCHELLIN: Staff would
23 record the vote five to zero to zero to set down
24 Zoning Commission Case No. 03-12C/03-13C.
25 Commissioner Mitten moving, Commissioner Jeffries

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1 seconding. Commissioners Hood, Parsons and Turnbull
2 in favor. And this too is a contested case.

3 CHAIRPERSON MITTEN: Thank you.

4 Last up for hearing action is Case No. 06-
5 24, which is a PUD at 2400 14th Street, N.W.

6 Mr. Jessick.

7 MR. JESSICK: Thank you, Madam Chair, and
8 members of the Commission.

9 My name is Matt Jessick. I'm with the
10 Office of Planning.

11 The Applicant for Case No. 06-24 has
12 submitted a consolidated PUD application in order to
13 develop a nine-story mixed-used building at 2400 14th
14 Street, currently the site of the Nehemiah Shopping
15 Center.

16 In order to develop as proposed, the
17 Applicant has requested relief to roof structure,
18 residential recreation space and lot occupancy
19 requirements. And has also asked for flexibility in
20 the location of the below market rent retail space.

21 The application is not inconsistent with
22 the major themes and objectives of the Comprehensive
23 Plan and the Office of Planning recommends that the
24 case be set down for a public hearing.

25 Regarding the Comprehensive Plan, the

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1 application furthers several of its major themes. It
2 will help to stabilize the 14th and U neighborhood.
3 It will improve the physical character of the
4 District. It will reinforce the District's role as a
5 regional hub. It will promote and enhance public
6 safety and provide for diversity in the community. It
7 will do this by improving the street scape along 14th
8 Street adding eyes to the street and activity on the
9 street and providing a range of housing options.

10 It will be also further some specific
11 objectives from the various elements of the
12 Comprehensive Plan including the Ward 1 plan. It will
13 minimize environmental impacts, provide housing near
14 mass transportation corridors and re-develop
15 underutilized land.

16 The generalized land use map calls for
17 medium density residential in this location. And OP
18 is supportive of re-development of the site with a mix
19 of uses.

20 The form of the development is generally
21 consistent with zoning and is not inconsistent with
22 the intent of the land use map.

23 The application is also consistent with ta
24 number of the objectives of the Strategic Neighborhood
25 Action Plan or SNAP for this area. The proposal will,

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1 again, provide mixed use development with affordable
2 housing. It will provide economic development
3 opportunities while improving the quality of life for
4 current residents and it will improve nearby-
5 resident's job skills by providing space for
6 employment training nonprofit.

7 The property is zoned C2-B and through the
8 PUD process again, they are seeking relief to roof
9 structure, lot occupancy and residential recreation
10 space requirements.

11 OP has no objection to the requested
12 relief, but I do want to note that we are still
13 working with the Applicant to refine the design of the
14 building.

15 We are concerned about the relationship fo
16 the building to the surrounding community. We have
17 suggested that the Applicant examine a greater
18 reduction in height of the western side of the
19 building, providing more articulation in the Belmont
20 and Chappian Street facades to imitate the smaller
21 scale neighborhood buildings.

22 We also suggested breaking up the mass of
23 the mechanical penthouse and perhaps setting the
24 penthouse back from the western wall.

25 The Applicant is currently looking at

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1 those revisions and OP will provide an analysis of the
2 revised design should the Commission choose to set
3 down the application for a public hearing.

4 Regarding the amenities, as you know, the
5 amenity package evaluation is based on an assessment
6 of the additional development gain through the PUD
7 process. In this case, the Applicant is gaining about
8 100,000 square feet of floor area and 25 feet in
9 building height. And to offset these impacts, they
10 proposed an amenity package which includes, among
11 other things, employment training opportunities,
12 affordable housing, environmental benefits and
13 contributions to neighborhood organizations.

14 OP feels that the amenity package could be
15 very valuable to the community, but we need more
16 details, specifically regarding some of the design
17 features such as the orientation of the access to the
18 parking garage and how this will affect traffic on
19 Belmont and Chappian Streets, how trucks and moving
20 vans will move in and out of the loading area and the
21 alley.

