

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING  
1207th MEETING SESSION (9th OF 2006)

+ + + + +

THURSDAY  
APRIL 20, 2006

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Acting Secretary
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OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY  
MAXINE BROWN-ROBERTS  
JENNIFER STEINGASSER  
TRAVIS PARKER  
JOEL LAWSON  
STEVE COCHRAN  
KAREN THOMAS

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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

This transcript constitutes the minutes  
from the Regular Meeting held on Thursday, April 20,  
2006.

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

6:38 p.m.

CHAIRPERSON MITTEN: Please come to order.

Good evening, ladies and gentlemen. This is a public meeting of the Zoning Commission of the District of Columbia for Thursday, April 20th, 2006.

My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood, Commissioners Michael Turnbull, John Parsons and Greg Jeffries.

Copies of our meeting agenda are available to you and they're in the wall bin by the door if you'd like to follow along. We'll make a few adjustments at the beginning because we're going to lose Commissioner Jeffries fairly shortly.

I'd just like to remind folks that we don't take any public testimony at our meetings unless people are specifically invited to come forward.

I would also like to remind everyone that we're both being recorded by the court reporter and we're being webcast live. So, we ask you to refrain from making any disruptive noises in the hearing room.

I'd ask you to turn off all beepers and cell phones at this time so as not to disrupt the meeting.

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1           So, Mrs. Schellin, shall we -- do you have  
2 anything before we begin?

3           MRS. SCHELLIN: Nothing further.

4           CHAIRPERSON MITTEN: All right. Then in  
5 order to make best use of Commissioner Jeffries' time,  
6 we will take first on the agenda the items under  
7 proposed action which are on the second page of the  
8 agenda. We'll have the Office of Planning status  
9 report last on the agenda. So, after we do proposed  
10 action, then we'll pick up with the consent calendar  
11 items and hearing action and so forth.

12           So, turning to proposed action, the first  
13 two items under proposed action are cases in which I  
14 did not participate. So, Commissioner Hood will be  
15 chairing the discussion on those two items. Thank  
16 you.

17           VICE CHAIRMAN HOOD: Thank you, Madam  
18 Chair. Zoning Commission Case Number 05-10 the  
19 Capital Gateway Overlay Text Amendment, Mrs. Schellin.

20           MRS. SCHELLIN: The staff has nothing  
21 further to add.

22           VICE CHAIRMAN HOOD: Okay. Colleagues,  
23 this is proposed action for the Capital Gateway  
24 Overlay Text Amendment. We also have a request the  
25 way I understand it from the Anacostia Waterfront

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1 Corporation to keep the record open for an additional  
2 30 days.

3 I would just say that I think the request  
4 -- while there's a request for us to keep the record  
5 open 30 days, it also mentions if we proceed with  
6 dealing with this tonight as a proposed action, then  
7 they have some recommendations they would like to  
8 propose to us.

9 I'm in the mind set of waiting until we  
10 have everything in. At least, this is the way I would  
11 to move is to wait until we have everything in. I  
12 don't know if it would cause a hardship on anyone.  
13 Maybe I would want to hear from the Office of  
14 Planning. They may know of something.

15 But, I would like to have everything into  
16 the record for us to move forward. Their  
17 recommendations along -- we already have Office of  
18 Planning which I think there is some disagreement to  
19 a point, but I think as we have been advised -- better  
20 advised to move with everything in the record.

21 And I would just open that up. I don't  
22 know if my colleagues feel the same way I do or not.

23 COMMISSIONER PARSONS: I'm just -- I --  
24 Vice Chair, I'm just trying to make certain I'm clear  
25 about when this would be effective. What date? When

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1 does the 30 days start? Do we have an understanding  
2 of that in terms of the amount of time they need?

3 MS. STEINGASSER: I believe the 30 days  
4 would start this -- from today. Thirty days from  
5 today.

6 COMMISSIONER PARSONS: Well, let's make  
7 sure of that. I mean we left the record open for 60  
8 days at our January meeting. I think that has already  
9 passed.

10 So, the corporation wrote us on March 30th  
11 and said give us another 30 days. We're days into  
12 that. I mean do they really need another 30. I  
13 understand they're having an emergency meeting  
14 tomorrow night. I don't know whether it's to discuss  
15 about this or not, but --

16 MS. STEINGASSER: I don't believe it's to  
17 discuss this particular overlay. The information that  
18 we were trying to gather originally in that 60 days  
19 was not as easy to compile as we thought it was. To  
20 get the engineering data of the exact alignment of  
21 South Capital Street --

22 COMMISSIONER PARSONS: Um-hum.

23 MS. STEINGASSER: -- and the placement of  
24 the adjoining lots. We got that information about a  
25 week ago. So, we -- and we -- we got it from DDOT and

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1 we plotted it out and we've been working with AWC. We  
2 do have a meeting scheduled next Tuesday with AWC to  
3 go through and try to rework out the issues. So, if  
4 the record could stay open, 30 would be both the  
5 minimum and the maximum I think that we would need.

6 COMMISSIONER PARSONS: I was just trying  
7 to see if we could get it on our May agenda and if we  
8 extended 30 days tonight, I'm not sure we'd be able to  
9 do that. So.

10 MS. STEINGASSER: I don't think we could  
11 make the May agenda.

12 VICE CHAIRMAN HOOD: Well, what's critical  
13 about the May agenda?

14 COMMISSIONER PARSONS: Oh, I'm just  
15 presuming that pretty soon the Zoning Commission will  
16 be holding up the ballpark or something because we --  
17 of our inaction. I'm kidding, but, you know, people  
18 ask us -- people ask us to delay and then we become  
19 the problem. I just want to make sure that --

20 MS. STEINGASSER: That's true.

21 COMMISSIONER PARSONS: -- they really need  
22 this additional time.

23 MS. STEINGASSER: We do have several  
24 public hearings in May. Maybe we could have a special  
25 hour meeting before one of the public hearings.

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1                   COMMISSIONER PARSONS: All right. Well,  
2 maybe that would work.

3                   MS. STEINGASSER: Or at that public  
4 hearing.

5                   COMMISSIONER PARSONS: All right.

6                   COMMISSIONER JEFFRIES: Because I would  
7 concur with Vice Chair. I mean I would really -- I  
8 mean obviously, you know, baseball district is very  
9 complicated, a lot of moving parts and it would  
10 probably be good to give the corporation the requested  
11 time to get through everything so we're looking at a  
12 full package. We can make the decision --

13                   VICE CHAIRMAN HOOD: Yes, let me just ask  
14 Ms. Steingasser. Through this 30 -- additional 30  
15 days or however much time it is, does it look like the  
16 Office of Planning and AWC are going to close the gap  
17 on some of the issues because I see where it may  
18 differ or are we going to make that decision?

19                   I mean we're going to make the ultimate  
20 decision, but let me rephrase that. We're going to  
21 make the ultimate decision, but it looks like you guys  
22 are going to close some of the gap and how you see  
23 things. For example, the setback.

24                   MS. STEINGASSER: That's certainly our  
25 objection.

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1 VICE CHAIRMAN HOOD: Okay. Good.

2 MS. STEINGASSER: Yes, to have a --

3 VICE CHAIRMAN HOOD: Mark our job a little  
4 easier. Okay. So, we're in agreement?

5 COMMISSIONER TURNBULL: I just have a  
6 question for Ms. Steingasser.

7 You've already presented to us several  
8 options and you've already had a recommendation. What  
9 you feel is the way to go. Do you feel that this  
10 process is going to change the way you're looking at  
11 things?

12 MS. STEINGASSER: I don't think it's going  
13 to change the way we look at things, but we may have  
14 some additional information that we didn't have at the  
15 time we needed to file a report with you and AWC has  
16 certainly continued to work with the property owners  
17 to get more feedback from them on what they feel would  
18 be helpful.

19 We did file a report that does have some  
20 positions that are different than AWC. We did that  
21 because the record was closing and we felt we needed  
22 to get an alternative to the Commission, but we would  
23 be in agreement with AWC to keep the record open if  
24 the Commission so chose.

25 COMMISSIONER TURNBULL: Okay. Thank you.

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1                   VICE CHAIRMAN HOOD: Thank you. What I  
2 like to do is give staff the flexibility to work with  
3 the parties involved to come up with maybe putting it  
4 on a special meeting, one of our meetings we have in  
5 May.

6                   We don't need to do that right now, but  
7 you can work along with Office of Planning, AWC to see  
8 when they're going to have the information to us.  
9 Okay.

10                  MRS. SCHELLIN: Well, actually, I think  
11 since they asked for 30 days from today, we can go  
12 ahead and set that date so that -- for others who are  
13 in the audience who also want to weigh in and submit  
14 something.

15                  We could leave the record open until  
16 Friday, May 19th.

17                  In order to be able to have it at one of  
18 our -- we only have two meetings after that. So, in  
19 order to be able to consider it, it's really giving  
20 them 29 days, but --

21                  VICE CHAIRMAN HOOD: Okay. So, May the --

22                  MRS. SCHELLIN: May 19th.

23                  VICE CHAIRMAN HOOD: May 19th. Okay. May  
24 19th it is.

25                  Okay. Moving right along with our agenda,

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1 Zoning Commission Case Number 70-16A. That's the CESC  
2 2101 L Street LLC - Modification to a PUD.

3 Ms. Schellin.

4 MRS. SCHELLIN: Staff has nothing further.

5 VICE CHAIRMAN HOOD: Colleagues, this was  
6 a previously approved planned unit development  
7 encompassing the subject property area, 2101 L Street,  
8 N.W., Square 72, Lot 76.

9 You know, I was told I chaired this  
10 hearing, but I had to refresh my memory. It must have  
11 went pretty quick I believe. I'm not sure. You all  
12 can help me out. I'm not sure what all --

13 COMMISSIONER JEFFRIES: No, actually, I  
14 was actually thinking that Commissioner Parsons was  
15 going to get started on this one because if I recall,  
16 I think we were on separate sides of the fence there.

17 VICE CHAIRMAN HOOD: Maybe it's something  
18 I wanted to forget.

19 COMMISSIONER PARSONS: We can get through  
20 this quickly. Remember how I was concerned about the  
21 illumination of the --

22 COMMISSIONER JEFFRIES: Of the  
23 embellishment.

24 COMMISSIONER PARSONS: -- what was called  
25 a cornice.

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1 COMMISSIONER JEFFRIES: Cornice.

2 Whatever.

3 COMMISSIONER PARSONS: And then it turned  
4 into a trellis and --

5 COMMISSIONER JEFFRIES: Trellis.

6 COMMISSIONER PARSONS: -- maybe an  
7 embellishment.

8 COMMISSIONER JEFFRIES: Or a crown.

9 COMMISSIONER PARSONS: Right.

10 VICE CHAIRMAN HOOD: Okay. Okay.

11 COMMISSIONER PARSONS: They provided a  
12 substantial response to how they're going to light the  
13 underside of this and I'm not as concerned as I was  
14 before and I think it's been very helpful to have this  
15 additional material. So, I would move we approve the  
16 application.

17 COMMISSIONER JEFFRIES: Second.

18 VICE CHAIRMAN HOOD: Okay. It's been  
19 moved and properly seconded. All those in favor.

20 (Ayes)

21 VICE CHAIRMAN HOOD: Any opposition? So  
22 ordered.

23 Staff, would you record the vote?

24 MRS. SCHELLIN: Yes, still will record the  
25 vote 4-0-1 to approve Zoning Commission Case Number

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1 70-16A for proposed action. Commissioner Parsons  
2 moving. Commissioners Jeffries seconding.  
3 Commissioners Hood and Turnbull in favor.  
4 Commissioner Mitten not voting having not  
5 participated.

6 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

7 All right. The next item under proposed  
8 action is Case Number 05-25 which is the H Street  
9 Community Development Corporation Proposal.

10 Mrs. Schellin, do we have anything else  
11 in --

12 MRS. SCHELLIN: No, ma'am, nothing  
13 further.

14 CHAIRPERSON MITTEN: All right. And we  
15 have a proposed order from the applicant findings of  
16 fact and conclusions of law that were submitted March  
17 30th. If you remember, this case was located along  
18 4th Street.

19 In fact, I should just note that Mr. Hood  
20 recused himself from this case. Mr. Jeffries didn't  
21 participate in this case. So, it's just Mr. Parsons  
22 and Mr. Turnbull and myself.

23 This is located along the east side of 4th  
24 Street north of Rhode Island Avenue and the proposed  
25 development is primarily a residential facility

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1 including affordable housing primarily as the  
2 proffered amenity and there was no opposition in the  
3 case and subject to the conditions that are included  
4 in the proposed order, I would move approval of Case  
5 Number 05-25.

6 COMMISSIONER PARSONS: Second.

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

9 (Ayes.)

10 CHAIRPERSON MITTEN: Mrs. Schellin, the  
11 three of us are unanimous.

12 MRS. SCHELLIN: Okay. Staff will record  
13 the vote 3-0-2. Commissioner Mitten moving.  
14 Commissioner Parsons seconding. I'm sorry. To  
15 approve Zoning Commission Case Number 05-25,  
16 Commissioner Mitten moving. Commissioner Parsons  
17 seconding. Commissioner Turnbull in favor.  
18 Commissioner Hood not voting having recused himself.  
19 Commissioner Jeffries not voting having not  
20 participated.

21 CHAIRPERSON MITTEN: Thank you. Then the  
22 next case for proposed action is Case Number 05-34  
23 which is the proposed map amendment by ANC 6C which we  
24 also refer to as the MedLink Case.

25 Is there anything else that we need, Mrs.

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1 Schellin, or are we ready for decision making?

2 MRS. SCHELLIN: Ready.

3 CHAIRPERSON MITTEN: All right. If you  
4 remember, we had a -- this is a proposed rezoning. We  
5 set down two zones in the alternative. The ANC had  
6 petitioned for a down zoning to -- from the existing  
7 zone which is R5D to R4. We set down in the  
8 alternative R5B at the urging of the Office of  
9 Planning and we had a variety of groups that weighed  
10 during the hearing and we had different proposals from  
11 different groups. Some advocating the proposal by ANC  
12 6C for R4. Some advocating for R5A. Mostly folks  
13 advocating for R5A wanting a higher parking ratio and  
14 then a few -- well, I guess -- I guess it was  
15 primarily the Office of Planning that was advocating  
16 for R5B component.

17 So, the floor's open for discussion. Mr.  
18 Jeffries.

19 COMMISSIONER JEFFRIES: Madam Chair, I  
20 just want to be clear. So, Zoning Commission Case  
21 Number 05-34 is the petitioner's ANC 06. It's not the  
22 Office of Planning?

23 CHAIRPERSON MITTEN: Correct.

24 COMMISSIONER JEFFRIES: Okay.

25 CHAIRPERSON MITTEN: Well, the case was

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1 interesting to me. I remember struggling at the time  
2 of the set down about whether or not we should have  
3 the R5B in the alternative and I -- what I found most  
4 compelling about -- I thought that the community's  
5 arguments were appropriate and I know that they were  
6 very focus on the context that the existing MedLink  
7 facility -- but, one of the things that I think the  
8 Office of Planning's recommendation captured that was  
9 -- the most significant thing for me is the fact that,  
10 and we talked about this when we set it down, was the  
11 fact that in R5B you can -- in the context of a PUD,  
12 you can come remarkably close to the existing  
13 developed density on the site, but for an applicant to  
14 do that, they would have to come back to the Zoning  
15 Commission and there would be, you know, a significant  
16 amount of control on their ability to reuse the site.

17 So, I thought that was important in terms  
18 of trying to transition the site to another use and  
19 then what clinched it for me and why I will advocate  
20 for R5B ultimately is that R5B allows apartment use  
21 and R4 does not. So, to the extent that those  
22 buildings will be retained, it does allow them to come  
23 as close as they can to a residential use while still  
24 being retained.

25 So, I would like to move approval of case

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1 Number 05-34 for rezoning to R5B.

2 COMMISSIONER JEFFRIES: I -- what -- was  
3 going to say -- I wasn't going to second. I just --

4 VICE CHAIRMAN HOOD: I wasn't either.  
5 Let's see if she gets a second.

6 COMMISSIONER JEFFRIES: Oh. Okay.

7 CHAIRPERSON MITTEN: Is there a second?

8 COMMISSIONER PARSONS: Second.

9 CHAIRPERSON MITTEN: Thank you. I've died  
10 like that before. So. But, I appreciate that, Mr.  
11 Parsons. Okay. Mr. Jeffries.

12 COMMISSIONER JEFFRIES: I have a lot of  
13 ambivalence around this case and I'm just having some  
14 difficulty with it and hopefully, Madam Chair, you can  
15 help clear up some things for me.

16 I'm not comfortable with this whole notion  
17 of changing the zoning from a developer or owner, you  
18 know, in midstream here and maybe it's not a taking  
19 and I know those are harsh words, but I need some  
20 assistance here because I'm not feeling fully  
21 comfortable with, you know, sort of how the developer  
22 is being treated in this situation. So, I'm --

23 CHAIRPERSON MITTEN: Well, maybe I'll --  
24 I should -- even though I have an opinion about it,  
25 I'll allow whichever lawyer down there is on this case

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1 to speak to the issue --

2 COMMISSIONER JEFFRIES: Help me out.

3 CHAIRPERSON MITTEN: -- of a taking.

4 MR. RITTING: To constitute a regulatory  
5 taking, you deprive all or nearly all of the economic  
6 uses of a site. A down zoning that, you know, from  
7 R5D to R5B allows you to do a number of things on the  
8 site. So, it certainly doesn't deprive it of all or  
9 nearly all of the economic uses of the site.

10 COMMISSIONER JEFFRIES: But, can we say  
11 exactly how much is being deprived here. I mean --

12 MR. RITTING: Well, I'm certainly not  
13 qualified to say, you know, what the economic  
14 difference is going to be between R5D and R5B. So, I  
15 can't.

16 COMMISSIONER JEFFRIES: My issue here is  
17 just really around the whole notion of a particular  
18 action on part of a developer bringing about an  
19 amendment rather than sort of a more comprehensive  
20 approach of looking and reviewing all of the districts  
21 and making certain that those districts are rezoned  
22 appropriate -- are zoned appropriately. Not there  
23 being a catalyst because of a skirmish between the  
24 development and the community.

25 So, I'm struggling with this and I'm

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1 trying to get comfortable with --

2 MR. RITTING: I understand what you're  
3 saying and the important thing to consider here is  
4 this is a consistency rezoning. So, the purpose of it  
5 is to rezone the land that's -- to a zoning  
6 designation that's more consistent with the  
7 comprehensive plan than what exists currently. That  
8 can happen at anytime.

9 COMMISSIONER JEFFRIES: Yes, and -- but,  
10 it's just a little peculiar that it's happening now  
11 and that's -- you know, and --

12 MR. RITTING: Yes, I mean --

13 COMMISSIONER JEFFRIES: But, that's just  
14 the discomfort that I have with this.

15 CHAIRPERSON MITTEN: Well, can I --

16 COMMISSIONER JEFFRIES: Yes.

17 CHAIRPERSON MITTEN: -- speak to this and  
18 just -- or Mr. Hood, did you want to speak to the  
19 point?

20 VICE CHAIRMAN HOOD: I too would agree  
21 with Commissioner Jeffries. The way it stands now,  
22 Madam Chair, I would tell you I would vote against  
23 this. I think that at least from the hearing it  
24 appears that -- and I know this may sound strange  
25 coming from me, but it appeared that the owner of the

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1 property worked with the neighborhood in good faith  
2 and we read that. It was -- it's in the record and  
3 now, as Commissioner Jeffries mentioned, switched  
4 streams and the change up and since I've been on this  
5 Commission, we always talk about being predictable and  
6 the Government being straightforward and to change in  
7 midstream as was already stated, I think is not  
8 appropriate.

9 And also, the applicant made a  
10 recommendation. I was looking for it as we were  
11 discussing it. The applicant made a recommendation of  
12 I think part of it remaining R5D and the other part  
13 being R5B. I would more in tune to looking at  
14 something like that. Because you want to make sure we  
15 make a balanced decision because if I'm in the  
16 neighborhood and I'm getting ready to down zone  
17 something. I haven't put any money into that. But,  
18 it's easy for me to come and do that.

19 But, I think at some point in time we have  
20 to be considerate in making the windfall and I  
21 understand the folks that live in the neighborhood  
22 have concerns, but they have worked with this  
23 applicant I want to say for years. At least a year.  
24 I can't remember exactly off the top of my head how  
25 long they worked with this applicant and now to come

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1 in and do that to an applicant, it's not making this  
2 government or this city predictable and I would not  
3 want to do business in this city under those  
4 circumstances. But --

5 CHAIRPERSON MITTEN: Just to be clear on  
6 the point you just made, the applicant for this  
7 particular case was the ANC. So, you're speaking of  
8 the owner having an alternative.

9 VICE CHAIRMAN HOOD: Oh, well, forgive me  
10 because normally it doesn't happen --

11 CHAIRPERSON MITTEN: I know. I just  
12 wanted to be clear.

13 VICE CHAIRMAN HOOD: I understand. I'm  
14 sorry. The ANC. I'm talking about the owner of the  
15 property.

16 CHAIRPERSON MITTEN: Yes. Okay. Just  
17 wanted to be clear. Mr. Turnbull.

18 COMMISSIONER TURNBULL: Maybe you can  
19 refresh my memory on this, but I thought that when we  
20 had discussions and the owner was present, I thought  
21 for the piece of property that was in question right  
22 now for development that R5B was not at issue with  
23 them.

24 CHAIRPERSON MITTEN: No, that's the -- the  
25 northern part of the site is what they --

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1 COMMISSIONER TURNBULL: Yes.

2 CHAIRPERSON MITTEN: -- would agree have  
3 to down zoned.

4 COMMISSIONER TURNBULL: Accept as R5B.

5 CHAIRPERSON MITTEN: It's the southern.

6 COMMISSIONER TURNBULL: And they wanted to  
7 keep this as R5D.

8 CHAIRPERSON MITTEN: Southern portion.

9 COMMISSIONER JEFFRIES: As the  
10 alternative. I mean I don't think that was  
11 necessarily -- that was their compromise position.

12 CHAIRPERSON MITTEN: Yes.

13 VICE CHAIRMAN HOOD: That was the owner of  
14 the property's compromise position. Right?

15 And your motion, Madam Chair, is not that.  
16 It's R5B the whole site.

17 CHAIRPERSON MITTEN: Correct. Yes, that's  
18 correct.

19 Just to the point that both Mr. Jeffries  
20 and Mr. Hood have raised, we have on I won't say many  
21 occasions, but on occasion, we have -- because  
22 something has triggered it, we have down zoned  
23 property and in a case like this, what we heard was  
24 there was a lot of community support for the rezoning  
25 that put R5D in place because of the existing

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1 hospital.

2 So, when that use was proposed to change  
3 in a significant way which was the proposal that came  
4 forward for the townhouse development, that would be  
5 the occasion that the community would rethink their  
6 original support for the R5D which was to get a  
7 community hospital in place. So, there would be a  
8 triggering event.

9 Now, you argument with well, why did you  
10 spend all this time talking to the developer instead  
11 of pursuing this out of the box. That's legitimate,  
12 but I don't think the land use question turns on that  
13 -- on the timing. I think the land use question turns  
14 on whether it's appropriate for the site to be zoned  
15 R5B, R5D or R4.

16 So, I appreciate the concern. You know,  
17 one of the reasons why, and we've done it recently,  
18 one of the reasons why we have the set down rule is to  
19 sort of protect, you know, when there's a situation  
20 and we use the set down rule. There's a case -- there  
21 are cases coming up soon for hearing where the set  
22 down rule was -- you know, we took action quickly so  
23 that we could sort of maintain the status quo while we  
24 worked out what the most appropriate zone is.

25 So, it's not unheard of for this

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1 Commission to take that sort of action.

2 So, I know that your concern about and the  
3 concern that Mr. Hood has about predictability, but  
4 one of the things that's also true and that people are  
5 aware of is that your zoning isn't vested until you  
6 have a building permit.

