

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY,  
MAY 23, 2011

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

|                     |                             |
|---------------------|-----------------------------|
| ANTHONY J. HOOD     | Chairman                    |
| KONRAD W. SCHLATER  | Vice Chairman               |
| GREG SELFRIDGE      | Commissioner                |
| PETER G. MAY        | Commissioner (NPS)          |
| MICHAEL G. TURNBULL | Commissioner FAIA,<br>(AOC) |

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist

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

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON

DAN EMERINE  
TRAVIS PARKER  
STEVEN COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.  
JACOB RITTING, ESQ.

This transcript constitutes the  
minutes from the Regular Meeting held on May  
23, 2011.

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

6:33 p.m.

CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the May 23, 2011 Public Meeting of the Zoning Commission of the District of Columbia.

My name is Anthony Hood. Joining me are Vice Chairman Schlater, Commissioner Selfridge, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, Ms. Donna Hanousek; Office of Attorney General, Mr. Ritting and Mr. Bergstein; Office of Planning, Ms. Steingasser, Ms. Thomas, Mr. Goldstein and Mr. Jackson.

Copies of today's meeting agenda are available to you and are located in the bin near the door.

We do not take any public testimony in our meetings, unless the Commission requests someone to come forward.

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1           Please, be advised that this  
2 proceeding is being recorded by a Court  
3 Reporter and is also webcast live.  
4 Accordingly, we must ask you to refrain from  
5 any disruptive noises or actions in the  
6 hearing room.

7           Please, turn off all beepers and  
8 cell phones.

9           Does the staff have any  
10 preliminary matters?

11           MS. SCHELLIN: No, sir.

12           CHAIRMAN HOOD: Okay. If not, I  
13 have two preliminary matters. I want to  
14 announce today that the Zoning Commission will  
15 continue its summer dress-down code, so after  
16 today, I understand it's supposed to be about  
17 90 degrees, this goes out to everyone, Office  
18 of Attorney General, Office of Planning,  
19 Office of Zoning, Zoning Commission,  
20 naturally, and the audience.

21           When you come down to present in  
22 front of us, if you don't have a tie on or a

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1 jacket, we will understand from this point  
2 forward. So that will take place beginning  
3 actually Wednesday night for us. Tonight?  
4 That's fine with me.

5 But anyway, so that's what we will  
6 do. We will go ahead and institute that a  
7 week early. Typically, normally, our June 1<sup>st</sup>  
8 date, but I understand it's going to be pretty  
9 hot this week and we have, I think, two more  
10 hearings this week.

11 Okay. The other thing, I just  
12 want to remind for the record people not to  
13 contact or attempt to contact Zoning  
14 Commission Members. We have an integrity. We  
15 try to keep our integrity. And what we do  
16 down here, we try to make the best decision  
17 possible, so I would just encourage folks who  
18 are in the audience and who are listening, not  
19 to contact any of us by other means.

20 And whatever we deal with in these  
21 cases, we deal with it right here within the  
22 walls of this room. So I would ask that you,

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1 please, do not contact any Member of the  
2 Zoning Commission.

3 And I think I'll probably repeat  
4 that again later in the month or so.

5 Okay. Let's move right ahead.  
6 Final Action. Also, let me do this, the Vice  
7 Chairman is not participating on Proposed  
8 Action. I recommend, Commissioners, that we  
9 move the agenda and that we move everything up  
10 and make Proposed Action last, so the Vice  
11 Chairman can leave, if he would like, unless  
12 you want to stay here with us. Okay. Okay.

13 And then we want to publicly  
14 congratulate you on your newborn. Give us the  
15 name. I tried to get -- the only part I could  
16 get was Anthony. Give us the name of the  
17 newborn.

18 VICE CHAIRMAN SCHLATER: That was  
19 after you.

20 CHAIRMAN HOOD: Oh, yes, I  
21 actually mentioned that, but I don't want to  
22 take that for granted. So could you give us

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1 the name?

2 VICE CHAIRMAN SCHLATER: Theodore  
3 Anthony Kabalan Schlater.

4 CHAIRMAN HOOD: Okay. Great. So  
5 we are going to move the agenda, so our Vice  
6 Chairman will get home and do his duties,  
7 especially since he didn't participate in the  
8 Proposed Action.

9 Okay. Final Action. Ms.  
10 Schellin, I think the first case I will not be  
11 participating, so I'll turn it over to the  
12 Vice Chairman, but, Ms. Schellin, if you could  
13 start us off?

14 MS. SCHELLIN: Sure. At Exhibit  
15 36, we do have an NCPC report. They have said  
16 that there were no identified adverse effects  
17 to the federal interests and it would not be  
18 inconsistent with the Comp Plan for the  
19 national capital.

20 VICE CHAIRMAN SCHLATER: Thank  
21 you, Ms. Schellin. Does anyone have anything  
22 further on this case? In that case, I move

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1 that we approve Zoning Case No. 10-27, 3050 R  
2 Street Partners - Map Amendment and special  
3 exception and variance at Square 1282.

4 COMMISSIONER TURNBULL: Second.

5 VICE CHAIRMAN SCHLATER: Moved and  
6 properly seconded. Let's call for the vote.

7 MS. SCHELLIN: Excuse me, if I  
8 could, I think that the variance was actually  
9 removed, so it is just the Map Amendment and  
10 special exception.

11 VICE CHAIRMAN SCHLATER: Okay.  
12 Thank you. So noted and I'll amend my motion.

13 COMMISSIONER TURNBULL: Well, I  
14 don't know if I can amend my second, but I'll  
15 second again.

16 VICE CHAIRMAN SCHLATER: With  
17 that, let's take the vote.

18 All in favor say aye.

19 ALL: Aye.

20 VICE CHAIRMAN SCHLATER: All in  
21 favor. Ms. Schellin?

22 MS. SCHELLIN: Yes.

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1 VICE CHAIRMAN SCHLATER: Would you  
2 record the vote?

3 MS. SCHELLIN: Staff would record  
4 the vote 4-0-1 to approve Final Action on  
5 Zoning Commission Case No. 10-27.  
6 Commissioner Schlater moving, Commissioner  
7 Turnbull seconding, Commissioners May and  
8 Selfridge in support. Commissioner Hood not  
9 voting, having not participated.

10 CHAIRMAN HOOD: Okay. Thank you,  
11 Mr. Vice Chairman.

12 Next, Zoning Commission Case No.  
13 10-19. This is the Office of Planning Map and  
14 Text Amendments - H Street Overlay - zoning  
15 consistency at Square 1050, et al. Ms.  
16 Schellin?

17 MS. SCHELLIN: Yes, sir. At  
18 Exhibit 28, we do have a request from the  
19 Office of Planning to reopen the record to  
20 accept their report, which is a request from  
21 them to defer action until our September 12<sup>th</sup>  
22 meeting.

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1           And if the Commission is agreeable  
2           to do that, then staff would set a date to  
3           allow the Office of Planning and ANC-6A to  
4           make a later submission based on what is in  
5           the Office of Planning's report.

6           VICE CHAIRMAN SCHLATER:   Can I ask  
7           the Office of Planning what the location of  
8           that property is?

9           MR. LAWSON:   Yes, the property is  
10          located at the corner of 14<sup>th</sup> and Maryland.  
11          It's a fairly large piece of property and at  
12          the northwest corner of that intersection.  
13          It's not a right angle though.   The two  
14          streets don't meet at a right angle, but it is  
15          kind of a bad intersection.

16          VICE CHAIRMAN SCHLATER:    Okay.  
17          Thank you.

18          CHAIRMAN           HOOD:           Okay.  
19          Commissioners, as was stated, we have a  
20          correspondence. First, we have to open the  
21          record to allow the correspondence from the  
22          Office of Planning and I think we can do that

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1 by general consensus.

2 Not seeing any objections, it  
3 basically states recently the owner of one of  
4 the large parcels in the area has requested  
5 some additional time to discuss the possible  
6 amendment to the zoning application.

7 A representative of ANC advised OP  
8 that they feel that that Final Action on this  
9 case should be delayed to allow an opportunity  
10 for the ANC to discuss this issues. OP  
11 concurs and recommends to the Zoning  
12 Commission before taking Final Action.

13 They actually have a date here of  
14 September 12<sup>th</sup>.

15 MS. SCHELLIN: Right. That's the  
16 date of our September meeting.

17 CHAIRMAN HOOD: Okay.

18 MS. SCHELLIN: We could put it on  
19 the agenda for that date. And if the  
20 Commission decides to do that, we could leave  
21 the record open until the Tuesday before say  
22 3:00. The Tuesday before which would be the

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1 6<sup>th</sup>.

2 CHAIRMAN HOOD: Okay.

3 MS. SCHELLIN: And allow, if the  
4 ANC and the Office of Planning would like to  
5 provide the Commission with something further  
6 based on whether they come to some type of  
7 agreement and allow for further submissions,  
8 since the record is closed, that way it would,  
9 then an opportunity provide something further.

10 CHAIRMAN HOOD: Okay.  
11 Commissioners, I would move that we accept the  
12 recommendation given to us by the Office of  
13 Planning. Any time we can better for further  
14 process, I think is good to let parties work  
15 on this. So I would move that we defer this  
16 until our September 12, 2011 meeting and ask  
17 for a second.

18 COMMISSIONER MAY: Second.

19 CHAIRMAN HOOD: It has been moved  
20 and properly seconded. Any further  
21 discussion? Are you ready for the question?

22 All those in favor?

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1 ALL: Aye.

2 CHAIRMAN HOOD: Not hearing any  
3 opposition, Ms. Schellin, would you, please,  
4 record the vote?

5 MS. SCHELLIN: Yes, staff records  
6 the vote 5-0-0 to defer Final Action to  
7 September 12, 2011 in Zoning Commission Case  
8 No. 10-19. Commissioner Hood moving,  
9 Commissioner May seconding, Commissioners  
10 Schlater, Selfridge and Turnbull in support.

11 CHAIRMAN HOOD: Okay. Thank you.

12 Next, Zoning Commission Case No.  
13 08-06, Office of Planning - Comprehensive --

14 MS. SCHELLIN: I'm sorry, Chairman  
15 Hood, and does that allow for the ANC and the  
16 Office of Planning to reopen the record and to  
17 allow for them to make that submission by  
18 September 6<sup>th</sup>?

19 CHAIRMAN HOOD: Yes.

20 MS. SCHELLIN: Yes, okay.

21 CHAIRMAN HOOD: Yes, it does, yes.

22 MS. SCHELLIN: Just wanted to make

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1 sure.

2 CHAIRMAN HOOD: Okay. Thank you.

3 So, okay, that's enough time, I'm sure, for  
4 them to make their submissions. Okay. Thank  
5 you, Ms. Schellin.

6 Zoning Commission Case No. 08-06,  
7 Office of Planning - Comprehensive Zoning  
8 Regulations Review: Production, Distribution  
9 and Repair Zones. Ms. Schellin?

10 MS. SCHELLIN: Yes, sir. In this  
11 case, there is a submission made by, I  
12 believe, the Office of Planning and as well as  
13 Chris Collins and maybe one other, I'm trying  
14 to find my notes here, on this -- actually, I  
15 believe it was just the Office of Planning and  
16 Chris Collins. And so we would ask the  
17 Commission to consider Final Action on this.

18 Also, we do have an NCPC report at  
19 Exhibit 144.

20 CHAIRMAN HOOD: Okay.  
21 Commissioners, if you will remember, this is  
22 the one where we asked the Office of Planning

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1 to go back, and I think it was Mr. Lawson. I  
2 think it was you. Okay. I'm sorry.

3 All right, Mr. Parker. I don't  
4 know why I thought it was Mr. Lawson. But  
5 anyway, Mr. Parker, if you could just, if the  
6 parties indulge me, tell us what you found,  
7 even though I know you have it written in  
8 Exhibit 146? If you could just kindly explain  
9 that to us in a nutshell, we would greatly  
10 appreciate it.

11 MR. PARKER: Sure. We did some  
12 work, at your request, to sort of corroborate  
13 Mr. Collins' pricing numbers and we found a  
14 lot of different price examples and they are  
15 attached as a table to our memo. You know,  
16 but the end result was, you know, what we  
17 found is that the saturated rate of a roof  
18 system is about nearly 7 pounds per square  
19 foot and that, you know, basically, agrees  
20 exactly with what Mr. Collins had said in his  
21 memo.

22 Pricing, we were able to get very

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1 little information. It is very contextual,  
2 very project-specific and so we weren't able  
3 to get any reliable data on the cost of these  
4 systems.

5 But, in general, you know, we  
6 ended up recommending that we have -- that we  
7 continue to have an exception down to 0.1 for  
8 the single-story warehouses, these purpose-  
9 built buildings and everything else would be  
10 the originally proposed or subsequently  
11 proposed 0.3.

12 CHAIRMAN HOOD: Okay.  
13 Commissioners, we have -- thank you, Mr.  
14 Parker. We have a number of issues here or a  
15 number of requests. I guess we can either  
16 take what was being proposed, what has been  
17 advertised, what has been recommended by Mr.  
18 Collins or we can take the revision.

19 After what the Office of Planning  
20 has done, which is dated in their May 13<sup>th</sup>  
21 letter, or we can take what is recommended  
22 after they did the review for us as a revised

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1 language and position in proceeding with 0.3  
2 or 0.1 GAR.

3 So we have a number of options in  
4 front of us. Let's open it up for discussion.

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRMAN HOOD: Commissioner May?

7 COMMISSIONER MAY: Yes, first of  
8 all, I want to thank the Office of Planning  
9 for the extensive research that they did. I  
10 appreciate seeing all of that information.  
11 And I agree there are some widely varying  
12 information, but -- with regard to the costs  
13 of such systems, but I do appreciate the  
14 extent of the research that you did.

15 I also think that the proposed  
16 change is a smart way to handle this. It was  
17 -- as I'm sure you recall, I wasn't  
18 enthusiastic about dropping the GAR number  
19 across the board and the idea that it would  
20 stay a .3 and an exception be granted for  
21 single-story warehouse buildings, I think is  
22 an acceptable compromise. So I'm in favor of

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1 moving ahead with the language as the Office  
2 of Planning proposes it be modified.

3 CHAIRMAN HOOD: Okay. And,  
4 Commissioners, basically, that's, thank you,  
5 Commissioner May, what they are proposing is  
6 that the last few sentences of their report,  
7 their supplemental report, which is Exhibit  
8 No. 146. Okay. Would anyone else like to  
9 comment?

10 Okay. I would also agree with  
11 Commissioner May and I would make a motion  
12 that we move to adopt the revised language  
13 that the Office of Planning provided in their  
14 May 13, 2011 letter and ask for a second.

15 COMMISSIONER MAY: Second.

16 CHAIRMAN HOOD: It has been moved  
17 and properly seconded. Any further  
18 discussion? I have some discussion. I'm not  
19 sure if we mentioned that the National Capital  
20 Planning Commission said this would not  
21 adversely affect any other identified federal  
22 interests. I'm not sure if that was

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1 mentioned, but I wanted to make sure that was  
2 on the record.

3 Any further discussion? Are you  
4 ready for the question?

5 All those in favor, aye?

6 ALL: Aye.

7 CHAIRMAN HOOD: Not hearing any  
8 opposition, Ms. Schellin, would you, please,  
9 record the vote?

10 MS. SCHELLIN: Yes, staff records  
11 the vote 5-0-0 to approve Final Action on  
12 Zoning Commission Case No. 08-06 with regard  
13 to PDR as amended per OP's final report.  
14 Commissioner Hood moving, Commissioner May  
15 seconding, Commissioners Schlater, Selfridge  
16 and Turnbull in support.

17 CHAIRMAN HOOD: Okay. Thank you,  
18 Ms. Schellin. Next, Zoning Commission Case  
19 No. 06-40A. This is the Gateway Market  
20 Center, Inc. - two-year PUD time extension at  
21 Square 3587. Ms. Schellin?

22 MS. SCHELLIN: Yes, sir. As you

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1 said, this is a request for a two-year PUD  
2 time extension. They are requesting this  
3 extension due to an inability to obtain  
4 financing and to find a lead tenant for the  
5 non-residential portion of the project.

6 At Exhibit 5, there is an OP  
7 report and at Exhibit 6, there is an ANC-6C  
8 letter in support.

9 CHAIRMAN HOOD: Okay. Thank you,  
10 Ms. Schellin. Commissioners, we have before  
11 us -- and if you look at the Office of  
12 Planning report as well as the applicant's  
13 submission, and I'm not sure -- oh, okay, my  
14 ANC letter is in here. And we also have an  
15 affidavit of Mr. Choi. I knew the last name.

16 The first name, I don't want to butcher it,  
17 so we also have an affidavit from Mr. Choi.

18 We have a letter as Mrs. Schellin  
19 has already mentioned, ANC-6C voted to support  
20 the initial application. No changes. So they  
21 also support the extension as well as the  
22 Office of Planning report as well as what the

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1 applicant has submitted, which, basically,  
2 spells out the rationale and the reasoning,  
3 litigation, some of the things we have heard  
4 market conditions, a number of other issues  
5 and that's found on page 2 and 3 of the report  
6 of the Office of Planning, as well as within  
7 the submission dated April the 8<sup>th</sup> from the  
8 applicant.

9 S, Commissioners, any discussion?

10 COMMISSIONER MAY: Mr. Chairman?

11 CHAIRMAN HOOD: Mr. May?

12 COMMISSIONER MAY: I missed the  
13 affidavit. Can you point me to it?

14 COMMISSIONER TURNBULL: It's  
15 Exhibit 4.

16 CHAIRMAN HOOD: Okay. If not,  
17 I'll share my copy with you. Do you need to  
18 see it?

19 COMMISSIONER MAY: I don't have an  
20 Exhibit 4.

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: I have A, B, C,

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1 D.

2 CHAIRMAN HOOD: Okay.

3 COMMISSIONER MAY: It's part of  
4 this? Thank you, Mr. Chairman.

5 CHAIRMAN HOOD: Okay. Any further  
6 discussion? Okay. I would --

7 COMMISSIONER TURNBULL: Mr. Chair,  
8 I was just going to say I think Exhibits 1, 4,  
9 5, and 6 clearly explain the situation of the  
10 applicant and in that situation, I would be in  
11 favor of granting.

12 CHAIRMAN HOOD: Okay. All right.  
13 Anybody else? Okay. They didn't have time  
14 certain. It's just a two-year extension.  
15 Okay. Then we will leave whatever -- whenever  
16 that is, we'll leave that up to staff and the  
17 applicant and OAG.