22 We need more information about the
23 nonprofit. Which organization will locate in the
24 retail space and what services it will provide to the
25 neighborhood residents.

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1 We also need more information about
2 environmental features and also the community group
3 contributions. What groups will the contributions go
4 to? What programs will the funds be dedicated for?

5 But overall, OP is supportive of the
6 application. Again, it is not inconsistent with the
7 goals of the Comprehensive Plan and largely meets
8 zoning requirements. We recommend that it be set down
9 for a public hearing and I'd be happy to take your
10 questions.

11 CHAIRPERSON MITTEN: Thank you.

12 Questions? Comments for Mr. Jessick?

13 COMMISSIONER JEFFRIES: Yes. I have a
14 question.

15 On page 2 under the project description
16 and Op analysis, halfway down it says. Five street
17 level units facing Chappian Street will be walk-ups
18 meant to imitate town homes. And then I look at the
19 north elevation on A-7. Is that where they should
20 show up? By the walk-ups or perhaps I need a
21 definition of walk-ups.

22 MR. JESSICK: You are correct. They're
23 not showing up well on the elevation. I think the
24 intent of the Applicant was to create more of a town
25 house appearance to that side of the building. Again,

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1 to imitate what's happening further upon Chappian
2 Street.

3 COMMISSIONER JEFFRIES: Okay.

4 MR. JESSICK: We can have them provide new
5 elevations that are more clear.

6 COMMISSIONER JEFFRIES: And then where is
7 the location of this below market retail space again?

8 MR. JESSICK: That was an issue that the
9 Applicant had asked for flexibility on. They have
10 designated an overall retail envelope within the
11 building and OP has no objection to, you know, if they
12 choose the south end or the north end for this below
13 market rent retail space. All we ask is that no space
14 that is currently designated as residential be
15 converted to retail at some point in the future. We'd
16 like that envelop to remain the same.

17 COMMISSIONER JEFFRIES: And then my last
18 question is. You have the comment about, you know,
19 perhaps asking the Applicant to bring the building
20 down somewhat on the western side. But this is a
21 fairly narrow lot. So, I mean, what do you have in
22 mind as related to sort of brining it down on the
23 western portions of the --

24 MR. JESSICK: Well, the Applicant has
25 begun as you might be able to see from the elevations

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1 to step down the building both to the south and to the
2 west. We felt that there might be additional
3 opportunities to maybe take that -- to step down to a
4 greater degree in a similar fashion.

5 COMMISSIONER JEFFRIES: So, the buildings
6 that are around Chappian Street, I mean, what's the
7 height of -- are all those buildings around Chappian
8 Street as well as Belmont, are those all like three-
9 story walk-ups?

10 MR. JESSICK: I'd say most are in the
11 three to four range. There are some that are five.

12 COMMISSIONER JEFFRIES: For apartment
13 buildings thought?

14 MR. JESSICK: Right.

15 COMMISSIONER JEFFRIES: There's been some
16 places. Okay.

17 And then do you know -- I think you
18 mentioned somewhere that there was a vacant lot behind
19 this. You say it's apartment buildings -- an
20 apartment building that is planned?

21 MR. JESSICK: I believe there is -- might
22 be an application before the Board of Zoning
23 Adjustment for an apartment building on that site.
24 But --

25 COMMISSIONER JEFFRIES: Do you know the

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1 height? Do you have any sense of -- that's an R5-B
2 though. So, would they --

3 MR. JESSICK: I don't know what the
4 proposed height is on that building.

5 COMMISSIONER JEFFRIES: Okay.

6 MR. JESSICK: We can check on that.

7 COMMISSIONER JEFFRIES: Okay. Thank you.

8 CHAIRPERSON MITTEN: Anyone else?
9 Questions? Mr. Turnbull.

10 COMMISSIONER TURNBULL: Yes. On the alley
11 side, those are two existing multi-family?

12 MR. JESSICK: On the opposite side of
13 the --

14 COMMISSIONER TURNBULL: The allen.

15 MR. JESSICK: -- alley there's one vacant
16 lot that faces Chappian. Another vacant apartment
17 building which I believe is currently being renovated
18 that faces Belmont.