7 MRS. SCHELLIN: I'm sorry, Madam Chair.  
8 I know that Commissioner Parsons seconded that. He  
9 actually did not hear this case.

10 VICE CHAIRMAN HOOD: So, therefore, you  
11 don't have a second.

12 COMMISSIONER PARSONS: I apologize. I  
13 seconded it to get the conversation going.

14 CHAIRPERSON MITTEN: Thank you.

15 COMMISSIONER PARSONS: Not to offer  
16 support for your point of view.

17 CHAIRPERSON MITTEN: Okay. Well, then  
18 I'll just withdraw --

19 COMMISSIONER PARSONS: I withdraw the  
20 second and what the discussion --

21 CHAIRPERSON MITTEN: Okay. I'll withdraw  
22 the motion -- the discussion stand.

23 Mr. Turnbull, did you have anything you  
24 wanted to add?

25 COMMISSIONER TURNBULL: No, I think your

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1 comments are valid still. I think that if looking at  
2 the concerns of the neighborhood to make it R4 as I  
3 think a bit of -- I think the realism to that is a  
4 little bit too stringent for the site and I think  
5 that's going beyond the expectations that you could  
6 actually make a reasonable demand upon an owner to go  
7 that far. I think that is too far.

8 I think keeping it at R5D is -- perhaps  
9 again since it's no longer the use that it was, is  
10 again -- I think R5B is a compromise. I think it  
11 respects both interests. I think it -- and it  
12 responds to the needs of the site and what it can be  
13 and what it should be and I would back your view on  
14 that it should be R5B.

15 COMMISSIONER JEFFRIES: Well, I have a  
16 couple of comments.

17 Madam Chair, just because the Zoning  
18 Commission has done a number of things before doesn't  
19 necessarily mean that it's always right.

20 I'm still --

21 CHAIRPERSON MITTEN: I mean these five  
22 people. Okay.

23 COMMISSIONER JEFFRIES: Well, then we --

24 CHAIRPERSON MITTEN: Not --

25 COMMISSIONER JEFFRIES: -- well, then I

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1 need to go back and review this, you know.

2 CHAIRPERSON MITTEN: Okay.

3 COMMISSIONER JEFFRIES: Because -- and  
4 actually, I do remember a case and, you know, it's  
5 interesting, you know, as time goes on, you start  
6 getting a little bit more comfortable around here and  
7 you're like wait a minute. This is -- this is  
8 something that is not particularly fair and  
9 reasonable.

10 This whole -- and I think it's sort of a  
11 planning issue. I mean I am absolutely supportive of  
12 the Office of Planning stepping out and looking over  
13 various zoning districts and making those statements  
14 that, you know, this is not zoned appropriately, but  
15 I really -- particularly given that this applicant has  
16 spent a considerable amount of time with the community  
17 and let me understand it.

18 I can see the stares. I mean the terrible  
19 glances and so forth. I am very supportive of the  
20 community in terms of, you know, wanting to respond to  
21 development as a community.

22 But, I am also concerned about, you know,  
23 sort of a reduction of value. I think there were --  
24 I believe the developer and almost any developer, you  
25 know, has certain expectations around what they can do

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1 with the property that they've purchased and as long  
2 as they work in good faith with the community, I think  
3 it is -- I think it's probably a little inappropriate  
4 for the District to come in and, you know, because of  
5 that urging and then make these wholesale changes even  
6 if those changes are absolutely consistent with the  
7 comprehensive plan.

8 So, I'm going to probably -- well, I will  
9 oppose this if this is where we are.

10 CHAIRPERSON MITTEN: Well, let me just --  
11 not to prolong the discussion, but I have a feeling  
12 we'll have to revisit it. What I'm -- what I hear is  
13 we have Commissioner Jeffries and Commissioner Hood in  
14 the camp of denying the petition. We have myself and  
15 Commissioner Turnbull in the camp of granting the  
16 petition for R5B and that would just -- we'd be stuck  
17 two to two.

18 I'd rather have a decision of the  
19 Commission and have Commissioner Parsons read the  
20 record and --

21 VICE CHAIRMAN HOOD: Madam Chair, not to  
22 say I don't want Mr. Parsons to read the record, but  
23 I think we can come to a -- I'm going to use one of  
24 your philosophies on you. I think we can come to  
25 agreement among the four of us.

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1 COMMISSIONER PARSONS: Not that -- unless  
2 you just really want to --

3 VICE CHAIRMAN HOOD: Okay.

4 CHAIRPERSON MITTEN: Well, I'm now very  
5 intrigued, Mr. Hood.

6 VICE CHAIRMAN HOOD: And unfortunately, I  
7 can't put my hands on it, but I remember seeing a  
8 submittal. As we stated, was it the north side R5B  
9 and the south side R5D remaining the same.

10 I think that's a compromise between the  
11 four of us. Don't you, Mr. Turnbull?

12 CHAIRPERSON MITTEN: That's not a  
13 compromise I'm interested in supporting. Although, I  
14 appreciate the spirit in which you're offering it.

15 VICE CHAIRMAN HOOD: That's why I --

16 COMMISSIONER JEFFRIES: But, I think he  
17 said Mr. Turnbull.

18 VICE CHAIRMAN HOOD: Madam Chair, I said  
19 Mr. Turnbull.

20 CHAIRPERSON MITTEN: I thought you said we  
21 could come to some agreement between the four of us.

22 VICE CHAIRMAN HOOD: Just trying to get  
23 the majority.

24 COMMISSIONER TURNBULL: Thank you, Mr.  
25 Hood, for the -- no, I guess I would look at the big

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1 picture and I don't know whether it's an anomaly to  
2 have a 5D and a 5B juxtaposed and in that situation,  
3 I guess I would prefer to have the whole site zoned as  
4 5B for consistency.

5 CHAIRPERSON MITTEN: So, Mr. Parsons, we  
6 look forward to you reading the record and  
7 participating in the case.

8 COMMISSIONER PARSONS: I as well.

9 CHAIRPERSON MITTEN: Thank you. Okay.  
10 All right. And I'll just -- I'll make this comment a  
11 little out of order since Mr. Jeffries will be gone by  
12 the time the case comes up, but I think a good example  
13 of how this perhaps should have been handled is, you  
14 know, we have the Sibley Hospital case coming up and  
15 it's a zone that's being put in place for a specific  
16 -- to facilitate a specific use. So, it's a PUD and  
17 then when the use would change, it would be revisited  
18 and that's probably what should have happened in this  
19 particular case.

20 So, we've learned and the Office of  
21 Planning is helping to make sure that those don't --  
22 those things don't happen again.

23 Okay. Now, we're ready to move back to  
24 the normal order which is the consent calendar.

25 First item on the consent calendar is Case

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1 Number 95-4.

2 Mrs. Schellin, do you want to T these up  
3 or do you want me to T these up?

4 MRS. SCHELLIN: I'll let you do it since  
5 you can do it faster.

6 CHAIRPERSON MITTEN: Okay. Okay. In this  
7 particular case, this had to do with the rezoning of  
8 the Union Station North Area and there was a  
9 misdirection given in the order and you can see it  
10 clearly in the attachment that shows the two lots in  
11 the northern part of square 775; 804 and 805 being  
12 included in the C2(b) district. That's clearly an  
13 error and they should be zoned R4 rather than C2(b).

14 So, this correction would just facilitate  
15 getting that right.

16 COMMISSIONER PARSONS: I move approval.

17 CHAIRPERSON MITTEN: Second. Any  
18 discussion? All those in favor please say aye.

19 (Ayes.)

20 CHAIRPERSON MITTEN: Those opposed please  
21 say no. Mrs. Schellin.

22 MRS. SCHELLIN: Staff will record the vote  
23 5-0-0 to approve the correction order in Case Number  
24 95-4. Commissioner Parsons moving. Commissioner  
25 Mitten seconding. Commissioners Turnbull, Hood and

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1 Jeffries in favor.

2 CHAIRPERSON MITTEN: Thank you. Next is  
3 a correct to Zoning Commission Order Number 971 which  
4 put the Capital Gateway Text and Map Amendment in  
5 place and there were several lots in Square North 743  
6 that were left out and if you look at the map that's  
7 attached and the lots in question, 74 which is at the  
8 corner of New Jersey and M 801 through 805 which is  
9 sort of mid-block on M Street and 813 which is to the  
10 far -- it's the corner of 1st and M. Those were just  
11 omitted from the order entirely. I think it's fairly  
12 clear that those should have been zoned CGC3C and  
13 that's what this order would accomplish and I move  
14 approval of the amendment to Order Number 971.

15 VICE CHAIRMAN HOOD: Second.

16 CHAIRPERSON MITTEN: Any discussion? All  
17 those in favor, please say aye.

18 (Ayes.)

19 CHAIRPERSON MITTEN: Those opposed please  
20 say no. Mrs. Schellin.

21 MRS. SCHELLIN: The staff will record the  
22 vote 5-0-0 to approve the correction order in Case  
23 Number 96-3/89-1. Commissioner Mitten moving.  
24 Commissioner Hood seconding. Commissioners Jeffries,  
25 Parsons and Turnbull in favor.

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1 CHAIRPERSON MITTEN: Thank you. The final  
2 proposal is Zoning Commission Case Number 06-18 which  
3 is a minor amendment to our regulations in the Section  
4 3045 regarding miscellaneous fees and this would add  
5 in Subsection 3045.1 a paragraph E to read "The fee  
6 for retrieving Office of Zoning records located off  
7 site shall be \$15 per record.

8 MRS. SCHELLIN: Madam Chair, I would just  
9 add that that fee is basically what we are charged to  
10 retrieve those. So, it's not like we're making any  
11 money off of people requesting off-site files.

12 CHAIRPERSON MITTEN: I understand.

13 VICE CHAIRMAN HOOD: Madam Chair, I just  
14 had a question. How many times do we have to go off  
15 site to get the files?

16 MRS. SCHELLIN: We have records in the  
17 basement from I believe 1985 and then forward. So,  
18 based on what we have here in the basement, we cover  
19 from 1985 forward.

20 VICE CHAIRMAN HOOD: They're in this  
21 building.

22 MRS. SCHELLIN: They're in this building.  
23 However, the ones that are in archives are actually  
24 kept by a company and we have to retrieve them off  
25 site. I'm not sure where they are. They may be in

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1 Maryland.

2 VICE CHAIRMAN HOOD: Okay. Somewhere  
3 else. Okay.

4 MRS. SCHELLIN: I'm not sure.

5 VICE CHAIRMAN HOOD: Okay. Thank you.

6 CHAIRPERSON MITTEN: All right. Then I  
7 would move approval of Case Number 06-18.

8 COMMISSIONER TURNBULL: Second. Second.

9 CHAIRPERSON MITTEN: Any discussion? All  
10 those in favor please say aye.

11 (Ayes.)

12 CHAIRPERSON MITTEN: Gentlemen, can I just  
13 get you to vote.

14 (Aye.)

15 CHAIRPERSON MITTEN: Okay. Anyone  
16 opposed? Mrs. Schellin.

17 MRS. SCHELLIN: Staff will record the vote  
18 5-0-0 to approve the text amendment in Case Number 06-  
19 18. Commissioner Mitten moving. Commissioner  
20 Turnbull seconding. Commissioners Jeffries, Parsons  
21 and Hood in favor.

22 CHAIRPERSON MITTEN: Now, we're ready for  
23 the first item. Actually, we'll take up the two --  
24 two items which are A and B because they're related  
25 cases under hearing action.

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1           The first is Zoning Commission Case Number  
2           06-12 and the second is 06-19.

3           Before I turn to the Office of Planning  
4           for their report, I did want to say a few things  
5           because we've had requests to speak on this matter and  
6           I understand there's an ANC resolution related to this  
7           and I just wanted to -- I wanted to say a few things  
8           so people understood the position of the Commission.

9           We don't have discussion about set down.  
10          The only time we invite people forward to testify  
11          regarding set down is when we're poised to deny a  
12          request for a hearing. That's point number one.

13          Point number two is the campus plan itself  
14          is not before us for set down. We use the BZA rules  
15          for campus plans. There is no set down process for  
16          campus plans and they are merely scheduled for hearing  
17          at the time the application is complete.

18          So, what's before us tonight in Case  
19          Number 06-12 is the first stage PUD and related map  
20          amendment that is related to the campus plan and then  
21          we have a proposed text amendment that is also related  
22          to the campus plan and I just -- I'll read the section  
23          of our -- of our rules -- procedure that's -- that  
24          relates to the Commission taking testimony or -- or  
25          what we consider in the context of the set down which

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1 is in Subsection 3011.3.

2 After considering the application or  
3 petition and the recommendations of the Office of  
4 Planning and after reasonable opportunity for the  
5 applicant or petitioner to present the applicant's or  
6 petitioner's view which they typically do in writing,  
7 the Commission may dismiss the application or petition  
8 or set it down for public hearing or other proceeding.

9 Further I just want to on the point of the  
10 request from the ANC read from the ANC Act and this is  
11 in Section 13C1 regarding giving great weight.

12 It says Of this section, each agency,  
13 board and commission shall before the award of any  
14 grant funds to a citizen organization or group or,  
15 this is the relevant part, before the formulation of  
16 any final policy decision or guideline with respect to  
17 grant applications, comprehensive plans, requested or  
18 proposed zoning changes, variances and so on that the  
19 ANC has given great weight.

20 We are nowhere near final action in the  
21 case. We are at the very initial stages of this case.

22 So, I just wanted to clarify the -- the  
23 Commission's position on that and so, we will not be  
24 taking any public testimony on this matter and I'd  
25 like to turn now to the Office of Planning for their

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1 report. Thank you.

2 MR. PARKER: Good evening, Madam Chair,  
3 Members of the Commission.

4 My name is Travis Parker with the D.C.  
5 Office of Planning.

6 There -- as you've mentioned, there are  
7 three parts of the campus plan before you tonight that  
8 are the result of a year and a half of collaborative  
9 effort by GW with the Office of Planning and the  
10 surrounding community.

11 The three applications are a new campus  
12 plan, a campus-wide PUD and a proposed text amendment.  
13 The submitted report on this presentation discusses  
14 all three applications as one project.

15 This process began a year and a half ago  
16 when GW came to OP with a desire to develop the old  
17 hospital site on square 54 with non-university uses.  
18 The existing campus plan allows for commercial  
19 development of the site. However, OP informed GW that  
20 neither we nor the community would support non-  
21 university uses on square 54 without detailed  
22 information on how future university uses would be  
23 accommodated on the remainder of the campus.

24 A ULI panel that was convened early last  
25 year to discuss the development of this site met --

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1 met with stakeholders on all sides of the issue and  
2 determined that commercial use of the site was  
3 appropriate assuming that the university could  
4 reasonably plan for the future university uses on the  
5 existing campus.

6 This requirement ultimately led to the  
7 plan in front of you today.

8 The first step OP took was to insist that  
9 any process undertaken by GW must be as open and  
10 participatory as possible. In addition to attempting  
11 a mediated process, GW held a series of meetings last  
12 year cosponsored by ANC 2A and OP to present ideas to  
13 the community and gather neighborhood input. Through  
14 these meetings, OP and the university collected  
15 community comments that formed a picture of  
16 neighborhood issues and resulted in substantive  
17 changes to the plan.

18 The development plan included in your  
19 application is a result of these community meetings  
20 and GW discussion with OP. Over the course of the  
21 community involvement site after site of GW's  
22 development wish list was dropped from their original  
23 plan. The sites that are left mainly in the center of  
24 campus along 22nd Street represent the areas that are  
25 appropriate for development and will not have negative

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1 impact on residential neighbors or historic  
2 properties.

3 The problem that OP ran into is that  
4 protections afforded by this development plan are not  
5 achievable under the existing campus plan or even the  
6 existing campus regulations. They really required us  
7 to take a fresh look at the campus plan process.

8 The existing campus plan regulations and,  
9 therefore, the existing 2000 GW plan allow the  
10 university to take its available density and spread it  
11 around however it sees fit which could mean  
12 concentrating it in some areas and not in others, but  
13 in any case, does not limit where -- where on the  
14 campus the density can go.

15 The situation works well for all other  
16 university campuses in D.C. which are lower zoned and  
17 less space constrained than -- than GW. It presents  
18 a real problem, however, for the Foggy Bottom campus.

19 In this case, we don't necessarily want  
20 the university to build wherever it sees fit and  
21 spread the density around where it might result, for  
22 example, in 110 feet on 24th or demolition of an  
23 historic structure like the JJ Early Studio. Instead,  
24 we want to specifically define the sites appropriate  
25 for development and restrict development in those

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1 sites where it's not appropriate.

2 GW has no obligation to limit itself in  
3 this manner. It has done so entirely at the  
4 suggestion of OP for the benefit of the city and the  
5 community.

6 The tradeoff for the university is  
7 hopefully twofold. First, by defining exactly what  
8 development site are appropriate and how the campus  
9 can be developed, all future projects will be on  
10 predetermined sites known well in advance and ideally  
11 will be less contentious.

12 Second, the overall building density  
13 achieved by clustering development in the center of  
14 the campus is greater and more efficient than what  
15 could be achieved by spreading it around various  
16 campus sites under the existing plan.

17 The unique situation faced by Foggy Bottom  
18 campus and the development plan proposed required a  
19 paradigm shift for implementation. The flexibility to  
20 locate any development anywhere on campus allowed by  
21 Section 210.3 is not appropriate for this urban  
22 location. Moreover, the areas that are appropriate  
23 for development are reasonably developable to a higher  
24 density than would be allowed by 210.3. The solution  
25 was to file a campus-wide PUD in conjunction with a

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1 campus plan similar to what was done by the -- by the  
2 commission for the Washington Hospital Center in 2002.

3 OP has recommended that the entire campus  
4 be submitted as a first-stage PUD with each  
5 development project being submitted later as  
6 individual second-stage PUDs similar to further  
7 processing.

8 The PUD process would solve the problems  
9 of limiting development to specific sites. It would  
10 provide design review of buildings. It would provide  
11 assurance that the plan could not change significantly  
12 from what is approved and it would provide the ability  
13 to build extra density in the center of campus through  
14 map amendments.

15 The map amendments would extend the C3(c)  
16 zoning currently on the northern portion of campus  
17 through the center of campus along 22nd Street. The  
18 remainder of campus not rezoned would retain the  
19 existing height restrictions and have a total FAR of  
20 approximately 3.65.

21 OP originally assumed that a text  
22 amendment to Section 210.3 would be required to  
23 accommodate the extra 0.15 FAR requested under the  
24 plan and submitted a text amendment accordingly.  
25 However, subsequent conversations with OAG have led to

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1 the interpretation that the campus-wide PUD -- that  
2 with the campus-wide PUD, the PUD guidelines for FAR  
3 would apply and no text amendment would be necessary.

4 The university has not agreed to  
5 withdrawal of the text amendment and has requested  
6 that it remain part of the application in order to  
7 accommodate future buildings not completed in the 20-  
8 year time frame of the plan.

9 This is the one issue that has changed  
10 from the written -- filed written report and a single  
11 issued in front of you that has not been fully agreed  
12 to by GW. The conditions of the plan that they have  
13 agreed to are significant.

14 The plan as presented to you today brings  
15 forward nearly all the elements of the 2000 plan and  
16 adds several new and important improvements in terms  
17 of neighborhood protections.

18 First, the university has agreed to a  
19 potential historic district encompassing much of the  
20 campus. This district will be further defined prior  
21 to the public hearing. It will not only identify  
22 buildings on campus worthy of protection, but will  
23 provide protection for contributing buildings and  
24 their neighbors in the -- in the historic district.

25 The university will prevent -- present its

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1 proposal to the HR -- HPRB in May and will have  
2 graphics and historic district requirements available  
3 prior to the public hearing on this plan.

4 A huge issue for the neighborhood over the  
5 years including the formulation of the 2000 plan has  
6 been the negative affects of GW students living in the  
7 area surrounding campus. As a part of this plan, GW  
8 has agreed to phase out all undergraduate housing from  
9 the surrounding neighborhood and move these students  
10 onto campus. GW will remove all undergrads from the  
11 hall on Virginia Avenue by this fall, all  
12 undergraduates from the Aston by next fall and all new  
13 undergrads from Columbia Plaza in the fall of 2008.  
14 Undergrads will be removed from City Hall on 24th  
15 Street at the end of the existing lease in 2016.

16 This is a significant change that is not  
17 required under the current plan and could not be  
18 contemplated without the density to build additional  
19 dorms on campus.

20 Another concern has been the issue of GW  
21 purchasing property in the Foggy Bottom area and  
22 potentially driving our residents. GW in this plan  
23 has committed not to purchase any properties in the  
24 residential parts of Foggy Bottom in the west end for  
25 university use.

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1           Of course, they have agreed not to develop  
2 any campus property not identified specifically in  
3 this plan through the PUD process which in itself is  
4 a huge commitment.

5           Throughout the process, OP has maintained  
6 that we will support no increases in the student  
7 enrollment caps. GW has recognized that they are  
8 reaching the maximum capacity of students on this  
9 campus and have carried forward the enrollment cap  
10 from the previous two plans.

11           The attempt with the new plan is to more  
12 explicitly define what is counted in student  
13 enrollment. OP's intent is to count every student  
14 physically on the Foggy Bottom campus each semester  
15 for classes. The definition in the plan mainly  
16 follows the methodology accepted by the Zoning  
17 Commission for further processing cases over the past  
18 five years with an additional attempt to add students  
19 attending Mt. Vernon and Foggy -- both Mt. Vernon and  
20 Foggy Bottom classes who had not previously be counted  
21 in the Foggy Bottom number.

22           OP recognizes that the definition of  
23 student enrollment is an important issue for the  
24 community and expects that this will be an important  
25 discussion at the public hearing.

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1 Many other commitments are listed in the  
2 attachment to the report including the potential  
3 historic district, including the streetscape plan  
4 which lists the -- which will list detailed  
5 streetscape improvements throughout the campus, the  
6 undergraduate bed requirement and nearly all of the  
7 previous conditions from the 2000 plan.

8 OP has recommended a 20-year time plan --  
9 time frame for both the plan and the PUD. Both of  
10 which would expire together. This serves several  
11 purposes.

12 First, it provides assurance to the  
13 community and the city that the development plan and  
14 commitments negotiated in this process are not short-  
15 term requirements that will be lost in 2015.

16 Second, since this is a detailed long-term  
17 plan, it provides a more realistic -- the 20 years  
18 provides a more realistic window for the time frame  
19 contemplated in the development of the campus. But,  
20 most importantly, this plan is considered by OP to be  
21 the ultimate layout of the Foggy Bottom campus.

22 The historic districts, the neighborhood  
23 commitments and the time frame are all meant to  
24 reinforce the message to the university and to the  
25 community that this campus is reaching its final

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1 build-out. Whereas other universities in the city  
2 have larger, more open campuses and may continue to  
3 build or grow, this plan is seen as the final  
4 configuration of the university at this campus for the  
5 foreseeable future.

6 It is important to note that while the  
7 plan would be binding to the university for 20 years,  
8 nothing would prevent the Zoning Commission from  
9 stepping in to amend it or request a new plan at  
10 anytime. The first condition of the plan approves it  
11 until 2025 or until such time prior to that date as  
12 the Zoning Commission determines conditions warrant a  
13 change or amendment.

14 OP is aware that some members of the  
15 surrounding community are questioning GW's compliance  
16 with the existing 2000 campus plan. GW has agreed to  
17 voluntarily participate in an independent audit of  
18 their enrollment numbers to insure compliance with the  
19 2000 plan prior to approval of the proposed plan. The  
20 Zoning Administrator's in the process of procuring an  
21 audit firm and intends to have an audit completed  
22 prior to public hearing on this case.

23 Based on the numbers provided by GW and  
24 the methodology previously accepted by the Zoning  
25 Commission and further processing cases, OP has no

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1 reason to believe that the university is out of  
2 compliance with the current plan and cannot recommend  
3 denying set down of the PUD for a process that's  
4 voluntary by the university and will be completed  
5 prior to the public hearing.