18 Anyway, I would move that we  
19 approve the two-year time extension request  
20 for Zoning Commission Case No. 06-40A, Gateway  
21 Market Center, Inc. and ask for a second.

22 COMMISSIONER TURNBULL: Second.

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1 CHAIRMAN HOOD: It has been moved  
2 and properly seconded. Any further  
3 discussion? Are you ready for the question?

4 All those in favor, aye?

5 ALL: Aye.

6 CHAIRMAN HOOD: Not hearing any  
7 opposition, Ms. Schellin, would you, please,  
8 record the vote?

9 MS. SCHELLIN: Yes, staff records  
10 the vote 5-0-0 to approve Final Action in  
11 Zoning Commission Case No. 06-40A.  
12 Commissioner Hood moving, Commissioner  
13 Turnbull seconding, Commissioners May,  
14 Schlater and Selfridge in support.

15 CHAIRMAN HOOD: Okay. Next is  
16 Zoning Commission Case No. 06-29B. This is  
17 the Washington Value Added I, LLC, two-year  
18 PUD time extension at Square 72. Ms.  
19 Schellin?

20 MS. SCHELLIN: Yes, sir. This is  
21 their second request for a two-year time  
22 extension. They are requesting this extension

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1 because they have been unable to obtain  
2 sufficient project funding and due to the  
3 hotel market slow recovery.

4 At Exhibit 4, there is an OP  
5 report.

6 CHAIRMAN HOOD: Okay. Thank you,  
7 Ms. Schellin. You know, again, this is  
8 another request. Some years ago, we used to  
9 get these kind of requests and I didn't  
10 believe them then, but now with the market  
11 conditions the way things changed, so now I'm  
12 starting to think about all those ones that  
13 were before that, that was back when Mr. Herb  
14 Franklin was here, so that tells you how long  
15 ago it has been.

16 But if you look at -- Ms.  
17 Schellin, is that Exhibit 4?

18 MS. SCHELLIN: The --

19 CHAIRMAN HOOD: Office of  
20 Planning's report.

21 MS. SCHELLIN: Office of  
22 Planning's report is at Exhibit 4, yes.

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1 CHAIRMAN HOOD: Okay. If you look  
2 at Exhibit 4 in the last page, it talks about  
3 exactly what Ms. Schellin said. And what we  
4 know now to be a custom of exactly what  
5 happens. The applicant has been unable to  
6 obtain sufficient project financing. In  
7 addition, the hotel market has slow recovery,  
8 as a result of the recent financial crisis.  
9 And it just goes on.

10 And it also talks about what is in  
11 Exhibit C for us to review. So I would be in  
12 favor, Commissioners, of granting this two-  
13 year time extension as well. And let me open  
14 it up for discussion. Any discussion?  
15 Anybody?

16 Okay. So with that I would move  
17 that we grant the two-year time extension for  
18 Zoning Commission Case No. 06-29B and ask for  
19 a second.

20 COMMISSIONER MAY: Second.

21 CHAIRMAN HOOD: It has been moved  
22 and properly seconded.

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1 All those in favor, aye?

2 ALL: Aye.

3 CHAIRMAN HOOD: Not hearing any  
4 opposition, Ms. Schellin, would you, please,  
5 record the vote?

6 MS. SCHELLIN: Yes, staff records  
7 the vote 5-0-0 to grant the two-year time  
8 extension in Zoning Commission Case No. 06-  
9 29B. Commissioner Hood moving, Commissioner  
10 May seconding, Commissioners Schlater,  
11 Selfridge and Turnbull in support.

12 CHAIRMAN HOOD: Okay. Next is  
13 Zoning Commission Case No. 08-34. This is  
14 Center Place Holdings - 1<sup>st</sup> Stage PUD and  
15 Related Map Amendment and Consolidated PUD at  
16 Squares 564, 566 and 568. Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. Staff  
18 has two preliminary matters on this case.  
19 First, the Office of Planning would like to  
20 address the Commission before you go into  
21 deliberations. And second, the applicant has  
22 requested the Commission to reopen the record

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1 to accept a complete set of conforming plans.

2 If the Commission would do so, the  
3 applicant is prepared to hand those in this  
4 evening.

5 CHAIRMAN HOOD: Okay.  
6 Commissioners, first, let's deal with the  
7 reopening of the record, so we can get a  
8 complete set of plans from the applicant who  
9 is ready to present that to us this evening.

10 I would ask -- do we need a  
11 motion? Do we need a motion? Okay. Can we  
12 just, Commissioners, agree to open the record  
13 for the complete set of plans? Okay. So we  
14 will do that. They can bring those up.

15 And also, the Office of Planning  
16 would like to address us, so, at this time,  
17 Mr. Lawson?

18 MR. LAWSON: Thank you, Chairman  
19 Hood.

20 CHAIRMAN HOOD: Do we need the  
21 plans in front of us?

22 MR. LAWSON: You do not.

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1 CHAIRMAN HOOD: Okay.

2 MR. LAWSON: Although, eventually,  
3 it may be helpful. We would just like to  
4 thank the applicant again for being so  
5 responsive to so many of the issues and  
6 discussions and we, of course, remain, you  
7 know, incredibly supportive of this  
8 application.

9 When we were looking through the  
10 order, we noticed one final issue that we had  
11 discussed at some length and had reached  
12 agreement with the applicant regarding -- but  
13 that had not been placed in the order.

14 And so we contacted the applicant  
15 and suggested that we raise this issue with  
16 the Zoning Commission for it to be added to  
17 the order, at this time. So if the Commission  
18 would like, I could read out what that -- it's  
19 a fairly minor change, but I can read out what  
20 that change that we are proposing would be.  
21 And this would be due the final order.

22 CHAIRMAN HOOD: Okay. Give me one

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1 second. Okay. Commissioners, Mr. Lawson is  
2 going to read to us what now has been proposed  
3 and the applicant also is in agreement? Okay.

4 Could you turn your mike on?

5 MR. LAWSON: They are. So it's a  
6 fairly minor change, but it's really just a  
7 clarification to reflect some of the  
8 discussions that we had had earlier. And it  
9 has to do with the pedestrian way down the  
10 center of the north block, so it only applies  
11 to that one section.

12 And the language that we have  
13 discussed with the applicant is that there  
14 will be no gate or fence restricting entry to  
15 the pedestrian way between Massachusetts  
16 Avenue and G Street, which shall remain open  
17 to the public at all times, except in  
18 association with a special event for short  
19 periods.

20 Now, the reason this was important  
21 to us is we wanted to make sure that that  
22 central pedestrian way does remain open to the

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1 public and that's certainly clearly the intent  
2 of the applicant as well, that it remain open  
3 to the public.

4 But it also allows for the  
5 possibility for that space to be closed off if  
6 there is a special event that is being  
7 organized for the area and we think that is  
8 entirely appropriate as well.

9 So that's the only change that we  
10 are proposing, at this time.

11 CHAIRMAN HOOD: Okay. Thank you,  
12 Mr. Lawson. Commissioners, I think, at least,  
13 the Office of Planning and the applicant have  
14 agreed upon that and I actually would also  
15 like to see that happen. But let me just open  
16 it up to any comments or discussions? Do we  
17 want to accept what the Office of Planning and  
18 the applicant has already worked out? Okay.  
19 So we will do that.

20 Okay. Let's open it up for  
21 comments. I'm sure there are some questions  
22 and comments on this. Vice Chairman Schlater?

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1                   VICE CHAIRMAN SCHLATER:       Thank  
2     you, Mr. Chairman. At Proposed Action, I had  
3     asked for clarification on a few items,  
4     including further development and explanation  
5     of the four story building that is connecting  
6     the two buildings in the north block.

7                   And I looked at those plans and  
8     thought they were, you know, very high quality  
9     materials and it was a plan that made sense to  
10    me. I'm happy the applicant provided that  
11    information. It was helpful to me.

12                  They also indicated that they will  
13    be providing a through lobby between the  
14    pedestrian way and 2<sup>nd</sup> Street on the eastern  
15    building on the north block and I think that  
16    is very good for the project as well.

17                  And then there was a discussion of  
18    retail heights that was very helpful in  
19    understanding what retail heights were being  
20    proposed and the change in grade between the  
21    ground level and the actual retail space  
22    itself and also had a good discussion of, you

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1 know, the design with respect to the retail  
2 and how it was going to, you know, be good  
3 retail design.

4 I was persuaded that ultimately  
5 those retail spaces are good spaces and it  
6 will be a good ground-level experience for  
7 people walking by the project.

8 And I think I asked for some  
9 information on the light columns included in  
10 the project and they provided that as well.  
11 So I too would just like to second the notion  
12 that I thought the applicant was very good  
13 about responding to all the issues that were  
14 raised at the hearing and I think it is a  
15 better project than the one that was submitted  
16 before us. And I'm happy to support it here  
17 tonight.

18 CHAIRMAN HOOD: Okay. Anything  
19 else, Commissioners? Commissioner Turnbull?

20 COMMISSIONER TURNBULL: Yes, Mr.  
21 Chairman. The other thing I want to point  
22 out, we do have a report from NCPC. They are,

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1        basically, in favor of going ahead, but they  
2        do have a couple of comments in their -- I  
3        don't know if you want to highlight those?

4                CHAIRMAN HOOD:    Yes, if you could  
5        help, me?

6                COMMISSIONER TURNBULL:    Well, one  
7        of them was "Staff recommends that the  
8        Commission find that the 1<sup>st</sup> Stage PUD/  
9        Consolidated PUD and a PUD-related Zoning  
10       Amendment for development within the air-  
11       rights above the Center Leg Freeway I-395 in  
12       Square 564, 566 and 568 would not be  
13       inconsistent with the Comprehensive Plan for  
14       the national capital nor adversely affect any  
15       other identified federal interest."

16               But they do talk about further  
17       discussions with DC on G Street, the  
18       possibility of having both vehicular and  
19       pedestrian. So from their standpoint, they  
20       are still hoping that the applicant will work  
21       with DC on looking at that.

22               I thought there was something

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1 else, too. I think that was the thing that  
2 stood out in my mind.

3 CHAIRMAN HOOD: Okay. Yes. I  
4 actually was aware of that and I figured,  
5 hopefully, what I heard from Mr. Lawson  
6 tonight, maybe there are discussions still to  
7 be had, because we already are leaving it open  
8 for pedestrians. I think the NCPD had a  
9 request.

10 I'm not sure how much of that is  
11 within our jurisdiction, but I think they will  
12 still continue to have the talk with DDOT.  
13 So I'm glad you brought that up.

14 I think there were one or two more  
15 issues that they also raised, but I'm not sure  
16 if they were -- and I do recall reading this,  
17 but I'm not sure if they are all within our  
18 jurisdiction. So but it's good that we  
19 brought it, at least for the record.

20 Okay. Thank you, Mr. Turnbull.  
21 Anybody else?

22 COMMISSIONER MAY: I would just --

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1 CHAIRMAN HOOD: Commissioner May?

2 COMMISSIONER MAY: I was just  
3 going to note that the reason G Street is --  
4 the reopening of G Street is so complicated is  
5 because of the building that is in it, which  
6 is a federal building, and I think that fact  
7 was pointed out to NCPC.

8 COMMISSIONER TURNBULL: No, I  
9 know. That is a serious issue.

10 COMMISSIONER MAY: So I mean, it's  
11 something that hopefully is now on their  
12 agenda to address as well, because they  
13 provide guidance to GSA and others who build  
14 federal buildings.

15 CHAIRMAN HOOD: Okay. Anything  
16 else? Let's take our time. You know, I'm not  
17 really sure, the applicant has removed -- and  
18 maybe I'll go to Mr. Ritting to help me. The  
19 applicant is removing some of the 2<sup>nd</sup> Stage  
20 application issues that involve the center and  
21 the south blocks.

22 But I think they are removing it,

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1 I guess, with the assumption that we will deal  
2 with it at the 2<sup>nd</sup> Stage, but I think our  
3 regulations allow for us to deal with it at  
4 1<sup>st</sup> Stage. And I guess I don't know, maybe  
5 it's a question for the applicant why are we  
6 removing it? Mr. Ritting?

7 MR. RITTING: Well, it's slightly  
8 different than that. And they are requesting  
9 consolidated review of a little bit more than  
10 what you typically approve in a 1<sup>st</sup> Stage PUD.

11 And what they are specifically asking for is  
12 laid out in Findings-of-Fact 55 and 58 of  
13 their draft order.

14 They are asking for, in addition  
15 to the approval of the entire platform and  
16 base infrastructure, also, the mix of uses,  
17 the height and density of each building in the  
18 site plan for the overall project in the  
19 consolidated aspect of the PUD.

20 And, basically, it's slightly  
21 different than your usual PUD procedures, but  
22 there is really no reason that you couldn't

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1 approve it this way, if that's the way they  
2 want to do it. And given the amount of  
3 investment that they are putting in the  
4 infrastructure itself, it seems appropriate.

5 CHAIRMAN HOOD: Would that give us  
6 another chance at the 2<sup>nd</sup> Stage to revisit  
7 those issues? I guess it will. We will still  
8 have an opportunity to revisit?

9 MR. RITTING: Well, I mean, the  
10 reason they are asking for you to approve it  
11 now is they don't want you to revisit it.

12 CHAIRMAN HOOD: They don't want to  
13 hear it again.

14 MR. RITTING: But if you have  
15 examined those issues and you are comfortable  
16 with approving it now, there is no reason that  
17 you couldn't do that.

18 CHAIRMAN HOOD: Okay. Okay. I  
19 just wanted to mention that. Anything else,  
20 Commissioners?

21 I would take Mr. Ritting's  
22 suggestion -- well, not his suggestion, but I

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1 would follow it that we would go ahead and  
2 proceed, at this point. Mr. Turnbull?

3 COMMISSIONER TURNBULL: Yes, I  
4 think the only thing, we had some design  
5 issues specifically with the south block. I  
6 think that was on our table to look at. And  
7 that would come with the 2<sup>nd</sup> Stage, but we had  
8 some serious issues with that.

9 CHAIRMAN HOOD: Okay, the design.  
10 We will be able to look at that, I'm sure, at  
11 the 2<sup>nd</sup> Stage.

12 MR. RITTING: That isn't included  
13 in the aspect of the project that they are  
14 asking for for approval now.

15 CHAIRMAN HOOD: Okay.  
16 Commissioners, anything else on this? I do  
17 want to commend the applicant for being  
18 responsive. Let's just get it done this time.

19 I think I have been around, maybe it was a  
20 different person who had it some years ago,  
21 but let's get it done.

22 Okay. With that, unless there is

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1 anything else? Mr. May?

2 COMMISSIONER MAY: I'm sorry, I'm  
3 just a little slow catching up. The issue of  
4 the 1<sup>st</sup> Stage and 2<sup>nd</sup> Stage review of the south  
5 blocks, center and south blocks, we are not  
6 taking anything off the table to that review  
7 in the language that we are planning to adopt?  
8 Is that right? Are we simply blessing the  
9 exact height and density of the plan for the  
10 center and south blocks?

11 MR. RITTING: That's correct. And  
12 you will still have the architectural review  
13 element in the 2<sup>nd</sup> Stage for the south block.

14 COMMISSIONER MAY: Only the  
15 architectural review in the 2<sup>nd</sup> Stage? So we  
16 are approving the full density regardless?

17 MR. RITTING: I'm going to have  
18 to --

19 COMMISSIONER MAY: I'm not sure,  
20 maybe I misunderstood what the issue is. I  
21 may have got it twisted in my head. Would you  
22 mind walking me through it again?

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1 MR. RITTING: Sure. Give me a  
2 moment to sort of get myself acclimated before  
3 I --

4 COMMISSIONER MAY: Okay. Sure.

5 MR. RITTING: -- start speaking.  
6 The applicant has proposed Finding-of-Fact 55  
7 states that "The applicant includes a request  
8 for a Consolidated PUD for the following  
9 elements of the overall project:

10 The construction of the entire  
11 platform and base infrastructure. The mix of  
12 uses. The height and density of each building  
13 and the site plan for the overall project,  
14 which would include the south building. The  
15 north block, the construction of all below-  
16 grade parking concourse and service levels and  
17 the proposed landscaping and streetscape  
18 project for the overall project."

19 Finding-of-Fact 58 states that  
20 "The Consolidated PUD includes the mix of  
21 uses, height and density of each building and  
22 the site plan for the overall project. The

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1 project requires a fully designed platform  
2 known for the project to commence. This  
3 construction is complex and expensive and  
4 incorporates significant risks and obligations  
5 not normally associated with the development  
6 in the District.

7 Therefore, the uses, height and  
8 density, as well as the site plan, must be  
9 finally determined prior to construction of  
10 the platform and the base infrastructure. The  
11 2<sup>nd</sup> Stage review of the buildings in the  
12 center and south blocks will focus on  
13 architectural design."

14 So to the extent your question  
15 asked whether you were going to revisit the  
16 density of the center and south blocks -- can  
17 you hear me now? I feel like the Verizon guy.

18 So to the extent that you want to  
19 revisit the density and height of the south  
20 block, that is off the table.

21 VICE CHAIRMAN SCHLATER: Does that  
22 mean it's off the table for the applicant to

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1       revisit the height and density as well?

2                   MR. RITTING:   No.

3                   COMMISSIONER MAY:   Right.   I mean,  
4       that was my question, because I think one of  
5       the things I struggled with with the south  
6       block, in particular, was their ability to  
7       build that density and wind up with a good  
8       looking building.

9                   And, you know, I mean, we did push  
10      back a bit on that and tried to see some of  
11      the density moved around, but in the long run,  
12      if they can't come up with a building that is  
13      acceptable architecturally, at that full  
14      density, they may be forced to reexamine the  
15      density of the project.   And they could do  
16      that if we are not willing to approve what  
17      they put before us.

18                   MR. RITTING:   That's true, yes.

19                   COMMISSIONER MAY:   All right.

20                   CHAIRMAN HOOD:   I just don't like  
21      the way that that was just worded.   The  
22      applicant -- unless I'm missing something, we

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1 are pushing ourselves up against the wall.  
2 But the applicant has the flexibility to make  
3 a change in height, but we don't.

4 I don't --

5 MR. RITTING: Well --

6 CHAIRMAN HOOD: Did I state that  
7 correctly?

8 COMMISSIONER MAY: I don't know.  
9 I always thought that if we have -- if an  
10 issue is decided, it means that it doesn't  
11 start out on the table, but I would think that  
12 at any 2<sup>nd</sup> Stage review we could revisit  
13 things decided in the 1<sup>st</sup> Stage at our  
14 discretion. Could we not?