19 COMMISSIONER TURNBULL: Okay. I guess the
20 only thing, and again looking down the line. If
21 something goes in there and it gets finished, we've
22 always had concerns about alleys n these tight spaces
23 where trucks going in and out, trucks idling, trash
24 compactors, garbage waste pick-up. And I think
25 looking for an alley that's going to have residential

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1 on it, I think we'd like to see some indication on how
2 those things are going to be addressed.

3 MR. JESSICK: Definitely, the turning
4 movements of the trucks is one of our big concerns.

5 COMMISSIONER TURNBULL: Right.

6 MR. JESSICK: In the traffic study, they
7 have some diagrams that show the tracking movements of
8 the tractor trailers. And so we're trying to work out
9 a solution with the Applicant either limiting the size
10 of trucks that could use the alley for move-in
11 purposes, for example, or for commercial loading. Or
12 perhaps somehow adjusting the loading space to make it
13 easier to approach with trucks.

14 COMMISSIONER TURNBULL: And I guess we'd
15 just like some indication of where the waste is, the
16 trash. Whether it's an inside compactor or whatever.

17 MR. JESSICK: We can certainly get more
18 detail on that.

19 COMMISSIONER TURNBULL: The other thing is
20 on this below market retail. Do you simply reach it
21 by going down the elevators or stair? Is this all
22 below grade?

23 MR. JESSICK: All the retail is accessed
24 from 14th Street and there may be one entrance on
25 Belmont. I'm not sure. But it would not be below

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1 grade.

2 COMMISSIONER TURNBULL: It's not?

3 MR. JESSICK: It's simply below -- the
4 Applicant is providing the space that rent below
5 market rates to --

6 COMMISSIONER TURNBULL: All right. But
7 it's all on reachable from the first floor or grade?

8 MR. JESSICK: That's correct. That's
9 correct.

10 COMMISSIONER TURNBULL: The other thing
11 is, on the roof plan some better indication of the
12 green roofing. What's included? Walkway areas.
13 Whether it's -- what's pedestrian? What's green? And
14 not what you can't walk on.

15 MR. JESSICK: That is definitely one thing
16 that we want to firm up with the Applicant, the design
17 of the green roof.

18 COMMISSIONER TURNBULL: Okay. Thank you.

19 CHAIRPERSON MITTEN: I have a couple of
20 comments that follow on what Commissioner Turnbull
21 just mentioned.

22 I'll start with the green roof.

23 This Applicant is suggesting that they
24 will incorporate a series of lead certified items and
25 I think we need to know. And those are outlined on

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1 page 15. We need to know the extent to which those
2 exceed the minimum requirements that they have to
3 comply with already

4 Mr. Turnbull was asking, you know, the
5 truck access and so on. And I've just been sitting on
6 a BZA case that's directly to the south. And the
7 access to their parking and loading is right in this
8 same area. So, I think we're going to need to see how
9 those work together to make sure that there's not
10 going to be conflicts.

11 The other things is. I just want a
12 realistic representation of what the below market
13 retail space amenity is really worth. If you
14 calculate \$100,000 for 1,000 square feet and you don't
15 discount for the time value of money, then it's a \$20
16 per square foot per year discount which implies that
17 the next rent is \$50. And I don't think we're in \$50
18 land here.

19 So, I don't want a misrepresentation of
20 what an amenity is worth, especially one that, you
21 know, seems to be taking up the bulk of a neighborhood
22 contribution.

23 The other thing is and this is just me
24 talking.

25 I think there will be a lot of expense to

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1 put this lap pool and I just don't see that as -- I
2 mean, they can put it if they want, but it just seems
3 like a lot of expense to go to for -- I mean, I just
4 don't know who is going to be swimming in a little lap
5 pool like that.

6 COMMISSIONER JEFFRIES: It's market for
7 all the luxury folks. I mean, they probably won't use
8 it, but they just want to know that it's there.

9 CHAIRPERSON MITTEN: I think there's other
10 things that people could do with their money. But,
11 you know, that's just my little two cents.