6 Since neither GW nor any parties in  
7 opposition can be heard tonight, OP feels that it is  
8 important to move the application forward to a public  
9 hearing where all sides can express their views.

10 Moreover, since it is my understanding  
11 that the campus plan itself does not require a set  
12 down and is heard at the discretion of the Commission,  
13 only the PUD and text amendment would need to be set  
14 down tonight in order to move forward to public  
15 hearing.

16 OP believes that GW has met the technical  
17 requirements for set down of the PUD application,  
18 recommends that it be set down for a public hearing so  
19 all sides can be heard on these complicated issues.

20 I'm happy to take any questions.

21 CHAIRPERSON MITTEN: Thank you, Mr.  
22 Parker. Before we lose Mr. Jeffries, did you want to  
23 ask any questions or make any comments?

24 COMMISSIONER JEFFRIES: No, I think I've  
25 -- I've --

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1 CHAIRPERSON MITTEN: Okay. And we have  
2 absentee ballots from Mr. Jeffries for these cases.

3 Questions from the Commission for Mr.  
4 Parker?

5 Well, being the veteran of the wars of the  
6 last campus plan, I -- I just want to make a -- I  
7 think I just want to make a couple of comments and  
8 then if you want to respond in anyway, you can.

9 One of the things that I was disappointed  
10 to read in your -- in the Office of Planning report is  
11 basically that you didn't have anything good to say  
12 about the campus plan that's in place now and I think  
13 there's something that's very good about the campus  
14 plan that's in place now and that is there is a  
15 tremendous amount of on-campus housing that was built  
16 that would never have been built without that campus  
17 plan and I -- I want that to be acknowledged and I  
18 know that the university wasn't happy with it and I  
19 know that the community was not happy with it because  
20 it didn't go far enough.

21 But, you wouldn't be here proposing what  
22 you're proposing now if you didn't have that campus  
23 plan.

24 So, wanted to say that because that was  
25 hard fought.

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1           Secondly, there's -- in describing the --  
2           what's -- what's not working now, there's -- there --  
3           there are woven into the report and woven into some of  
4           the conditions expectations that I don't think we will  
5           ever achieve through a campus plan and one of them is  
6           -- one of the comments that you make is that the  
7           campus plan has not promoted cooperation between the  
8           community and the university. That's not what we're  
9           here for.

10           I have -- I -- on some occasions, this  
11           body has been a forum for sort of mediating between  
12           parties. I have no expectation that that's going to  
13           happen here and I don't want people to expect that  
14           that's going -- going to be an outcome of the campus  
15           plan process.

16           I also don't want -- I would like to have  
17           a -- as we move through this process, I would like to  
18           have a better comparison between the existing campus  
19           plan and why what it is being proposed -- I understand  
20           from the PUD aspect of it density-wise and design-wise  
21           why it's -- that that could be a better tool, but I'd  
22           like to know why -- what we're putting in place that  
23           -- that differs from the existing plan. Why -- why  
24           that's superior.

25           The other thing that I'd just like folks

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1 to keep in mind is -- is one of the sticking points  
2 that Mr. Parker mentioned which is there's this --  
3 there's this persistent perception that -- that  
4 whatever formulas we put in place or whatever kind of  
5 checks and balances we put in place, we -- we don't --  
6 we don't say enough words or we don't put enough teeth  
7 into that. I -- you know, we're going to struggle  
8 with the same things. The same -- the same level of  
9 distrust and the same -- what people perceive as  
10 ineffective control mechanisms unless we come up with  
11 -- with better language and so, that -- that's another  
12 area that, you know, we're not going to get anywhere  
13 if we keep using the same methods.

14 So, I -- I hope I'm not here 2026 when --  
15 if -- if this gets approved that it expires, but I'm  
16 -- I'm looking forward to trying to find a new way to  
17 -- to have this campus controlled the way that we all  
18 had -- that -- that I think the BZA had intended given  
19 the imperfect tools that they were given several years  
20 ago and I'd also just like to I guess revisit the  
21 notion that we had made a commitment that we were  
22 going to rewrite the campus plan regulations after we  
23 had heard all of the campus plans that had been coming  
24 forward and here we are without -- we're -- we're --  
25 we're still kind of cobbling together the tools that

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1 are existing. We don't have new campus plan  
2 regulations to guide us.

3 So, that's sort of just my reaction to the  
4 whole thing.

5 MR. PARKER: My only comment was I in no  
6 way intended to -- to disparage the original plan. In  
7 fact, this -- this new plan is an attempt to build on  
8 it. I mean I -- there are a lot of good things in the  
9 existing plan and we tried to take that further this  
10 time rather than replace it and -- and -- and -- and  
11 tear down what's -- what's in place, but other than  
12 that, I can agree with you.

13 MS. MCCARTHY: Yes, I -- I really wanted  
14 to echo that, Madam Chair. That I mean as you know,  
15 we were very involved and fought really hard on that  
16 first campus plan as well.

17 We look at this as taking all of the  
18 positive aspects of that plan and extending them and  
19 then taking what we've learned about the experience  
20 with that plan and trying to add some additional  
21 guarantees and some additional commitments that we  
22 weren't able to get from the university the first time  
23 around. But, we in no way want to disparage the  
24 existing plan.

25 CHAIRPERSON MITTEN: I -- I just -- I

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1 don't know. Maybe just my ego needed to hear that or  
2 I think the -- the -- the BZA was -- I mean that was  
3 torturous and they need to be acknowledge. I mean the  
4 -- the -- the group needs to be acknowledged for the  
5 hard work that they did and, you know, court case  
6 after court case and -- and, you know, I don't think  
7 we're in a bad place. So.

8 Anyone else?

9 VICE CHAIRMAN HOOD: Madam Chair, you  
10 brought up a very good point. The campus plan  
11 regulations, I'm -- I'm wondering if we're preempting  
12 the move forward. What happened? I know we're  
13 getting a status report later, but I'm going to ask  
14 you what's the status of that? I think -- are you  
15 working on that, Mr. Parker?

16 MR. PARKER: I'm not. I'm not aware that  
17 we're under -- under process of changing the campus  
18 plan regulations at this time. Are we?

19 VICE CHAIRMAN HOOD: We've been doing that  
20 now for how -- it's been awhile.

21 MS. MCCARTHY: Yes. No, we --

22 VICE CHAIRMAN HOOD: Matter of fact, it  
23 was when I was the chairman and I haven't been the  
24 chairman in awhile.

25 CHAIRPERSON MITTEN: Anytime you want.

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1 VICE CHAIRMAN HOOD: No. Uh-huh.

2 MS. MCCARTHY: We -- we have had a few  
3 different variations of different approaches to campus  
4 plans. Unfortunately, the person who was our campus  
5 plan expert and who had taken a lead on that was Dave  
6 McGettigan who left us several months ago.

7 So, we got to collect -- he -- he was kind  
8 enough to leave us his files and hopefully, there in  
9 fairly good shape so we haven't lost a lot of -- of  
10 the learning that we did in that process.

11 VICE CHAIRMAN HOOD: Okay. Let me go back  
12 to this case. I think we're talking 6-19, too. Yes.  
13 Okay. You're asking now for a new 20-year campus  
14 plan. Is that -- is that going to be the model for --  
15 for other campuses here in the city or are we just  
16 talking about GW?

17 MR. PARKER: Absolutely not. The -- the  
18 point was that -- that GW has reached -- reached the  
19 portion of its development where it's -- we're kind of  
20 seeing this as the end. This -- we're kind of seeing  
21 this as the -- the end game for the GW campus.  
22 Whereas, other campuses throughout the city are still  
23 going to evolve. They have a lot more space. They're  
24 a lot less dense and are still going to evolve over  
25 the years and grow. We see this as -- as the build

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1 out for GW and, therefore, we recommended a longer-  
2 term plan that -- that represents that.

3 VICE CHAIRMAN HOOD: Okay. Thank you.

4 COMMISSIONER TURNBULL: So, is this a --  
5 a unique situation where you would make the whole  
6 campus a PUD? You see this as a one time.

7 MR. PARKER: Absolutely. As -- as I talk  
8 about, this was really our method to -- to handle the  
9 unique situation that we have here in terms of we  
10 don't -- we didn't want to move forward with the --  
11 the way the 2000 or that 210.3 works where GW can  
12 spread its density wherever it wants.

13 We wanted to limit the -- limit the  
14 density to the sites that are appropriate for it and  
15 that isn't necessarily the case on other universities  
16 in the city. They aren't quite as space constrained  
17 or have the same surrounding neighborhood.

18 COMMISSIONER TURNBULL: And it would be  
19 under the R5D?

20 MR. PARKER: I'm sorry.

21 COMMISSIONER TURNBULL: And it would be  
22 under R5D?

23 MR. PARKER: Most of the campus -- the  
24 majority of the campus would remain R5D. There are  
25 the sites along 22nd that would be rezoned through the

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1 PUD process to C3(c).

2 COMMISSIONER PARSONS: I want to talk a  
3 little about square 54.

4 MR. PARKER: Okay.

5 COMMISSIONER PARSONS: Your report says  
6 that -- that GW approached you as saying that -- that  
7 they would use it for investment purposes.

8 MR. PARKER: Um-hum.

9 COMMISSIONER PARSONS: And the report kind  
10 of dies about that or at that point. What -- what --  
11 what do you understand the proposal for square 54 and  
12 its timing to be?

13 MR. PARKER: I understand that a -- that  
14 a PUD will likely be submitted in the next few months.  
15 The community process that I spoke about that happened  
16 last year didn't just deal with this plan. It also  
17 dealt with plans for square 54. So, there were  
18 presentations to the community of what the university  
19 was -- was looking at and so, I expect that -- yes,  
20 the ULI panel looked at square 54 as well. So, I  
21 expect that in the next few months once this process  
22 gets started you'll see square 54. One of the things  
23 that we've continuously insisted to the university is  
24 that square 54 will follow this. So, that -- I mean  
25 it -- it will be likely submitted before this process

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1 is through, but will not be approved until after this  
2 would be approved.

3 COMMISSIONER PARSONS: But -- but, you see  
4 it as -- as a -- a non-university use? I mean that's  
5 what's coming forward. It will not be used for  
6 university purposes.

7 MR. PARKER: That's -- that's what we  
8 expect to come forward. Yes.

9 COMMISSIONER PARSONS: And that's the  
10 logic to not including it even though it's within the  
11 campus plan boundaries?

12 MR. PARKER: Correct.

13 COMMISSIONER PARSONS: It's a stand-alone  
14 project like any other PUD is -- is the rationale?

15 MR. PARKER: Correct.

16 COMMISSIONER PARSONS: Okay.

17 MS. MCCARTHY: And the -- and the other  
18 part of the rationale is what -- what looks like it  
19 will emerge in the square 54 PUD which would be  
20 consistent with the Urban Land Institute panel is a  
21 combination of market-rate housing which we thought if  
22 the university were not going to put university use  
23 there, at least making up for the residential fabric  
24 that's been eroded over the years by GW's expansion  
25 made some sense.

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1           There would be office on the Washington  
2 Circle side mostly likely, the residential and then  
3 one of the things that we had observed about the site  
4 is by virtue of being right across the street from the  
5 Foggy Bottom Metro Station which has an uncommonly  
6 large amount of activity because of not only the high  
7 residential population and high student population so  
8 there's a lot of coming and going from the Metro  
9 throughout the day, but there's also the Kennedy  
10 Center which brings a lot of people there in the  
11 evening and shuttles depart from the Metro Stations.

12           So, we had had over the years concerns  
13 expressed by people in Foggy Bottom west end about the  
14 lack of local serving retail in the area. So, that  
15 seemed like a good location for a retail  
16 concentration, maybe some additional public space to  
17 -- to recognize the fact that this was sort of the --  
18 the center or could be sort of a town center of Foggy  
19 Bottom and our understanding is there's a grocery  
20 store and a number of -- of additional retail stores  
21 as well as public space and market-rate housing and  
22 office use.

23           COMMISSIONER PARSONS: When you say market  
24 rate, you mean rental as opposed to condominium?

25           MR. PARKER: I believe so. Yes.

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1 MS. MCCARTHY: I believe so, but the PUD  
2 has not been submitted yet. So.

3 COMMISSIONER PARSONS: So, being market  
4 rate, you don't think it will be occupied by students?

5 MR. PARKER: I don't think the university  
6 has the option to -- to prohibit students, but it  
7 won't be marketed to students.

8 COMMISSIONER PARSONS: Well, that's  
9 another case.

10 Let's talk about the audit results from  
11 the Office of the -- of the Zoning Administrator.

12 MR. PARKER: Um-hum.

13 COMMISSIONER PARSONS: What is that going  
14 to tell us? What -- what you're saying is that will  
15 be made available to the Commission prior to the  
16 hearing. Sounds like the kind of thing that comes in  
17 the night of the hearing. So, what --

18 MR. PARKER: I -- I -- I think the goal is  
19 to have it done by early June which should be  
20 significantly before a hearing time would be available  
21 for this case, but it -- it will confirm that the  
22 numbers that GW are reporting are accurate and if the  
23 Zoning Administrator has any problems with the  
24 methodology that -- that the university has used, he  
25 will report those as well.

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1 MS. MCCARTHY: We -- we fully expect that  
2 to -- to -- there were -- there were a number of  
3 concerns raised by the community about the fact that  
4 the university was out of compliance and, therefore,  
5 we shouldn't proceed.

6 COMMISSIONER PARSONS: Correct.

7 MS. MCCARTHY: And we said we ought to  
8 test whether the university is in compliance or not,  
9 do a formal process, agree everybody on what should be  
10 counted and what shouldn't be counted, bring in an  
11 outside auditor which the university agreed to and as  
12 the rules say, we can't proceed with further action on  
13 the -- on the GW's part if they're not in compliance.  
14 So, if it turns out that they're not in compliance,  
15 then the hearing gets postponed and the university has  
16 to go back into compliance before they could proceed  
17 with the PUDs which in effect would be further  
18 processing.

19 COMMISSIONER PARSONS: Well, that's the  
20 answer I was looking for. Because I couldn't see how  
21 we could proceed if we were out of compliance.

22 MS. MCCARTHY: Oh, you know, we -- we  
23 don't think we should proceed if the university's out  
24 of compliance.

25 CHAIRPERSON MITTEN: That's actually a

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1 provision of the -- of the existing campus point.

2 COMMISSIONER PARSONS: Right.

3 CHAIRPERSON MITTEN: Yeah.

4 COMMISSIONER PARSONS: Right. So --

5 MS. MCCARTHY: A provision that was tested  
6 legally and upheld specifically by a judge.

7 COMMISSIONER PARSONS: Right. So, here we  
8 are asked to set this down awaiting an audit that  
9 should be available you say when?

10 MR. PARKER: I'm told early June, but I  
11 don't -- I -- it hasn't been contracted yet. It's in  
12 -- he's in the process now.

13 COMMISSIONER PARSONS: So, why shouldn't  
14 we wait for that? I mean I know you're ready to go.

15 MR. PARKER: Right.

16 COMMISSIONER PARSONS: That's a good  
17 reason, but --

18 MR. PARKER: Well, we have no reason to  
19 believe at this time that the results are going to be  
20 any different than what you've got now and so, waiting  
21 for that would simply put us three months behind. You  
22 know, we -- we simply have another set down hearing.  
23 Set another public hearing for the results that we  
24 think you already have in front of you.

25 COMMISSIONER PARSONS: I see.

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1 MS. MCCARTHY: Basically, we weren't  
2 interested in wasting the Commission's time or anybody  
3 else's if the university was out of compliance. We  
4 reviewed with the university very carefully their  
5 numbers. The only discrepancy that we would expect to  
6 see is if the independent auditor finds that the  
7 university has not reported its numbers accurately and  
8 so, given that, it appears from all of the numbers  
9 that we've seen from the university that they're in  
10 compliance given that part of the reason why the count  
11 has been delayed was not GW's fault, but sort of  
12 getting Zoning Administrator and the community and the  
13 Office of Planning together and talking about what  
14 ought to be counted and not counted and the rest of  
15 it.

16 It didn't -- it didn't seem reasonable to  
17 impose a further delay as long as we all had  
18 acknowledged that if they're not in compliance nothing  
19 should go forward.

20 MR. PARKER: Moreover, the -- the audit  
21 process is not a requirement of the existing plan.  
22 The -- the compliance with the existing plan is  
23 determined by the Zoning Administrator or the Zoning  
24 Commission and there's no requirement for the GW to go  
25 through this process. So, they're doing this

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1 voluntarily. So, we didn't -- another reason we  
2 didn't delaying the set down when this is not a  
3 requirement for them to go through.

4 COMMISSIONER PARSONS: Now, is the auditor  
5 using the same figures that you -- you -- you've  
6 already been presented with or are they gaining  
7 additional information going into the files of the  
8 university and --

9 MR. PARKER: Ideally, they'll be going  
10 into the files of the university and confirming the  
11 figures.

12 COMMISSIONER PARSONS: Okay.

13 MR. PARKER: Correct.

14 COMMISSIONER PARSONS: Okay. Thank you.

15 CHAIRPERSON MITTEN: Anyone else comments  
16 or questions?

17 COMMISSIONER PARSONS: Well, I -- I did  
18 have a -- a comment about how we -- how would we  
19 conduct this -- this three-part hearing and I -- I  
20 have no thoughts on that, but it seems very  
21 complicated. It seems like a number of evenings.

22 CHAIRPERSON MITTEN: At least.

23 COMMISSIONER PARSONS: And we ought to  
24 anticipate that and not frustrate everybody by  
25 scheduling it for two days in July and having this

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1 moved to September and so forth and -- and really just  
2 saying we'll -- we'll devote two weeks to this.  
3 Whatever it takes.

4 CHAIRPERSON MITTEN: I think that has  
5 merit.

6 COMMISSIONER PARSONS: But, I don't know  
7 quite in what sequence we would deal with it. I -- I  
8 -- I guess an overall campus plan and a PUD and -- and  
9 then the text amendment. It's almost three separate  
10 processes or -- or --

11 CHAIRPERSON MITTEN: It's definitely  
12 three.

13 COMMISSIONER PARSONS: -- is it not?

14 CHAIRPERSON MITTEN: Well, it's definitely  
15 three separate actions with rules regarding each, but  
16 I don't -- I -- I don't know how to talk about them  
17 separately.

18 COMMISSIONER PARSONS: Neither do I.

19 CHAIRPERSON MITTEN: Without -- you know,  
20 without really being laborious and, you know, saying,  
21 okay, tonight we're just going to talk about this and  
22 then you'd have redundancy the -- you know.

23 COMMISSIONER PARSONS: Oh, yeah. Yes.

24 CHAIRPERSON MITTEN: So, I don't know if  
25 the Office of Planning has any thoughts on that. I

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1 just --

2 MR. PARKER: Our thoughts that it would  
3 have to be one continuous hearing with three separate  
4 actions. Then whether that goes into multiple  
5 evenings and multiple weeks is --

6 COMMISSIONER PARSONS: But -- but, you  
7 mean -- as the Chairman just said, three -- three  
8 separate decisions at the end of a process rather than  
9 three different processes.

10 MR. PARKER: Right.

11 COMMISSIONER PARSONS: Okay. Well,  
12 somehow we'll get through it.

13 CHAIRPERSON MITTEN: Well, and I -- and I  
14 think just based on past experience we should -- we  
15 should -- I think there -- it -- there -- it's a good  
16 idea to anticipate that it will be multiple hearings.  
17 I think there's -- we should try an schedule several  
18 nights as you say, you know, in consecutive weeks so  
19 that we don't have -- so, that we can get -- get  
20 through it and then if there's additional information  
21 that is going to take some time to come in, we'll get  
22 that, but we will have gotten through the case.

23 So, just based on my past experience, I'm  
24 going to suggest that we at least reserve four nights,  
25 a Monday, a Thursday, a Monday, a Thursday.

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1 MS. SCHELLIN: Do you want those to follow  
2 each other? That -- that's probably going to put them  
3 into September then for a hearing because we're booked  
4 into July. We have right now if we have to --

5 CHAIRPERSON MITTEN: Well --

6 MS. SCHELLIN: -- have it all.

7 CHAIRPERSON MITTEN: -- I don't know if  
8 it's possible to -- to -- you know, if you did a  
9 Monday, a Thursday, a Thursday, the following Monday.  
10 I mean we want it in a relatively -- we don't have to  
11 do that now.

12 MS. SCHELLIN: Yes.

13 CHAIRPERSON MITTEN: I'm just saying if we  
14 can schedule it tightly, I think that's what we'd like  
15 to do.

16 MS. SCHELLIN: Okay.

17 CHAIRPERSON MITTEN: Okay. Then I would  
18 move that we set down Case Number 06-12 and Case  
19 Number 06-19 for public hearing.

20 COMMISSIONER TURNBULL: Second.

21 CHAIRPERSON MITTEN: Is there any further  
22 discussion? All those in favor please say aye.

23 (Ayes.)

24 CHAIRPERSON MITTEN: Mrs. Schellin, we  
25 have none opposed.

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1 MS. SCHELLIN: I'm -- I'm getting  
2 information from OAG that we actually have to vote on  
3 these separately because one's a contested case and  
4 one is rule making. We have to set them down -- take  
5 two votes.

6 CHAIRPERSON MITTEN: Fine. Okay. Well,  
7 then I'll withdraw that motion and I'll move that we  
8 set down Case Number 06-12 for public hearing. Can I  
9 get a second from you?

10 COMMISSIONER PARSONS: Yes.

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

13 (Ayes.)

14 CHAIRPERSON MITTEN: None opposed, Mrs.  
15 Schellin.

16 MS. SCHELLIN: Staff will record the vote  
17 5-0-0 to set down Zoning Commission Case Number 06-12.  
18 Commissioner Mitten moving. Commissioner Parsons  
19 seconding. Commissioners Hood and Turnbull in favor.  
20 Commissioners Jeffries in favor by absentee ballot.

21 CHAIRPERSON MITTEN: Thank you and then I  
22 would move that we set down Case Number 06-19 for  
23 public hearing.

24 VICE CHAIRMAN HOOD: Second.

25 CHAIRPERSON MITTEN: Thank you. All those

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1 in favor please say aye.

2 (Ayes.)

3 CHAIRPERSON MITTEN: Mrs. Schellin.

4 MS. SCHELLIN: Staff will record the vote  
5 5-0-0 to set down Zoning Commission Case Number 06-19.  
6 Commissioner Mitten moving. Commissioner Hood  
7 seconding. Commissioners Turnbull and Parsons in  
8 favor. Commissioner Jeffries in favor by absentee  
9 ballot and just to add that 06-19 is a rule making  
10 case and 06-12 is contested.

11 CHAIRPERSON MITTEN: And for ease of this  
12 whole mishmash that we're going to take -- take on,  
13 the whole thing is going to be run as a contested  
14 case. So, we're not going to have separate testimony  
15 that, you know, just swear in for one and you don't  
16 swear in for another. We're just going to run it all  
17 as a contested case.

18 Okay. Next under hearing action is Zoning  
19 Commission Case Number 05-37. This is Station  
20 Holdings, LLC which I understand is also known as  
21 Capital Place.

22 Who's up? Mr. Parker?

23 MR. PARKER: Me again.

24 CHAIRPERSON MITTEN: Okay.

25 MR. PARKER: I don't have written comments

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1 for this one. So, I'll be a little faster this time.

2 This is a case on 2nd and H Street, N.E.  
3 at the end of the Hopscotch Bridge. It's a PUD and  
4 related map amendment from C2(a) and C2(b) to an  
5 entirely C2(b) project.

6 The applicants are looking to build about  
7 -- just over 300 condominium units with 45,000 square  
8 feet of ground floor retail fronting mainly on 2nd  
9 Street, but also on the intersection of 3rd and H.  
10 Will have underground parking to accommodate all the  
11 uses.