15 MR. RITTING: I'm not so sure you  
16 can revisit them if they are in an order that  
17 you already issued. I mean, the question  
18 would be whether you would approve the 2<sup>nd</sup>  
19 Stage application that was before you and if  
20 you found it unacceptable for some reason,  
21 such as the design, then you could deny it.

22 COMMISSIONER MAY: Okay. Well, I

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1 mean, in just looking at the language the way  
2 it is written here, the only thing that really  
3 gives me any heartburn is the statement that  
4 2<sup>nd</sup> Stage review of the buildings in the  
5 center and south blocks will focus on  
6 architectural design.

7 I mean, that kind of goes without  
8 saying, so I would just as soon not say it.

9 MR. RITTING: That's true.

10 COMMISSIONER TURNBULL: Well, I  
11 would like to know if that limits us to  
12 setbacks or wanting more setbacks or just the  
13 design?

14 MR. RITTING: You know, I mean, I  
15 think that the, as we have sort of fleshed out  
16 here, applicant has to prove that they can  
17 build a building of that density and make it a  
18 good looking building. And it has to be good  
19 looking enough to get our approval.

20 If they do not do that and we  
21 resist approving it, they will come back and  
22 point to this order and say well, you are

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1 really only focusing on the architectural  
2 design and, therefore, you should not be  
3 pushing back on something that would actually  
4 affect density.

5 So I mean, I would rather not have  
6 that sentence in there and everyone, I think,  
7 here knows that they will have to pass mustard  
8 with the Commission the second time, at the  
9 2<sup>nd</sup> Stage and we will be looking for a very  
10 good building. And if they can do it and get  
11 their density, great. And if they can't, then  
12 they need to be thinking about all their  
13 options.

14 CHAIRMAN HOOD: So the sentence  
15 that we are looking at that we would like to  
16 have removed is the mix of uses, the height  
17 and density of each building? Is that the  
18 sentence?

19 COMMISSIONER MAY: No. It's the  
20 2<sup>nd</sup> Stage review of the buildings in the  
21 center and south blocks will focus on  
22 architectural design.

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1 CHAIRMAN HOOD: Which findings?

2 COMMISSIONER MAY: It's at the  
3 very end of 58.

4 CHAIRMAN HOOD: Therefore, the  
5 use, height and density -- is this "Therefore,  
6 the use, height and density, as well as the  
7 site plan must be finally returned prior to  
8 construction or platform or base  
9 infrastructure. The 2<sup>nd</sup> Stage review of the  
10 buildings in the center and south blocks will  
11 focus on architectural design."

12 COMMISSIONER MAY: Just that last  
13 sentence there.

14 COMMISSIONER TURNBULL: Yes.  
15 Commissioner May, I mean, my feeling is we  
16 still need to give this a comprehensive review  
17 when it comes before us. I think you have got  
18 a good point there. I'm just -- I just don't  
19 want to get us -- I think you are right. I  
20 don't think we should be locked in to just one  
21 item.

22 I think the Zoning Commission

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1 needs to perform its due diligence and review  
2 the next stage as we normally would.

3 COMMISSIONER MAY: I agree. And  
4 also, I agree that that the -- with the  
5 applicant's intent, which is that they need to  
6 have certainty to be able to move forward and  
7 invest in that entire infrastructure, so I  
8 think that -- I mean, that's why I'm  
9 comfortable with the sentence before it,  
10 because, you know, they need to make -- they  
11 do need to make certain determinations in  
12 order to move forward.

13 But they also, I mean, I think at  
14 this point, should be well-aware of the  
15 concerns that the Commission had about the  
16 overall density. And while, you know, we are  
17 giving them the ability to try to build it out  
18 completely, they still need to come back for  
19 that 2<sup>nd</sup> Stage review and it's not to say that  
20 we are going to explicitly reserve the right  
21 to reduce the density at the 2<sup>nd</sup> Stage review.

22 It may be one of the few tools

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1       that the applicant has to work with in order  
2       to get the final approval.  Anyway, for me it  
3       all boils down to that one last sentence.  I  
4       would be happier just striking that last  
5       sentence.

6                   CHAIRMAN HOOD:  And I'm not sure  
7       if we -- you know, maybe I'm reading it too  
8       much, because I have actually read it a few  
9       times.  I'm not sure if we exactly -- are we  
10      achieving what we are trying to get by just  
11      taking out that last sentence?

12                   COMMISSIONER TURNBULL:  I would  
13      like to ask, OAG, what's your feeling on our  
14      position with this?

15                   MR. RITTING:  Well, I mean, if you  
16      strike that last sentence, you are still  
17      leaving in all of Finding-of-Fact 55, which  
18      includes the approval of a mix of uses, the  
19      height and density of each building and the  
20      site plan for the overall project, which is in  
21      keeping with what 1<sup>st</sup> Stage approval is.

22                   I     mean,     it     seems     perfectly

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1 appropriate to include that in there. If you  
2 just strike that last sentence, I don't really  
3 see it having much of a significance at all  
4 really.

5 I mean, if it gives you pause,  
6 then I would be happy to strike it.

7 CHAIRMAN HOOD: I mean, let's be  
8 realistic. What are we doing? Nothing. I  
9 mean, we can strike it.

10 COMMISSIONER MAY: Well, I mean,  
11 the alternative is for us to say in the order  
12 what we have just said on the dias, which is  
13 that it is -- while this density has been  
14 approved by this order, the, you know,  
15 applicant may choose to reduce the density in  
16 order to effect a more successful design in  
17 the 2<sup>nd</sup> Stage review.

18 MR. RITTING: I think that would  
19 be appropriate to include and would be  
20 completely legally sufficient to do so.

21 CHAIRMAN HOOD: What did you say?  
22 I'm sorry.

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1                   COMMISSIONER MAY:    I don't know,  
2                   what did I say?

3                   CHAIRMAN HOOD:       I was still  
4                   reading the sentence again.

5                   MR. RITTING:   Hopefully the Court  
6                   Reporter is still recording this and I'll be  
7                   happy to review it before I issue it.

8                   COMMISSIONER MAY:   Okay. I mean,  
9                   the gist of it was that the applicant -- you  
10                  know, while the Zoning Commission was  
11                  approving the maximum -- or approving this  
12                  specific density, the applicant has the  
13                  flexibility to use less density in order to  
14                  create a more effective design for the  
15                  building in order to get the approval at the  
16                  2<sup>nd</sup> Stage.

17                  CHAIRMAN HOOD:   Okay.

18                  COMMISSIONER MAY:   So just stating  
19                  specifically that they can make it a little  
20                  bit smaller and do setbacks and things like  
21                  that to make the design approvable.

22                  MR. RITTING:    Is this limited to

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1 the south block or does it include the center  
2 block?

3 COMMISSIONER MAY: The center and  
4 south, I would say.

5 CHAIRMAN HOOD: So are we still  
6 striking the sentence that doesn't really do  
7 anything or are we going to leave that in?

8 MR. RITTING: Yes. I would strike  
9 the one which limits our review to  
10 architectural design.

11 CHAIRMAN HOOD: Okay. I'll go  
12 along with that, but I'm not sure if I agree  
13 whole -- in totality, but let's see what  
14 happens.

15 COMMISSIONER TURNBULL: Mr. Chair,  
16 are you unsure of the strength of the language  
17 in the orders?

18 CHAIRMAN HOOD: I just think that  
19 -- I just don't like to be backed up against  
20 the wall. And I go by something I heard by  
21 you, Mr. Turnbull, even though you probably  
22 think I don't listen, is he is telling us that

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1 somebody is going to come in here and try to  
2 lower the density.

3 And as you stated previously, you  
4 know, it might not have even been in this  
5 case, everybody always comes in with the  
6 maximum, with the most and I don't know. I'll  
7 just wait and see, you know.

8 COMMISSIONER MAY: Well, I fully  
9 expect them to come in with something that is  
10 the maximum density, but, again, it has to be  
11 a good building. And if they can't get to the  
12 good building without shaving off a little bit  
13 more here or there, then, you know, so be it.

14 I think it needs to be explicit that we think  
15 that that's still on the table for the  
16 applicant.

17 But, you know, they, I'm sure,  
18 will hire very talented people and will come  
19 up with a very good design no matter what.

20 CHAIRMAN HOOD: Which kind of goes  
21 back to what the Vice Chairman said a while  
22 back. I think -- does that -- I don't want to

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1 put words in your mouth, but you were talking  
2 about the density design and being able to  
3 build to the maximum point.

4 I think that kind of goes back to  
5 what you -- I know you guys don't think I pay  
6 you all attention, but I actually do.

7 Okay. So I don't know where we  
8 are. I guess are you going to try to put  
9 something together for us, Mr. Ritting?

10 MR. RITTING: Yes, I'll revise the  
11 draft order and circulate to you before we  
12 send it out.

13 CHAIRMAN HOOD: But you know what  
14 we want? I think we can still go ahead and  
15 move forward, unless somebody has some  
16 unreadiness. Is there anything else?  
17 Anything else? Okay. Would somebody like to  
18 make a motion? I'm not going to touch this  
19 one.

20 Okay. I would move approval of  
21 Zoning Commission Case No. 08-34, Center Place  
22 Holdings, 1<sup>st</sup> Stage PUD and Related Map

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1 Amendment and Consolidated PUD at Squares 564,  
2 566 and 568, taking into consideration our  
3 discussion that was just happening on the dias  
4 and ask for a second.

5 COMMISSIONER MAY: Second.

6 CHAIRMAN HOOD: It has been moved  
7 and properly seconded. Any further  
8 discussion? Are you ready for the question?

9 All those in favor, aye?

10 ALL: Aye.

11 CHAIRMAN HOOD: Not hearing any  
12 opposition, Ms. Schellin, would you, please  
13 record the vote?

14 MS. SCHELLIN: Yes, staff would  
15 record the vote 5-0-0 to approve Final Action  
16 in Zoning Commission Case No. 08-34 as  
17 amended. Commissioner Hood moving,  
18 Commissioner May seconding, Commissioners  
19 Schlater, Selfridge and Turnbull in support.

20 CHAIRMAN HOOD: Okay. We are  
21 going to go over -- we are going to skip  
22 Proposed Action for the time and we will go to

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1 Hearing Action. Yes, Hearing Action, Zoning  
2 Commission Case No. 11-09, Duball Petworth,  
3 LLC, Consolidated PUD and Related Map  
4 Amendment at Square 2905. Mr. Cochran?

5 MR. COCHRAN: Good evening, Mr.  
6 Chair and Members of the Commission. Duball  
7 Petworth has applied for approval of a PUD and  
8 Related Map Amendment on the west side of  
9 Georgia Avenue between Quincy and Randolph  
10 Streets, N.W.

11 The location is about a block  
12 north of the Georgia Avenue-Petworth Metro  
13 Station on Metro's Green and Yellow Lines.

14 The site is Zoned Georgia Avenue  
15 Overlay, C-3-A, along the Georgia Avenue  
16 portion of it. Towards the interior of the  
17 block, beginning with part of the alley for  
18 which the applicant has filed a closure  
19 request, the land is Zoned R-4.

20 The applicant has requested a  
21 change in the R-4 Zoning as part of the PUD,  
22 so that the entire acre and a half site would

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1 be Zoned Georgia Avenue, C-3-A.

2 Right now, the site contains a  
3 23,000 square foot Safeway, a parking lot and  
4 a short section of alley. If it were  
5 developed as a matter-of-right, the section  
6 fronting Georgia Avenue could be developed to  
7 a full .0 FAR and 90 feet in height.

8 The interlock section could not be  
9 developed for its R-4 Zone uses without zoning  
10 relief, due to alley dwelling restrictions.

11 The proposed PUD would be a  
12 306,000 square foot 4.5 FAR mixed-use building  
13 rising 80 feet on Georgia Avenue and 21 feet  
14 in the interior. It would contain a 63,000  
15 square foot Safeway, that's about 40,000  
16 square feet bigger than the one there now,  
17 with 220 apartments above it and underground  
18 parking and loading.

19 The relief requested includes the  
20 rezoning of the R-4 portion and relief from  
21 retail parking requirements, open court width,  
22 numbers and setbacks of penthouses and

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1 features of the Georgia Avenue Overlay,  
2 including those governing the average distance  
3 between exterior doors and the height of the  
4 back of house areas ceiling.

5 The proposal is not inconsistent  
6 with the Comprehensive Plan. The Future Land  
7 Use Map shows the Georgia Avenue C-3-A portion  
8 of the site as appropriate for moderate  
9 density commercial and medium density  
10 residential uses.

11 The Generalized Policy Map shows  
12 the entire site, including the portion now  
13 zoned R-4 as part of the Georgia Avenue Main  
14 Street Mixed-Use Corridor.

15 OP's report describes how the  
16 project would not be inconsistent with written  
17 elements in the Comprehensive Plan. The  
18 project would also be congruent with the  
19 objectives of the PUD Regulations. It would  
20 further transit-oriented development being  
21 located a block from a Metro Station.

22 Its design is superior. The

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1 requested relief is not, obviously, out of  
2 line with the projects benefits, which would  
3 include one of special value to the  
4 neighborhood, the Safeway, one which Chapter  
5 24 highlights as a public benefit, the  
6 additional housing, and the first source, but  
7 not an LSDBE agreement.

8 So far, Petworth residents have  
9 been generally favorable. OP, the ANC and the  
10 applicant would work on refinements to the  
11 benefits package should the application be set  
12 down.

13 Speaking of which, OP recommends  
14 the Commission set down this PUD for a public  
15 hearing. That concludes the testimony.

16 CHAIRMAN HOOD: Thank you, Mr.  
17 Cochran. Commissioners, any questions of the  
18 Office of Planning?

19 COMMISSIONER TURNBULL: Yes, Mr.  
20 Chair?

21 CHAIRMAN HOOD: Mr. Turnbull?

22 COMMISSIONER TURNBULL: Thank you.

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1       Mr. Cochran, I just had looking at page G-09,  
2       the turning radiuses in the alley for the  
3       trucks, I would like to see them develop a  
4       bigger, more accurate -- it looks like on the  
5       one on the right hand side, that it really --  
6       maybe the way it is -- again, maybe it's an  
7       element of the drawing, it does come very  
8       close to the end of the wall there.

9               I guess, I would like to see  
10       something a little bit clearer as to exactly  
11       how it is really going to work. I'm also  
12       concerned about whether -- I would like to see  
13       them have either -- some kind of a dock  
14       management plan. We have gone through this  
15       before with a large grocery store and trucks  
16       coming in and I'm concerned about noise,  
17       exhaust from the trucks, idling trucks out in  
18       the alley right by this apartment complex.

19               Do you have --

20               MR. COCHRAN: Mr. Chair, I just  
21       want to point out that all of that would occur  
22       below-grade. It's all underground.

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1                   COMMISSIONER TURNBULL: Well, they  
2 are going in on the alley though, right, from  
3 what I'm seeing? The trucks are going in on  
4 the alley off the --

5                   MR. COCHRAN: They go in off of an  
6 alley and down a ramp, yes.

7                   COMMISSIONER TURNBULL: But I'm  
8 just wondering if there is a wait and they  
9 have trucks waiting up in the alley --

10                  MR. COCHRAN: I know.

11                  COMMISSIONER TURNBULL: -- idling.

12                  MR. COCHRAN: I'll certainly take  
13 that to the applicant.

14                  COMMISSIONER TURNBULL: Yes. I'm  
15 just concerned. We had this before on another  
16 one and just concerned about how they are  
17 going to -- we don't want trucks idling out  
18 there 10 minutes before somebody opens the  
19 door and a truck goes down for 20 minutes.

20                  But I would like to see a better  
21 picture on how that really works and what they  
22 -- how they plan to manage this.

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1 I would also like to see some  
2 better elevations of those sections on the  
3 alleys where the garage is, I believe, where  
4 they have grills. I think there is grills. I  
5 can't tell. I would like to know what those  
6 grills look like.

7 Is there going to be light? How  
8 much light will be spilling out from behind  
9 them? Are there going to be something to  
10 diminish the effect on the neighborhood? So I  
11 would like to see a little bit more of the  
12 characteristics architecturally of how they  
13 are planning to deal with these open grills on  
14 the garages.

15 I mean, it appears to me that  
16 there is brick all around the first floor,  
17 first two floors. It looks like brick is the  
18 material that I'm seeing. But I would like to  
19 see some -- on those areas where -- the  
20 drawings we have now are very small. I would  
21 like to see a blow-up of how they are going to  
22 articulate that brick.

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1                   Is there going to be any relief to  
2     it?   Is it just a brick wall?   Something on  
3     it?   But I know you are working with them on  
4     that.

5                   MR. COCHRAN:   Yes.

6                   COMMISSIONER TURNBULL:   Okay.   The  
7     roof plan, it looks like it's just a white  
8     roof membrane.   I couldn't really tell from  
9     the -- except on the second floor.

10                  MR. COCHRAN:   Correct.   It is not  
11     a green roof, per se.   It's a reflective roof.

12                  COMMISSIONER TURNBULL:   Okay.

13                  MR. COCHRAN:   They call it a cool  
14     roof.

15                  COMMISSIONER TURNBULL:   Cool roof.

16     But it's still LEED?   Okay.   The sixth floor  
17     terrace, I'm not sure what that was.   I saw a  
18     little box designating a sixth floor terrace.

19     I don't know what is going on there.   Just a  
20     place to come out, I'm assuming.

21                  Just to remind them about resumes  
22     for their expert witnesses that they carefully

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1 document the experience, so we don't have to  
2 rehash it up here.

3 MR. COCHRAN: Okay.

4 COMMISSIONER TURNBULL: I guess I  
5 thought that some of the amenities might be a  
6 little light, other than -- I mean, from what  
7 they are proffering. I mean, the city is  
8 closing -- is going to close an alley if this  
9 thing goes ahead. I was just looking for  
10 maybe a little bit more from them on that.

11 I would like to see a perspective  
12 or some kind of a view of the cafe area just  
13 off of Georgia looking down the street, at  
14 what that really is going to look like.

15 I think I might be interested also  
16 in a shadow study showing the impact of the  
17 height of the building on the adjacent  
18 buildings, what kind of a -- what that would  
19 really look like.

20 There is also a -- in the plan,  
21 there shows a garage exhaust shaft. And it  
22 doesn't seem to go up to the roof, it just

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1 sort of seems like it ends and it looks like  
2 it is on one of the alleys. I'm just  
3 concerned about exhaust, garage exhaust  
4 emptying out into the alley with people going  
5 by. I need a little -- I think we need a  
6 little bit more information on that.