12 Okay. Anybody else?

13 COMMISSIONER JEFFRIES: I just have one
14 other questions for the Office of Planning.

15 I'm looking here. The topography seems
16 fairly steep going east to west from 14th Street to
17 the alley. Does that at all -- and so in other words,
18 some of the buildings that are, you know, to the west
19 of this building if you're looking at the north
20 elevation, might appear -- might be situated a little
21 higher.

22 Does that at all give you any pause as it
23 relates to wanting to bring this down at the western
24 edge?

25 MR. JESSICK: Well, definitely the slope

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1 is very great on both Chappian and Belmont Streets.
2 The adjacent building, however, are quite a bit lower
3 than what was being proposed.

4 And I just want to emphasize. We are
5 supportive of the height along 14th Street. We just
6 want to be sure that this building relates well to the
7 buildings behind it.

8 So, yes. The topography does help the
9 consideration a little bit of the buildings behind.
10 But we'll just ask the Applicant to take another look
11 at that.

12 COMMISSIONER JEFFRIES: Okay.

13 Madam chair, if there is no more
14 questions, I will just recommend set down for Case No.
15 06-24 for a consolidated PUD, 2400 14th Street.

16 VICE CHAIRMAN HOOD: Second.

17 CHAIRPERSON MITTEN: Thank you.

18 Any further discussion?

19 All those in favor please say aye.

20 (AYE)

21 CHAIRPERSON MITTEN: All those opposed
22 please say no.

23 Mrs. Schellin.

24 ACTING SECRETARY SCHELLIN: The staff
25 would record the vote five to zero to zero to set down

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1 Zoning Commission Case No. 06-24. Commission Jeffries
2 moving, Commissioner Hood seconding. Commissioners
3 Mitten, Parsons and Turnbull in favor and this too
4 being a contested case.

5 CHAIRPERSON MITTEN: Thank you.

6 The last item on our Agenda is Proposed
7 Action is Case No. 06-06. And I would just note that
8 Mr. Hood did not participate in that case. So, since
9 we're at the end of the Agenda, if you'd like to be
10 excused, please, you know, feel free.

11 VICE CHAIRMAN HOOD: Thank you, Madam
12 Chair. You all have a nice evening.

13 CHAIRPERSON MITTEN: Thank you.

14 And we have a supplemental report that we
15 need to open the record to receive from the Office of
16 Planning. It's actually Supplemental Report No. 2 and
17 I would move that we reopen the record to receive it.
18 It is dated today.

19 Is there a second?

20 COMMISSIONER PARSONS: Second.

21 CHAIRPERSON MITTEN: Any discussion?

22 All those in favor, please say aye.

23 (AYE)

24 CHAIRPERSON MITTEN: None opposed.

25 Mrs. Schellin.

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1 ACTING SECRETARY SCHELLIN: The staff
2 would record the vote, four to zero to one to reopen
3 the record to accept the OP Supplemental Report No. 2.
4 Commissioner Mitten moving, Commissioner Parsons
5 seconding. Commissioners Jeffries and Turnbull in
6 favor. Commissioner Hood, not present, not voting.

7 CHAIRPERSON MITTEN: Thank you.

8 Perhaps we'll just briefly turn tot he
9 Office of Planning so you can summarize the
10 Supplemental Report.

11 MR. PARKER: Since it's new to many of the
12 people in the room, I thought I'd -- it's fairly
13 short. I thought I'd read it as written.

14 CHAIRPERSON MITTEN: That's fine.

15 MR. PARKER: If that's all right.

16 OP has continued to receive further
17 correspondence and comments regarding the proposed
18 text amendment. One of the reoccurring comments
19 regards the reasoning behind single standards for all
20 sizes of schools and a request for different standards
21 for smaller schools.

22 As stated in a previous report, the
23 proposed regulations were specifically designed for
24 the small neighborhood oriented schools. Obviously,
25 larger schools would need much more land area and

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1 loading than that required by the proposed test.

2 These larger schools will continue to be
3 largely self-monitored and for practical reasons tend
4 to locate in buildings designed as schools or multi-
5 purpose buildings.

6 It is the smaller schools otherwise able
7 to locate in residential buildings and in close
8 proximity to residential homes that are meant to be
9 regulated by the new language.