12 The applicant has been through the OP and  
13 community process several times and this project has  
14 gone through several iterations since its initial  
15 filing. The height has been lowered and there have  
16 been several concessions made to the neighborhood in  
17 regard to the neighbors to the east on the remainder  
18 of the square.

19 The main concessions were the G Street  
20 frontage was lowered significantly to respect the  
21 facades of the rowhouses on G Street and the two bays  
22 for this -- on G Street have been changed from  
23 commercial to residential. The garden pavilion in the  
24 center has been lowered and tries to respect the  
25 backyards of the neighbors to the east.

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1           OP will continue to work with the  
2 applicant and the neighbors to resolve any outstanding  
3 issues in regards to the relationship between this  
4 project and its neighbors, but as of this time, we  
5 recommend set down of the project.

6           CHAIRPERSON MITTEN: Thank you. Questions  
7 or comments for Mr. Parker? Mr. Turnbull.

8           COMMISSIONER TURNBULL: Thank you, Madam  
9 Chairman. I had a question on the -- I was looking at  
10 the plan and apparently, there's only going to be one  
11 loading berth, one loading dock for everyone?

12           MR. PARKER: That was a question that we  
13 had as well. The loading will be off 2nd Street and  
14 yes, the applicant is requesting to combine the  
15 residential and retail loading into one berth.

16           No report yet from DDOT on that issue.

17           COMMISSIONER TURNBULL: Okay.

18           MR. PARKER: But, we expect that by the  
19 public hearing.

20           COMMISSIONER TURNBULL: Because Station  
21 Place has another entrance or loading berth right  
22 across from it and --

23           MR. PARKER: Agree.

24           COMMISSIONER TURNBULL: -- I'm just  
25 curious. I mean it's -- and I'm looking that there's

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1 two elevators off of that loading berth which take you  
2 up and they're going to serve -- you're going to go  
3 through glass walks to the -- all the other different  
4 buildings in the complex.

5 Just seems kind of laborious to do that,  
6 but it's --

7 MR. PARKER: Yes, there is a lot of  
8 difficulty with the street frontages of this project  
9 I know.

10 COMMISSIONER TURNBULL: Yes.

11 MR. PARKER: But, we will be seeking a  
12 report from DDOT prior to the public hearing to  
13 address the loading issue.

14 COMMISSIONER TURNBULL: I guess the other  
15 thing and I'm -- I don't know if I noticed on the roof  
16 plan --

17 MR. PARKER: Yes.

18 COMMISSIONER TURNBULL: -- any kind of a  
19 green design. I see a lot of trees and -- on the  
20 elevations and --

21 MR. PARKER: The -- yes -- I'm not sure if  
22 there is a green roof per se, but this building I  
23 believe will be lead certified or lead certifiable  
24 anyone and there's a page in your application that  
25 talks about the lead categories.

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1                   COMMISSIONER TURNBULL: Okay. Yes, I saw  
2 that mentioned. I just didn't -- when I saw the  
3 elevations on the perspective with all the greenery on  
4 the roof, I expected to see a more well defined plan  
5 up there that says what's going on and I didn't really  
6 see that.

7                   MR. PARKER: Yes, I don't think -- except  
8 on the north side, I don't think there is roof deck or  
9 accessible roof and I don't know that -- like I said,  
10 I don't know that it's planted or green per se, but I  
11 know there will be, you know, sustainable design.

12                   COMMISSIONER TURNBULL: At the -- I guess  
13 it's the east side, the back side of the building that  
14 faces the residential units.

15                   MR. PARKER: Um-hum.

16                   COMMISSIONER TURNBULL: The existing  
17 neighborhood, they're putting in an alley. This is a  
18 very nice gesture and it's a brick alley. It's  
19 suppose to be. I'm curious about the ballards and the  
20 gate on the one end of the alley. What is that --

21                   MR. PARKER: Do you have a page reference  
22 or --

23                   COMMISSIONER TURNBULL: I'm looking at 26.  
24 Page 26. The plan.

25                   MR. PARKER: Don't have that in front of

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1 me right now, but I'm not -- yes, I'm not aware of --  
2 I can certainly look into that and have an answer for  
3 you.

4 COMMISSIONER TURNBULL: I was just curious  
5 what the point is. I mean if the neighbors, they only  
6 have one that they can only -- it looks like they can  
7 only then go out through G Street.

8 MR. PARKER: Well --

9 COMMISSIONER TURNBULL: Down the alley.

10 MR. PARKER: Yes, the intent is the  
11 alley's for the use of neighbors.

12 COMMISSIONER TURNBULL: Okay.

13 MR. PARKER: So, it should not be blocked  
14 off on either end and we'll work to correct that.

15 COMMISSIONER TURNBULL: Well, I'm just  
16 curious. It looks like you mainly have to go in  
17 through G Street, go in and out through G Street and  
18 that there's two ballards at the one end and then  
19 there's a gate which I'm not sure what it really does.  
20 I just --

21 MR. PARKER: Oh, yes.

22 COMMISSIONER TURNBULL: -- I'm just  
23 puzzled by why you --

24 MR. PARKER: I'll look into that as well.

25 COMMISSIONER TURNBULL: Okay. The

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1 courtyard, the eco-garden or --

2 MR. PARKER: Um-hum. It's a project  
3 amenity that the applicants offered. This area used  
4 to be a swamp I'm told and I'm sure they can tell you  
5 more about it, but they're going to try and put some  
6 natural plant life in there for the --

7 COMMISSIONER TURNBULL: All right.

8 MR. PARKER: -- use of the neighbors.  
9 Well, not the neighbors. The residents.

10 COMMISSIONER TURNBULL: All right. I  
11 commend them for trying to integrate something. It's  
12 a nice gesture.

13 I think -- and I'll have to go through --  
14 I'll go through my notes, but I think those were the  
15 main things that I seen. Was the access, the loading  
16 dock was a big question. It just seems like it's a  
17 major issue.

18 MR. PARKER: It seems like it's tight for  
19 the number of units and amount of space in there.

20 COMMISSIONER TURNBULL: Yes, really. I  
21 mean --

22 MR. PARKER: Absolutely.

23 COMMISSIONER TURNBULL: You got a lot of  
24 people in those buildings.

25 MR. PARKER: Absolutely.

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1 COMMISSIONER TURNBULL: Thank you.

2 MR. PARKER: All right.

3 CHAIRPERSON MITTEN: Anyone else? Mr.  
4 Parsons.

5 COMMISSIONER PARSONS: I wanted to talk  
6 about the roof structures.

7 MR. PARKER: All right.

8 COMMISSIONER PARSONS: Apparently, you've  
9 worked a lot on these and you've pushed the roof  
10 structure away from the residential units to the -- to  
11 the what is it east.

12 MR. PARKER: Correct.

13 COMMISSIONER PARSONS: And, therefore,  
14 brought it closer to the street, but it still has a  
15 one-to-one setback or it doesn't?

16 MR. PARKER: It does not. They'll need  
17 relief from that. The intent was to lower the  
18 perceived height of the building from the east.

19 COMMISSIONER PARSONS: I understand.

20 MR. PARKER: Whereas from the west, it's  
21 less important. So, they will need relief from that  
22 roof structure requirement.

23 COMMISSIONER PARSONS: And you say they've  
24 lowered the roof structure as much as possible. What  
25 does that mean? Are you still working on that or --

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1 MR. PARKER: No, I -- what I -- I believe  
2 that there are notches. Certain areas where it could  
3 go down and certain areas where it couldn't. So,  
4 where --

5 COMMISSIONER PARSONS: I see plus ten,  
6 plus 14 and plus 18.

7 MR. PARKER: Right. So, with elevator  
8 overrides, those areas it's going to be higher than  
9 other areas.

10 COMMISSIONER PARSONS: Um-hum.

11 MR. PARKER: And so, that leads to another  
12 area of relief in terms of the equal height issue for  
13 roof structures, but we tried to lower it where  
14 possible again to lower the perceived height from the  
15 buildings to the east.

16 COMMISSIONER PARSONS: Now, the roof  
17 structure that's over the wellness center --

18 MR. PARKER: Um-hum.

19 COMMISSIONER PARSONS: -- the green wave  
20 I would call it, have you had discussions about that  
21 as well? Is that essential to this project?

22 MR. PARKER: I believe it's an amenity  
23 space for the project. I think that's a community  
24 room and --

25 COMMISSIONER PARSONS: I meant the roof

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1 not the center.

2 MR. PARKER: Oh. The roof of the  
3 community room you're talking about?

4 COMMISSIONER PARSONS: Yes, green roof.  
5 Green wave here on page 41.

6 MR. PARKER: Forty-one.

7 COMMISSIONER PARSONS: I know we're going  
8 through our trellis period here in the city. At least  
9 this year, it seems to be a fad is to build trellises  
10 and --

11 MR. PARKER: Yes, the --

12 COMMISSIONER PARSONS: -- I'm hoping these  
13 don't became amenities in the context of amenities as  
14 design enhancements or something. Because I find them  
15 very distracting.

16 MR. PARKER: So, you're speaking about the  
17 trellis in the foreground or the roof that's actually  
18 colored green?

19 COMMISSIONER PARSONS: The green wave.

20 MR. PARKER: Yes, the green wave.

21 COMMISSIONER PARSONS: So, just let you  
22 know I want to talk about that at the hearing and --

23 MR. PARKER: All right.

24 COMMISSIONER PARSONS: -- I don't  
25 understand its necessity. I don't understand why it's

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1 being done. It seems like a misplaced object on the  
2 top of this building.

3 MR. PARKER: I think that's something that  
4 the applicant can address.

5 COMMISSIONER PARSONS: All right. Thank  
6 you.

7 CHAIRPERSON MITTEN: I just wanted to  
8 share a couple of thoughts. One is I share  
9 Commissioner Turnbull's concern about the relationship  
10 between -- well, first of all, the amount of loading,  
11 but then the relationship between this project and  
12 Station Place.

13 Commissioner Jeffries wanted us to share  
14 that he has concerns about the building height  
15 adjacent to the rowhouses at the east of the project.  
16 Well, the rowhouses on the east side of the square and  
17 he's asking that the interior alley be developed  
18 further with illustrations so that he can understand  
19 that better and to the extent that the applicant is  
20 proffering lead certification as an amenity, they  
21 can't -- they're going to have to proffer specific  
22 building components because they won't achieve the  
23 lead certification until well after the building's  
24 open.

25 MR. PARKER: I believe there's a page in

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1 your application that refers to what components  
2 they're --

3 CHAIRPERSON MITTEN: Yes, and if you look  
4 at it, it's not -- well, it's page 24 and they're  
5 talking about likely points.

6 Some of these things would be impossible  
7 for the Zoning Administrator to enforce against, you  
8 know, if they -- it's one thing to have, you know,  
9 here's my lead certification, but you don't get that  
10 until after you occupied the building typically.

11 MR. PARKER: Right.

12 CHAIRPERSON MITTEN: So, for the Zoning  
13 Administrator to try and enforce these different  
14 components is going to be impossible. So, that's --  
15 we're going to have to figure out a different way of  
16 handling that.

17 Those are my comments. Anything, Mr.  
18 Hood? Okay.

19 Oh, the last thing, I can't believe I  
20 almost forgot it, is you mentioned in your report that  
21 the plan that we -- on which we based the H Street,  
22 N.E. overlay had envisioned that there would be 500 to  
23 600 new residential units in the housing section of  
24 the overlay and this has taken a big bit out of that  
25 and in order to do that, we're, you know, we're

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1 pushing the zoning to the south and that's something  
2 that I share the community's concerns about that.  
3 Because, you know, there's an awful lot of thought  
4 that went into that quarter plan and I don't want to  
5 do anything right out of the box that is going to  
6 upset that and -- or to depart from it. I don't -- I  
7 just -- we're going to need to talk about that at  
8 greater length.

9 MR. PARKER: More the southern portion  
10 than the H Street frontage.

11 CHAIRPERSON MITTEN: Correct.

12 VICE CHAIRMAN HOOD: You asked me did I  
13 have anything and I did, but it was already covered.  
14 But, for the record, I do share the concern of  
15 Commissioner Turnbull and yourself with the  
16 relationship to Station Place.

17 When I look at -- well, let me leave it at  
18 that. I don't want to say anything about Station  
19 Place. Thank you.

20 CHAIRPERSON MITTEN: Okay. Well, if  
21 everyone's concerns have been noted, then I would move  
22 that we set down Case Number 05-37 for public hearing  
23 and ask for a second.

24 COMMISSIONER TURNBULL: Second.

25 CHAIRPERSON MITTEN: Any further

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1 discussion? All those in favor, please say aye.

2 (Ayes.)

3 CHAIRPERSON MITTEN: Those opposed please  
4 say no. Mrs. Schellin.

5 MRS. SCHELLIN: Staff will record the vote  
6 5-0-0 to set down Zoning Commission Case Number 05-37.  
7 Commissioner Mitten moving. Commissioner Turnbull  
8 seconding. Commissioners Hood and Parsons in favor.  
9 Commissioner Jeffries in favor by absentee ballot and  
10 this is a contested case also.

11 CHAIRPERSON MITTEN: Yes. Thank you. I'd  
12 invite anyone who's warm to take their coat off since  
13 we now seem to be all taking our coats off.

14 Why did you wait so long, Mr. Parsons?

15 Okay. Next is Case Number 05-42 which is  
16 the Sibley Memorial Hospital PUD and Related Map  
17 Amendment. Ms. Thomas.

18 MS. THOMAS: Yes. Good evening, Madam  
19 Chair, Members of the Commission.

20 Sibley Hospital is requesting a hearing of  
21 it's consolidated PUD and map amendment to rezone lot  
22 26 and 1448 from R5A to SP1 for it's proposed medical  
23 office building.

24 A map amendment would permit development  
25 of the medical office building as a compatible use for

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1 the hospital since such a structure is not permitted  
2 in the R5A zone district.

3 The physician's office building would be  
4 designed to provide integrated outpatient services  
5 including lab and radiology clinics, a pharmacy and  
6 possibly an optometrist as well as some deli-type  
7 service for patrons and staff of the facility.

8 These uses are not listed as permitted  
9 uses of the R5 district.

10 We are recommending that a proposed  
11 consolidated PUD and related map amendment be set down  
12 for public hearing with a map amendment to the SP2  
13 zone district to accommodate the proposed height only  
14 and to limit the flexibility necessary for approval.

15 We are concerned about using the matter of  
16 right provision of Section 400.9 to supersede the  
17 height limits of the PUD regulations and just to  
18 reiterate, this does not imply approval of additional  
19 density beyond that requested for the building as  
20 proposed or for any future developments.

21 The 750-space accessory parking garage and  
22 an addition entrance to the campus is also proposed as  
23 access to the medical office building. Preliminary  
24 details with respect to the dimensions of these are  
25 shown in the applicant's statement and in OP's report.

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1           The garage and office building will have  
2 a total FAR of 2.7 and the remaining of the campus  
3 will be a 0.89 FAR.

4           The new landscape entrance to the campus  
5 on Dale Carlia Parkway is anticipated to relieve  
6 traffic impacts to and from the campus.

7           The applicant is requesting flexibility  
8 from the special exception requirements of Sections  
9 506 and 508 to permit multiple buildings on a single  
10 lot and for the fact that office buildings and parking  
11 garages are not permitted, but through special  
12 exception in the SP district.

13           The applicant has stated that a medical  
14 office building is an integral aspect of contemporary  
15 medical facilities and such uses have become necessary  
16 for the economic survival of these institutions  
17 throughout the metropolitan area including those  
18 located in the District.

19           We requested the applicant to provide  
20 documentation of similar medical office buildings in  
21 the District and surrounding suburban jurisdictions  
22 and the District was shown to have five such  
23 facilities and a list of some of the close-in several  
24 facilities is attached in our report.

25           With respect to the overall design, it

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1 sought to preserve some open space by locating the  
2 structures to the rear to maintain a distance from  
3 residents to the south. Landscaping improvements and  
4 a small park at the new entrance continue to reflect  
5 and respect the residential character of the  
6 neighborhood.

7 We asked for analysis on the percentage of  
8 imperviousness for the entire campus site.

9 A preliminary traffic study has been done  
10 for review by the community and a final report will be  
11 prepared for submittal to DDOT for their analysis.

12 The applicant has had several meetings  
13 with a working group of consisting of ANC 3D  
14 commissioners and residents of the surrounding  
15 community to devise a benefits package. However, we  
16 understand that to date no agreement has been reached  
17 concerning the amenities of the PUD.

18 We understand that subsequent to our  
19 report the applicant has approached DDOT regarding  
20 potential contributions to DDOT planned bike park  
21 which is proposed to connect Westmoreland Circle to  
22 Loughboro Road and in addition, DDOT has approached --  
23 I'm sorry. The applicant has approached DDOT to  
24 provide an engineering study for traffic common  
25 efforts to address the community traffic along Dale

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1 Carlia Road to Loughboro Road.

2 I would also mention that DDOT and WMATA  
3 objected to the response of the applicant's proposal  
4 to relocate the existing bus stop on Loughboro Road to  
5 the north of the property on Little Falls Road.

6 So, the amended proposal will retain the  
7 bus stop location and include a landscaped bus  
8 layover.

9 Improve landscaping of the original  
10 entrance and a park area at the proposed entrance is  
11 anticipated at the southeast corner of the property.

12 We asked the applicant to provide prior to  
13 public hearing a completed amenities package, a  
14 completed traffic study with DDOT's analysis,  
15 calculation of the percentage of the pervious to  
16 impervious areas of the campus and proposed storm  
17 water management controls.

18 Thank you.

19 CHAIRPERSON MITTEN: Thank you. Questions  
20 for Ms. Thomas? Questions or comments?

21 COMMISSIONER PARSONS: Yes.

22 CHAIRPERSON MITTEN: Mr. Parsons.

23 COMMISSIONER PARSONS: There doesn't seem  
24 to be any storm water management associated with this  
25 proposal. Are you aware of any plans that could be

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1 submitted?

2 MS. THOMAS: That's what we requested from  
3 them.

4 COMMISSIONER PARSONS: Okay.

5 MS. THOMAS: We did ask that they submit  
6 some water plans.

7 COMMISSIONER PARSONS: Right. We're right  
8 next to the reservoir here as you know and --

9 MS. THOMAS: Right.

10 COMMISSIONER PARSONS: -- I'm presuming  
11 that this site drains to Loughboro Road and is picked  
12 up in the storm system there, but I wonder if you  
13 could seek the views of the Corps of Engineers on this  
14 proposal if we get a grading plan. I think it's  
15 critical. I don't mean just for this project. It's  
16 just a grading plan for the general campus.

17 MS. THOMAS: Yes, that's -- in addition,  
18 that's why we were concerned about the percentage  
19 pervious to impervious areas --

20 COMMISSIONER PARSONS: Okay.

21 MS. THOMAS: -- on the campus.

22 COMMISSIONER PARSONS: Now, the landscape  
23 plan doesn't seem to -- there's a landscape plan.  
24 Unfortunately, the pages are not numbered, but in  
25 these illustrations, it says landscape plan for the

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1 entire campus. Page 15. I'm sorry. Under tab B.  
2 That seems to be the level of commitment to the  
3 landscape for this new project and it's just not up to  
4 our standards.

5 MS. THOMAS: Page 15.

6 COMMISSIONER PARSONS: We need a landscape  
7 plan to go with this project. Okay.

8 MS. THOMAS: Okay.

9 COMMISSIONER PARSONS: Maybe you've  
10 already asked for that as well. I don't know.

11 But, this kind of shows the existing  
12 landscape plan if you will. Existing conditions as I  
13 grasp it. Doesn't show anything proposed or whatever.

14 MS. THOMAS: The only discussion to the  
15 extent with respect to landscaping as it was proposed  
16 for the park area to the southeast corner of the site  
17 here, Dale Carlia Parkway, that was where in as far as  
18 the discussion about landscaping went.

19 COMMISSIONER PARSONS: How about on the  
20 proposed new building? You really don't know.

21 MS. THOMAS: Yes, we will have some  
22 additional information.

23 COMMISSIONER PARSONS: Okay. Now, going  
24 to page 17, has the architect forgotten the penthouses  
25 on this building or is what we see what we're going to

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1 get? I mean is that it or will there be penthouses on  
2 top of this?

3 MS. THOMAS: Yes, we believe that there  
4 will be more penthouses on this structure and we will  
5 -- we would get more information on it. Further  
6 details. A more detailed plan than what's included  
7 here.

8 COMMISSIONER PARSONS: So, it's possible  
9 this could be 18 and a half feet higher than shown?

10 MS. THOMAS: It's possible in certain  
11 points.

12 COMMISSIONER TURNBULL: But, aren't we  
13 already at 90 feet in the proposal?

14 COMMISSIONER PARSONS: Yes. Yes.

15 COMMISSIONER TURNBULL: We're already at  
16 90 feet based upon what they've submitted.

17 COMMISSIONER PARSONS: Right. I'm  
18 suspecting it's going another 18 and a half to take  
19 care of elevators and et cetera, but I don't want to  
20 promote that. But, usually, an elevation like this  
21 shows a penthouse if there is one.

22 MS. THOMAS: Okay.

23 COMMISSIONER PARSONS: And similar with  
24 the next page. Similarly the next page.

25 MS. THOMAS: Um-hum.

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1 COMMISSIONER PARSONS: That's all I have.  
2 Thank you.

3 CHAIRPERSON MITTEN: Mr. Hood.

4 VICE CHAIRMAN HOOD: Thank you, Madam  
5 Chair. Ms. Thomas, you mentioned that DDOT was  
6 against moving was it the bus stop or did they have a  
7 problem where the buses would turn around? And the  
8 reason I'm saying that is because the way it stands  
9 now I think in the report, the traffic experts report,  
10 he mentioned that I think it was the level of service  
11 after making that left off of Dale Carlia Parkway and  
12 I'm just trying to see. Was DDOT against that?

13 MS. THOMAS: I believe both -- with  
14 respect to the bus stop?

15 VICE CHAIRMAN HOOD: Was it the bus stop  
16 or the turnaround? I didn't hear you. So. There's  
17 a turnaround on which the applicant's traffic expert  
18 is saying would make traffic rise from the level of  
19 service F probably to D.

20 MS. THOMAS: It's not a bus stop. The --  
21 the bus --

22 VICE CHAIRMAN HOOD: Oh, it wasn't a bus  
23 stop?

24 MS. THOMAS: No.

25 VICE CHAIRMAN HOOD: Okay.

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1 MS. THOMAS: I don't believe it was the  
2 bus stop.

3 VICE CHAIRMAN HOOD: So, it's the  
4 turnaround for the buses?

5 MS. THOMAS: Yes. Um-hum. The reason  
6 WMATA and DDOT did not want this, from what I  
7 understand -- preliminary understanding is that it  
8 would create too much conflict with trucks that use  
9 Little Falls Road and possibly where the ambulances as  
10 well as the helicopter pad that is currently to the  
11 back there. So, they did not want to place that  
12 there.

13 In addition, other buses, I believe  
14 suburban buses use the stop as well.

15 VICE CHAIRMAN HOOD: Okay. I'll go into  
16 that more at the hearing. Thank you.

17 MS. THOMAS: Um-hum.

18 CHAIRPERSON MITTEN: Mr. Turnbull.

19 COMMISSIONER TURNBULL: I guess I would  
20 just echo Mr. Parsons' concern about the water.  
21 Looking at their rendering on page 20. Can you see  
22 the top of that parking garage and wondering where the  
23 water is going. How they're dealing with it from a  
24 retaining basis or how can the system even take all  
25 that? I think that's something we really need to look

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1 at.

2 And although -- and when I look at the  
3 elevation of their office building there, you sort of  
4 do see that there is a -- the building is kind of  
5 narrow at the top which would imply that there's some  
6 type of a mechanical penthouse in there, but I think  
7 we really need that resolved because it also looks  
8 like there's glass up there, too. So, unless they're  
9 using hydraulic elevators, I don't understand how  
10 they're going to stay at that 90 feet.