7 And I think those are most of my  
8 questions. Thank you.

9 CHAIRMAN HOOD: Thank you, Mr.  
10 Turnbull. Any other questions of the Office  
11 of Planning? Vice Chairman?

12 VICE CHAIRMAN SCHLATER: Thank  
13 you, Mr. Chairman. I think this is an  
14 exciting project. It will be great for  
15 Georgia Ave. to have a new Safeway and to have  
16 the residential above it. There are a few  
17 things that we are going to have to work  
18 through as we go through the process.

19 The portion of the building that  
20 concerns me from a design standpoint is the  
21 tongue in the back. I don't know what that --  
22 if you want to call that the loading area. It

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1 seems like with the change in grade on the  
2 site, that that loading area actually gets  
3 pretty tall as it backs up to the adjacent  
4 townhomes.

5 And it is right now designed as a  
6 blank brick wall. So I guess one of my first  
7 concerns is what you have got there now is a  
8 parking lot, surface lot. And if I go to one  
9 of the sections, it looks like that tongue  
10 goes up, you know, 2.5 stories almost.

11 So I think some attention needs to  
12 be paid to that. And also on that area, there  
13 is the mechanical penthouse for the grocery  
14 store and I know that, you know, with all the  
15 refrigeration that goes on and all the cooking  
16 that goes on in grocery stores these days,  
17 that those can be very loud units and they can  
18 create a lot of smells as well. And that is  
19 located very close to the apartment building,  
20 right across what looks to be a 20 foot public  
21 alley.

22 And I know that if I had an

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1 apartment, I wouldn't want, you know, the  
2 mechanical equipment of a Safeway 20 feet  
3 away. It is entirely possible that, you know,  
4 it is better than the current situation out  
5 there as well.

6 So I think we will be willing to  
7 explore that further, but it would be  
8 certainly a concern of mine is the proximity  
9 of that mechanical equipment.

10 And then one of the waivers that  
11 is being asked for is on the court  
12 requirements. And I just don't know if there  
13 is much to be done here. And we have  
14 discussed these court requirements in the ZRR  
15 process. And this particular court isn't  
16 going to be impacting anybody else's light and  
17 air, but I do note that it is a closed court  
18 and it is less than 40 feet wide. That seems  
19 like it would be pretty well closed in.

20 I don't know if there is much the  
21 applicant can do about it. But I also would  
22 note that the -- in the benefits and amenity

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1 section, we have got this portable housing  
2 proffered here and in our regulations,  
3 affordable housing is actually required in  
4 this zone.

5 And I don't think the applicant is  
6 doing anything to exceed those requirements.  
7 So, from my standpoint, I would scratch that  
8 for my consideration of the balancing test. I  
9 think that's it for now. Thank you.

10 CHAIRMAN HOOD: Okay. Anything  
11 else? Commissioner May?

12 COMMISSIONER MAY: Yes, just a  
13 couple of quick things. I appreciate the Vice  
14 Chairman and Commissioner Turnbull's questions  
15 and I look forward to seeing the answers or  
16 hearing the answers to a lot of that when the  
17 hearing comes around.

18 And most of my questions I'll save  
19 for the hearing, because, for the most part,  
20 this is, I think, a project that is off to a  
21 good start.

22 I do have a concern though. It

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1 seems from the drawings that I see that there  
2 is -- I don't know if I'm understanding the  
3 drawings correctly, but the base masonry at  
4 the front of the building, which is -- which  
5 alternates between a smooth course and a rough  
6 course, rough-textured course, it looks like  
7 it's some sort of concrete block, according to  
8 the image that we have here.

9 And I would be very, very  
10 concerned if this building, the base of this  
11 building, were just a concrete block of some  
12 sort, no matter how good you make the concrete  
13 block look, it's not going to look very good.

14 I mean, if it were precast or  
15 something like that and I'm just reading it  
16 incorrectly, that would be a different thing.

17 And then the other concern I have  
18 with regard to materials is the use of fiber  
19 cement panels in the upper floors of the main  
20 building in the fronts. I'm not convinced  
21 that that's such a great idea.

22 I mean, it's primarily a brick

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1 building, maybe it will look fine as an  
2 offsetting color, I don't know, or offsetting  
3 material, but I understand completely fiber  
4 cement panels in the courtyard basis, but on  
5 the main facade of the building where  
6 everything else is masonry, you've got precast  
7 and brick and hopefully a handsome block or  
8 handsome masonry unit at the lower levels.

9 The fiber cement panels in the  
10 upper level seem kind of out of place. But I  
11 just note that as a question and the applicant  
12 can try to make the case or consider  
13 alternatives. Thanks.

14 CHAIRMAN HOOD: Okay.  
15 Commissioner Selfridge?

16 COMMISSIONER SELFRIDGE: Thank  
17 you, Mr. Chairman. I would agree with what  
18 Vice Chairman Schlater said about an exciting  
19 project. Certainly, the neighborhood will  
20 benefit from the new Safeway, something that  
21 is more modern and updated.

22 But I did have a couple of the

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1 same concerns of Mr. Turnbull. One would be  
2 the benefits and amenities packages, as well,  
3 I thought that was a little bit light,  
4 particularly in light of what the Vice  
5 Chairman says about affordable housing. And  
6 then how that new 80 foot building will relate  
7 to the existing rowhouses and some shadow  
8 studies to maybe understand that a little bit  
9 better. That would be all for me.

10 CHAIRMAN HOOD: Okay. Let me just  
11 ask this, Mr. Cochran, is the, and this goes  
12 back to Vice Chairman Schlater mentioning  
13 about what is required in the affordable  
14 housing, applicant proffering or intent on  
15 doing more than what is required?

16 MR. COCHRAN: If the --

17 MS. STEINGASSER: I just want to  
18 set a context and maybe a work session amongst  
19 us all, so that we understand how we are all  
20 looking at this affordable housing issue would  
21 be advantageous in a non-case-specific type of  
22 discussion.

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1           The PUDs require a comparison of  
2     matter-of-right versus the PUD product. So  
3     when we look at the affordable housing issues,  
4     we look at what is required as a matter-of-  
5     right. And if the PUD enables more housing or  
6     more affordable housing, we consider that a  
7     benefit, not necessarily a proffer, but a  
8     benefit.

9           So there is a distinction made  
10    between both the matter-of-right, the benefits  
11    and the amenities. And historically, the  
12    Commission has accepted that realm in cases  
13    like this where you are in a Commercial Zone  
14    when they use density that could otherwise be  
15    used for non-residential, we also consider  
16    that a benefit and that's the case here.

17          So there is a delta of affordable  
18    housing that is in excess of what would be  
19    required as a matter-of-right. And that's why  
20    we checked it both as a benefit and as  
21    required.

22           CHAIRMAN HOOD:     And I think we

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1 have been down that road before and I hear  
2 what you are saying. Okay. Let me just ask  
3 this. This is probably -- I'm not going to  
4 say it's not appropriate, I just want to ask,  
5 is this Safeway the one that came from Ward 5  
6 or was already up there in that area? I'm  
7 just curious.

8 MR. COCHRAN: The Safeway is  
9 already there.

10 CHAIRMAN HOOD: Okay. Good.  
11 Okay. All right. Any other questions? All  
12 right. Would somebody like to make a motion?

13 COMMISSIONER TURNBULL: Mr. Chair,  
14 I would make a motion that we set down Zoning  
15 Commission Case No. 11-09, Consolidated PUD  
16 and Related Map Amendment at Square 2905, 3830  
17 Georgia Avenue, N.W., and ask for a second.

18 CHAIRMAN HOOD: I'll second it.  
19 Okay. It has been moved and properly  
20 seconded. Any further discussion?

21 All those in favor, aye?

22 ALL: Aye.

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1 CHAIRMAN HOOD: Not hearing any  
2 opposition, Ms. Schellin, would you, please,  
3 record the vote?

4 MS. SCHELLIN: Yes, staff records  
5 the vote 5-0-0 to set down Zoning Commission  
6 Case No. 11-09 as a contested case.  
7 Commissioner Turnbull moving, Commissioner  
8 Hood seconding, Commissioners May, Schlater  
9 and Selfridge in support.

10 CHAIRMAN HOOD: Ms. Schellin, I  
11 also would like to ask that for our training  
12 sessions that what Ms. Steingasser just  
13 mentioned about a work group, maybe that be  
14 added to the training session. Okay. So  
15 keeping in context.

16 MS. STEINGASSER: And that OP  
17 would be invited.

18 CHAIRMAN HOOD: Huh?

19 MS. STEINGASSER: And that OP  
20 would be invited.

21 CHAIRMAN HOOD: And that OP would  
22 be invited. We're keeping everything an open

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1 meeting. So we can just make sure we  
2 understand it within the context and anyone  
3 else. Okay.

4 MS. SCHELLIN: Are you referring  
5 to the Zoning Commission BZA training?

6 CHAIRMAN HOOD: Wherever we can  
7 fit it in, yes.

8 MS. SCHELLIN: Okay.

9 CHAIRMAN HOOD: Yes.

10 MS. STEINGASSER: Okay.

11 CHAIRMAN HOOD: Just for that,  
12 wherever we can fit it in, yes. Okay. Where  
13 am I? Oh, Correspondence, we need to do that  
14 before you leave. Okay.

15 Zoning Commission Case No. 05-28,  
16 Parkside Residential, LLC - letter from Zoning  
17 Administrator re: Notification 2<sup>nd</sup> Stage  
18 approval not necessary for Block D. Ms.  
19 Schellin?

20 MS. SCHELLIN: Yes, sir, this was  
21 just a letter from the ZA advising of action  
22 that they took in this case. It does not

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1 require any action from the Commission.

2 CHAIRMAN HOOD: Okay. No action  
3 requested. Any questions?

4 COMMISSIONER MAY: Well, I was  
5 hoping we might have some discussion. I'm not  
6 so sure that I agree. You know, the idea that  
7 there shouldn't be 2<sup>nd</sup> Stage review of a  
8 landscaped area simply because there is no  
9 structure on it, I mean, I know there are  
10 other subtleties to the order and so on, but  
11 I'm -- I don't know.

12 I would prefer that we see  
13 something like this than let it simply go on a  
14 1<sup>st</sup> Stage alone. Now, maybe what that means  
15 is that when we get a 1<sup>st</sup> Stage and it  
16 includes a landscaped area, that there be an  
17 explicit sort of 2<sup>nd</sup> Stage approval of the  
18 landscape and I think that has been done.  
19 That may have been what we just did with  
20 Center Place Holdings.

21 MR. RITTING: That was a  
22 discussion of the site plan of the PUD which

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1 includes the landscaping, but also includes  
2 its relationship to buildings.

3 COMMISSIONER MAY: Right.

4 MR. RITTING: Which is a possible  
5 distinction you could make between --

6 COMMISSIONER MAY: Yes.

7 MR. RITTING: -- them.

8 COMMISSIONER MAY: I just think,  
9 you know, we need to -- well, like I said, I  
10 think that our 2<sup>nd</sup> Stage review should apply  
11 to landscape spaces and not simply buildings.

12 VICE CHAIRMAN SCHLATER: I tend to  
13 agree. I also wonder whether the landscape  
14 plans in this case were different from what  
15 was on the plans that were originally put  
16 forward in front of the Commission?

17 MR. RITTING: I'm not sure. I  
18 haven't really had a chance to review it. I  
19 just saw this letter coming in today. I  
20 haven't compared them, but I could report back  
21 to you at a date certain, if that's what you  
22 are interested in.

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1                   COMMISSIONER MAY:    Well, I think  
2                   that is certainly one of the issues. I mean,  
3                   if what the plan has to be built-out varies at  
4                   all from what was approved, you know, that's  
5                   one issue. But I think that it would be --  
6                   well, what I would like to see is that we  
7                   write a letter back to the Zoning  
8                   Administrator saying that we believe 2<sup>nd</sup> Stage  
9                   approvals are necessary for landscape spaces,  
10                  unless the 1<sup>st</sup> Stage explicitly gives a final  
11                  approval of some sort. That's my thought.

12                 CHAIRMAN HOOD:    Does anybody else  
13                 agree with -- well, either way, I think we  
14                 still should respond back, because he is  
15                 exercising his flexibility here, I believe, at  
16                 least from what I gather.

17                 So, I guess, what are we trying to  
18                 do? Further clarification? What is it?

19                 COMMISSIONER MAY:   I'm not seeking  
20                 clarification nor am I seeking that, at this  
21                 point, his decision be reversed in any way. I  
22                 just think that it should be clarified to the

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1       Zoning Administrator that absence of -- I  
2       mean, the mere fact that there are no  
3       structures on the site does not mean that it  
4       should not be seen for 2<sup>nd</sup> Stage approval.

5               And that it is possible for  
6       something to go forward after a 1<sup>st</sup> Stage  
7       review only if the Zoning Commission states in  
8       the order from the 1<sup>st</sup> Stage approval that the  
9       landscapes have, in effect, a 2<sup>nd</sup> Stage  
10      approval.

11             CHAIRMAN HOOD:     Okay.     So why  
12      don't we do this?   As Mr. Ritting said, you  
13      would look at this a little more?

14             MR. RITTING:       Yes, I really  
15      haven't studied the issue in a detailed way to  
16      be able to give you an answer right now about  
17      whether landscaping alone requires a 2<sup>nd</sup> Stage  
18      approval. I just haven't considered that.

19             COMMISSIONER MAY:   Well, and, I  
20      mean, I think there is an understandable, I  
21      think, kind of technical argument as to why a  
22      2<sup>nd</sup> Stage approval was not necessary. But I

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1 don't view this as a technical matter. I view  
2 this as more of a matter of principle that we  
3 should, you know, see the final version of the  
4 landscape plan.

5 And maybe we did at the 1<sup>st</sup> Stage,  
6 but if we did, the approval should be  
7 explicit.

8 CHAIRMAN HOOD: Well, let's do  
9 this, Commissioner May and Mr. Ritting, let's  
10 let Mr. Ritting have some time. I would ask  
11 Ms. Schellin to put, even though we are not  
12 seeking clarification, but we still want some  
13 clarification, this on our June, the first  
14 meeting in June, 13<sup>th</sup>?

15 MS. SCHELLIN: June 13<sup>th</sup>.

16 CHAIRMAN HOOD: That way that will  
17 give Mr. Ritting some time to be able to  
18 expound and articulate more to us to see which  
19 path or direction we should proceed. Is that  
20 okay, Mr. Ritting?

21 MR. RITTING: Yes.

22 CHAIRMAN HOOD: Okay. Okay.

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1 Let's see, okay, the next correspondence is  
2 Zoning Commission Case No. 07-02, Columbia  
3 Heights Ventures Parcel 26, LLC - letter from  
4 the Zoning Administrator pursuant to ' 2409.8.  
5 Ms. Schellin?

6 MS. SCHELLIN: Yes. This was also  
7 a letter from the ZA and I'm afraid to say  
8 that no action is required, so I'm going to  
9 leave that up to you guys.

10 CHAIRMAN HOOD: Oh, this is the  
11 one I was thinking about. Okay. Okay. Any  
12 questions? Vice Chairman Schlater?

13 VICE CHAIRMAN SCHLATER: This one  
14 raises a couple of questions. Most  
15 importantly, we just had the case before us, I  
16 want to say, time flies up here, but it was a  
17 couple of months back, and I feel like it was  
18 after -- these plans are date -- the plans  
19 that the Zoning Administrator is basing this  
20 opinion on are dated January 10, 2011.

21 I believe that the case, I could  
22 be wrong about this, but I think, that we had

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1 on this building, Phase 2 of Highland Park,  
2 was after January 10, 2011.

3 COMMISSIONER MAY: Where are you  
4 getting January? I see March.

5 CHAIRMAN HOOD: March 2<sup>nd</sup>.

6 VICE CHAIRMAN SCHLATER: Oh, I see  
7 in the paragraph before that. "After  
8 reviewing the new elevation drawings by GTM  
9 Architects, dated 1/10/2011, I find that the  
10 revisions do not change any of the zoning  
11 parameters for the project."

12 So I don't know. I don't have  
13 any --

14 COMMISSIONER MAY: So it's between  
15 January 10<sup>th</sup> and March 2<sup>nd</sup> it changed?

16 VICE CHAIRMAN SCHLATER: Okay.  
17 However, it just seems odd that, you know,  
18 they had the plans in front of us recently. I  
19 don't have any problem with the Zoning  
20 Administrator using his --

21 CHAIRMAN HOOD: Flexibility.

22 VICE CHAIRMAN SCHLATER: --

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1 authority to approve the flexibility in the  
2 plan. It seems like an odd fact there.

3 CHAIRMAN HOOD: Do we want further  
4 clarification on that one, too?

5 COMMISSIONER MAY: I would  
6 actually like to speak to the issue of what  
7 was approved. You know, I don't recall this  
8 design, in particular, but the idea that a  
9 project had Juliet balconies on a couple of  
10 floors before and they added them on the rest  
11 of the building, I'm not sure that that is  
12 really the right decision.

13 And, you know, we do get into the  
14 weeds on these things and look at the design  
15 of the building very carefully. And, you  
16 know, I'm not sure that this is really within  
17 the realm of the Zoning Administrator's  
18 flexibility.

19 I mean, the flexibility that the  
20 Zoning Administrator has, isn't that defined  
21 by the order that we write? Because I don't  
22 remember, you know, having any discussion

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1 about how many Juliet balconies there would  
2 be.

3 CHAIRMAN HOOD: I thought we gave  
4 them the option to do all of that.

5 VICE CHAIRMAN SCHLATER:

6 COMMISSIONER MAY: Well, I don't  
7 know, maybe we did. If we did do that, then  
8 I'm wrong and I take it back. But I just, you  
9 know, don't know. I want to be fairly  
10 particular when we approve something as a PUD  
11 when it comes to the architecture. And I  
12 think that we will grant flexibility on things  
13 like color of brick within a certain range or  
14 what have you.

15 But the idea of adding, you know,  
16 physical features like balconies, I'm not sure  
17 that we would necessarily --

18 MR. RITTING: Yes, if I could  
19 interject here? There is a regulation. If  
20 you have your regulations in front of you,  
21 it's 2409.6, which provides what the Zoning  
22 Administrator's authority is in granting

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1 flexibility. And it mentions four things.

2 It doesn't explicitly mention  
3 changing balconies, that's for sure. There is  
4 another section after that, which is what the  
5 Zoning Administrator relied on in his letter,  
6 he cited in his letter, which refers to that  
7 earlier section.