10 In response to requests to accommodate
11 very small schools, OP recommends that the standard of
12 16 students currently used for mater of right child
13 development centers in the R4 and higher districts be
14 applied to all public schools.

15 Using the R4 district as an example, a
16 residential built to the maximum zoning envelope on
17 the smallest legal lot in R4 would equal about 3,200
18 square feet of gross floor area.

19 By using the standard of 150 to 200 square
20 feet per student supplied by supporters of small
21 schools in the written record for the case, this
22 hypothetical building could accommodate sixteen
23 students at 200 square feet per student.

24 Moreover, it is reasonable to assume that
25 schools of this size and smaller would have a minimum

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1 noise and traffic impact on the surrounding
2 neighborhood.

3 For these reasons, OP recommends language
4 that would state public schools limited to no more
5 than 16 students shall not be subject to the lot
6 dimension requirements of this section.

7 CHAIRPERSON MITTEN: Thank you.

8 What I wanted to do, the way I wanted to
9 take this up is if everybody had the public hearing
10 notice that outlines the proposed changes. And then
11 I just want to remind the Commission that there were
12 three additional sections that were not in the
13 original public hearing notice. One was added at set
14 down which has become 401.10 which has to do with
15 split-zoned lots.

16 For public school on split-zoned lots the
17 minimum lot width and minimum lot area requirements,
18 if any, of the less restrictive zone shall apply to
19 the entire lot as long as the lot was in existence as
20 of February 13th, 2006.

21 Another provision was added at the
22 hearing. 401.9 for public schools on corner lot of
23 through lot, minimum lot width may include a
24 measurement of all street frontages and then we have
25 this additional suggestion of 401.11.

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1 What I thought I would just briefly do is
2 walk through the proposed changes and, you know,
3 really the contentious bits come down to a select few.

4 We had a proposed definition of public
5 school, which clarified an issue that the current
6 Zoning Administrator had interpreted differently than
7 prior Zoning Administrators and includes charter
8 schools as public schools. We didn't have any -- we
9 didn't have any real concern about that, only as
10 perhaps it had been applied in a particular case.

11 Then we had a series of amendments in
12 Chapter 2 that regard matter-of-right standards and we
13 really didn't have a lot of testimony on those
14 provisions.

15 Then we had some area requirements and the
16 first set and this is in Chapter 4 related to height.
17 We really didn't hear much about height from any of
18 the folks who testified.

19 Then we got to the contentious section
20 which I want to come back to for further discussion
21 which relates to the minimum areas and lot width
22 standards.

23 We had a series of proposed amendments.
24 We also had one related to lot occupancy which was in
25 Proposed Amendment of 403.1. Then there was a series

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1 of amendments that actually expanded where public
2 schools can go as a matter of right. No opposition to
3 it including public schools as a matter of right in
4 special purpose zones, mixed use zones, CR zones or
5 the commercial or waterfront districts.

6 Then we had a clarification about parking
7 for pre-elementary schools and pre-kindergarten
8 schools.

9 And the main concern what it all boiled
10 down to and which the Office of Planning is trying, I
11 think, address in the latest submission has to go with
12 the impact on these area requirements for small
13 schools. And one of the things I found frustrating
14 about the additional submissions was the fact that we,
15 you know, I think everybody understood because we had
16 testimony from both sides.

17 We had testimony from the charter school
18 advocates that, no restrictions. And then we had
19 testimony from certain neighborhood people that they
20 thought this didn't go far enough. So, you know,
21 we're clearly trying to strike a balance.

22 And we had asked folks if they didn't
23 think we were striking the right balance to guide us
24 in a new direction. And we got virtually -- we got no
25 additional submissions on that. We got a lot of

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1 additional submissions on other issues, but it was
2 frustrating after having given the opportunity that we
3 didn't get more help from folks to strike the right
4 balance.

5 But, you know, the record is what it is at
6 this point. I think that the -- particularly with the
7 accommodation that the Office of Planning is
8 suggesting from the new 401.11 for the very small
9 schools, there clearly need to be some minimum area
10 requirements for schools in residential zones.
11 Because as someone pointed out, there are these
12 distinctions about the size of the school and the
13 number of students. And unless we get in -- and those
14 are typically dealt with in a special exception. And
15 the only time that it's probably appropriate not to
16 address that is either if the site is big enough to
17 accommodate whatever school might come. Or if it's
18 smaller, then the school has to be such a small size
19 that, as the Office of Planning pointed out in their
20 supplemental report, that it's not likely to become,
21 you know, objectionable.