11 CHAIRPERSON MITTEN: Anything else?

12 COMMISSIONER TURNBULL: No, that's it.  
13 Thank you.

14 CHAIRPERSON MITTEN: Okay. The only  
15 comment that I'd like to add to what's been said is in  
16 addition -- just to round out the discussion about  
17 medical office buildings and hospitals rather than  
18 just reporting which hospitals have medical office  
19 buildings, I'd be just as interested in which  
20 hospitals don't.

21 COMMISSIONER TURNBULL: You know, I should  
22 have looked further. I'm right now looking at page 19  
23 and there is a section showing a penthouse. So,  
24 what's missing is the elevations indicating that.

25 CHAIRPERSON MITTEN: Actually, that's

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1 showing that not the full floor on top is the seventh  
2 floor, but they're not showing that as part of the  
3 height. So, I don't know what that's about.

4 COMMISSIONER TURNBULL: Well, sorry I made  
5 it muddier.

6 CHAIRPERSON MITTEN: No, but it definitely  
7 needs to be cleared up.

8 COMMISSIONER TURNBULL: We'll see.

9 CHAIRPERSON MITTEN: Okay.

10 VICE CHAIRMAN HOOD: Madam Chair, I move  
11 that we set down Zoning Commission Case -- what case  
12 is it?

13 CHAIRPERSON MITTEN: 05-42.

14 VICE CHAIRMAN HOOD: 05-42.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRPERSON MITTEN: Thank you. Any  
17 further discussion? All those in favor please say  
18 aye.

19 (Ayes.)

20 MS. NAGELHOUT: Madam Chair.

21 CHAIRPERSON MITTEN: Yes.

22 MS. NAGELHOUT: Did you want to discuss  
23 the SP1 versus SP2 issue?

24 CHAIRPERSON MITTEN: I'm sorry. I am  
25 sorry. Thank you. Thank you. Okay. The applicant

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1 had requested the SP1 zone and in order to deal with  
2 the height issue, the Office of Planning was  
3 recommended SP2. Does the applicant have an objection  
4 to the SG2 that you're aware of?

5 MS. THOMAS: Madam Chair, we did not think  
6 that they had an objection to that. They expressed no  
7 objection to us on that.

8 CHAIRPERSON MITTEN: Ms. Steingasser.

9 MS. STEINGASSER: Madam Chair, I'd like --  
10 they do not have objection to it. It was part of  
11 their original concept to apply for an SP2. The  
12 neighborhood was very concerned about introducing SP2  
13 and was fearful of the implied increased density that  
14 may be there. That's why we stated in our set down  
15 report that the SP2 was only for the height issue and  
16 it would -- it would not be the implied density and  
17 FAR.

18 CHAIRPERSON MITTEN: Okay. I think we can  
19 capture all that in an order. A well written order by  
20 the Office of the Attorney General.

21 Okay. So, just to clarify, just -- let's  
22 just revisit our to be clear. Why don't you make a  
23 more explicit motion please?

24 VICE CHAIRMAN HOOD: Okay. I'll -- I will  
25 set the -- I move approval to set downs on the

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1 Commission Case Number 05-42 under the recommendation  
2 of the Office of Planning. The Office of Planning  
3 recommends that the proposed consolidated PUD and  
4 related map amendment be set down for -- Office of  
5 Planning recommends the map amendment be to the SP2  
6 zone district to accommodate the proposed height only  
7 and that's my motion.

8 COMMISSIONER TURNBULL: Second.

9 CHAIRPERSON MITTEN: Thank you. Any  
10 further discussion on that motion? All right. All  
11 those in favor please say aye.

12 (Ayes.)

13 CHAIRPERSON MITTEN: Mrs. Schellin.

14 MRS. SCHELLIN: Staff will record the vote  
15 5-0-0 to set down Zoning Commission Case Number 05-42.  
16 Commissioner Hood moving. Commissioner Turnbull  
17 seconding. Commissioners Mitten and Parsons in favor.  
18 Commissioner Jeffries in favor by absentee ballot and  
19 this, too, will be a contested case.

20 CHAIRPERSON MITTEN: Thank you. Next is  
21 Case Number 06-04 which is a PUD and related map  
22 amendment @ 1600 North Capital Street, N.W.

23 Ms. Thomas, again.

24 MS. THOMAS: Madam Chair, the developer in  
25 this application is seeking a hearing regarding his

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1 proposal to develop the vacant parcel at 1600 North  
2 Capital Street as a PUD with a related map amendment  
3 which would rezone the property from C2(a) to C2(b).

4 OP believes that this proposal has merit  
5 and recommends it be set down for public hearing.

6 The proposal conforms to the general land  
7 use map and comp plan objectives for the area and it  
8 will remove a longstanding eyesore on the North  
9 Capital Street corridor.

10 Briefly, what has been proposed for the  
11 18,984 square foot site is a seven-story mixed use  
12 building at a maximum height of 86 feet including an  
13 architectural embellishment.

14 The proposed map amendment would rezone  
15 the site from C2(a) to C2(b) to accommodate  
16 development with a total FAR of 4.5.

17 The 76-unit building would yield 76.5  
18 percent lot occupancy with a gross floor area of  
19 85,428 square feet with 81,400 square feet devoted to  
20 residential uses and approximately 5,000 square feet  
21 for neighborhood serving retailers or service uses.

22 Fifteen percent of the bonus density of  
23 approximately 5,695 square feet would be assigned as  
24 affordable units for residents earning no more than 80  
25 percent of the AMI.

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1           Eighty-four below grade parking spaces are  
2 proposed with an entrance off of Florida Avenue.

3           We would have two outdoor recreation  
4 areas, a courtyard on the first floor and a roof deck  
5 including two private areas and a public area and  
6 these would be landscape.

7           Under the map amendment, flexibility would  
8 be required for variance relief from the residential  
9 recreation space court and loading requirements and OP  
10 believes that these can be supported and we ask the  
11 applicant to provide additional information regarding  
12 the sizes of the loading area.

13           The design attempts to address the  
14 neighborhood's character with respect to the  
15 building's proposed material and its articulation at  
16 the intersection of two major arterials.

17           The upper flows of the building have been  
18 designed to be setback at least 10 feet from all  
19 street fronts beginning at the seventh floor or the  
20 65-foot elevation.

21           The proposed design insures the  
22 availability of light and air to abutting residences  
23 with the inclusion of an open courtyard and a 15-foot  
24 setback of the aeration on the plans.

25           North Capital and New York Avenue are

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1 major transit corridors and the site is within 2200  
2 feet of the New York Avenue Metro Station and a five-  
3 minute bus ride to Union Station.

4 The applicant's traffic analysis concluded  
5 no appreciable adverse impacts on the local area.  
6 However, we will still refer this to DDOT for comment  
7 when the draft is finalized.

8 About 860 square feet of intensive roof --  
9 green roof and this would mean planters which catch  
10 drainage of the upper roof is proposed for the main  
11 roof level. Planters may also be included at the  
12 courtyard level.

13 The applicant has stated that further  
14 development by a green roof consultant will be  
15 necessary to determine whether storm water can be  
16 effectively captured and routed as appropriate.

17 Therefore, what has been proposed as  
18 amenities include 15 percent of the acquired gross  
19 area as affordable housing, employment and contract  
20 opportunities for the District's programs, inclusion  
21 of a green roof and use of energy efficient heating  
22 systems, streetscape improvements including new street  
23 plantings and sidewalk renovation, public art for the  
24 raised entryway.

25 Our report expressed concerned with the

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1 applicant's request to potentially vary location and  
2 design of interior competence and arrangement of  
3 parking spaces and to vary the final selection of  
4 exterior materials within the color ranges and  
5 material types as proposed or any other changes  
6 necessary to obtain a final building permit.

7 We were concerned because such changes, in  
8 fact, would affect the building's design and  
9 ultimately its vision impact at prominent intersection  
10 -- at such a prominent intersection of industry and  
11 so, the applicant has to provide some resolution prior  
12 to public hearing.

13 Therefore, prior to public hearing, we  
14 have asked for improved elevation drawings to better  
15 show access to the retail area as well as its  
16 visibility from the street. Proposals for the public  
17 are displayed at the entryway, identification of  
18 qualifying and non-qualifying recreation space areas  
19 on the plans, additional information regarding the  
20 loading areas including DDOT's comments on that,  
21 completed traffic study with DDOT's analysis, green  
22 roof area and square footage provided on the roof plan  
23 and a full source memorandum and memorandum of  
24 understanding for the LSPDEs.

25 Prior to final action, we would request

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1 that final sample materials and color be used for the  
2 facade prior to final action be provided. I'm sorry.  
3 That a final design for the proposed public art  
4 display and final number of residential units for the  
5 design.

6 Thank you.

7 CHAIRPERSON MITTEN: Thank you, Ms.  
8 Thomas. Questions, comments from the Commission? Mr.  
9 Turnbull.

10 COMMISSIONER TURNBULL: My only comment I  
11 think OP picked up a lot of the things that I -- I  
12 mean the -- I think the plans of this -- well, I guess  
13 maybe it's we're used to seeing a lot of things in  
14 color, in presentations so as you can immediately tell  
15 what's happening with features and this makes it very  
16 difficult. I mean it looks like it's brick in certain  
17 places, but other than that, you really don't know.

18 There are some difficult things. We have  
19 another wonderful roof embellishment up there again  
20 which I'm sure Mr. Parsons will appreciate, but  
21 there's almost like two roof plans and there are a lot  
22 of features that we just don't know at this point in  
23 time.

24 The loading dock, that whole issue is --  
25 it's -- you look at it. It looks very struggled.

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1 That they -- there's still some issues that have to be  
2 and I -- I think OP picked up all of them.

3 CHAIRPERSON MITTEN: I'd just like to make  
4 a couple of comments and maybe part of it is that  
5 because it's not in color I'm not fully appreciating  
6 what I'm looking at, but I'm not sure about that.

7 I think this -- the design of the corner  
8 is really tough on the -- as you make the turn at the  
9 circle. I mean that should really be a good  
10 pedestrian corner, but I don't -- that's not how I'm  
11 reading it. I'm reading it that it's going to be  
12 wall. Is that right? I mean that's what I see and I  
13 think retail space that they're trying to include is  
14 not going to be successful because it's got limited  
15 street frontage and if -- you know, I don't know where  
16 the pedestrian traffic is more prominent, but I don't  
17 -- people aren't going to feel invited to make the  
18 turn on North Capital Street if they weren't intending  
19 to just because what I see in A4.2 is that when you  
20 hit that corner, you're looking at a wall or you're  
21 next to a wall if you're on the sidewalk.

22 And I don't have any suggestions. I just  
23 -- that's -- I just find that problematic.

24 I'm surprised that I didn't hear any  
25 concern from my colleagues about this, but the height

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1 of this building to me is out of context and will be  
2 out of context unless we're going to have PUDs or  
3 rezonings on every other corner of the circle.

4 We have C2(a) zoning all around there.  
5 The PUD takes this well beyond the -- the combination  
6 of the rezoning and the PUD takes us well beyond the  
7 context that would otherwise be provided and I'm also  
8 struggling to fit that in with the generalized land-  
9 use map and I know that there's a section of some  
10 legislation related to the comprehensive plan that's  
11 quoted in the applicant's submission, but, you know,  
12 I think -- I don't know that we're getting guidance  
13 from the land-use map to go this far and the notion  
14 that because it says low density commercial and it  
15 doesn't say anything else sort of gives you free rein  
16 to put as much residential there. I don't think  
17 that's supported by all the other places where we're  
18 promoting mixed use and we say we want low density  
19 commercial and medium density residential and so on.  
20 I don't think we're getting guidance for this kind of  
21 density there.

22 If I'm wrong, I'm happy to be persuaded,  
23 but I'd like somebody to convince me that this is  
24 going to be appropriate as that whole circle evolves  
25 absent some rezoning.

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1           So, that's a concern that I have. I'm  
2 willing to set it down, but I'm not convinced at this  
3 point that this is appropriate.

4           Mr. Parsons.

5           COMMISSIONER PARSONS: Well, that's  
6 exactly my concern. Had the same problem up on  
7 Georgia Avenue. What I call spot zoning just to use  
8 the S word, but Ms. McCarthy convinced me that up  
9 there there was a major planning activity going on and  
10 it would have resulted in C3(a) and that's why we set  
11 it down.

12          CHAIRPERSON MITTEN: Um-hum.

13          COMMISSIONER PARSONS: But, I don't see  
14 any logic unless she's going to tell me the same thing  
15 on this one that the future of this area is C2(b).

16          So, I would oppose setting it down for  
17 that reason.

18          MS. STEINGASSER: Well, we didn't look at  
19 the site in the context of only the C2(c). We looked  
20 at it in the context of the intersection of New York,  
21 Florida and North Capital Street which is an  
22 incredibly prominent and complex corner.

23          As you come up North Capital, the  
24 southeast corner intersection of North Capital and  
25 Florida is zoned C3(c) and it's in a TDR receiving

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1 zone. So, you can upwards of 130 feet directly across  
2 the circle. So, we're looking at that corner.

3 I'm not going to disagree that there's  
4 some disparity in what the zoning can yield for this  
5 site -- for this whole intersection of the circle, but  
6 we felt that going up, allowing this building to go up  
7 higher as it addressed the corner and taper back to  
8 the rowhouses was a more realistic treatment of the  
9 intersection and created more of a balance for what  
10 was happening to the southeast.

11 We also felt it was appropriate just  
12 because of the pure dominance of North Capital Street.  
13 You know, it's not a rowhouse residential street. It  
14 certainly have that nature on it and it certainly does  
15 as you go north into the residential zone, but at this  
16 intersection, the amount of traffic you can't help but  
17 stand there and say these lots are under-utilized.

18 I mean the chicken place, the little local  
19 liquor store there. You see the development coming  
20 down North Capital. You see it especially on the east  
21 side of North Capital and coming east from Florida to  
22 this intersection. Especially as you go Florida,  
23 there's some CM2 districts that allow a much higher  
24 heightened density.

25 So, what we were looking at when we looked

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1 at this was more of a large context than just this --  
2 that side of the street, but how do we balance the  
3 circle? How do we anchor this incredibly prominent  
4 intersection and make it actually something important?

5 COMMISSIONER PARSONS: What would you say  
6 about the properties to the east of the circle then?  
7 What they're future?

8 MS. STEINGASSER: We haven't been  
9 approached by them, but I suspect it's just a matter  
10 of time until we are.

11 COMMISSIONER PARSONS: But, you would --

12 MS. STEINGASSER: With what's happening --

13 COMMISSIONER PARSONS: -- you would see  
14 that as going to something like this C2(b)?

15 MS. STEINGASSER: In here -- I guess I'm  
16 -- south of Q Street? Which -- how far up east?

17 COMMISSIONER PARSONS: North and south.  
18 North and south of Q.

19 MS. STEINGASSER: North of Q, I don't  
20 suspect we would see much going in, but especially  
21 near Florida, I suspect something will probably come  
22 in. I can't imagine the chicken place -- is it  
23 chicken or --

24 COMMISSIONER PARSONS: So, you think the  
25 proper response would be C2(b).

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1 MS. STEINGASSER: With a limited -- it is  
2 C2(b), but its FAR is not the maximum C2(b) FAR. I  
3 think it's --

4 COMMISSIONER PARSONS: Plus it's only 79  
5 feet.

6 MS. STEINGASSER: Right.

7 COMMISSIONER PARSONS: Instead of 90.

8 MS. STEINGASSER: Right.

9 CHAIRPERSON MITTEN: Well, you know, I  
10 think another point that you raised is -- and I mean  
11 I think the point -- I think what we're struggling is  
12 we want to do right by this little circle and it's --  
13 because this is going to -- this is going to start to  
14 -- this is going to start to make the statement. So,  
15 we just want to -- I mean I want to do the right thing  
16 and so, I need to understand more about, you know,  
17 okay, how big is the site for the chicken place  
18 because it's going to hit rowhouses then to its east  
19 and what really could happen there and so, what really  
20 could happen if you --

21 MS. STEINGASSER: Okay.

22 CHAIRPERSON MITTEN: -- if you looked at  
23 the whole circle and then you reminded me of a point  
24 that I neglected to make which is the C2(a) zoning  
25 goes up on the west side of North Capital Street for

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1 another I guess a short block and then a half a block  
2 and but the design is a residential design. So,  
3 that's going I think further confuse what we're trying  
4 to do on North Capital Street unless you think that  
5 well the fact that C2(a) zoning is on that side really  
6 doesn't mean anything in terms of trying to promote  
7 retail use.

8 I just -- I think we need to think about  
9 what kind of direction. Is this really setting the  
10 direction we want and I think the Commission needs to  
11 be convinced about what the direction is or given more  
12 guidance about what that direction is.

13 A n y o n e e l s e ?

14  
15 COMMISSIONER TURNBULL: I guess I would  
16 agree with your comments and just going back and  
17 looking at sheet A4.1 and looking at the residential  
18 area or the area to -- at the left-hand side of the  
19 elevation of the proposed building and then you get to  
20 the centerpiece which is the embellishment and  
21 everything else and it gets to be quite huge. It  
22 really gets to be -- it's going to dominate this whole  
23 site.

24 CHAIRPERSON MITTEN: Um-hum. Let me just  
25 -- before we take a vote, Mr. Parsons are you

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1 maintaining your opposition to the set down?

2 COMMISSIONER PARSONS: I'm softening.

3 CHAIRPERSON MITTEN: You're softening.

4 Okay. Well, then just knowing that will embolden me  
5 to make a motion.

6 I move that we set down Case Number 06-04  
7 for hearing with the emphasis on the additional work  
8 that we need from the Office of Planning to make sure  
9 that this project is moving in the right direction.

10 VICE CHAIRMAN HOOD: I'll second.

11 CHAIRPERSON MITTEN: Any further  
12 discussions? All those in favor please say aye.

13 (Ayes.)

14 CHAIRPERSON MITTEN: Okay. I think we got  
15 them all, Mrs. Schellin.

16 MRS. SCHELLIN: Staff will record the vote  
17 5-0-0 to set down Zoning Commission Case Number 06-04.  
18 Commissioner Mitten moving. Commissioner Hood  
19 seconding. Commissioners Parsons and Turnbull in  
20 favor. Commissioner Jeffries in favor by absentee  
21 ballot and this too will be a contest case.

22 CHAIRPERSON MITTEN: Thank you. Next is  
23 Case Number 06-02 which is a PUD and related map  
24 amendment at 4136 Georgia Avenue which is just up the  
25 street from another case that we recently I recall.

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1 Ms. Brown-Roberts.

2 MS. BROWN-ROBERTS: Good evening, Madam  
3 Chairman and Members of the Commission. I am Maxine  
4 Brown-Roberts from the Office of Planning.

5 Petworth Holding, LLC has applied for  
6 consolidated PUD and related map amendment to rezone  
7 the site from C2(a) to C3(a) zone district to  
8 accommodate a seven-story condominium apartment  
9 building with 57 dwelling units and three commercial  
10 spaces on the ground floor of approximately 5,000  
11 square feet.

12 Two commercial spaces will face on Georgia  
13 Avenue and a third will front on the opposite street.

14 A community room with an outdoor patio is  
15 proposed along Kansas Avenue frontage as is the  
16 location of the one-level garage beneath the  
17 structure. Access to the structure from Kansas  
18 Avenue.

19 An additional two parking spaces, the  
20 loading berth, the loading spaces and delivery space  
21 will be accessible at the rear of the building via the  
22 existing public alley.

23 This alley's proposed to be closed and the  
24 applicant has informed the Office of Planning that  
25 there will be an easement allowing them to cross it

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1 after closure.

2 The property is currently developed with  
3 a gasoline station.

4 The applicant is requesting a waiver of  
5 the minimum land area for a PUD in the C3(a) district.  
6 Section 2401.2 of zoning regulations require a minimum  
7 of 15,000 square feet. The land area of the subject  
8 property is 13,149 square feet which is greater than  
9 the 50 percent minimum land area.

10 The proposal is outside of the central  
11 business district and approximately 83 percent of the  
12 gross square footage will be for residential use.

13 The applicant submits that the development  
14 is of an exceptional merit and in the best interest of  
15 the city or country.

16 The applicant is requesting flexibility to  
17 reduce the requirement of the zoning regulations  
18 regarding the grouping of compact spaces, drive aisle  
19 width, vertical transition from driveway to the  
20 underground garage, roof structure setbacks and the  
21 height of enclosing walls, court width, length of  
22 loading berth and access to the service delivery  
23 spaces.

24 Most of the proposed reductions are due to  
25 the triangular shape of the property.

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1 Amenities to be provided include  
2 affordable housing. The applicant proposes four of  
3 the units or 19.2 percent of the bonus density will be  
4 provided for affordable housing.

5 Secondly, the applicant proposes that two  
6 of the retail spaces will be reserved for mom and pop  
7 retail uses.

8 The Office of Planning has requested that  
9 the applicant provide details on these uses that will  
10 be allowed and how it will be achieved.

11 The applicant has also agreed to  
12 participate in the Department of Employment Services  
13 First Source Employment Program and will engage into  
14 a memorandum of understanding with the local business  
15 opportunity commission.

16 OP has encouraged the applicant to include  
17 environmentally sensitive features in their design  
18 that may include energy efficiency storm water  
19 management and environmentally friendly construction  
20 materials.

21 The generalized land-use map recommends  
22 the subject site for a mix of uses, moderate density  
23 residential and low density commercial. The mix used  
24 category also includes existing commercial areas and  
25 areas proposed for significant land use changes.

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1           The proposed C3(a) zoning is more  
2 equivalent to medium density residential uses. The  
3 zoning pattern along Georgia Avenue corridor is  
4 predominately C2(a) and C3(a). An area of C3(a)  
5 zoning is one block away from the subject property.

6           And I just want to mention as a -- as  
7 Madam Chairman did mention that this property is to  
8 the southern portion of square 2910 which is going to  
9 be subject to review for final proposal in application  
10 05-19 and the discussion at that time on the  
11 comprehensive plan and the generalize land-use map I  
12 think remains the same in this application.

13           The -- also the entire corridor starting  
14 with Howard University and continuing all the way to  
15 the Maryland border has already moderate density  
16 zoning which is predominately C2(a) punctuated by  
17 medium density zoning in a few areas of C3(a).

18           The pattern in combination with the  
19 comprehensive plan language regarding housing --  
20 affordable housing and economic development in Ward 4  
21 along Georgia Avenue lead the Office of Planning to  
22 conclude that the C3(a) zone is not inconsistent with  
23 the comprehensive plan.

24           The Office of Planning recommends that the  
25 case set down for public hearing. This project will

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1 provide new housing and retail space and contribute to  
2 the revitalization that has begun along Georgia  
3 Avenue.

4 The Office of Planning will continue to  
5 work with the applicant to provide additional details  
6 regarding the flexibility requested.

7 Thank you, Madam Chairman.

8 CHAIRPERSON MITTEN: Thank you, Ms. Brown-  
9 Roberts. Questions? Comments?

10 Well, I'll start off by conveying Mr.  
11 Jeffries comments. His comment is that the zoning  
12 relief requested versus the amenities being proffered  
13 do not seem to be aligned.

14 And maybe then I'll continue and say that  
15 the issue that the Office of Planning raised among  
16 others which I think you did a very good job of  
17 highlighting some of the concerns that I have with the  
18 proposal, but, you know, we struggled with the  
19 property, the design of the property to the south. I  
20 suspect we're going to struggle with this one for a  
21 different reason. I agree with your observation that  
22 it is not -- does not rise to the level of exemplary  
23 urban design and architecture and, in fact, if you  
24 take away the trees that are on the -- growing. I  
25 don't know they seem to be awfully vigorous trees to

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1 get -- to be either on the roof or grown that high.  
2 You would take -- strip the away, it's an awfully  
3 austere looking building.

4 Oh, and Mr. Parsons reminds me that  
5 there's a penthouse on top of that. So, I think  
6 there's a lot of work that needs to be done on the  
7 design to bring it to the point that it would approach  
8 exemplary.