8 So there is at least an argument  
9 that his authority is limited to just those  
10 four things. They are, generally speaking,  
11 change in height, lot occupancy and gross  
12 floor area, changing the number of residential  
13 units or gross floor area to be used for  
14 commercial or accessory uses, change not to  
15 exceed 2 percent of the number of parking or  
16 loading spaces, the relocation of any building  
17 within 5 feet of its approved location in  
18 order to retain flexibility of design for  
19 reasons of unforeseen subsoil conditions or  
20 adverse topography.

21 So none of them really speak to  
22 the types of design changes that are in play

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1 here.

2 VICE CHAIRMAN SCHLATER: Wouldn't  
3 we have to reference the order though, where  
4 we also usually have a few lines in the order  
5 that speak to the flexibility?

6 MR. RITTING: That's also true.  
7 And I don't know what this particular order  
8 says about that.

9 COMMISSIONER MAY: Well, this may  
10 well be within the range of things that were  
11 defined in the order, in terms of flexibility,  
12 and if so, then I'm perfectly fine with this.

13 But I think we need to know that more  
14 specifically, and I would appreciate it if we  
15 could just get that clarified.

16 And if it is, in fact, beyond what  
17 was specified in the order, then I think a  
18 response would be in order.

19 CHAIRMAN HOOD: And I would agree,  
20 because when I look at the regulations, Mr.  
21 Ritting, I don't see where it says I think  
22 they changed the color of the brick. Well, I

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1 know that's not a major issue, but we look at  
2 materials. And we look at how the character  
3 of that building or facade of it is going to  
4 mix into the character of the rest of the  
5 neighborhood.

6 And when I look at the regulation  
7 you cited, I don't see that in his  
8 flexibility, unless I'm overlooking it, but I  
9 don't see it. So I think this is another one  
10 that we need to go back to.

11 MR. RITTING: Okay. What I  
12 propose to do is I would review the order that  
13 has been issued and I'll review the  
14 regulations and report back to you about what  
15 I think the interplay is between the changes  
16 that they are requesting here and the  
17 regulations giving the Zoning Administrator  
18 the authority to make changes in that that is  
19 contained within the order and get back to you  
20 in time --

21 CHAIRMAN HOOD: Okay.

22 MR. RITTING: -- for a date that

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1 you will tell me, I assume, now.

2 CHAIRMAN HOOD: Is that -- we  
3 might as well do all of them. If we can do  
4 all of them at our next meeting, is that too  
5 much?

6 MR. RITTING: No.

7 CHAIRMAN HOOD: Okay. So we will  
8 do that. We will follow suit with that.  
9 Thank you. All right.

10 Let's move right along with the  
11 agenda.

12 VICE CHAIRMAN SCHLATER: Mr.  
13 Chairman, I just want to thank you for  
14 restructuring the agenda tonight.

15 CHAIRMAN HOOD: We have one more.

16 VICE CHAIRMAN SCHLATER: Oh, do we  
17 have?

18 CHAIRMAN HOOD: Yes, we have one  
19 more Correspondence.

20 VICE CHAIRMAN SCHLATER: We do?

21 CHAIRMAN HOOD: I know you are  
22 ready to cut out.

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1 VICE CHAIRMAN SCHLATER: I'm out.

2 CHAIRMAN HOOD: But this won't  
3 take but a second.

4 VICE CHAIRMAN SCHLATER: Okay.

5 CHAIRMAN HOOD: Unless you are  
6 out? Okay.

7 MS. SCHELLIN: I think he's out.

8 VICE CHAIRMAN SCHLATER: I  
9 actually didn't attend that hearing, so --

10 CHAIRMAN HOOD: Oh, well, no  
11 wonder.

12 VICE CHAIRMAN SCHLATER: -- I  
13 may --

14 MS. SCHELLIN: Did you do the  
15 first Proposed Action item? Were you not on  
16 that first case?

17 VICE CHAIRMAN SCHLATER: I might  
18 have been there, but not after that.

19 MS. SCHELLIN: The first one, yes.

20 VICE CHAIRMAN SCHLATER: Fair  
21 enough.

22 MS. SCHELLIN: I spoiled it for

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1       you.

2                   CHAIRMAN HOOD:   We're going to get  
3       you right out of here.   Okay.

4                   Next,       we       have       a       request,  
5       Commissioners, this is Exhibit No. 14, in  
6       consideration of a lack of objection to the  
7       above-matter, this is a meeting we had on,  
8       actually, last Thursday.

9                   MS. SCHELLIN:   Yes.

10                  CHAIRMAN    HOOD:       The   waiver.  
11       Asking that we waive, the Commission waive,  
12       the requirements of ' 3125.3 the Findings of  
13       Fact and Conclusions of Law and they are  
14       asking for a summary order. Do we need a vote  
15       on that?

16                  MS. SCHELLIN:   Yes, or at least --

17                  CHAIRMAN HOOD:   The case that only  
18       lasted us about --

19                  MS. SCHELLIN:   -- by consensus.

20                  CHAIRMAN HOOD:   -- two minutes.

21                  MS. SCHELLIN:   Right.   They just  
22       forgot to ask at the end of the hearing and so

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1 without the Commission agreeing -- or  
2 authorizing it, they can't do it.

3 CHAIRMAN HOOD: I think with the  
4 way that that case went with no objection,  
5 everybody was able to go do something else  
6 that evening, it had plenty of support,  
7 especially with this case, George Washington,  
8 it had plenty of support, so you know all the  
9 Is were dotted and Ts were crossed.

10 I don't think we -- I don't see a  
11 problem us granting a summary order. Any  
12 objection? Okay. Ms. Schellin, no objection  
13 to a summary order.

14 MS. SCHELLIN: Okay. Next, so we  
15 can get the Vice Chairman out of here. First  
16 in Proposed Action, Zoning Commission Case No.  
17 11-01, Office of Planning - Text Amendment at  
18 ' 2116, the location of parking spaces. Ms.  
19 Schellin?

20 MS. SCHELLIN: Yes, sir. OP  
21 provided some supplemental information that  
22 the Commission requested that is at Exhibit

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1 14.

2 CHAIRMAN HOOD: Okay.  
3 Commissioners, we have in front of us -- we  
4 also have a letter from ANC-3 -- give me a  
5 second. We also have a submission from ANC-  
6 3D, which actually coincides with what was  
7 relayed to us by Mrs. Gates representing the  
8 Committee of 100. And I think as a result of  
9 that, and let me just ask -- who is that, Mr.  
10 Mordfin? Is that your case?

11 MS. SCHELLIN: Mr. Emerine.

12 CHAIRMAN HOOD: Mr. Emerine, okay.  
13 Okay. So, Mr. Emerine, has the Committee of  
14 100 and the ANC had a chance to look at what  
15 has been proposed, the new language?

16 MR. EMERINE: The supplemental  
17 memo that we sent was sent to the Committee of  
18 100 and everyone else who testified at the  
19 hearing that night. I don't know if the ANC-  
20 3D has seen it or not.

21 CHAIRMAN HOOD: Okay. Do you know  
22 what the response was from the Committee of

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1 100?

2 MR. EMERINE: We haven't received  
3 a formal response from the Committee of 100.  
4 We did have some discussions and I believe, I  
5 don't want to speak for them, but, we talked  
6 in particular about the clarification of the  
7 private garage issue and I think that  
8 addressed the concern that they had on that  
9 issue. But that's kind of the extent of what  
10 we were able to resolve in conversation with  
11 them.

12 CHAIRMAN HOOD: Okay. Because as  
13 a result, which was expressed to us, what we  
14 had written first before what you had revised,  
15 would impact the whole neighborhood and would  
16 cause some difficulties. But, Commissioners,  
17 there has been revision as Mr. Emerine has  
18 mentioned that he has tried to deal with, at  
19 least the issue, that I remember, that was  
20 given from the Committee of 100.

21 And even that, it depends on how  
22 we move, there is still a 30 day comment

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1 period in which we would still be able to  
2 receive comments. People would still have a  
3 chance to comment to the Committee. We would  
4 be able to find out exactly where we are with  
5 this in that 30 day comment period.

6 Let me open it up for discussion.

7 Any further discussion? Mr. Selfridge?

8 COMMISSIONER SELFRIDGE: Mr.  
9 Chairman, I think it would be interesting to  
10 hear from the Committee of 100 what their take  
11 on this new language is, but, as you  
12 mentioned, there is an opportunity to do it  
13 between Proposed and Final Action, so, you  
14 know, I think that would allow us to discuss  
15 in a little greater detail at Final Action, so  
16 we'll look forward to receiving that.

17 CHAIRMAN HOOD: Anybody else?  
18 Commissioner May?

19 COMMISSIONER MAY: Yes, I just had  
20 a question regarding the ANC-3D letter. And,  
21 I mean, basically, it sounds like the concern,  
22 just so I understand this, I thought we had

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1 some discussion of this at the hearing, is it  
2 seems that they want to be able to preserve a  
3 right that does not now exist when it comes to  
4 driveways. Is that correct?

5 MR. EMERINE: I haven't had a  
6 chance to see the 3D letter, but --

7 COMMISSIONER MAY: Okay. And so  
8 many homes within ANC-3D have driveways in the  
9 side yard that are used by homeowners for  
10 parking.

11 MR. EMERINE: Yes.

12 COMMISSIONER MAY: The proposed  
13 Text Amendment would limit the ability of  
14 residents to replace their driveways and  
15 garages in the future or construct space in a  
16 side yard for parking. I mean, well, I guess  
17 I don't know whether this regulation changes  
18 that.

19 MR. EMERINE: It doesn't. Only  
20 with respect to corner lots.

21 COMMISSIONER MAY: Yes.

22 MR. EMERINE: You know, there is

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1 sort of an issue on corner lots if you are  
2 defining, you know, both yards that abut the  
3 streets as two front yards or a front yard and  
4 a side yard.

5 COMMISSIONER MAY: Right.

6 MR. EMERINE: And there is a lack  
7 of clarity right now, which this Text  
8 Amendment is trying to provide clarity to. So  
9 I don't know if that is the specific issue  
10 that is --

11 COMMISSIONER MAY: Well, if there  
12 were a side yard in a corner lot --

13 MR. EMERINE: Yes.

14 COMMISSIONER MAY: -- under the  
15 current regulations, you might actually be  
16 able to have a driveway, add a driveway?

17 MR. EMERINE: It's actually  
18 unclear.

19 COMMISSIONER MAY: Okay.

20 MR. EMERINE: But I think under  
21 certain interpretations, that could be  
22 possible.

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1                   COMMISSIONER MAY:    Yes.    And the  
2   scene that was described at the hearing where  
3   someone might have a driveway that is to the  
4   side of the house --

5                   MR. EMERINE:    Yes.

6                   COMMISSIONER MAY:   -- but actually  
7   ends before it gets to the side of the house--

8                   MR. EMERINE:    Yes.

9                   COMMISSIONER MAY:   -- and so the  
10   actual parking is occurring in that front yard  
11   space, that's not legal now.

12                  MR. EMERINE:    That's correct.

13                  COMMISSIONER MAY:   And where it  
14   exists, it is grandfathered?

15                  MR. EMERINE:    That's right.

16                  COMMISSIONER    MAY:           And this  
17   regulation would have no change, have no  
18   affect on that?

19                  MR.       EMERINE:           That's       my  
20   understanding, yes.

21                  COMMISSIONER MAY:   Right.    Okay.  
22   Okay.    I look forward to hearing further

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1 comments when we take action.

2 CHAIRMAN HOOD: Any other  
3 questions? Well, since we have another  
4 comment period, Commissioners, I would move  
5 that we approve with the amendments as revised  
6 by the Office of Planning in Zoning Commission  
7 Case No. 11-01, taking a note that we are  
8 looking for comments, if we receive comments  
9 in this next 30 day comment period, and ask  
10 for a second.

11 COMMISSIONER SELFRIDGE: Second.

12 CHAIRMAN HOOD: It has been moved  
13 and properly seconded. Any further  
14 discussion?

15 All those in favor?

16 ALL: Aye.

17 CHAIRMAN HOOD: Not hearing any  
18 opposition, Ms. Schellin, would you, please  
19 record the vote?

20 MS. SCHELLIN: Yes, staff records  
21 the vote 5-0-0 to approve Proposed Action in  
22 Zoning Commission Case No. 11-01, as amended.

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1 Commissioner Hood moving, Commissioner  
2 Selfridge seconding, Commissioners May,  
3 Schlater and Turnbull in support.

4 CHAIRMAN HOOD: Okay. Mr. Vice  
5 Chairman, thank you.

6 VICE CHAIRMAN SCHLATER: Thank  
7 you.

8 CHAIRMAN HOOD: Have a nice  
9 evening. Okay. Next we have Proposed Action  
10 in Zoning Commission Case No. 05-28E, Lano  
11 Parcel 12, LLC and D.C. Primary Care  
12 Association - PUD Modification at Square 5055.  
13 Ms. Schellin?

14 MS. SCHELLIN: Yes, sir. If you  
15 will recall, we deferred action from this  
16 case, I believe it was our last meeting to  
17 tonight, so staff would just ask the  
18 Commission to consider Proposed Action on this  
19 case.

20 CHAIRMAN HOOD: Okay. Thank you,  
21 Ms. Schellin. Commissioners, I know some of  
22 these cases may run altogether, because we had

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1 55E, B and C. Was it B and C? But anyway,  
2 tonight right now we are dealing with 55E,  
3 which is a request by the applicant to modify  
4 an existing 1<sup>st</sup> Stage PUD to convert a portion  
5 of the approved residential use of an office  
6 and institutional uses.

7 We would also modify permitted  
8 building heights as well. Also, we are  
9 looking at youth substitute or health center  
10 for a residential building and substitute a  
11 university building for a residential -- from  
12 a residential building.

13 So that's putting it in context.  
14 I believe that the -- for me, and I wasn't  
15 sure, because, you know, some of these cases  
16 all ran together for me, but when I look at --  
17 you know, I was trying to consider, for me,  
18 the use for a health center and I listened to  
19 the argument from residential, from a  
20 university building, from a residential.

21 And, for me, I was trying to  
22 figure out impacts. And that's one of the

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1 things that we are governed to look at. And  
2 also, in Chapter 24 in our 1<sup>st</sup> Stage  
3 proceedings, it tells us -- it really guides  
4 us in the way we should proceed.

5 For example, let's see, and I  
6 understand there are certain things that we  
7 should look for in the 1<sup>st</sup> Stage. Hold on one  
8 second. In the report, the suitability, the  
9 compatibility to the community and consistent  
10 with the Comprehensive Plan, you know, as far  
11 as when I first looked -- and I'm just trying  
12 to get the discussion started, because what we  
13 do in this case will affect the other two  
14 cases.

15 I believe that, you know, when I  
16 looked at it, I think that the use that is  
17 going from the -- and actually, I went both  
18 ways on this. The use that's going from the  
19 health center to the residential, earlier I  
20 was thinking that the health center would be  
21 more of an impact use and I was trying to  
22 figure out why the community was so much

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1       against the health center.

2                       But then, I thought the  
3       residential would be less impact on that  
4       community, at first. But then I reversed it,  
5       the residential, I believe, would be less  
6       impacted versus the health center, because I  
7       think the issue for me was, what I heard from  
8       the community was, the traffic, the  
9       transit, the coming in and going out,  
10      which, as we know, basically, is not easy.

11                     I mean, something is going to be  
12      built there. But I think the use is an  
13      important piece of it. I'm just -- you know,  
14      let's kind of get the ball rolling, but I want  
15      to hear from my colleagues what they think  
16      about especially the change in the uses in the  
17      1<sup>st</sup> Stage. And then we will talk about  
18      building height next. Commissioner May?

19                     COMMISSIONER MAY: Well, I knew  
20      what I was going to say until you said at the  
21      end there we will talk about building height  
22      next.

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1 CHAIRMAN HOOD: Okay. You want to  
2 start with building height?

3 COMMISSIONER MAY: Well, there  
4 needs to be -- they are connected for me.

5 CHAIRMAN HOOD: Okay.

6 COMMISSIONER MAY: The --

7 CHAIRMAN HOOD: They are  
8 connected.

9 COMMISSIONER MAY: I think that  
10 the idea of changing some of the residential  
11 use to the university use makes a lot of sense  
12 in a lot of ways. And the density is similar.  
13 And I think in terms of the impact, it is  
14 very difficult to say that, you know, in light  
15 of all the testimony that we heard, it's very  
16 difficult for me to come to a solid conclusion  
17 that it is going to -- that that change of use  
18 and tweaking of the building mass and so on  
19 would really result in an objectionable  
20 condition for the neighbors.

21 I mean, there is definitely still  
22 some open questions about that, because of the

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1       uncertainty in the reporting that we got from  
2       DDOT. I mean, even today, the latest report  
3       that we have from them does not give me great  
4       certainty that the traffic situation there is  
5       going to be resolved.

6               It's not a report we are seeing  
7       today, but it's the one that we are looking at  
8       in our hands today. It was in our package.  
9       The health care facility, I think, is a misfit  
10      in terms of the plan of the development. You  
11      know, the massing of it doesn't fit.

12             The use of it, I can see fitting  
13      and, frankly, you know, the thing that would  
14      make sense to me is if this were on the first  
15      couple of floors of a bigger building and then  
16      you would see the whole plan built-out.

17             I understand that's not in the  
18      cards, so, you know, I'm not going to keep  
19      hoping for that.

20             And then the last thing about this  
21      that makes me rather uncomfortable is the idea  
22      that well, now that we are trimming off some

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1 of the density at the north end of the site,  
2 and so, you know, you are pushing that down  
3 and the other end of the block is popping up.

4 And it is popping up to a level  
5 that the Office of Planning did not recommend  
6 initially, you know, the 130 feet. And I,  
7 frankly, have to agree with that. I think  
8 that that's too tall.

9 So I think that -- I mean, to sort  
10 of sum things up, the change to the  
11 university, I think I'm comfortable with. The  
12 change to the health care, to have the health  
13 care facility, I think I can see my way clear  
14 to that one. It's not great, because it is  
15 not like it's even a great building  
16 architecturally.

17 I mean, it has gotten to the point  
18 where it is okay, but it's not a real star.  
19 And then there is the, I think, additional  
20 density, much of which is actually commercial  
21 density and I think that has impact. So they  
22 are losing a lot of residential as a result of

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1 all of this changing and they are getting a  
2 lot more commercial.

3 So I think all things considered,  
4 it is not a great -- it is certainly not an  
5 improvement on the previous plan and, in many  
6 ways, it is -- it does damage to the original  
7 plan. Like I said, the specific projects for  
8 which we are going to be voting on 2<sup>nd</sup> Stage  
9 applications, I could probably see my way  
10 clear on both of those. But the resulting  
11 increase in density on the balance of the  
12 site, I'm not sold on.