22 So, I think that the proposals that the
23 Office of Planning has put before us do strike the
24 right balance. And I understand there are a lot of
25 challenges for small schools. But we have to strike

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1 a balance. It's appropriate to strike a balance
2 between their needs and the needs of the communities
3 in which they locate. That's what we intend to do.
4 That's what we're tasked to do.

5 So, anyone else have comments they'd like
6 to put on the record?

7 COMMISSIONER PARSONS: I would agree with
8 everyone you said. And I think the recent proposal,
9 this Supplemental Report No. 2, which talks about 16
10 students is good. It's a good compromise.

11 And I'm glad they borrowed the number 16
12 from our long-tested matter-of-right child development
13 centers. That is, it's not arbitrary. It's a found
14 number. So, I would support that.

15 CHAIRPERSON MITTEN: Anyone else? Anyone
16 else? All right.

17 Well, then I'll move approval of Case No.
18 06-06 as advertized with the additional test that had
19 been added during the hearing and tonight for 401.9,
20 401.10 and 401.11.

21 COMMISSIONER TURNBULL: Second.

22 CHAIRPERSON MITTEN: Any further
23 discussion.

24 COMMISSIONER JEFFRIES: Just quickly.

25 This is for the Office of Planning.

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1 So, as it relates to the 16 students, I
2 mean what's been put forth in the Supplemental Report,
3 that was driven primarily from conversations or just
4 some of the testimony or how did you get to that
5 number?

6 MR. PARKER: Well, the need to have a
7 compromise was from the testimony and continuing
8 correspondence. But this number comes from, as Mr.
9 Parsons said, the existing regulations in terms of
10 childcare centers and a number that was reasonable
11 based on the size of the lots in these districts. It
12 was reasonable to assume that the impacts would be
13 minimal.

14 COMMISSIONER JEFFRIES: So, this was
15 floated with some of the community?

16 MR. PARKER: No, this was very recent.

17 COMMISSIONER JEFFRIES: So, this is
18 just --

19 COMMISSIONER PARSONS: We received very
20 recent -- no. It has not been. Tonight is the first
21 time anyone has seen this.

22 MS. MCCARTHY: There was considerable
23 input from the community in a variety of different
24 ways about concerns about accommodating smaller
25 schools.

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1 COMMISSIONER JEFFRIES: Right.

2 Absolutely.

3 MS. MCCARTHY: But there wasn't
4 necessarily unanimity among the commend received as to
5 what constituted a smaller school. What was the
6 minimum size.

7 COMMISSIONER JEFFRIES: Okay.

8 CHAIRPERSON MITTEN: I guess I want to
9 make two points.

10 One is that this will be advertised and
11 people will have an additional period for comment.
12 But in the chart that the Office of Planning had
13 prepared for us with all of the public schools and
14 then charter schools for which they had information,
15 the smallest charter school was not smaller than 100
16 students, for which they had enrollment information.
17 I'm not saying there aren't any that are smaller than
18 that. But we didn't get much feedback about what is
19 a small school.

20 All right. Anyone else? All right.

21 Then all those in favor please say aye.

22 (AYE)

23 CHAIRPERSON MITTEN: Those opposed, please
24 say no.

25 Mrs. Schellin.

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1 ACTING SECRETARY SCHELLIN: The staff
2 would record the vote four to zero to one to approve
3 Zoning Commission Case No. 06-06 for proposed action.
4 Commission Mitten moving, Commissioner Turnbull
5 second. Commissioners Jeffries and Parsons in favor.
6 Commissioner Hood not having participated, not voting.

7 CHAIRPERSON MITTEN: Thank you.

8 And I think we have reached the end of our
9 agenda, so I thank you all for your attention and
10 we're adjourned.

11 (Whereupon, the above matter was concluded
12 at 8:55 p.m.)

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