9 Anyone else?

10 COMMISSIONER TURNBULL: I would concur  
11 with your comments wholeheartedly. In looking at  
12 this, again, it's another one of those other than the  
13 first cover sheet which gives you an idea of what it  
14 looks like, the rest of it -- the rest of the drawings  
15 are very stark. I see painted metal panels. I don't  
16 know what -- and I'm a little worried about some of  
17 the finishes on this and how they're going to work and  
18 I think you've already made comments on the entrance  
19 and the loading dock area.

20 That seems -- I'm -- there needs to be  
21 more information filled out on how that site plan  
22 really works along there. If you look at this and  
23 it's -- you see the existing alley. I see the ramp  
24 going down, but I don't know what happens at the  
25 corner there or how they meet, what they're doing

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1 there. I see this patio area, two parking spaces and  
2 then this loading berth with the dumpsters and it just  
3 seems very awkward and I'd like to be able to feel  
4 assured that it's going to work.

5 But, I think you had already covered some  
6 of those.

7 MS. BROWN-ROBERTS: Okay. Thank you.

8 COMMISSIONER TURNBULL: Thank you.

9 CHAIRPERSON MITTEN: Well, on that point,  
10 too, is what -- why would they close an alley and then  
11 keep it open? I mean what's the -- first of all,  
12 what's the justification for closing it in the first  
13 place?

14 MS. BROWN-ROBERTS: The alley was part of  
15 a closure that was done in the other project.

16 CHAIRPERSON MITTEN: I thought there was  
17 something in between the two of them.

18 MS. BROWN-ROBERTS: Yes, there is  
19 something, but they were closing that entire --

20 CHAIRPERSON MITTEN: Oh, that whole piece.  
21 I see.

22 MS. BROWN-ROBERTS: Yes, but the entire  
23 alley. Yes.

24 CHAIRPERSON MITTEN: I see. Well, just so  
25 -- a more minor point, but you did or someone has

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1 picked up on a lot of the -- what are often I think  
2 overlooked provisions where they need flexibility. Is  
3 on their garage floor plan, they need to dimension the  
4 spaces on the plan. Because they make statements a  
5 standard parking space, they don't use good English  
6 here, but it has dimensions of nine feet wide and 19  
7 feet deep. But, that doesn't say that the standard  
8 spaces on this plan have those measurements.

9 So, they also need to indicate the slope  
10 of the ramp into the garage and so on.

11 Anyone else? Okay. Well, if there's no  
12 further comments, then I would move that we set down  
13 case number 06-02 for public hearing and ask for a  
14 second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRPERSON MITTEN: Thank you. Any  
17 further discussion? All those in favor please say  
18 aye.

19 (Ayes.)

20 CHAIRPERSON MITTEN: Those opposed please  
21 say no.

22 MRS. SCHELLIN: Staff will record the --

23 CHAIRPERSON MITTEN: Mrs. Schellin.

24 MRS. SCHELLIN: -- vote 5-0-0 to set down  
25 Zoning Commission Case Number 06-02. Commissioner

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1 Mitten moving. Commissioner Turnbull seconding.  
2 Commissioners Parsons and Hood in favor. Commissioner  
3 Jeffries in favor by absentee ballot and this, too, is  
4 a contested case.

5 CHAIRPERSON MITTEN: Yes, it is. Thank  
6 you.

7 Okay. The next case is Case Number 05-39  
8 which is a proposed consolidated PUD and related map  
9 amendment at 116 T Street, N.E.

10 And before I turn to Ms. Brown-Roberts, I  
11 will be giving these to Mrs. Schellin to enter into  
12 the record, but I received lots of correspondence to  
13 me personally which is not appropriate. Any  
14 correspondence to a Zoning Commissioner should come  
15 through the Office of Zoning and I received the  
16 correspondence at home which I absolutely do not  
17 appreciate and hope I don't get anymore.

18 So, Mrs. Schellin, this will be yours at  
19 the end. Please.

20 MS. BROWN-ROBERTS: Thank you, Madam  
21 Chairman. Maxine Brown-Roberts here again.

22 The application by the Archdiocese of  
23 Washington and Catholic Community Service in  
24 conjunction with the District of Columbia Housing  
25 Finance Agency requests the consolidated review of a

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1 PUD and accompanying map amendment from the R4  
2 district to the R5B district to enable the development  
3 of 184 unit affordable apartment building at 116 T  
4 Street, N.E.

5 Of the 184 units, 134 units will be one  
6 and two bedrooms, but will be rented at affordable  
7 prices of up to 60 percent of AMI and 50 one bedroom  
8 junior apartments will be rented to residents making  
9 up 30 percent of -- making up to 30 percent of AMI.

10 To compliment the residences, the building  
11 will contain a parking garage with 128 parking spaces  
12 and on-site facilities such as library, computer room,  
13 meeting room, café lounge, game room, exercise room  
14 and separate areas for passive and active recreational  
15 activities.

16 The applicant is requesting flexibility to  
17 reduce the required 55-foot loading berth to a 30-foot  
18 loading berth as it is not envisioned that the  
19 residents will be using this type of vehicle for  
20 moving into or out of the building.

21 Amenities on the site include affordable  
22 housing for low and very low income households who are  
23 unable to afford market-rate housing. The 50 junior  
24 apartments will be for formerly homeless persons whose  
25 incomes are very low, 18,000 to 20,000 per year and

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1 are unable to find housing on the open market.

2 The residents of these units will first  
3 undergo the applicant self-sufficient training  
4 program.

5 Ninety-two parking spaces are required.  
6 However, the applicant is proposing to provide a total  
7 of 128 spaces. These will be provided to residents at  
8 a nominal fee of approximately \$45 per month. The aim  
9 of providing the additional spaces are to minimize the  
10 need for residents to park on neighborhood streets.

11 Issues identified with this application,  
12 the topography of this site slopes steeply upwards from  
13 the adjacent street to a plateau near the center of  
14 the site. If the development were to be constructed  
15 on the existing topography, it could result in  
16 buildings that would tower over adjacent rowhouses and  
17 exceed the permitted height.

18 In order to minimize the height difference  
19 as well as to enable the building to accommodate the  
20 parking spaces which are proposed to be under the  
21 building, the applicant is proposing extensive grading  
22 to lower the building. The applicant -- the OP has  
23 requested that the applicant provide a grading plan to  
24 demonstrate the extent of grading on the site.

25 The facade of the building has been

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1 designed to look like individual rowhouse units with  
2 some units having entrances directly off T Street and  
3 Summit Place. The Office of Planning believes that  
4 having some entrances along Todd Place is an important  
5 urban design feature that adds to safety in the area.

6 To address the concerns of the  
7 neighborhood, the Office of Planning has requested  
8 that the applicant look into ways of incorporating  
9 some entrances along Todd Place and at the same time  
10 encouraging the residents to park in the garage.

11 The applicant has proposed a mixture of  
12 mainly one and two-bedroom units. OP recommends and  
13 encourages the applicant to incorporate at least three  
14 units that have three bedrooms in the building. This  
15 unit type housing families is greatly lacking in the  
16 city and should be encouraged especially in a area  
17 that has three schools in close proximity.

18 The school building that is located on lot  
19 115 and with the addition of the apartments will  
20 create two principal buildings on one lot. The  
21 applicant should, therefore, either submit an  
22 application to create a lot for the school or request  
23 a deviation from the requirement of Section 3202.3 as  
24 well as provide the FAR and lot occupancy calculations  
25 that includes a school.

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1           A landmark designation has been filed for  
2           the existing building on lot 114. The designation  
3           must be resolved prior to the public hearing because  
4           it may significantly impact the proposed raise in  
5           construction. The Historic Preservation staff  
6           estimates the designation will be heard by the  
7           Historic Preservation Review Board at their May or  
8           June 2006 meeting.

9           The generalized land-use map recommends  
10          the subject site for moderate density residential.  
11          The proposed R5B zoning and the proposed project is  
12          not inconsistent with this recommendation.

13          The Office of Planning has received  
14          hundreds of e-mails, letters and postcards both in  
15          support and in opposition to the project.

16          Objections include concerns about the lack  
17          of market-rate units and possible over concentration  
18          of low income housing in a transitioning neighborhood,  
19          safety on the streets, parking and the appropriateness  
20          of an apartment building on this lot.

21          Supporters focus on similar issues, the  
22          provision of affordable unit building with below grade  
23          parking, new residents that will increase street  
24          safety and the appropriate location of a small  
25          apartment building between large school buildings

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1 directly across the street and the neighboring  
2 rowhouse community.

3 The applicant has conducted a number of  
4 community meetings and submits that they will continue  
5 to work with the ANC and other community organization  
6 to resolve as many of the issues concerning the  
7 project as possible.

8 The Office of Planning recommends the  
9 proposal be set down for public hearing. We will  
10 continue to work with the applicant and community  
11 towards a more detailed review and resolution of  
12 issues prior to the public hearing.

13 In order to accomplish a more detailed  
14 review, the applicant should submit a grading plan, a  
15 graphic demonstration of how the height of the  
16 building is measured, clarification of the number of  
17 parking spaces and how they will be assigned, a  
18 separate lot for the school building or request  
19 flexibility, a development and construction agreement  
20 and also full source agreement and a memorandum of  
21 understanding with the local business opportunity  
22 commission.

23 Thank you, Madam Chairman.

24 CHAIRPERSON MITTEN: Thank you. Before we  
25 have an extensive discussion, I'd like you to address

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1 the -- why would we set this down before the issue of  
2 the landmark status has been determined since that  
3 would change the whole proposal?

4 MS. STEINGASSER: The landmark was filed  
5 after the case was filed. The Historic Preservation  
6 staff has not had a chance to review the landmark  
7 application and take it to the HPRB for their  
8 consideration.

9 Basically, what we're asking is the case  
10 be set down, but the hearing not be scheduled until it  
11 be resolved.

12 Basically, it's just to keep -- it's to  
13 keep the project in the hopper. If it gets pulled out  
14 and then has to come back for set down after the  
15 hearing in September, it would cause a great delay in  
16 the project. We felt this way because the application  
17 was in process. The landmark came in at the last  
18 minute. If we could set the case down, if it needs to  
19 be amended, the application can be amended prior to  
20 the hearing within the appropriate time frame, but it  
21 would avoid the multi-month delay of getting out of  
22 the zoning queue and then having to get back at the  
23 end.

24 CHAIRPERSON MITTEN: Okay. Mr. Hood.

25 VICE CHAIRMAN HOOD: Ms. Brown-Roberts,

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1 you mentioned a grading plan which you're asking the  
2 applicant to submit before the hearing and what  
3 actually are asking for? Because I do know it sits  
4 up. It's a high parcel of land, but what actually are  
5 you asking for?

6 MS. BROWN-ROBERTS: As you said, the  
7 property sits up, you know, slopes upward and has a  
8 plateau at the top. The applicant has proposed to  
9 grade that plateau down so the buildings will not be  
10 as high. So, the property -- basically, the shape of  
11 the property's going to change.

12 VICE CHAIRMAN HOOD: Do we know about how  
13 much of a grade they're going to take off?

14 MS. BROWN-ROBERTS: That's the information  
15 we need.

16 VICE CHAIRMAN HOOD: Okay.

17 MS. STEINGASSER: And part of our concern,  
18 Commissioner Hood, is because height in the R5B is  
19 measured from the curb, the building would -- would  
20 either lose at least a floor of height due to the  
21 topography or would sit excessively high and, you  
22 know, somehow we're trying to resolve how high the  
23 building sits on the lot versus what they're trying to  
24 grade down.

25 One thing we asked for is a graphic

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1 depiction so we know exactly where they're measuring  
2 the point, what the height is and what the four  
3 surrounding sides of the lot are and what those  
4 elevations are relative to the surrounding rowhouses.

5 VICE CHAIRMAN HOOD: Okay. Thank you.

6 That's all I have.

7 CHAIRPERSON MITTEN: Anyone else?

8 COMMISSIONER TURNBULL: Madam Chair.

9 CHAIRPERSON MITTEN: Mr. Turnbull.

10 COMMISSIONER TURNBULL: There are -- I  
11 guess I have mixed feelings on the project. There are  
12 some -- you know, on one hand, I look at what's going  
13 on and I'm very excited by what I see as urban mixed  
14 going on here with the school and the buildings and  
15 you look at the elevations. There's something -- they  
16 are colorful to say the least, but I like the  
17 Victorian brickwork that they're bringing in. I mean  
18 there's -- I guess I just get troubled again by the  
19 use of the three or four different or maybe five  
20 shades of vinyl or something that get incorporated  
21 into this.

22 But, there's a very robust feeling here  
23 that I sort of like. But, there's just pieces of it  
24 I wish that could get toned down a bit, but it's --

25 MS. BROWN-ROBERTS: We have spoken to the

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1 applicant about that. I think what they were trying  
2 -- the community has buildings of varying colors and  
3 I think what they were trying to do is to incorporate  
4 that into this project and, you know, I think they  
5 went a little too far and we have had discussions with  
6 them about that to minimize the number of colors that  
7 they're using and patterns.

8 COMMISSIONER TURNBULL: Well, I think the  
9 feel of the facade along on -- shown on A6 has got a  
10 nice rhythm to it. I feel good. I think it's the N  
11 Street's -- the west elevation on A7 that sort of  
12 becomes kind of bland and just does nothing. It's got  
13 this huge drop. I mean I guess there's some pieces of  
14 the design that I think are very attractive. I think  
15 they're trying to do a very urban streetscape.

16 So, if you're going to work with them on  
17 that, that would be good.

18 MS. BROWN-ROBERTS: Okay.

19 COMMISSIONER TURNBULL: Thank you.

20 CHAIRPERSON MITTEN: Mr. Parsons.

21 COMMISSIONER PARSONS: I just want to ask  
22 Mr. Turnbull about the -- if he has any views on the  
23 variety of the windows? I mean there's every shaped  
24 window. Well, not every shape. Oval and rectangular  
25 and then these large windows along -- looking at A6,

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1 the T Street elevation. Almost a curtain wall kind of  
2 -- it looks like it might even be floor to ceiling on  
3 the top floor.

4 COMMISSIONER TURNBULL: I think that's  
5 part of the -- I think there's the variety there, but  
6 I think you're right. There's almost too much as they  
7 were stating -- as OP was stating before there's --  
8 they've gotten into the idea of interest and  
9 variations, but they've probably carried it maybe a  
10 little bit too far.

11 You're right there's sort of the  
12 industrial house windows at one level up there and  
13 then there's the rather -- and again, it's at one --  
14 at the one elevation over here on -- elevation one on  
15 A7 chose between Todd Street and T Street. It is  
16 bland and it's -- but, you're right. There's more of  
17 a mix than maybe they -- if they could tone that down  
18 and make it more cohesive, but still keep some of the  
19 interest that they've got, I think they --

20 COMMISSIONER PARSONS: I agree.

21 COMMISSIONER TURNBULL: They may have  
22 something -- a nice -- it'll be a nice urban  
23 streetscape, but it's getting there. But, I think it  
24 needs a little bit more work.

25 CHAIRPERSON MITTEN: Let me share the

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1 comments of Commissioner Jeffries.

2 The Todd Street elevation looks fine, but  
3 he's concerned that the overall building might be too  
4 monolithic adjacent to neighborhood rowhouses.  
5 Require additional illustrations showing overall  
6 neighborhood context.

7 And I'd like to hear more discussion about  
8 the concern that I think some of the community folks  
9 have, maybe I'll add a little bit to it, which is  
10 you're introducing a different property type into the  
11 neighborhood which is multi-family and then in  
12 addition to that, whereas we have been advocating for  
13 mix of affordability if you will. So, as we move  
14 through inclusionary zoning, that this is  
15 concentrating a certain income level of folks and I'd  
16 just like to hear more about that and hear more from  
17 the Office of Planning and so forth about how that is  
18 consistent with the, you know, policy that's lead us  
19 to inclusionary zoning.

20 MS. BROWN-ROBERTS: Okay.

21 CHAIRPERSON MITTEN: Anyone else? Mr. --

22 COMMISSIONER PARSONS: You reported that  
23 the ANC would be meeting in April. Have they done  
24 that yet? Do you know what the results of that were?  
25 Maybe they haven't even met yet.

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1 MS. STEINGASSER: They have met on the  
2 application. They voted. I'm not sure if it was  
3 unanimous or one may have been in the sense to support  
4 the project prior to the application being filed.

5 There is a lot of concerns raised within  
6 the community at that time because the application  
7 wasn't filed. After it was filed, I believe the  
8 applicant went again to the ANC at least twice and I  
9 think the ANC voted again in support for the project.

10 COMMISSIONER PARSONS: Thank you.

11 MS. STEINGASSER: And I'm getting a head  
12 nod that that's correct.

13 VICE CHAIRMAN HOOD: Madam Chair, I would  
14 move that we set down Zoning Commission Case Number  
15 05-39 with all the comments so noted.

16 COMMISSIONER TURNBULL: I second.

17 CHAIRPERSON MITTEN: Some of those are  
18 hard for us. Those seconds, you know.

19 Is there any further discussion? All  
20 those in favor please say aye.

21 (Ayes.)

22 CHAIRPERSON MITTEN: Those opposed please  
23 say no. Mrs. Schellin.

24 MRS. SCHELLIN: Staff will record the vote  
25 5-0-0 to set down Zoning Commission Case Number 05-39.

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1 Commissioner Hood moving. Commissioner Turnbull  
2 seconding. Commissioners Mitten and Parsons in favor.  
3 Commissioner Jeffries in favor by absentee ballot and  
4 again, a contested case.

5 CHAIRPERSON MITTEN: Thank you. Next is  
6 Case number 03-03B and it's a modification to a PUD  
7 for Capital Gateway Estates.

8 Ms. Thomas.

9 MS. THOMAS: Yes, good evening again,  
10 Madam Chair, Members of the Commission.

11 The D.C. Housing Authority and it's  
12 developing partner are requesting a modification of  
13 the previously approved PUD 03-03 for property known  
14 as Capital Gateway Estates which occupies a number of  
15 squares close to the District line on East Capital  
16 Street.

17 There are two requested items. One, the  
18 correction of the lot numbers recorded in Zoning  
19 Commission Order 03-03 for square 5246 which  
20 erroneously included all the square lots 41 through  
21 78. According to the applicant, lots 41 through 49  
22 should be excluded and lots 50 and 66 included.

23 In addition, lot 51 and square 5272 should  
24 also be excluded as these lots -- all of these lots  
25 would part of a future commercial PUD.

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1           The second is the replacement of the East  
2 Capital Community Building proposed at the corner of  
3 East Capital Street and 56 Place with 12 townhomes  
4 with frontage on East Capital Street and 56 Place.  
5 This would increase the number of units in the  
6 approved PUD from 226 units to 238 including 74  
7 townhouses.

8           There's no objection to the requested  
9 corrections to the zoning map for square 5246 and  
10 square 5272 as this would reflect the development of  
11 the square as intended by the applicant and OP  
12 recommends approval as a minor modification request.

13           We would, however, recommend set down for  
14 public hearing of the modification request to allow  
15 construction of the 12 townhomes in lieu of the  
16 development of the community center as previously  
17 approved by Order Number 03-03.

18           This is the residential portion of the  
19 larger project in square 5280.

20           The applicant has indicated that the  
21 residences would be three-story dwellings. We  
22 included an attachment as reference of the previously  
23 approved unit types with the three-story row and semi-  
24 detached structures.

25           OP has asked the applicant to submit a

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1 detailed site plan for the townhome site which would  
2 show the individual lots with all relevant  
3 measurements clearly indicated as well as further  
4 information regarding the treatment of the open space  
5 shown at the rear of the lots which would front on 56  
6 Place, S.E.

7           There are at least five components of this  
8 Hope VI Project which are either completed or in the  
9 final design stage including the renovation of the  
10 tall building at the corner of Southern Avenue and  
11 East Capital Street at the District line.

12           As explained in our report, the intended  
13 occupants -- going back to the townhome sites, the  
14 intended occupants and programs with a community  
15 center which would have been located at that site have  
16 relocated to office space off-site.

17           In addition, the East Capital Community  
18 Development Corporation would no longer need the  
19 amount of programming space projected for the  
20 community center and the City C plans to locate in the  
21 rental tall building at 5929 East Capital Street which  
22 will be included in a separate PUD application.

23           Further, the anticipated day care for the  
24 community center may be located in the new retail  
25 commercial component of the development.

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1 Flexibility from the lot occupancy limits  
2 and yard requirements are required for the townhome  
3 site as shown in our table provided in our report.

4 We would have no objection to the relief  
5 requested since the variations from the requirements  
6 are minimal and OP has no indication at this time that  
7 any other relief may be necessary.

8 The findings of fact of the Zoning  
9 Commission Order 03-03 indicated in the PUD advance at  
10 least ten major themes of the comprehensive plan and  
11 OP believes that the scale of the modification is  
12 within the recently adopted, recently approved zoning  
13 category and, therefore, would not change immaterial  
14 facts upon which the original PUD was approved.

15 Therefore, we would recommend set down.  
16 Thank you.

17 CHAIRPERSON MITTEN: Thank you. Questions  
18 for Ms. Thomas? Comments?

19 I guess I'm just a little disappointed  
20 about the community center building. I remember  
21 talking a lot about that. I thought it was kind of  
22 nice that it was stand alone, but those decisions  
23 aren't ours to make.

24 COMMISSIONER PARSONS: No, I was surprised  
25 to learn in reviewing the order that the -- this

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1 community building wasn't offered as an amenity. In  
2 other words, that's where I went first to find out  
3 whether we're losing an amenity and gaining four  
4 rowhouses, but it wasn't. It's definitely not  
5 something we considered as an amenity. Just a  
6 statement of fact. Just as far as --

7 CHAIRPERSON MITTEN: And I'm glad. That's  
8 a good -- I'm glad you pointed that out.

9 Anybody else? Comments? Questions? All  
10 right. Then I would move that we set down Case Number  
11 03-03B for public hearing and I would ask for a  
12 second.

13 COMMISSIONER PARSONS: I will give you a  
14 second.

15 CHAIRPERSON MITTEN: Thank you. When Mr.  
16 Hood makes a motion, people are fighting over  
17 seconding his motions and I have to beg for them.

18 Okay. If there's no further discussion,  
19 all those in favor please say aye.

20 (Ayes.)

21 CHAIRPERSON MITTEN: Mrs. Schellin, it's  
22 unanimous.

23 MRS. SCHELLIN: Staff will record the vote  
24 5-0-0 to set down Case Number 03-03B. Commissioner  
25 Mitten moving. Commissioner Parsons seconding.

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1 Commissioners Hood and Turnbull in favor.  
2 Commissioner Jeffries in favor by absentee ballot.

3 CHAIRPERSON MITTEN: Thank you. The next  
4 case will be handled by Mr. Hood. I have some  
5 involvement in it and I will be recusing myself.

6 VICE CHAIRMAN HOOD: Okay. Thank you,  
7 Madam Chair.

8 Next, we have Zoning Commission Case  
9 Number 06-20. Request from the Office of Planning  
10 emergency text amendment to 601.7. Mr. Lawson.

11 MR. LAWSON: Thank you, Mr. Chair. My  
12 name's Joel Lawson. I'm with the D.C. Office of  
13 Planning.

14 On behalf of the Office of Property  
15 Management and the Washington Metropolitan Area  
16 Transit Authority, OP has requested an emergency-basis  
17 text amendment to the CR zone which would permit the  
18 temporary use of the site in Buzzard Point as  
19 accessory parking for the WMATA garage on M Street,  
20 S.E.

21 The buses currently park on a lot located  
22 within the new ballpark site and so, much be moved.

23 The proposed site was improved to surface  
24 parking for approximate Pepco facility. So,  
25 alterations to the site would be minimal.

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1           OP advises that the utilization of the  
2 site for bus parking is considered a temporary  
3 situation as the WMATA garage facility is anticipated  
4 to be relocated in the near future.