13 CHAIRMAN HOOD: Okay. Any other  
14 comments? Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Yes, thank  
16 you, Mr. Chair. I would agree with  
17 Commissioner May's comments. I think when we  
18 heard the presentation about the impacts and  
19 the traffic, I really don't think there would  
20 be any greater impact by either of these two  
21 facilities being on the site.

22 I think traffic would still be or

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1 probably be more of an impact maybe with the  
2 residential. I'm not really sure. I think  
3 there was a toss-up on that, I mean, if there  
4 is underground parking for both of them.

5 But I don't think there is any  
6 greater impact by having either of these two  
7 facilities. I mean, there are a lot of  
8 impassioned comments made by a lot of the  
9 people who were opposed and I think they had  
10 misunderstood about people parking in the  
11 neighborhood and I think there was some  
12 confusion about where people would go.

13 And I think that is -- I'm not  
14 sure if they got it right. I think they were  
15 just so impassioned about it. And again, the  
16 ones who were more impassioned were further  
17 down in the next neighborhood. And there is  
18 still going to be an issue. There still will  
19 be an issue with people getting in and out. I  
20 think that's going to be a problem that this  
21 project has to still, at some point, come to  
22 deal with.

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1           But I don't think these two  
2 buildings, in any way, impact the current  
3 relationship to such an effect, to such an  
4 area where we would reject it.

5           I do agree with Commissioner May  
6 also that the other end of the project suffers  
7 now from this imbalance with higher structures  
8 and it just makes it look a little strange  
9 from an urban planning standpoint.

10           But I think the biggest issue we  
11 are going to have is to people getting in and  
12 out of the project and getting to where they  
13 want to go.

14           CHAIRMAN     HOOD:           Commissioner  
15 Selfridge, do you want to add something?

16           COMMISSIONER   SELFRIDGE:       Mr.  
17 Chairman, I would just echo Commissioner  
18 Turnbull's comments. I think overall traffic  
19 is going to be an issue at this site. I don't  
20 know that changing the use and the way that  
21 this modification is set up is going to  
22 actually have a major impact for what has been

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1 approved already.

2 So I think it is going to be  
3 problematic period. And whether they are  
4 stuck with residential or move to the health  
5 center, I'm not sure that that is going to  
6 have a huge impact on that.

7 I was reviewing my notes and maybe  
8 I heard somebody wrong, but I think the  
9 density remains the same. The FAR remains the  
10 same on the site, regardless, so I don't think  
11 we have additional density. So I think, in  
12 that respect, that is not going to have a  
13 major impact.

14 So, I guess, I don't think that  
15 the change in use is going to have a lot of  
16 overall impact, but overall, I remain  
17 concerned with the traffic, but I don't  
18 believe that we are able to address that.  
19 That may have been part of the initial PUD.

20 CHAIRMAN HOOD: And I think aren't  
21 we changing the height? Isn't it a height  
22 request also in front of us on the 1<sup>st</sup> Stage?

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1       Okay. So we are changing the height. We're  
2 going from, what is it? We're coming from 110  
3 to 130, am I correct? Right? Okay.

4               I just, you know, believe, and it  
5 was stated, I think, in the Office of Planning  
6 report, these uses are very important, I  
7 think, to that community. But I will tell  
8 you, I question the effort and I know that  
9 they presented -- what they presented to UDC,  
10 everybody in this city is trying to get the  
11 community college in some form or fashion.

12              I question that. While I think  
13 that the DCPA is a legitimate use, for me, if  
14 I had to lesser the impact or deal with the  
15 impact, it would be for something of that  
16 nature. I just question it. I have a serious  
17 reservation.

18              Even though we got a letter from  
19 the university, I have a serious reservation  
20 whether that is even going to happen or not.  
21 And I don't know if it's appropriate for me to  
22 ask that at the hearing Wednesday, but I just

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1 -- you know, I think the community -- even  
2 though I heard the testimony of Ms. Thornhill,  
3 I heard the testimony of -- and I also  
4 received a letter, Mr. Feola and the applicant  
5 submitted a letter.

6 But I really question, and I will  
7 ask that of the Campus Plan of UDC and I'll  
8 tell you why. Because everybody is trying to  
9 do that and the community college is not going  
10 to be able to go everywhere.

11 We are going to end up making an  
12 approval of something that -- even though we  
13 got a letter, and that's all it was was a  
14 letter, but anyway, that's where I am.

15 And the other thing for me is I  
16 know something has got to go there, but, at  
17 some point in time, the citizens got to  
18 lighten the burden and then it's not within  
19 our jurisdiction, but as the Zoning  
20 Commission, do we just continue to put adverse  
21 impacts on a community because we are stuck,  
22 because there is no other way out?

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1           That's just the way I got out of  
2           that and witnessing myself.       Yes, the  
3           university would be a good use. I have heard  
4           all those arguments, but at the end of the  
5           day, I'm not there going through it.

6           So I just don't know. I will tell  
7           you, I have been around and about on this,  
8           back and forth. I came in one time and I  
9           said, Mark, we need to move one way, but I've  
10          just been going back and forth. So I just  
11          don't know.

12          Is it right to continue to put a  
13          burden on the community because we have no  
14          other alternative? That's where I am, you  
15          know.

16                 COMMISSIONER MAY:   Chairman Hood,  
17                 obviously, I'm interested to hear that  
18                 comment, because I really didn't regard the  
19                 Community College of the District as a burden  
20                 the way many other facilities that we deal  
21                 with, you know, would be regarded as a burden.

22                 I mean, I certainly understand

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1       questioning the -- you know, is the use  
2       appropriate or does the use have unacceptable  
3       impact or something like that, but I would  
4       never sort of thought of the project as a  
5       whole as a burden.

6                You know, I, certainly, would be  
7       more comfortable if what we were looking at  
8       was the Community College of the District of  
9       Columbia as one of the commercial buildings in  
10      this development, rather than as, you know,  
11      displacing one of the residential buildings.  
12      It certainly would fit within the original  
13      PUD, if that's what we were talking about.

14               It would also, you know, fit for  
15      me if what we saw in the overall development  
16      was maybe, you know, some offsetting loss, you  
17      know, maybe not -- maybe the universe or sort  
18      of the community college needed to go into --  
19      if it couldn't go into one of the buildings  
20      that was slated to be commercial, if it was  
21      going to go into the blocks that was going to  
22      be residential, then maybe one of the

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1 commercial blocks needed to go residential to  
2 offset that.

3 Because, you know, the use as a  
4 community college in that location seemed, to  
5 me, to be fairly compatible with the overall  
6 mixed-use nature of that development. You  
7 know, maybe there was an issue of balance that  
8 there was going to be too much commercial and  
9 the university at the same time, but I thought  
10 that the mix was, in principle, okay.

11 CHAIRMAN HOOD: Let me clarify,  
12 Commissioner May. When I saw a burden by the  
13 college, I'm not necessarily saying the  
14 college. I think the residential piece, which  
15 was in the 1<sup>st</sup> Stage PUD would have been more  
16 of an impact.

17 What I'm saying is we're getting  
18 ready to approve or disapprove, we are getting  
19 ready to put something in place for some uses.

20 And I will tell you, I'm just not confident.

21 And I know the letter was -- I'm just not  
22 confident that the community college is going

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1 to even materialize. And, for me, that's what  
2 I would be approving and I'll tell you why.

3 Because most people go to the  
4 community -- most not all, who go to the  
5 community college are younger people, that's  
6 why I think the community was talking about  
7 the bridge and everything accessing, because  
8 those people are going to probably use public  
9 transportation.

10 Whereas, DCPA will be driving.  
11 I'm not going to catch the subway if I'm not  
12 feeling good. I can guarantee you I'm going  
13 to drive to the site and try to find somewhere  
14 to park and even if it's in the neighborhood.  
15 And I think that's what the community was  
16 concerned about.

17 So I'm not saying it's a burden in  
18 that respect. I'm saying it's a burden in  
19 respect because of the infrastructure, which  
20 is not really within our jurisdiction, is a  
21 problem. It's a problem over there and I just  
22 don't know if it's right to just compound a

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1 problem on top of a problem because we are in  
2 that situation.

3 And I don't like having my back up  
4 against the wall. I never have.

5 COMMISSIONER MAY: Yes, I  
6 understand that. You know, one of the things  
7 that makes me uncomfortable is the notion  
8 though that we might -- that any uncertainty  
9 about the community college being built there  
10 would actually be, you know, a factor in the  
11 decision making.

12 I mean, we really -- you know, if  
13 it has been represented to us that the  
14 University of the District of Columbia intends  
15 to put the community college here, I'm not  
16 sure what -- you know, how we can disregard  
17 that. And I also don't know that that is  
18 enough basis for me to say I don't want to  
19 vote for it.

20 I think I want to vote for it on  
21 the hope that it actually is realized there.  
22 And it is important to some of the other

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1 aspects of the development of this, this  
2 portion of the community, the continuum of  
3 schools that the developer and the community  
4 have been trying to develop here, you know, I  
5 think that's an important part of this.

6 And I'm willing to take the chance  
7 that the community college will be realized.

8 CHAIRMAN HOOD: I'm actually not.

9 So I will go out on the DCPA property, but  
10 unless I hear another persuasion, I will be --  
11 that's why I will probably do this vote in  
12 part. I will be voting against in part.

13 I will be voting for DCPA and  
14 voting against the university piece. Let me  
15 hear what others have to say.

16 COMMISSIONER TURNBULL: Do you  
17 think that the community college is not going  
18 to go ahead then, that there is not going to  
19 be the money or the funding for it?

20 CHAIRMAN HOOD: I just didn't see  
21 -- and that's why I asked for the letter. I  
22 just didn't see a whole lot. And I know Ms.

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1 Thornhill and I know Mr. Feola then presented  
2 the letter, but I just didn't see -- something  
3 is not right with that with me. And it's -- I  
4 don't know what it is.

5 COMMISSIONER SELFRIDGE: Mr.  
6 Chairman, wouldn't they have to come back to  
7 the Commission anyway to change the use again  
8 down the road? So if we were to approve a  
9 community college and for whatever reason that  
10 didn't materialize and they went back to  
11 residential or office, which would be a  
12 particularly heavy lift, I think, in this  
13 site, wouldn't they have to come back to the  
14 Commission for approval anyway?

15 CHAIRMAN HOOD: I think that --  
16 well, we are going to be dealing with that in  
17 the next, in the very next, case, if I'm not  
18 mistaken. C, whatever it is, C.

19 MR. RITTING: I'm not sure about  
20 that, but to answer Mr. Selfridge's question,  
21 if they are going to change the use in such a  
22 major way, that would require a PUD

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1 modification, yes.

2 CHAIRMAN HOOD: You said in a  
3 major way. So it could be a minor  
4 modification? It could be institutional use.

5 It doesn't have to be the community college.

6 It could be Burke School, because it's still  
7 the same institutional use.

8 MR. RITTING: Well, I mean, I  
9 think you are approving a certain set of uses  
10 with the 1<sup>st</sup> Stage PUD. If they are changing  
11 that use in a non-minor way, as is defined in  
12 the Chapter 30 of your Regulations, which  
13 means a use of literal or no consequence or  
14 something similar like that, I would say that  
15 a drastic change in use would be more than a  
16 minor modification and would require a PUD  
17 modification application, yes.

18 COMMISSIONER SELFRIDGE: And we  
19 would have to approve a minor modification as  
20 well, correct?

21 COMMISSIONER MAY: Right.

22 CHAIRMAN HOOD: Minor

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1 modification --

2 MR. RITTING: If your question is  
3 do you have to approve a minor modification,  
4 in general, yes. Whether this case would be a  
5 minor modification, it would depend on what  
6 the request is. But --

7 COMMISSIONER SELFRIDGE: It sounds  
8 like we would see it either way, I guess, is  
9 my point.

10 MR. RITTING: Yes.

11 CHAIRMAN HOOD: But the issue  
12 though for me, Commissioner Selfridge, is how  
13 do you see it? If you are -- and I'm not  
14 being hard on the university, I'm a -- well, a  
15 graduate of the university, so I'm not being  
16 hard. I just think that there needs to be  
17 some predictability.

18 If the -- I have heard the  
19 community loud and clear and, actually, I  
20 don't even think I'm taking the same course as  
21 the community, because I think a lot of them  
22 may have been against the DCPA part. But I

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1 think that's a vital use of that community  
2 and, to me, that is a risk of the impacts,  
3 which we heard.

4 I'm just talking about the  
5 university -- well, the community college of  
6 the university is what I'm looking at. And if  
7 they come back and say they want to put  
8 charter schools in there, Mr. Ritting, I think  
9 if the -- the way we are going to view it and  
10 look at it is going to be similar, because  
11 it's the community college.

12 Because it's still the same type  
13 of use. It's an institution.

14 COMMISSIONER MAY: Mr. Chairman, I  
15 would disagree. I mean, changing from a  
16 community college to any kind of, you know,  
17 high school, middle school and any other kind  
18 of school is going to be a different set of  
19 impacts, because you are talking about  
20 students who have to be transported to school  
21 versus students who can make their own way  
22 there.

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1           And it is a completely different  
2     set of impacts. And I am pretty confident  
3     that we would never regard that as a minor  
4     modification. And there would be a hearing  
5     and all that sort.

6           CHAIRMAN HOOD:        So do my  
7     colleagues feel as though that what is  
8     proposed -- I'm not going to belabor it and,  
9     you know what, at this point, I'm not going to  
10    even vote against it. If everybody is -- I'm  
11    going to go with it.

12           If I'm here when it comes back,  
13    then we will deal with it at that point. I  
14    just have strong reservations. I just don't  
15    feel good about that.

16           COMMISSIONER SELFRIDGE:   Well, I  
17    think that we are going to see E and B today,  
18    correct? 05-28E and B?

19           CHAIRMAN HOOD:   E.

20           MS. SCHELLIN:   E and B.

21           COMMISSIONER SELFRIDGE:   So we are  
22    still going to take -- we are still going to

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1 deal with community college at another  
2 meeting, so I think that we could approve 05-  
3 28E today, so stop me if I'm getting my  
4 letters wrong, but still revisit this  
5 community college issue, which I think is, you  
6 know, a very important issue and could be  
7 handled at a later date, but still move  
8 forward on 05-28E.

9 CHAIRMAN HOOD: Yes, actually, if  
10 we deal with E today and it's up, we vote it  
11 up, we would also be dealing with B, which I  
12 actually don't have a problem with. I'm just  
13 trying to figure out how to get from E to B.  
14 But I think --

15 COMMISSIONER SELFRIDGE: But C can  
16 be -- which is community college can still be  
17 addressed separate from DCPA in whichever  
18 meeting that comes before us.

19 COMMISSIONER MAY: But the use as  
20 the community college will have been decided  
21 in the 1<sup>st</sup> Stage?

22 CHAIRMAN HOOD: Right. Because

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1 that's why I'm raising the issue now.

2 COMMISSIONER MAY: All right.

3 CHAIRMAN HOOD: Because by that  
4 time --

5 COMMISSIONER SELFRIDGE: Yes.

6 COMMISSIONER MAY: Can I ask  
7 another question of Mr. Ritting? We may have  
8 enough comfort to proceed on the change to the  
9 health care facility and we may have enough  
10 comfort to proceed with the change to the  
11 university building from residential, I still  
12 have great anxiety about the change in height.

13 Can we take an action that, in a  
14 sense, accepts part of what is being proposed,  
15 but not all of it?

16 MR. RITTING: Well, it depends on  
17 how you break it up into parts. I think the  
18 1<sup>st</sup> Stage approval does include both height  
19 and use. And if you are trying to break up  
20 your 1<sup>st</sup> Stage approval into just a use and  
21 not a height, I don't think that is  
22 permissible.

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1 COMMISSIONER MAY: Right.

2 MR. RITTING: However, if you  
3 wanted to break up the 1<sup>st</sup> Stage approval into  
4 different parts, into different parcels, if  
5 you will --

6 COMMISSIONER MAY: Yes.

7 MR. RITTING: -- say approve the  
8 health care facility piece of the 1<sup>st</sup> Stage  
9 application and not approve some other piece,  
10 that would be acceptable.

11 COMMISSIONER MAY: Could we take  
12 an action that would, essentially, say we are  
13 okay with those two building use changes, but  
14 we want to limit the height to 110 feet?

15 MR. RITTING: If you are talking  
16 about just this particular parcel and only  
17 approving the use, but not the height, no, you  
18 can't do that. I think you have to vote the  
19 1<sup>st</sup> Stage application up or down, one way or  
20 the other.

21 If you believe that the height is  
22 excessive, but you want to give the applicant

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1 an opportunity to reevaluate the project --

2 COMMISSIONER MAY: Yes.

3 MR. RITTING: -- in light of your  
4 comments, it would be acceptable to state that  
5 and to defer that aspect of the 1<sup>st</sup> Stage  
6 application.

7 COMMISSIONER MAY: So we could, in  
8 theory, lop off these couple of blocks where  
9 we have the DCPA and the CCDC buildings and  
10 say, okay, we will approve these changes in  
11 uses and massing density or whatever for these  
12 two blocks and the applicant will have to come  
13 back to us to revisit any other changes?

14 MR. RITTING: Yes, that's right.  
15 I think that's okay.

16 COMMISSIONER MAY: We wouldn't  
17 necessarily even have to vote on both of those  
18 changes of use tonight? We could handle just  
19 the one?

20 MR. RITTING: If you are talking  
21 about dividing it up into the DCPA and the --

22 COMMISSIONER MAY: CCDC.

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1 MR. RITTING: -- community -- yes.

2 You could choose to take action on one and  
3 not the other, yes.

4 COMMISSIONER MAY: Okay.

5 CHAIRMAN HOOD: So if you did  
6 that, wouldn't you have to, because it's  
7 together, they came in together, in part  
8 approve one and deny the other part? You have  
9 to approve one part and deny the other part of  
10 it, because they are together.

11 But you know what, that's not even  
12 an issue no more. So I'll go along with my  
13 colleagues.

14 MR. RITTING: I don't see any  
15 reason that that would be a problem. If you  
16 want to approve the 1<sup>st</sup> Stage application for  
17 the health care facility and take no action or  
18 defer some other portion of the 1<sup>st</sup> Stage  
19 application, that would be fine.

20 CHAIRMAN HOOD: Mr. May, you got  
21 something you want to read?

22 COMMISSIONER MAY: Yes.

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1 COMMISSIONER SELFRIDGE: Mike.