5           Subsequent to filing our report, the  
6 Office of the Attorney General recommended minor  
7 alterations to the proposed text.

8           The amended wording which does not change  
9 the proposed use or location of the surface parking  
10 would read as follows:       Section 601.7.  
11 Notwithstanding, Section 602.1 and not subject to any  
12 otherwise applicable proximity requirement, an  
13 accessory surface parking lot for the Washington  
14 Metropolitan Area Transit Authority garage facility  
15 located on Square 700, Lot 857 is permitted as a  
16 temporary use for a period of five years maximum on  
17 Square 703, Lot 53 from the date of issuance of the  
18 certificate of occupancy for such use.

19           I have copies of the amended proposal --  
20 proposed text for distribution and that concludes my  
21 testimony and we're available for questions.

22           Thank you.

23           VICE CHAIRMAN HOOD: Okay. Thank you, Mr.  
24 Lawson.

25           Let me do this and I should have done this

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1 first. Colleagues, we need to waive our rules. This  
2 came in less than ten days I believe. So, any  
3 problems waiving our rules? Okay. Okay. No  
4 objection.

5 The other thing is, Mr. Lawson, you all  
6 requested -- I'm going to ask this slowly so you don't  
7 have to run back.

8 You all are requesting us to do an  
9 emergency tonight, but then also I noticed in your  
10 report you're saying that upon the -- if it's approved  
11 for set down and it's on page two of your report under  
12 conclusion. Be set down and advertised for a hearing  
13 and that the text amendment be effective immediately  
14 upon set down and we're basically talking about one  
15 specific site. Am I correct?

16 MR. LAWSON: That's correct. We're  
17 talking about one specific use on one specific site.  
18 So, it would be parking just related to the WMATA bus  
19 garage on this one particular site only.

20 VICE CHAIRMAN HOOD: Okay. I'm trying to  
21 understand. Are we still bound to have a hearing?

22 MR. LAWSON: My understanding is that a  
23 hearing is certainly recommended. That a hearing  
24 should be held to make sure that this process proceeds  
25 appropriately, but that once the emergency action has

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1       been taken, the use of the lot as a WMATA bus parking  
2       garage, a certificate of occupancy can be issued for  
3       that particular use.

4                   VICE CHAIRMAN HOOD:   Okay.  But, if we set  
5       down -- if we do the emergency action tonight, it's in  
6       effect immediately.  Right?

7                   MR. LAWSON:   It's in effect immediately,  
8       but it has 120-day time limit.  So, it would expire  
9       after 120 days.

10                   VICE CHAIRMAN HOOD:   Okay.  All right.  
11       Commissioners, any other questions?  Mr. Parsons.

12                   COMMISSIONER PARSONS:   What does the  
13       landowner think about this?

14                   MR. LAWSON:   Evidently the discussions  
15       between the landowner and OP have already happened and  
16       the landowner is -- if you're talking about Pepco --

17                   COMMISSIONER PARSONS:   Yes.

18                   MR. LAWSON:   -- the landowner is in full  
19       concurrence and participation with this.

20                   COMMISSIONER PARSONS:   We'd be in a heck  
21       of a mess of we passed an emergency tonight and Pepco  
22       sued us or something.  You're fairly confident of  
23       that?

24                   MR. LAWSON:   We're more than fully.  We're  
25       entirely confident of that.

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1 COMMISSIONER PARSONS: All right. And no  
2 improvements just fixing the fence?

3 MR. LAWSON: That's our understanding.  
4 That the lighting is in place and actually fencing is  
5 in place. So, it wasn't quite clear to me whether  
6 improvements to fencing were even required. But,  
7 there may be some minimal requirements like that  
8 required. There are no major changes necessary to  
9 this lot.

10 The advantage that we see is that it  
11 allows this parking use relatively close to the WMATA  
12 bus garage. It's for a temporary period and after  
13 that period, that property then becomes available for  
14 a better and more appropriate use. Potentially then  
15 a parking lot.

16 COMMISSIONER PARSONS: Excuse me. How  
17 soon do the bulldozers arrive on the existing site?  
18 I mean what is the real emergency here?

19 MR. LAWSON: My understanding is that  
20 irrespective of when the bulldozers are actually  
21 arriving, all of the uses are being removed from the  
22 site so that the bulldozers can arrive pretty quickly.  
23 I don't know an exact day, but my understanding is  
24 that all of the uses on the ballpark site either have  
25 already been removed or are being removed pretty much

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1 immediately.

2 VICE CHAIRMAN HOOD: The other question  
3 that I have, Mr. Lawson, is 98th and R. Since we're  
4 getting ready to set this down and I'm still perplexed  
5 about setting this down if it's going to automatically  
6 happen, but anyway, are there any residential homes  
7 right there at 98th and R Street?

8 MR. LAWSON: There are not.

9 VICE CHAIRMAN HOOD: Okay.

10 MR. LAWSON: And WMATA has agreed that the  
11 access to the bus parking would not be through the  
12 existing residential areas to the north which we've  
13 found -- which we've considered to be a critical kind  
14 of piece of puzzle. They'll use 1st Street. They'll  
15 use Potomac Avenue.

16 We have recommended that some additional  
17 discussions with DDOT are required to make sure that  
18 access not through the residential areas can happen  
19 while those roads are undergoing reconstruction and  
20 that should be entirely possible, but we just need to  
21 make sure that that happens.

22 VICE CHAIRMAN HOOD: Thank you, Mr.  
23 Lawson. Colleagues, if we're in agreement, I think we  
24 are, I will take a motion to accept emergency and also  
25 to set this down for a hearing.

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1 COMMISSIONER PARSONS: So moved.

2 VICE CHAIRMAN HOOD: There's a move and  
3 probably -- well, second. I guess. Second.

4 COMMISSIONER TURNBULL: Second.

5 VICE CHAIRMAN HOOD: It's moved and  
6 properly seconded. All those in favor.

7 (Ayes.)

8 VICE CHAIRMAN HOOD: Any opposition? So  
9 ordered. Staff, would you record the vote.

10 MRS. SCHELLIN: Yes, staff will record the  
11 vote 3-0-2 to set down Zoning Commission Case Number  
12 06-20. Commissioner Parsons moving. Commissioner  
13 Turnbull seconding. Commissioner Hood in favor.  
14 Commissioner Mitten not voting having recused herself  
15 and Commissioner Jeffries not present and not voting.

16 CHAIRPERSON MITTEN: Okay. Thank you, Mr.  
17 Hood.

18 Now, we're moving into final action.  
19 Hopefully, we can do this with some great efficiency.

20 First for final action is Case Number 04-  
21 18 which is the Mt. Vernon Overlay and if you will  
22 recall, there were a couple of issues that we left for  
23 final action. Well, actually, there was one principal  
24 issue and then there's one correction I think we need  
25 to make to the order.

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1           We had been debating, you know, there were  
2           -- as we have done in certain circumstances where the  
3           market isn't quite ready for some uses that we want to  
4           restrict -- that we -- for uses that we want to  
5           require be put in place in certain areas. Typically,  
6           it's retail uses and so, we have these interim  
7           provisions and we had -- and that had become an area  
8           that was problematic and a little arduous in the text  
9           to -- we thought it might be needlessly complicated to  
10          try and manage that especially as we heard more about  
11          how the area was evolving.

12                 So, we had debated whether or not we  
13          should even leave in the provisions for the interim  
14          uses of the ground floor space and/or just have them  
15          be required permanently or just be required.

16                 So, that's an issue that remains for us to  
17          discuss and so, anyone have comments on that subject?

18                 And, Mr. Turnbull, I'll just comment for  
19          the record that you're not participating in this case  
20          because of Mr. Hildebrand. So, if you're quiet, we  
21          won't have any expectation about you saying anything.

22                 Mr. Hildebrand had participated in the  
23          case rather than Commissioner Turnbull.

24                 VICE CHAIRMAN HOOD: Madam Chair, to move  
25          this along, I was getting my stuff together. Could

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1 you repeat that?

2 CHAIRPERSON MITTEN: Yes, if you remember,  
3 there's a series of, you know, there's -- through the  
4 Mt. Vernon Overlay, they're trying -- we are trying to  
5 promote a certain mix of uses on the ground floor and  
6 there are primary -- primary use areas, secondary use  
7 area and so on and so, the uses that are to be  
8 required on the ground floor are different in those  
9 different areas, but there was some degree of  
10 flexibility built into the overlay when it was  
11 originally written thinking that perhaps those areas  
12 aren't quite ready for those uses yet. So, it would  
13 allow some flexibility until the area was ready.

14 And during the hearing, I think we heard  
15 a lot about a lot of the projects that are poised to  
16 commence in that area and then there were some I would  
17 say customized solutions to accommodate some of those  
18 projects, but for me, I think that having these  
19 interim uses has probably needlessly complicated this  
20 point. Because I think by the time these things get  
21 built, there's going to be a critical mass of the  
22 people that are needed to support the uses and I don't  
23 think this is going onerous without having these  
24 interim use provisions.

25 So, I would advocate that we eliminate the

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1 references to the interim use and just to give you a  
2 little bit more time to think about it, I'll read  
3 Commissioner Hildebrand's comments which is I support,  
4 this is him speaking, I support moving forward without  
5 the interim use provisions and if it can be done --  
6 okay and then there's another point. He makes another  
7 point. But, on the point of the interim use  
8 provision, he supports eliminating them.

9 COMMISSIONER PARSONS: So, you're not  
10 suggesting we change the primary and secondary use  
11 areas at all.

12 CHAIRPERSON MITTEN: No.

13 COMMISSIONER PARSONS: It's this provision  
14 in 1732.2.

15 CHAIRPERSON MITTEN: And in three and in  
16 four.

17 COMMISSIONER PARSONS: Yes. On an interim  
18 basis --

19 CHAIRPERSON MITTEN: Right.

20 COMMISSIONER PARSONS: -- on the ground  
21 floor of any building located in the PIA.

22 CHAIRPERSON MITTEN: Right.

23 COMMISSIONER PARSONS: So, we simply take  
24 that phrase out.

25 CHAIRPERSON MITTEN: Right. And eliminate

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1 1733 which is the little interim use.

2 COMMISSIONER PARSONS: Oh, yes. I would  
3 concur with that because I think you're right about  
4 the critical mass. It --

5 CHAIRPERSON MITTEN: It's all -- it seemed  
6 like it was all about ready to -- as soon as this got  
7 put in place --

8 COMMISSIONER PARSONS: Right.

9 CHAIRPERSON MITTEN: -- a lot of it's  
10 ready to start.

11 COMMISSIONER PARSONS: And, of course, if  
12 things don't work out, I'm sure the Office of Planning  
13 will be back to us with minor modifications.

14 CHAIRPERSON MITTEN: There you go.

15 VICE CHAIRMAN HOOD: I would agree with  
16 that, too.

17 CHAIRPERSON MITTEN: Okay.

18 VICE CHAIRMAN HOOD: So, we look forward  
19 to -- well, we would not look forward to a minor  
20 modification.

21 CHAIRPERSON MITTEN: Right. I look  
22 forward to the area just developing. That would be  
23 good. That would be great.

24 And all the hard work that the Office of  
25 Planning did to try and, you know, work with these

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1 property owners I think the timing was just right  
2 maybe with one exception, but the timing was right to  
3 get it all integrated and then it's all on the verge  
4 of happening. So, I think that's good.

5 Okay. So, we will eliminate -- when we  
6 have the vote, we'll be voting without the interim use  
7 provision.

8 Mr. Hildebrand went on to say if it can be  
9 done, I would support waiving the use provisions for  
10 the NPR, National Public Radio property, for as long  
11 as they own it, but not the design requirements.

12 Any addition done on that site should  
13 conform to the design requirements so that future uses  
14 are not precluded.

15 I know that this was an area of discussion  
16 from NPR and we're certainly not compelling them to  
17 make any changes to their existing building. They  
18 have certificates of occupancy for existing uses and  
19 so on, but I think that to the extent that they would  
20 expand their property, I would want them bound not  
21 only by the design requirements, but by the use  
22 provision.

23 COMMISSIONER PARSONS: I do, too. There's  
24 expansion room to the east of the building --

25 CHAIRPERSON MITTEN: Um-hum.

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1 COMMISSIONER PARSONS: -- as I recall.  
2 Not a lot. They have a side yard there.

3 So, Mr. Hildebrand is suggesting that we  
4 relieve them from design, but not use or did I --

5 CHAIRPERSON MITTEN: That's what he is  
6 suggesting and this is addressed in an additional  
7 submission that we got from Pillsbury Winthrop Shaw  
8 Pittman. It talks about the challenges that NPR would  
9 have if it built an addition to its headquarters.  
10 They seem to be embracing the design requirements as  
11 well, but they're concerned about -- there's a variety  
12 of things.

13 It says 50 percent of the surface area of  
14 the street walls at the ground level are to be display  
15 windows and entrances. This requirement makes little  
16 since for a building that will be an extension of a  
17 headquarters office building. Display space would be  
18 appropriate for retail strip shops, but would be an  
19 irrelevant requirement for any expansion by NPR on the  
20 property. So, there is a design element that they --  
21 they're not embracing.

22 COMMISSIONER PARSONS: So, they're  
23 committing to an extension that would look identical  
24 to the existing building. Is that they're point?

25 CHAIRPERSON MITTEN: That is an inference

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1 I suppose.

2 COMMISSIONER PARSONS: I would agree with  
3 that, but how can we guarantee it.

4 CHAIRPERSON MITTEN: Right.

5 VICE CHAIRMAN HOOD: So, we're saying  
6 we're not going to exempt them from design, but we  
7 will exempt them from use.

8 CHAIRPERSON MITTEN: Well, let me just  
9 look at something real quick. So, why don't we ask so  
10 we can get it on the record.

11 I believe Mr. Cochran has something --  
12 some assistance to offer us.

13 MR. COCHRAN: It may be further  
14 complication, Madam Chair.

15 If you'll look to --

16 CHAIRPERSON MITTEN: Well, then don't  
17 speak.

18 MR. COCHRAN: -- Section 1720.6, unless  
19 specifically exempted the requirements of the Mt.  
20 Vernon Triangle District shall apply to all new  
21 buildings and to all other buildings where any  
22 additions, alterations or repairs within any 12-month  
23 period exceed 100 percent of the assessed value of the  
24 building, et cetera.

25 If NPR not only does a new addition, but

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1 substantially rehabilitates the existing building, it  
2 is possible that that substantial rehabilitation would  
3 exceed 100 percent of the assessed value of the  
4 building. In which case, the requirements for uses  
5 would also apply to the existing building.

6 CHAIRPERSON MITTEN: Okay. And -- but,  
7 isn't it -- if they do an addition under -- if they do  
8 an addition under this, what is -- I just hadn't  
9 thought about this until just now. This does bind the  
10 addition. It doesn't exempt the addition.

11 MR. COCHRAN: No.

12 CHAIRPERSON MITTEN: It doesn't exempt the  
13 addition unless the addition results in the increase.  
14 The addition is bound by the design requirements.

15 MR. COCHRAN: I would have to defer I  
16 guess, to OAG on this, but it seems that if this  
17 section is saying 100 percent of the assessed value,  
18 it's the culmination of the addition and alterations  
19 and repairs to the existing structure, in which case,  
20 it's quite likely that if they do an addition and a  
21 rehab to the building then this section would be  
22 triggered.

23 CHAIRPERSON MITTEN: Okay. Here's what we  
24 need. We need to figure out the relationship between  
25 1721.1 and 1720.6 and I'm sure we can. I just haven't

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1 thought about it.

2 Which of the attorneys is on this one? I  
3 forget. Oh, Lori. Okay.

4 Can you help us out on this one?

5 MS. MONROE: I'll try.

6 CHAIRPERSON MITTEN: Okay. So, the  
7 question is -- just correct me if I'm wrong, but my  
8 recollection is that the amount of land that NPR would  
9 have to expand on is relatively small compared to the  
10 footprint of their existing building.

11 MR. COCHRAN: I believe that it's at least  
12 a third of their existing footprint. It's probably  
13 more because they are much more rectangular lots. NPR  
14 is on a relatively narrow triangular lot where it is  
15 now.

16 CHAIRPERSON MITTEN: Do they own the rest  
17 of the square? Oh, I thought they didn't. It's been  
18 awhile since I paid attention to that, but okay.  
19 Okay. Never mind then.

20 I think even if they did an addition, they  
21 would exceed the 100 percent of the assessed value of  
22 the -- they could potentially exceed that.

23 COMMISSIONER PARSONS: No, I don't think  
24 we should exempt them at all --

25 CHAIRPERSON MITTEN: Okay. I mean --

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1 COMMISSIONER PARSONS: -- for an addition.

2 CHAIRPERSON MITTEN: I think it would be  
3 kind of -- I think what you're suggesting is if we  
4 exempt them, then we're almost encouraging them to  
5 extend what they have --

6 COMMISSIONER PARSONS: Um-hum.

7 CHAIRPERSON MITTEN: -- rather than giving  
8 them an incentive to improve what they have.

9 COMMISSIONER PARSONS: Right.

10 CHAIRPERSON MITTEN: In the event that  
11 they would do an addition.

12 COMMISSIONER PARSONS: And I base that on  
13 what Mr. Cochran just said. How much of this site  
14 remains. I mean that's --

15 CHAIRPERSON MITTEN: Yes.

16 COMMISSIONER PARSONS: -- that  
17 substantial. I thought it was --

18 MR. COCHRAN: Madam Chair, it doesn't  
19 require them to do retail.

20 CHAIRPERSON MITTEN: I'm sorry.

21 MR. COCHRAN: It allows them to do what  
22 they're doing and continued to do what they're doing  
23 because those broadcasting studios, for instance, are  
24 permitted uses.

25 CHAIRPERSON MITTEN: But, in the existing

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1 building.

2 MR. COCHRAN: No, even in the new  
3 building.

4 CHAIRPERSON MITTEN: Oh, okay.

5 MS. MCCARTHY: The broadcasting studios  
6 could count as art's use.

7 CHAIRPERSON MITTEN: Okay.

8 MS. MCCARTHY: Although, our understanding  
9 is they don't -- because of soundproofing, they don't  
10 want to do them, you know, a la the Today studio in  
11 Rockefeller Center. They're not looking to do that,  
12 but we felt fairly strongly about it because that was  
13 the block that makes the connection to the Convention  
14 Center and the city museum.

15 CHAIRPERSON MITTEN: Okay.

16 MS. MCCARTHY: And so, we thought it was  
17 important when any changes were made that the ground  
18 floor there lead people into the whole 5th and K heart  
19 of the retail area.

20 CHAIRPERSON MITTEN: Okay. I'm sold.  
21 Okay. Then the -- there's a correction that we need  
22 to make which is -- well, one of the corrections is  
23 that the number 1732.4 is not in the order. It just  
24 got omitted somehow. So, that should be on page 16  
25 and then 1732.4E which is actually on page 17 starts

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1 off by saying other uses permitted on a permanent  
2 basis in the principal intersection area that should  
3 read primary area and there may be other editorial  
4 changes that we need to make. But, those are the big  
5 ones I think.

6 So, are there any other issues, comments?

7 All right. Then I would move approval of  
8 Case Number 04-18 with the elimination of references  
9 to interim use on the first floor and the correction  
10 in 1732.4E.

11 COMMISSIONER PARSONS: Second.

12 CHAIRPERSON MITTEN: Okay. Any further  
13 discussion? All those in favor please say aye.

14 (Ayes.)

15 CHAIRPERSON MITTEN: Mrs. Schellin, there  
16 are none of the three of us opposed.

17 MRS. SCHELLIN: Right and we have an  
18 absentee ballot from Mr. Hildebrand. Are we going to  
19 be able to count that or not since he --

20 CHAIRPERSON MITTEN: Oh, I'm sorry. You  
21 know what? I didn't --

22 MRS. SCHELLIN: And then Mr. Jeffries.

23 CHAIRPERSON MITTEN: Actually, you know  
24 what I should -- I didn't even turn the page to Mr.  
25 Jeffries' comments. I just want to make sure

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1 everybody is aware of Mr. Jeffries' comment. I  
2 believe NPR should not be exempt from design regs, but  
3 should be exempt from use. In the event of sale, the  
4 new party will not be exempt. Which it's difficult to  
5 exempt an owner.

6 So, let's do this. Let's -- let me just  
7 go -- let's backtrack a second and let's eliminate --  
8 hum. Let's just leave it as it is. Let's just leave  
9 it as it is.

10 MRS. SCHELLIN: So, record the vote 3-0-2  
11 to approve Zoning Commission Case Number 04-18.  
12 Commissioner Mitten moving. Commissioner Parsons  
13 seconding. Commissioner Hood in favor. Commissioners  
14 Hildebrand and Jeffries not present, not voting.

15 CHAIRPERSON MITTEN: Yes.

16 MRS. SCHELLIN: Okay.

17 CHAIRPERSON MITTEN: Okay. Next is Case  
18 Number 05-24 which is the Eastgate Family Housing and  
19 I don't want to have a long conversation about this  
20 again, but the applicant has requested that the record  
21 be reopened to accept their finding regarding the  
22 decks. So, I would move that we reopen the record to  
23 receive their filing.

24 VICE CHAIRMAN HOOD: Second.

25 CHAIRPERSON MITTEN: All those in favor

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1 please say aye.

2 (Ayes.)

3 CHAIRPERSON MITTEN: Mrs. Schellin.

4 MRS. SCHELLIN: Commissioner -- I'm sorry.

5 The Commission voted to reopen the record in Case

6 Number 05-24. Commissioner Mitten moving.

7 Commissioner Hood seconding. Commissioners Turnbull

8 and Parsons in favor. Commissioner Jeffries not

9 present, not voting.

10 CHAIRPERSON MITTEN: Yes. Okay. Now, if

11 you remember, we didn't have -- we hadn't flushed this

12 out in a hearing context because it sort -- the way it

13 all came into the record.

14 What the applicant has done is written us

15 a letter talking about the fact that there are some

16 decks that could be built that would not be higher

17 than four feet above grade, but there would be others

18 that could be built four feet above grade and they

19 would count towards lot occupancy and so, they're

20 asking that certain decks be allowed as a matter of

21 right as long as the lot occupancy doesn't exceed the

22 maximum of 60 percent.

23 COMMISSIONER TURNBULL: Madam Chairman.

24 CHAIRPERSON MITTEN: Yes.

25 COMMISSIONER TURNBULL: Did you say a

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1 maximum of 60 percent? Six zero.

2 CHAIRPERSON MITTEN: Sixty.

3 COMMISSIONER TURNBULL: Sixty.

4 CHAIRPERSON MITTEN: Let me just -- the  
5 lot occupancy for the project overall is 35.15.  
6 That's based on the area that's subdivided into lots  
7 relative to the lot occupancy of those and then if you  
8 include the open space, it's 27.23.

9 So, these would -- you know, this is all  
10 going to be subdivided into separate lots. So, it  
11 would be that the lot occupancy of any particular lot  
12 wouldn't exceed 60 percent which is a lot.

13 COMMISSIONER PARSONS: I find this so  
14 confusing. I can't understand it. Can you please  
15 help me?

16 CHAIRPERSON MITTEN: They want to be able  
17 to --

18 COMMISSIONER PARSONS: How did this start?  
19 Who said we wanted to look at this? Did we say this?

20 CHAIRPERSON MITTEN: Well --

21 COMMISSIONER PARSONS: They say in their  
22 submission that near the end of the hearing we talked  
23 about decks. Well, we talked -- we spent 25 minutes  
24 on that stupid fence, but I don't remember anything  
25 about decks.

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1 CHAIRPERSON MITTEN: I think that --

2 COMMISSIONER PARSONS: And I think decks  
3 would be more offensive here than fences. I don't --  
4 I'm surprised. I don't understand it. I don't  
5 want --

6 CHAIRPERSON MITTEN: Don't want decks?

7 COMMISSIONER PARSONS: Decks, no.

8 CHAIRPERSON MITTEN: Okay.

9 COMMISSIONER PARSONS: I wish I had the  
10 record with me.

11 CHAIRPERSON MITTEN: I don't remember  
12 exactly --

13 COMMISSIONER PARSONS: All those beautiful  
14 perspective views and imaging decks off the back of  
15 these structures. Wrong.

16 CHAIRPERSON MITTEN: I think somehow in  
17 talking -- you know, remember how the fence got in was  
18 just sort of like there was just a -- kind of a  
19 comment like oh, well, maybe somebody will do a fence  
20 or something and then it was like oh, well, if you're  
21 going to do a fence, show us the --

22 COMMISSIONER PARSONS: Oh, yes.

23 CHAIRPERSON MITTEN: -- you know, the  
24 fence. So, I think probably as we were blinding down  
25 the --

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1 COMMISSIONER PARSONS: Well, I don't --

2 CHAIRPERSON MITTEN: I don't remember  
3 exactly, but --

4 COMMISSIONER PARSONS: I just --

5 VICE CHAIRMAN HOOD: Well, I think decks  
6 came up, Madam Chair, I think you -- some kind of  
7 where you mentioned -- not blaming it on you, but it  
8 was mentioned that if they wanted to put decks, that  
9 they would have to include it in this. I think that's  
10 how we got there.

11 CHAIRPERSON MITTEN: Well, that's how I  
12 see it.

13 VICE CHAIRMAN HOOD: So, now, we have a  
14 series of decks.

15 CHAIRPERSON MITTEN: I don't understand  
16 the four feet -- I mean I understand for purposes of  
17 a matter of right project where if somebody does a  
18 deck that's below four feet above the ground, it  
19 doesn't count towards lot occupancy, but, you know, if  
20 they don't propose a deck now, four feet, not four  
21 feet, it's not permitted.

22 COMMISSIONER PARSONS: I mean the way I  
23 remember the drawings, Mr. Turnbull has one down  
24 there.

25 CHAIRPERSON MITTEN: Um-hum. Yes, I

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1 remember.

2 COMMISSIONER PARSONS: Everybody was  
3 coming out -- everybody was coming out on grade and I  
4 -- if there was a deck, it was a terrace for me, but  
5 to allow these houses to have people come out of the  
6 second floor with a deck, I just -- I don't get it.

7 CHAIRPERSON MITTEN: So, okay.

8 COMMISSIONER PARSONS: Can you imagine the  
9 revised perspective.

10 CHAIRPERSON MITTEN: Well, the thing is  
11 it's one thing when it's showing everybody doing the  
12 same thing, but it's when everybody does whatever they  
13 want that it really -- it's a different kind of  
14 strange then.

15 So, just to -- okay. What's the consensus  
16 about decks? Mr. Parsons --

17 COMMISSIONER PARSONS: One vote for none.

18 CHAIRPERSON MITTEN: No decks. Mr.  
19 Turnbull.

20 COMMISSIONER TURNBULL: I like Mr.  
21 Parsons' spunk on this. I sort of -- I mean we  
22 struggled with the fences. We struggled with the  
23 walkway and --

24 CHAIRPERSON MITTEN: Um-hum.

25 COMMISSIONER TURNBULL: -- I think

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1 allowing the -- going up to 60 percent, it does strike  
2 -- this awesome covering of the whole backyard with a  
3 deck, just seems like it's -- it is a bit much.

4 CHAIRPERSON MITTEN: Okay. So, you're not  
5 in favor of decks period?

6 COMMISSIONER TURNBULL: I guess I'm not --  
7 I don't know how you limit it. I don't know how you  
8 confine it to a reasonable amount without setting --  
9 I don't know if saying only 25 percent or 50. I don't  
10 know how you limit it --

11 CHAIRPERSON MITTEN: Okay.

12 COMMISSIONER TURNBULL: -- to a reasonable  
13 amount.

14 CHAIRPERSON MITTEN: Okay. So, given  
15 that --

16 COMMISSIONER TURNBULL: Then it would be  
17 none.

18 CHAIRPERSON MITTEN: Okay. Mr. Hood.

19 VICE CHAIRMAN HOOD: I don't think we  
20 should just exclude decks period.

21 CHAIRPERSON MITTEN: Oh, I was afraid of  
22 that.

23 VICE CHAIRMAN HOOD: I mean if I bought a  
24 house over there, I would like to -- I might want to  
25 put a deck. But, like you say how much deck? How

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1 much? I mean everybody likes to sit on the deck and  
2 I don't know.

3 COMMISSIONER TURNBULL: I agree, but  
4 they've designed these buildings at least what they've  
5 shown us the ground floor would be the recreational  
6 component if you will. The sliding glass doors that  
7 move out into the yard. To cover that with a deck and  
8 put it in the dark in shadow just seems like an  
9 undesirable thing and I just think it's better off the  
10 way it is.

11 VICE CHAIRMAN HOOD: I might have missed  
12 something. The deck is going to come out up on the  
13 second floor?

14 COMMISSIONER TURNBULL: It would have to.  
15 Right?

16 CHAIRPERSON MITTEN: The rear of the  
17 house --

18 VICE CHAIRMAN HOOD: I'm sorry. No decks.  
19 I'm sorry. I have to retract my statement --

20 COMMISSIONER TURNBULL: Yes, I --

21 VICE CHAIRMAN HOOD: -- if it's coming out  
22 on the second floor.

23 COMMISSIONER TURNBULL: I guess I would  
24 have thought that there -- depending I mean -- the  
25 drawing that they show, the elevation of the side yard

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1 shows a very flat plane which I was thinking that  
2 they're -- I mean if you came out on the first floor,  
3 you've only going to be up six inches or eight inches  
4 off the ground.

5 So, but if you're coming off the second  
6 floor with a deck off of a bedroom or something,  
7 that's -- see that would be crazy.

8 COMMISSIONER PARSONS: Well, that's what  
9 I'm presuming. Maybe I've got it wrong. Maybe if  
10 some of these have steep slopes out the back --

11 COMMISSIONER TURNBULL: That's what may be  
12 implied.

13 COMMISSIONER PARSONS: -- they may have to  
14 build a deck.

15 COMMISSIONER TURNBULL: That may be  
16 implied. Yes. In which case I --

17 COMMISSIONER PARSONS: Well, let's  
18 postpone this until we get more information. This is  
19 ridiculous.

20 COMMISSIONER TURNBULL: Okay.

21 COMMISSIONER PARSONS: But, I don't know  
22 how to do it.

23 VICE CHAIRMAN HOOD: Did we -- I hate to  
24 bring this up, but did we ever decide on the fencing?

25 CHAIRPERSON MITTEN: Yes, we did. Yes, we

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1 did.

2 COMMISSIONER PARSONS: I think we agreed  
3 on this one.

4 CHAIRPERSON MITTEN: You know what I want  
5 to do? I would like to approve this and then if at  
6 some point the applicant wants to come back with a  
7 modification request, we're going to need to have a  
8 hearing on this.

9 COMMISSIONER PARSONS: Okay.

10 CHAIRPERSON MITTEN: Because we just can't  
11 get it from the paper and so, I say let's just approve  
12 and move on and --

13 COMMISSIONER PARSONS: I agree.

14 CHAIRPERSON MITTEN: -- if they want to --  
15 and then we'll have a -- let six months go by and they  
16 can be building the houses and --

17 COMMISSIONER PARSONS: Right.

18 CHAIRPERSON MITTEN: -- we'll have a  
19 different perspective.

20 VICE CHAIRMAN HOOD: So, you're saying  
21 approve without the decks?

22 CHAIRPERSON MITTEN: Yes.

23 VICE CHAIRMAN HOOD: Okay. I see.

24 COMMISSIONER PARSONS: So moved. Unless  
25 you have other discussion here.

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1 CHAIRPERSON MITTEN: No, I don't. Thank  
2 you. Okay. If we --

3 COMMISSIONER PARSONS: I move we approve  
4 Case Number 05-24 and the Office of -- the Attorney  
5 General version of the order.

6 CHAIRPERSON MITTEN: Okay.

7 VICE CHAIRMAN HOOD: I'll second.

8 CHAIRPERSON MITTEN: Thank you. Any  
9 further discussion? All those in favor please say  
10 aye.

11 (Ayes.)

12 CHAIRPERSON MITTEN: Mrs. Schellin.

13 MRS. SCHELLIN: Staff will record the vote  
14 4-0-1 to approve Zoning Commission Case Number 05-24  
15 without decks. Commissioner Parsons moving.  
16 Commissioner Hood seconding. Commissioners Mitten and  
17 Turnbull in favor. Commissioner Jeffries not present,  
18 not voting.

19 CHAIRPERSON MITTEN: Okay. Thank you.

20 Okay. Next is Case Number 05-36 which is  
21 200 K Street and I believe we have a report from NCPC  
22 saying there is no adverse impact on the Federal  
23 interest and they recommend approval.

24 Are there any comments on the order?

25 VICE CHAIRMAN HOOD: Madam Chair, is this

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1 -- are we doing this in two votes or one?

2 CHAIRPERSON MITTEN: 200 K?

3 VICE CHAIRMAN HOOD: But, I thought also  
4 in there they said that the first things PUD would  
5 adversely affect --

6 CHAIRPERSON MITTEN: Oh, I'm sorry.

7 VICE CHAIRMAN HOOD: -- the Federal  
8 interest. I just don't want to snub them, but, you  
9 know, we may not agree with that.

10 CHAIRPERSON MITTEN: I'm sorry. I must  
11 have glossed over that.

12 VICE CHAIRMAN HOOD: They say the planned  
13 unit development -- the consolidated PUD, no adverse  
14 impact, but in the first stage, issue about the  
15 trellis. About the trellis.

16 CHAIRPERSON MITTEN: Oh, I'm sorry.

17 VICE CHAIRMAN HOOD: About the trellis.

18 CHAIRPERSON MITTEN: I read too fast.  
19 Well, I would like to ask -- if you guys agree, I  
20 would like to ask the Office of Planning for their  
21 comments on --

22 VICE CHAIRMAN HOOD: I don't know if I --  
23 I don't necessarily agree, but I don't know if I'm  
24 that up on that subject of -- joining buildings. I'm  
25 not that up on that.

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1 CHAIRPERSON MITTEN: But, I'm asking -- I  
2 was intending to ask the Office of Planning for a  
3 response.

4 VICE CHAIRMAN HOOD: Oh, yes, sure.

5 CHAIRPERSON MITTEN: Okay.

6 VICE CHAIRMAN HOOD: Okay. I'm sorry.

7 CHAIRPERSON MITTEN: Do you guys have a  
8 comment on the NCPC view that the first stage PUD is  
9 -- I guess their view is that it's not one building.

10 MR. COCHRAN: Their specific comment is  
11 that it's not a meaningful connection.

12 The applicant would be connecting two  
13 different wings of a building with a glass bridge that  
14 is eight stories high that would have hallways on each  
15 of those floors that would connect the corridors of  
16 the different wings of the building.

17 That seems to me to be a functioning  
18 meaningful connection to the building.

19 CHAIRPERSON MITTEN: Well, in -- it's --  
20 this is something -- I mean this notion is something  
21 that we've been very conscious of ourselves in other  
22 cases and in this case. What is our obligation to  
23 NCPC?

24 MR. RITTING: It's similar to an ANC. We  
25 have to give great weight to their recommendation.

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1           You don't have to follow it, but you have  
2           to justify deviating in a meaningful way. You need to  
3           have evidence in the record to support your basis for  
4           deviating.

5           CHAIRPERSON MITTEN: Okay. So, we will  
6           actually have to augment the order to discuss.

7           MR. RITTING: That's correct.

8           CHAIRPERSON MITTEN: Okay. Well, okay,  
9           Mr. Hood.

10          VICE CHAIRMAN HOOD: Madam Chair, I think  
11          -- and that's why when I -- I wasn't taken back, but  
12          I thought we had thoroughly discussed that during the  
13          hearing.

14          CHAIRPERSON MITTEN: Well, and I think the  
15          way to respond is not unlike what Mr. Cochran just  
16          said which is that the Commission finds that the  
17          eight-foot glass bridge is a meaningful connection and  
18          it's not -- I mean certainly rises far above the  
19          trellis that's been used innumerable times not by this  
20          applicant but by other -- by others seeking to provide  
21          a connection and we also -- not to belabor it, but we  
22          did have a pretty extensive discussion on the issue of  
23          the 130-foot height when we took proposed action.

24          So, I think if we could just pull that  
25          transcript and capture some of that discussion, I

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1 think we could probably develop some adequate response  
2 to the NCPC concerns.

3 Do we have to do -- do we have to have  
4 that language in front of us before we take final  
5 action would you say?

6 MR. RITTING: No, because the -- your  
7 final action -- you're voting final action with the  
8 changes, but the actual language is in the order.

9 CHAIRPERSON MITTEN: Okay. Okay. Fine.  
10 Well, then --

11 MR. RITTING: And I should add I didn't  
12 have the benefit of the NCPC comments before me when  
13 I provided you with the order that you have in front  
14 of you now.

15 CHAIRPERSON MITTEN: No, I understand  
16 that. I understand that.

17 MR. RITTING: So.

18 CHAIRPERSON MITTEN: Well, you also didn't  
19 know what we thought at the time. How about that?  
20 Okay. Well, I think we can -- I think we have  
21 addressed what NCPC's concerns are and even though I  
22 was one -- I shared their concern about the 130-foot  
23 height, I think, you know, I'm willing to vote as I  
24 did the last time.

25 So, I would move that we approve Case

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1 Number 05-36.

2 VICE CHAIRMAN HOOD: Second.

3 CHAIRPERSON MITTEN: Any further  
4 discussion? All those in favor please say aye.

5 (Ayes)

6 CHAIRPERSON MITTEN: And Mrs. Schellin.

7 MRS. SCHELLIN: Yes, staff will record the  
8 vote 4-0-1 to approve Zoning Commission Case Number  
9 05-36. Commissioner Mitten moving. Commissioner Hood  
10 seconding. Commissioners -- Commissioner Turnbull in  
11 favor and Commissioner Jeffries in favor by absentee  
12 ballot. Commissioner Parsons not voting having not  
13 participated.

14 CHAIRPERSON MITTEN: Okay. Thank you.  
15 Next is Case Number 05-18. This is the Hope 7 11th  
16 and Monroe Project.

17 VICE CHAIRMAN HOOD: I would move approval  
18 of Zoning Commission Case Number 05-18.

19 CHAIRPERSON MITTEN: Thank you. And I'll  
20 second and I would -- and this time I'm accurately  
21 reading. I believe that NCPC has said that the  
22 proposal will not adversely affect the Federal  
23 interest.

24 Is there any discussion? All those in  
25 favor please say aye.

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1 (Ayes.)

2 MRS. SCHELLIN: Staff will record the vote  
3 3-0-2 to approve Zoning Commission Case Number 05-18.  
4 Commissioner Hood moving. Commissioner Mitten  
5 seconding. Commissioner Turnbull in favor.  
6 Commissioners Jeffries and Parsons not voting having  
7 not participated.

8 CHAIRPERSON MITTEN: Thank you. Okay.  
9 The next case is 05-17 which is Broadway I which is  
10 parcels A, B and D which is the bulk of the project.

11 Did we have an NCPC report on these? On  
12 this one and the next one, Mrs. Schellin?

13 MRS. SCHELLIN: Actually, I think they  
14 just came in. I don't have it in front of me, but  
15 they had no -- they said there would be no adverse  
16 impact.

17 CHAIRPERSON MITTEN: Okay. That's  
18 helpful. Actually, we could probably vote these  
19 together because they're in a single order. So --

20 MRS. SCHELLIN: Actually, OAG advised that  
21 there have to be two separate votes because they are  
22 two separate PUDs even though it's one order.

23 CHAIRPERSON MITTEN: Okay. Well, thank  
24 you for stopping me before I made an improper motion  
25 or anyone else did.

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1 VICE CHAIRMAN HOOD: I would move approval  
2 of Zoning Commission Case Number 05-17.

3 COMMISSIONER TURNBULL: Second.

4 CHAIRPERSON MITTEN: Thank you. Any  
5 discussion? All those in favor please say aye.

6 (Ayes.)

7 CHAIRPERSON MITTEN: Mrs. Schellin.

8 MRS. SCHELLIN: Staff will record the vote  
9 4-0-1 to approve Zoning Commission Case Number 05-17.  
10 Commissioner Hood moving. Commissioner Turnbull  
11 seconding. Commissioner Mitten in favor and  
12 Commissioner Jeffries in favor by absentee ballot.  
13 Commissioner Parsons not voting having not  
14 participated.

15 CHAIRPERSON MITTEN: Okay. Next is Case  
16 05-32 which is the balance of the Broadway I project  
17 and I would move approval.

18 COMMISSIONER TURNBULL: Second.

19 CHAIRPERSON MITTEN: Thank you. Any  
20 discussion? All those in favor please say aye.

21 (Ayes.)

22 MRS. SCHELLIN: Staff will record the vote  
23 4-0-1 to approve Zoning Commission Case Number 05-32.  
24 Commissioner Mitten moving. Commissioner Turnbull  
25 seconding. Commissioner Hood in favor. Commissioner

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1 Jeffries in favor by absentee ballot. Commissioner  
2 Parsons not voting having not participated.

3 CHAIRPERSON MITTEN: Thank you. Next is  
4 Case Number 05-19 which is Neighborhood Development  
5 Company, LLC.

6 Do we have a -- oh. Okay. We just got an  
7 NCPC report that says that the proposal would not  
8 adversely affect the Federal interest and this is the  
9 -- if you remember, this is the southern end of the  
10 block for the PUD that we set down earlier tonight.  
11 That we fussed at them about the design a few times to  
12 -- I think to help the project along to become more  
13 attractive.

14 So, we have the proposed order and I would  
15 move approval of Case Number 05-19.

16 VICE CHAIRMAN HOOD: Second.

17 CHAIRPERSON MITTEN: Thank you. Any  
18 discussion? All those in favor please say aye.

19 (Ayes.)

20 CHAIRPERSON MITTEN: Mrs. Schellin.

21 MRS. SCHELLIN: Staff will record the vote  
22 5-0-0 to approve Zoning Commission Case Number 05-19.  
23 Commissioner Mitten moving. Commissioner Hood  
24 seconding. Commissioners Turnbull and Parsons in  
25 favor. Commissioner Jeffries in favor by absentee

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1 ballot.

2 CHAIRPERSON MITTEN: Thank you. Next, Mr.  
3 Hood has the chair again.

4 VICE CHAIRMAN HOOD: Zoning Commission  
5 Case Number 05-20. Mrs. Schellin.

6 MRS. SCHELLIN: Staff has nothing further.

7 VICE CHAIRMAN HOOD: Okay. We had an NCPC  
8 report which brought up three comments and I'll just  
9 run through them right quickly.

10 The issue was I think between New York  
11 Avenue and Florida Avenue about excluding certain  
12 squares for eligibility for special exceptions. I  
13 think the issue was a gateway and not to make a  
14 permitted use as an asphalt plant.

15 Mr. Ritting, you can help me with this as  
16 we go along.

17 And they wanted to omit Squares 3582, 3584  
18 or -- and I guess 3518. To be omitted from this --

19 MR. RITTING: That what's NCPC  
20 recommended. Yes.

21 VICE CHAIRMAN HOOD: Okay. Any problems  
22 with that, colleagues?

23 COMMISSIONER TURNBULL: No, I would agree  
24 with that.

25 VICE CHAIRMAN HOOD: The recommendation.

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1 Okay. The next thing was to perform environmental --  
2 dealing with the Environmental Policy Act. I don't  
3 believe that is within our jurisdiction and there is  
4 a time when that is I think dealt with at the issuance  
5 for the license and the CFO. Any issues on that?

6 COMMISSIONER PARSONS: I would agree.

7 VICE CHAIRMAN HOOD: Okay. The next is  
8 the definition. I think we have included the  
9 definition of asphalt plants when we dealt with  
10 concrete plants and it's in Section 802.17. So, I  
11 think that's already define and the other thing is  
12 provide protection. I think that's already required  
13 in the regulations.

14 Unless anybody has anything else, I would  
15 move approval as a -- necessary concerns taken into  
16 consideration of Zoning Commission Case Number 05-20  
17 and ask for a second.

18 COMMISSIONER PARSONS: I'll second that,  
19 but with the understanding --

20 VICE CHAIRMAN HOOD: Discussion.

21 COMMISSIONER PARSONS: -- they're going to  
22 eliminate these squares that NCPC --

23 VICE CHAIRMAN HOOD: Yes.

24 COMMISSIONER PARSONS: Okay.

25 VICE CHAIRMAN HOOD: Yes, those squares

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1 that we call 3582, 3584 and 3518.

2 COMMISSIONER PARSONS: Good.

3 VICE CHAIRMAN HOOD: Okay. It's been  
4 moved and properly seconded. Any further discussion?  
5 All those in favor.

6 (Ayes.)

7 MRS. SCHELLIN: Staff will record the vote  
8 3-0-2 to approve Zoning Commission Case Number 05-20.

9 VICE CHAIRMAN HOOD: Ms. Schellin, let me  
10 call for any opposition. None. So ordered. Staff,  
11 would you record the vote?

12 MRS. SCHELLIN: Yes, staff will record the  
13 vote 3-0-2 to approve Zoning Commission Case Number  
14 05-20 with the removal of the squares mentioned in  
15 NCPC's report. Commissioner Hood moving.  
16 Commissioner Parsons seconding. Commissioner Jeffries  
17 in favor by absentee ballot. Commissioner Mitten not  
18 voting having recused herself and Commissioner  
19 Turnbull not voting not having participated.

20 CHAIRPERSON MITTEN: Thank you very much.

21 The last item -- well, I guess we have a  
22 couple of things.

23 One is to acknowledge the piece of  
24 correspondence that we received from ANC 1C regarding  
25 a resolution that they recently passed that we were

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1 happy to receive and I don't know if -- I guess  
2 they're -- it says they're contemplating three  
3 specific actions including filing an application to  
4 down zone several sites. So, we'll look forward to  
5 that.

6 And then I would just ask since we put it  
7 off to the very end if the Office of Planning has  
8 anything that they would like to say in regards to  
9 their written status report?

10 MS. STEINGASSER: We're available for  
11 questions.

12 CHAIRPERSON MITTEN: Okay. Any questions  
13 on the status report?

14 COMMISSIONER PARSONS: Where is open  
15 space?

16 CHAIRPERSON MITTEN: It's right next to  
17 campus plan revision.

18 COMMISSIONER PARSONS: Where?

19 CHAIRPERSON MITTEN: It's not there.

20 COMMISSIONER PARSONS: It's been on here  
21 for three years.

22 MS. STEINGASSER: That's correct.

23 COMMISSIONER PARSONS: Mr. Lawson had it  
24 assigned to him and it was to --

25 MS. STEINGASSER: We can put it back on

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1 there if it makes you feel good, but --

2 COMMISSIONER PARSONS: It does because  
3 it's in that draft for the comprehensive plan as well.

4 MS. STEINGASSER: -- in all reality, we're  
5 not going to be getting to it for at least --

6 COMMISSIONER PARSONS: I'm sorry.

7 MS. STEINGASSER: In all reality, we won't  
8 be getting to open space for at least a year, but if  
9 you -- if it makes -- we'll be happy to put it back  
10 on.

11 COMMISSIONER PARSONS: Every time I look  
12 for it.

13 MS. STEINGASSER: Okay.

14 COMMISSIONER PARSONS: I started this 20  
15 years ago and somehow, it'll get done. I now see it  
16 in the draft of the comprehensive plan. I'm pretty  
17 excited about it. So, it -- just it'll take time.

18 CHAIRPERSON MITTEN: John's a patient man.

19 MS. STEINGASSER: I'll be happy to put it  
20 back on.

21 CHAIRPERSON MITTEN: Okay. Does anybody  
22 have anything else that they would like to call our  
23 attention to? All right.

24 Well, thanks everybody. We're adjourned.

25 (Whereupon, the meeting was concluded at

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9:58 p.m.)