2 COMMISSIONER MAY: Paragraph  
3 2407.8 in the Regulations, "The Commission  
4 shall either approve, deny or modify the  
5 application." And this is with regard to  
6 processing a 1<sup>st</sup> Stage PUD application.

7 So we have the authority to modify  
8 the application.

9 CHAIRMAN HOOD: You are dealing  
10 with just the height. You don't have a  
11 problem with the use?

12 COMMISSIONER MAY: Yes, the height  
13 I have anxiety over. And going with that, I  
14 mean, the height is driven by the need to  
15 maintain a certain amount of density. And  
16 much of that density is now becoming  
17 commercial, rather than residential as a  
18 result.

19 So there is a requisite increase  
20 in commercial as a proportion of the whole  
21 project that goes with it. And I'm not  
22 comfortable with that, either. I mean, I

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1 could probably go along with that if we were  
2 dealing with only 110 feet.

3 CHAIRMAN HOOD: You are having a  
4 problem with, is it, H? I'm sorry, what is it  
5 I-2 or whatever that is? What is that? Oh,  
6 you're having a problem with H?

7 COMMISSIONER MAY: I don't  
8 remember. Is that -- are you talking about a  
9 block number?

10 CHAIRMAN HOOD: Well, they call  
11 those the blocks.

12 COMMISSIONER SELFRIDGE: I think  
13 it was the center two office towers that were  
14 now proposed to be 130 feet.

15 CHAIRMAN HOOD: Yes. So H, so you  
16 don't have a problem with the height of the  
17 DCPA and the community college? The community  
18 college, I think, is 130, too, isn't it?  
19 Okay. It's 110. All right.

20 COMMISSIONER TURNBULL: What is  
21 the community college?

22 CHAIRMAN HOOD: 110.

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1 COMMISSIONER TURNBULL: 110 now?

2 CHAIRMAN HOOD: Right. Well, yes,  
3 what is being proposed 110 and DCPA is 42, I  
4 believe, correct?

5 MS. SCHELLIN: Yes.

6 CHAIRMAN HOOD: Okay. Or at least  
7 that's the handout that was given to us.  
8 Okay. Commissioners?

9 COMMISSIONER SELFRIDGE: Mr.  
10 Chairman, I guess I would just weigh in on the  
11 use, leaving the height issue aside. I think  
12 D.C. Community College is an appropriate use  
13 on this site. I think it is near the Metro,  
14 which is what we want to encourage. Whether  
15 it gets built or not, I think is beyond our  
16 control.

17 I do think we have established  
18 that in the event that there is a proposed  
19 change of use, whether it be minor or major,  
20 Commissioner May thought any change in use  
21 would be major, it will come before this  
22 Commission again and need our approval.

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1           So, in that respect, I think that  
2           I'm comfortable moving forward with the  
3           change of use for the Community College of  
4           D.C. and I think if it does end up in this  
5           neighborhood, and hopefully it does, I think  
6           it will be a great benefit to the area.

7           So I just want to be clear on that  
8           from a use standpoint.

9           CHAIRMAN HOOD:    Yes, and I just  
10          want to add, for me, because I noted the area  
11          is already under lockdown at certain points in  
12          time, and I -- you know, while I noted the  
13          people who were closer, basically, to the site  
14          were more supportive, including the ANC  
15          Commissioner.

16          But I also know what the residents  
17          of Eastland Garden and others have mentioned.

18          To me, that bridge and those other factors  
19          are going to be very important to the success,  
20          I believe, of this.   And I just hate to sit  
21          here and create something, create a problem,  
22          because the charge that I took when I was

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1 sworn in was to protect the residents of the  
2 District of Columbia, which -- well, you and I  
3 both took that.

4 I don't think you federal guys had  
5 to do that, but, maybe that's why it's easy, I  
6 still just think that there are just so many  
7 uncertainties, but, you know what, I probably,  
8 if I could predict that, what is going to  
9 happen, wouldn't be here, because I would hit  
10 the number.

11 So after hearing my colleagues,  
12 you know, and hearing that we will have  
13 another bite at the apple, I'm not going to  
14 belabor it. If somebody wants to make a  
15 motion, I will reluctantly --

16 COMMISSIONER TURNBULL: I just  
17 want to clarify. I thought that on Kenilworth  
18 Place, and I don't have the -- any of my plans  
19 in front of me, I thought the applicant was  
20 trying to maintain 110 foot line. There were  
21 some setbacks that went up to 130, but the  
22 initial impact was 110 feet along Kenilworth

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1 Place. I thought they were trying to maintain  
2 that.

3 Now, we still may have some angst  
4 about the 130 feet and maybe at the end of the  
5 block, some issues about how that really works  
6 out, but I thought they were trying to  
7 maintain 110 feet that would match up with the  
8 college, community college.

9 CHAIRMAN HOOD: I think you are  
10 exactly right. I'm looking here, I don't know  
11 what page this is, but I think you are exactly  
12 right, it was 110 on the Kenilworth side. So,  
13 apparently, it must be -- you're right.  
14 There is a setback. Commissioner May, did you  
15 see that on the Kenilworth side?

16 COMMISSIONER MAY: Yes. I'm aware  
17 there was a setback.

18 CHAIRMAN HOOD: Okay. All right.  
19 So anything else, Commissioners?

20 COMMISSIONER MAY: Well, are you  
21 prepared to make a motion about this?

22 CHAIRMAN HOOD: Oh, no, I'm not,

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1 no. No, I'm not.

2 COMMISSIONER MAY: Anybody else  
3 got a motion formulated? Because I certainly  
4 don't, at this point.

5 CHAIRMAN HOOD: I've got one if  
6 you want it. No, I'm --

7 COMMISSIONER SELFRIDGE: Are we  
8 still working on the height issue?

9 COMMISSIONER MAY: Well, I mean,  
10 does anybody else share my anxiety about 130  
11 feet?

12 COMMISSIONER TURNBULL: The 130  
13 feet for where?

14 COMMISSIONER MAY: Anywhere.

15 COMMISSIONER TURNBULL: Well, no,  
16 I under --

17 COMMISSIONER MAY: 110 maximum is  
18 what I'm feeling.

19 COMMISSIONER TURNBULL: But even  
20 with a setback and then bumping up. So even  
21 you are concerned totally about the extra 20  
22 feet?

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1 COMMISSIONER MAY: Yes.

2 COMMISSIONER TURNBULL: Whether it  
3 is setback or not?

4 COMMISSIONER MAY: Yes.

5 CHAIRMAN HOOD: Mr. Feola must  
6 know we're getting ready to turn him down,  
7 because he wants to speak. The only time you  
8 can speak --

9 COMMISSIONER MAY: You know, if  
10 Mr. Feola has any suggestions that might help  
11 us through our deliberations, I would be  
12 interested in hearing them.

13 CHAIRMAN HOOD: I don't think we  
14 usually have the applicant while deliberating.  
15 Is there a specific question?

16 COMMISSIONER MAY: Well, I'm --

17 COMMISSIONER SELFRIDGE: I think  
18 that's a good point. If there is something  
19 factually that we have missed up here, it  
20 certainly would be helpful to have it  
21 clarified. But I'm not sure that we would  
22 want to open it back up for further

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1 deliberation or arguing at this point. So  
2 unless we are factually wrong on something--

3 COMMISSIONER MAY: I'm not looking  
4 for a debate, but, you know, maybe there is a  
5 fact we are missing.

6 CHAIRMAN HOOD: I think if  
7 something would be missing, I think it should  
8 be in the record, because if we open that back  
9 up, we may have to open other things back up  
10 and have a small narrow scope of a hearing.  
11 And I have been through that once before and I  
12 don't want to go through that again.

13 COMMISSIONER SELFRIDGE: You know,  
14 I think, just to go ahead and prime the  
15 conversation on height with the setback and  
16 just in my short time as Commissioner, I have  
17 seen this approved 130 feet in height. So I'm  
18 okay with it. I think that to some degree, we  
19 have seen the shadow studies and I don't think  
20 there is a major impact.

21 I think we have -- the applicant  
22 has tried to address it with the setback. And

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1 I'm okay with 130 feet the way that it is  
2 designed.

3 CHAIRMAN HOOD: You know what,  
4 just knowing about it being near a Metro  
5 Station, the Metro is across the highway. I  
6 mean, come on. I mean, that's, you know, just  
7 why, you know, we're talking about building  
8 more density around Metro Stations and I know  
9 that there is probably some book out there  
10 with transit ordered development what  
11 considers being around a Metro Station, but  
12 that's why I think that those bridges that run  
13 across 295 are very important.

14 And it's just so many more things  
15 to this equation. While I too -- if I'm going  
16 to do this community college piece, I don't  
17 necessarily have a problem with the height.

18 COMMISSIONER TURNBULL: Well, the  
19 community college is at 110.

20 CHAIRMAN HOOD: Yes.

21 COMMISSIONER TURNBULL: We have  
22 established that.

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1 CHAIRMAN HOOD: I'm saying if I'm  
2 going to agree to that piece, I don't have a  
3 problem with the 130. I don't have a problem  
4 with the rest of it.

5 COMMISSIONER SELFRIDGE: Or being  
6 asked to approve the increase in height as  
7 well, correct?

8 CHAIRMAN HOOD: Yes, that's part  
9 of it, yes. And Commissioner May's issue is  
10 he has an issue with the Block H, I believe.

11 COMMISSIONER MAY: Yes.

12 CHAIRMAN HOOD: Does anybody have  
13 -- does anybody else have an issue with Block  
14 H?

15 COMMISSIONER TURNBULL: Well, I  
16 think when we first saw it, I would agree,  
17 too, that it looks -- when you look at this  
18 whole project, it looks a little top heavy  
19 down at the far end. It just doesn't seem to  
20 be a balance to the plan. You've got the  
21 other mid-rise building across the street, I  
22 think.

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1 I know they stepped down. I think  
2 they may have stepped down twice. I can't  
3 remember. But I can't say without having  
4 those drawings in front of me, it's hard for  
5 me to remember. But it seems to me they made  
6 the step from 130 to 110 and then I think  
7 there was another step down.

8 CHAIRMAN HOOD: So, Commissioner  
9 Turnbull, I guess, not to put you on the spot,  
10 you have a problem with the 130?

11 COMMISSIONER TURNBULL: I don't  
12 have. I just would like to see it handled a  
13 little more gracefully. And I think those  
14 buildings need to be designed somehow -- I  
15 mean, I think your comment was -- I was  
16 reading that the other day about the Atlantic  
17 City look along Kenilworth. And I think  
18 that's a great deal and I think the applicant  
19 mentioned that the architecture needs work and  
20 they were going to work on it.

21 So I think that is a great aspect  
22 of this case. I mean, that there is some work

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1 to be done on these other buildings.

2 COMMISSIONER SELFRIDGE: You know,  
3 we just had a discussion about an earlier case  
4 today where, although we are approving height  
5 or density, there is still a 2<sup>nd</sup> Stage. And  
6 so there is an opportunity for the Commission  
7 to weigh in. And they still need to get  
8 Commission approval down the road.

9 And I don't think that this is the  
10 last word on this. Whether you agree with 130  
11 or not, it's a separate issue. But this idea  
12 that it is gone and we will never see it  
13 again, I just don't buy that. I mean, it's  
14 not true.

15 COMMISSIONER MAY: See, you know,  
16 we have the specific issues of these couple of  
17 changes in buildings. The UDC building or the  
18 CCDC building, the DCPCA, but again going  
19 along with that, there is this overall change  
20 in the amount of commercial development.

21 I mean, it used to be that there  
22 were, basically, two commercial buildings in

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1 the H Block and then two large residential  
2 buildings. And the way they are pictured,  
3 they are large apartment buildings. And, you  
4 know, just going from the images that we have  
5 in the Stage 1 application.

6 And now, we are talking about the  
7 H-1 buildings being a little bit tighter and  
8 being taller. And then there is another  
9 building squeezed in just to the south that is  
10 going to be all office use. And I don't know  
11 whether that is driven by market forces or  
12 rethinking the project or the fact that they  
13 are stuck with a footprint that only works  
14 with office space. I don't know what is  
15 driving that in particular.

16 And then you have got at the end  
17 one remaining residential building. So it was  
18 a situation where, I don't know, 60 or 70  
19 percent of that whole block was residential  
20 and now, you know, maybe 20 percent of it is  
21 going to be residential.

22 And, you know, I mean, I'm picking

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1 on the height, in particular, but I think it  
2 is also, you know, with that is that swing of  
3 residential. And I have been sort of fumbling  
4 around trying to find the exact numbers on the  
5 change of, you know, how much the percentage  
6 of office building changed, because it grew  
7 tremendously with all of these changes.

8           You know, I think the most telling  
9 thing about this project and if you look at it  
10 and think about it, it may help us understand  
11 why we had neighborhood groups who were  
12 fervent supporters of this project at Stage 1.

13       Have they now become opposition?

14           And it is -- a lot of it just has  
15 to do with the look of these buildings. I  
16 mean, if you look at the approved Stage 1 PUD,  
17 what we have are sort of grand looking  
18 apartment buildings with pitched roofs and  
19 brick facades and columns and balconies and  
20 all of that stuff and it evokes an image of  
21 other parts of the city, you know, like  
22 Connecticut Avenue with the grand apartment

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1 buildings.

2 And then next to that, even the  
3 commercial office building has got some  
4 articulation to it. I mean, granted this is  
5 just Stage 1 and we weren't expecting the  
6 architecture to be exactly this, but even the  
7 commercial buildings had some touch and feel  
8 to them.

9 And then the north block where we  
10 are now talking about UDC and DCPCA, you had  
11 another set of these grand apartment  
12 buildings. And instead, what we have is a  
13 very square modern downtown-like feel and  
14 that's -- you know, we kept seeing these  
15 references to a mini-New York City or  
16 something like that.

17 It didn't have to do with the  
18 height, I realize now, it had to do with the  
19 feel of these, you know, hard-edged glass  
20 boxes. And that's what we are seeing here.  
21 And there is no reason why -- I mean, you can  
22 say that the architecture is going to come to

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1 us in the 2<sup>nd</sup> Stage and we are going to get a  
2 better look at it then, but, you know what,  
3 the architecture that we are seeing in the 2<sup>nd</sup>  
4 Stage, for the two sites right now, are both  
5 very modern and very different from the  
6 character of what is there.

7 So, you know, this difference that  
8 is shown on this one slide, I think, sort of  
9 sums up why we have opposition from the  
10 neighborhood, as much as anything else. It  
11 is --

12 CHAIRMAN HOOD: They also  
13 mentioned, and I would agree with you, but  
14 also what we heard, and I looked, reviewing  
15 some of what I had up here, they also had  
16 issues with how this was -- how this  
17 applicant, I guess, didn't spend as much time  
18 as was done previously. And that came over in  
19 shining colors.

20 But, you know what, looking at  
21 this, it's ironic, Commissioner May, you and I  
22 happen to be on the same page, I looked down

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1 to see where you were, because I was looking  
2 at the exact thing. I was looking at what was  
3 approved first versus what is approved now.

4 And it's a little rough around the  
5 edges, but let's get back and see if we can  
6 kind of close this down.

7 Did we ever find out -- did you  
8 have a problem with the height?

9 COMMISSIONER TURNBULL: Of course  
10 you call me when I just stuck something in my  
11 mouth, but --

12 CHAIRMAN HOOD: You're like the  
13 rest of us. I talk all the time with food in  
14 my mouth, I just do like this.

15 COMMISSIONER TURNBULL: I was  
16 trying to be very stealth in my movements, but  
17 I was caught. No, I think I heard the  
18 opponents loud and clear that they were --  
19 well, the height was something that they  
20 didn't like, that it was getting to be too  
21 big. It was getting to be too commercial  
22 looking. And that they wanted something lower

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1 in scale.

2           They had no problem with the old  
3 buildings, the old residential buildings at  
4 110 and the office buildings at 110. I think  
5 they felt that at 130, rightfully or wrong, I  
6 mean, again, a lot of this is just personal  
7 perception from they, it was getting to be way  
8 too high, way too commercial and being to look  
9 like, as Commissioner May said, something from  
10 downtown, even though it's by a Metro.

11           I mean, I think there might be a  
12 way to handle it, but I think that my idea of  
13 setbacks and stepping down by the time you get  
14 down to it, there might not be anything left  
15 then of that. It may not make sense to go up  
16 to 130 feet by the time you step back enough.

17           You get a floor plate up there  
18 that is really -- can't be sold.

19           CHAIRMAN HOOD:     So what do we  
20 want? It seems like nobody is going along  
21 with my idea, so let's go with Commissioner  
22 May. Still you never know what I might do,

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1 but, Commissioner May, the height is an issue.

2 Would you rather for the applicant to revisit  
3 that 1<sup>st</sup> Stage PUD height or do you want to go  
4 ahead and propose a motion or what do you all  
5 propose?

6 COMMISSIONER MAY: You know,  
7 honestly, I don't know. I mean, looking at  
8 this project, I was willing to go so far as to  
9 making the change for the DCPCA and the CCDC  
10 buildings. But beyond that, I'm not convinced  
11 of the proposed changes. And it has to do  
12 with height. It has to do with change of use  
13 as well.

14 I don't know that getting an  
15 approval of those two development sites as  
16 they are is sufficient for the applicant or  
17 not. I would actually be interested in asking  
18 that, would they rather have an approval of  
19 those two sites as they have been presented  
20 with no further changes to the PUD, would that  
21 be preferable to them or to not get an  
22 approval?

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1 CHAIRMAN HOOD: And you know what,  
2 Commissioner May, I think that was something I  
3 thought about also. And I can go along with  
4 that.

5 COMMISSIONER MAY: Yes.

6 CHAIRMAN HOOD: I can go along  
7 with that.

8 COMMISSIONER MAY: Yes. And I  
9 think that the applicant would still be free  
10 to come back and suggest further modifications  
11 to the Stage 1, you know. Yes, further  
12 modifications to the Stage 1 as they deal with  
13 Block H and G, but I just can't buy into the  
14 whole thing yet.

15 CHAIRMAN HOOD: Okay. I can agree  
16 with that. Mr. Ritting, let me ask you a  
17 question. If I call the applicant up, at this  
18 point, I'm going to ask you just bluntly, do I  
19 have to have another hearing?

20 MR. RITTING: I think if you are  
21 just asking him a procedural question and a  
22 matter of process, which I think is Mr. May's

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1 question, there is no need to reopen a  
2 hearing.

3 CHAIRMAN HOOD: Okay.

4 COMMISSIONER SELFRIDGE: Mr.  
5 Chairman, before we go there, I just want to  
6 make sure we get everything on the table. So  
7 is it the additional change of use further  
8 down the -- if we -- is it an option for the  
9 applicant to accept 110 feet and get an  
10 approval of the whole site or do we want to  
11 just lop off the two parcels under  
12 consideration for CCDC and DCPCA, because I  
13 wonder if the 130 feet is critical to this  
14 project as well or if --

15 COMMISSIONER MAY: Well, it may  
16 well be.

17 COMMISSIONER SELFRIDGE: -- they  
18 have that option as well?

19 COMMISSIONER MAY: 130 feet may  
20 well be critical, that's why we need to ask  
21 the applicant the question. But, you know,  
22 again, all I'm suggesting is that we approve

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1 the modification to allow these two particular  
2 developments and that, you know, we not take  
3 any action with regard to a change of height  
4 or change of use for the balance of the  
5 project.

6 And there are changes of use  
7 associated with the balance of the project.

8 CHAIRMAN HOOD: And also something  
9 else that we don't -- I don't mean to lose  
10 sight, when I think about the traffic impacts,  
11 previously in the 1<sup>st</sup> Stage PUD, one of the  
12 tenants that were being offered, and I asked  
13 this at the hearing, was the Government  
14 Printing Office and I know they have quite a  
15 bit of traffic.

16 But anyway, let me ask Mr. Feola  
17 or whoever can respond, if you could come up?  
18 You have heard the discussion and what we are  
19 proposing.

20 MR. FEOLA: Thank you, Mr.  
21 Chairman. For the record, Phil Feola,  
22 Goulston and Storrs for the applicant.

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1           The applicant can accept a partial  
2 approval of the 1<sup>st</sup> Stage application before  
3 you that approves only the DCPCA piece and the  
4 CCDC piece, as it has been proposed and hold  
5 in abeyance for a future application for the  
6 remainder of Parcel 12.

7           CHAIRMAN           HOOD:           Okay.  
8 Commissioners, do we have --

9           COMMISSIONER   MAY:        I would be  
10 inclined to move in that direction.

11          CHAIRMAN HOOD:    I will join you.  
12 I feel better that way. May we can try to sum  
13 this up, is everybody on board?

14          All right.    In that case, let's  
15 see how I'm going to do this. I will move  
16 approval of, I think, is this I2? I1 and I2,  
17 which is the DCPCA and the CCDC, Community  
18 College of the District of Columbia, in Case  
19 05-28E, as a 1<sup>st</sup> Stage application as proposed  
20 with the heights.

21          COMMISSIONER    MAY:        All I'm  
22 suggesting -- all I was suggesting was that we

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1 approve those two sites with no -- I mean, as  
2 they have been approved. I mean, as they have  
3 been proposed.

4 CHAIRMAN HOOD: Previously --

5 COMMISSIONER MAY: As they have  
6 been proposed with no further modifications to  
7 Block H or Block G.

8 CHAIRMAN HOOD: Right. But are we  
9 approving --

10 COMMISSIONER MAY: Yes, the height  
11 of the CCDC building and the height of the  
12 DCPCA building.

13 CHAIRMAN HOOD: So with that, I  
14 would approve -- I would move approval of the  
15 CCDC and the DCPCA buildings as proposed only  
16 in the 1<sup>st</sup> Stage PUD and ask for a second.

17 COMMISSIONER MAY: Second.

18 CHAIRMAN HOOD: Okay. It has been  
19 moved and properly seconded. Any further  
20 discussion?

21 COMMISSIONER MAY: I just have a  
22 question. This is a modification of a PUD.

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1 There is only a single vote on this, right, or  
2 are there two?

3 CHAIRMAN HOOD: Two.

4 COMMISSIONER MAY: There are two  
5 votes. Okay.

6 CHAIRMAN HOOD: Mr. Ritting?

7 MR. RITTING: There is two votes.

8 CHAIRMAN HOOD: Was that motion  
9 adequate?

10 MR. RITTING: As I heard it, yes,  
11 it was.

12 CHAIRMAN HOOD: Okay. It has been  
13 moved --

14 MR. RITTING: There is one  
15 question that I would like to ask after you  
16 have considered the question and voted.

17 CHAIRMAN HOOD: Tell me now?

18 MR. RITTING: No.

19 CHAIRMAN HOOD: Okay. It has been  
20 moved and properly seconded. Any further  
21 discussion?

22 All those in favor?

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1 ALL: Aye.

2 CHAIRMAN HOOD: Not hearing any  
3 opposition, Ms. Schellin, would you, please,  
4 record the vote?

5 MS. SCHELLIN: Yes, staff records  
6 the vote 4-0-1 to approve Zoning Commission  
7 Case No. 05-28E with regard to DCPA and CCDC  
8 only. Commissioner Hood moving, Commissioner  
9 May seconding, Commissioners Selfridge and  
10 Turnbull in support. Commissioner Schlater  
11 not voting having recused himself.

12 CHAIRMAN HOOD: Okay. Mr.  
13 Ritting, you had a question?

14 MR. RITTING: Yes. I was just  
15 going to ask what process do you suggest that  
16 the applicant follow for the remainder of the  
17 1<sup>st</sup> Stage modification? What do you have in  
18 mind?

19 CHAIRMAN HOOD: Well, I know  
20 height is, obviously, you know, height.

21 MR. RITTING: If you -- since you  
22 are deferring your decision on that portion,

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1 it would be helpful, I think, to the applicant  
2 to tell them what you have in mind for further  
3 process.

4 COMMISSIONER MAY: I have my own  
5 personal thoughts on this, which is that I  
6 think that the applicant should do a little  
7 bit more outreach with the community and try  
8 to recapture some of the attraction of that  
9 first PUD that, you know, persuaded the groups  
10 who are now in opposition to support it.

11 And I think that it is possible.  
12 I think that there may be ways for the  
13 applicant to get the density that they are  
14 looking for. But again, I think that there  
15 was -- something was lost in the heart of this  
16 PUD that I think can be recaptured if there is  
17 a little bit more discussion with the  
18 community and maybe a little bit -- you know,  
19 maybe they need to do another design charrette  
20 and talk about how to further modify this.

21 I'm not sure what the right  
22 process is, but I believe that, you know, the

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1 developer was quite successful in bringing  
2 this to an approval at the 1<sup>st</sup> Stage. I would  
3 think that they could go back and kind of work  
4 their way through it a second time around.

5 CHAIRMAN HOOD: I would just  
6 concur with what I heard. The applicant go  
7 back and engage the community for the second  
8 part.

9 Before I move any further with  
10 comments, well, it's not really a second part,  
11 because it's a part that was not approved.

12 Do we need to do a motion for the  
13 part that was not approved?

14 MR. RITTING: If you are simply  
15 deferring it, I think that the fact that you  
16 broke that part out and you have stated that  
17 you are deferring your action on that, that's  
18 sufficient.

19 CHAIRMAN HOOD: Okay. Okay. And  
20 I just want to associate myself with the  
21 comments of Commissioner May, the applicant  
22 engage and see what kind of avenue we can go

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1 down to try to lessen the impacts of things  
2 that we have heard that the community felt  
3 like it -- and I know it's like 50/50, but see  
4 if we can look at ways to lessen impact,  
5 because the first 1<sup>st</sup> Stage you came in with  
6 overwhelming support.

7 The 2<sup>nd</sup> Stage, you came in with a  
8 whole lot of opposition, even though you had  
9 some support in certain areas. But see if you  
10 can get people engaged, find out what is the  
11 less impact and stuff that they don't want to  
12 have to endure.

13 I just think that's what needs to  
14 happen over there. But that's where I am.  
15 Anybody else? Any other comments? Okay.

16 All right. So next, so we're  
17 straight? Did you record the vote?

18 MS. SCHELLIN: I did. We're just  
19 -- just for clarification, you guys are  
20 deferring action on the other part or were you  
21 denying it? Were you expecting them to come  
22 back later with a whole new case or bring in

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1 this same case back?

2 CHAIRMAN HOOD: Not like -- not in  
3 the same form.

4 MS. SCHELLIN: So you are  
5 expecting them to file a whole new case?

6 CHAIRMAN HOOD: So we --

7 MS. SCHELLIN: So therefore, you  
8 do need to deny the other portion, yes.

9 MR. RITTING: Yes, I misunderstood  
10 your motion.

11 CHAIRMAN HOOD: Well --

12 MS. SCHELLIN: You need another  
13 vote.

14 CHAIRMAN HOOD: We're asking them  
15 -- I don't know.

16 MS. SCHELLIN: Because this case  
17 is going to have an order. And we need to  
18 finalize everything they asked for, so we need  
19 to have another vote for the rest of this  
20 case.

21 CHAIRMAN HOOD: Even if we ask  
22 them to rework and revisit? But that's what

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1 is being told.

2 MS. SCHELLIN: We're going to  
3 issue an order on this case.

4 MR. RITTING: Yes, I think that  
5 is --

6 MS. SCHELLIN: So we need to  
7 finalize everything.

8 CHAIRMAN HOOD: Okay. So I would  
9 move that we deny -- well, let me find out.

10 COMMISSIONER MAY: Portions.

11 CHAIRMAN HOOD: -- portions of the  
12 1<sup>st</sup> Stage PUD, consisting of Blocks H and G-1  
13 and G-2. Is it G-1? G-1, G-2 and H and ask  
14 for a second.

15 COMMISSIONER MAY: Second.

16 CHAIRMAN HOOD: It has been moved  
17 and properly seconded. Did we cover  
18 everything?

19 MS. SCHELLIN: I'm not keeping --

20 CHAIRMAN HOOD: And anything I  
21 left out.

22 MS. SCHELLIN: I'm watching the

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1 applicant. They are shaking yes and if they  
2 agree, then I agree.

3 CHAIRMAN HOOD: Not that I don't  
4 trust Mr. Feola, but anything I left out that  
5 we deny, G-1, G-2 and the office, H. And ask  
6 for a second.

7 COMMISSIONER MAY: Second.

8 CHAIRMAN HOOD: Moved and properly  
9 seconded. Any further discussion? Any --

10 MR. RITTING: I have a question.  
11 I just want to clarify. You are denying this  
12 without prejudice to allow them to refile at  
13 any time. Is that correct?

14 CHAIRMAN HOOD: Yes, yes. Yes,  
15 that's fine. Thank you, Mr. Ritting. Okay.  
16 It has been moved and properly seconded. Any  
17 further discussion?

18 All those in favor?

19 ALL: Aye.

20 CHAIRMAN HOOD: Not hearing any  
21 opposition, Ms. Schellin, would you, please,  
22 record the vote?

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1 MS. SCHELLIN: Yes, staff records  
2 the vote 4-0-1 to deny without prejudice  
3 Blocks H, G-1 and G-2 of Zoning Commission  
4 Case No. 05-28E. Commissioner Hood moving,  
5 Commissioner May seconding, Commissioners  
6 Selfridge and Turnbull in support. And  
7 Commissioner Schlater not voting having  
8 recused himself.

9 CHAIRMAN HOOD: Okay. Next,  
10 Zoning Commission Case No. 05-28B, D.C.  
11 Primary Care Association - 2<sup>nd</sup> Stage PUD and  
12 Related Map Amendment at Square 5055. Ms.  
13 Schellin?

14 MS. SCHELLIN: Yes, sir. This one  
15 is just ready for you guys to consider  
16 Proposed Action on. And if you do proceed  
17 with Proposed Action, staff does have a  
18 procedural order to issue this evening.

19 CHAIRMAN HOOD: Okay.  
20 Commissioners, any comments on the 2<sup>nd</sup> Stage  
21 PUD of D.C. Primary Care Association, 2<sup>nd</sup>  
22 Stage? Any comments? Commissioner May?

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1                   COMMISSIONER MAY:   Yes.   You know,  
2   I think we have had extensive conversation on  
3   this one and I am -- you know, while I'm still  
4   not quite a big fan of the architecture of the  
5   building, it has improved and I think it is  
6   approvable as it is.

7                   I did have a question and that had  
8   to do, and I think this applies to the  
9   previous case, and I'm hoping maybe we,  
10   between now and Final Action in both cases,  
11   could get further information from DDOT on  
12   this.   But we did receive a report from DDOT  
13   dated April 18<sup>th</sup>, which is inconclusive.

14                  It went to the issue of the signal  
15   timings and the, you know, loops that were in  
16   the roadway, you know, pavement markings,  
17   etcetera, etcetera, etcetera.

18                  The final sentence of it says "The  
19   ongoing work associated with the signal  
20   timing changes, new signs and new intersection  
21   pavement markings will demand time for review  
22   by the DDOT Operations staff."

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1           And I would like to hear from them  
2           and know that -- what the result of this is  
3           and whether, in fact, they can make some of  
4           the improvements that the applicant's traffic  
5           expert believed could be realized.

6           Does anybody agree?

7           CHAIRMAN HOOD:    I wasn't paying  
8           you any attention.   I was reading something.  
9           Could you repeat that?

10          COMMISSIONER MAY:   Okay.    I was  
11          concerned about the DDOT report that we had.  
12          I mentioned this earlier tonight.    This  
13          affects the case we just approved.   But it has  
14          to do with unfinished, I guess, analysis by  
15          DDOT.

16          You know, I'll jump straight to  
17          the conclusion which says "The ongoing work  
18          associated with the signal timing changes, new  
19          signs and new intersection pavement markings  
20          will demand time for review by DDOT Operations  
21          staff."

22          So I'm hoping that maybe between

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1 now and Final, we can get an additional report  
2 from DDOT that shows the results of their  
3 review by the operation staff to know that, in  
4 fact, we are going to see some of the  
5 improvements that the applicant's traffic  
6 expert believed were possible.

7 CHAIRMAN HOOD: Let me ask you  
8 this, was that in E or was that in this  
9 particular one?

10 COMMISSIONER MAY: It was  
11 submitted in E.

12 CHAIRMAN HOOD: E, okay.

13 COMMISSIONER MAY: But it affects  
14 everything.

15 CHAIRMAN HOOD: Yes, it affects  
16 the whole thing. Okay. I think that's an  
17 appropriate request. Hopefully we can notify  
18 DDOT that we would like to see that before  
19 Final Action.

20 Okay. Anything else?

21 COMMISSIONER SELFRIDGE: Mr.  
22 Chairman?

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1 CHAIRMAN HOOD: Commissioner  
2 Selfridge?

3 COMMISSIONER SELFRIDGE: We talked  
4 about the parking lot over at DCPA. And one  
5 of the things I had a lot of trouble with was  
6 the ratio of parking spaces for the employees.  
7 It seemed counter-intuitive that the  
8 employees would need all the parking and the  
9 patients would be expected to find other modes  
10 of transportation.

11 I think by the time we got to the  
12 end, there had been a supplement where they  
13 agreed to allocate 10 of the 69 spaces, which  
14 I still think is too low, so I would like to  
15 examine getting more of those spaces for the  
16 patients. I think that would be appropriate  
17 and I remain concerned that people are going  
18 to be driving around that block looking for  
19 parking or for drop-offs and I just didn't  
20 like the way that was set up. So I don't know  
21 if anyone else felt that way.

22 CHAIRMAN HOOD: So let me ask.

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1 You want to see that before we deal with it at  
2 Final or --

3 COMMISSIONER SELFRIDGE: Maybe  
4 before we see the final, that's fine.

5 CHAIRMAN HOOD: Okay. Unless you  
6 want -- did you want to -- you didn't want to  
7 hold up?

8 COMMISSIONER SELFRIDGE: I don't  
9 think I want to hold it up, but I would like  
10 to have it addressed in some way or another.  
11 I personally -- I would like to hear what the  
12 other Commissioners think. I know there is a  
13 robust discussion about it, but I personally  
14 didn't think 10 spaces was enough.

15 And, you know, I think there were  
16 examples. There is a Ward 1 facility. And I  
17 found it difficult to believe they could tell  
18 us the exact proportion of people who were  
19 going to drive as patients to the facility  
20 that is not yet built, but the one that is in  
21 existence, they had no idea.

22 So in that respect, I wasn't sure

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1       that I bought the argument. So maybe that's  
2       something that we could revisit between now  
3       and Final Action, and see if we can get to a  
4       ratio that is maybe a little bit more  
5       equitable. I think that would be appropriate,  
6       but that's just me.

7               CHAIRMAN HOOD: Okay. I don't see  
8       a problem with that.

9               COMMISSIONER TURNBULL: I would  
10      back Commissioner Selfridge's comments on  
11      that.

12              COMMISSIONER MAY: I agree.

13              CHAIRMAN HOOD: Okay. So we will  
14      ask for that. Commissioner May, did you want  
15      to weigh in?

16              COMMISSIONER MAY: No, I agree.  
17      That's it.

18              CHAIRMAN HOOD: Sounds good. I  
19      would echo it. Okay. Any other issues with  
20      DCPA, B?

21              Would somebody like to propose a  
22      motion?

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1 COMMISSIONER MAY: I would move  
2 approval of Zoning Commission Case No. 05-28B,  
3 D.C. Primary Care Association, 2<sup>nd</sup> Stage PUD  
4 and Map Amendment at Square 5055.

5 CHAIRMAN HOOD: It has been moved.  
6 Can we get a second?

7 COMMISSIONER SELFRIDGE: Second.

8 COMMISSIONER TURNBULL: Second.

9 CHAIRMAN HOOD: It has been moved  
10 and properly seconded. Any further  
11 discussion?

12 All those in favor?

13 ALL: Aye.

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

17 MS. SCHELLIN: Yes, staff records  
18 the vote 4-0-1 to approve Proposed Action in  
19 Zoning Commission Case No. 05-28B.  
20 Commissioner May moving, Commissioner  
21 Selfridge seconding, Commissioners Hood and  
22 Turnbull in favor. Commissioner Schlater not

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1 voting having recused himself.

2 And I'll have the procedural order  
3 in a few minutes. We are waiting for the  
4 copier to wake up.

5 CHAIRMAN HOOD: Ms. Schellin, do  
6 we have anything else before us?

7 MS. SCHELLIN: That's it.

8 CHAIRMAN HOOD: Okay. Office of  
9 Planning, a status report?

10 MS. STEINGASSER: No.

11 CHAIRMAN HOOD: All right. I want  
12 to thank everyone for their participation  
13 tonight. Remember, Commissioners, we do have  
14 a meeting Wednesday at 6:30.

15 And also, our summer attire is in  
16 progress, in process at this point.

17 Okay. Anything else? With that,  
18 this meeting is adjourned.

19 (Whereupon, the Regular Meeting  
20 was concluded at 9:05 p.m.)

21

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