

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

+ + + + +

IN THE MATTER OF:

CAPITOL HILL COMMERCIAL
OVERLAY DISTRICT

Case No.
00 - 41P

Thursday
March 21, 2002

Hearing Room 220 South
441 4th Street, NW
Washington, D.C.

The Public Hearing convened at 6:32 p.m., Anthony J. Hood, Acting Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD
JOHN G. PARSONS
PETER G. MAY
JAMES H. HANNAHAM

COMMISSION STAFF PRESENT:

ALBERTO BASTIDA, SECRETARY, ZC
SHARON SANCHEZ, OFFICE OF ZONING

OTHER AGENCY STAFF PRESENT:

MAXINE BROWN-ROBERTS, OFFICE OF PLANNING

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

1
2 VICE CHAIRPERSON HOOD: Good evening, ladies
3 and gentlemen. This is the public hearing of the Zoning
4 Commission of the District of Columbia for Thursday, March
5 21, 2002. My name is Anthony Hood. I serve as the Vice
6 Chairman.

7 Joining me this evening are Commissioners
8 John Parsons, Peter May and James Hannaham. Chair Mitten
9 will be reading the record.

10 The subject of this evening's hearing is
11 Zoning Commission Case. No. 00-41P, the request for a
12 proposed text amendment to establish the Capitol Hill
13 Commercial Overlay District. Notice of today's hearing
14 was published in the D.C. Register on February 1, 2002
15 and in the Washington Times on January 29, 2001. This
16 hearing will be conducted in accordance with provisions
17 of 11 DCMR, Section 3021 rulemaking hearings. Copies
18 of today's hearing announcements are available to you
19 and are located on the table near the door.

20 The order of procedure will be as follows:
21 preliminary matters, case presented by the Petitioner,
22 Office of Planning Report, reports of other government
23 agencies, reports of ANC 6A and 6B, organizations and
24 persons in support, organizations and persons in
25 opposition. The following time constraints will be

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1 maintained in this hearing: organizations five minutes,
2 and individuals three minutes. The Commission intends
3 to adhere to these time limits as strictly as possible
4 in order to hear the case in a reasonable period of time.

5 The Commission reserves the right to change the time
6 limits for presentations if necessary and notes that no
7 time shall be ceded.

8 All persons appearing before the Commission
9 are to fill out two witness cards. These cards are
10 located at each end of the table in front of us. Upon
11 coming forward to speak to the Commission, please give
12 both cards to the reporter sitting to my right.

13 The decision of the Commission in this case
14 must be based exclusively on the public record. To avoid
15 any appearance to the contrary, the Commission requests
16 that the persons present not engage the members of the
17 Commission in conversation during the recess or at any
18 other time. The staff will be available throughout the
19 hearing to discuss procedural questions. Please turn
20 off all beepers and cell phones at this time so as not
21 to disrupt these proceedings.

22 At this time the Commission will consider
23 any preliminary matters. I have a preliminary matter
24 before I go to staff for any preliminary matters. I'm
25 going to ask the Honorable Council member of Ward 6, Ms.

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1 Sharon Ambrose to come and provide her testimony. I
2 realize she has another engagement. So we'll welcome
3 her testimony at this time and welcome.

4 COUNCIL MEMBER AMBROSE: Thank you, Mr.
5 Hood, and thank you, ladies and gentlemen, for allowing
6 me to appear this evening. As you know, I am the Council
7 member for Ward 6. Not only am I the Council member for
8 Ward 6, but I in fact have been a resident of Capitol
9 Hill for the last 35 years. So I am very familiar with
10 the area that is the subject of the request this evening.

11 I'm pleased to offer this testimony in
12 support of the Capitol Hill Commercial Overlay District.

13 Over five years ago, I formed a committee which included
14 ANC 6A, 6B, Capitol Hill Association of Merchants and
15 Professionals, the Capitol Hill Restoration Society,
16 Barracks Row and other concerned residents.

17 The purpose of the committee was to hear the
18 planning concerns of the Capitol Hill community and
19 propose amendments to the Comprehensive Plan which would
20 address these concerns. This was at the time when the
21 Comp. Plan had come back before the Council for
22 amendments. The end result of many community meetings
23 and hearings was the Council's adoption in 1999 of an
24 amendment to the Ward 6 portion of the Comprehensive Plan.

25

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1 I am pleased that the Zoning Commission is
2 now considering the implementation of this part of the
3 Ward 6 plan through the proposed text amendment.
4 Specifically, the proposed text amendment to the zoning
5 regulations would implement Section 1735.1 of the
6 Comprehensive Plan by creating an overlay district with
7 increased density in an appropriate area along Capitol
8 Hill's commercial corridor, particularly 8th Street, SE,
9 Pennsylvania Avenue, SE, and Massachusetts Avenue, NE.

10 This amendment will assist these corridors
11 to become the kind of vibrant commercial area that the
12 residents of Ward 6 deserve, and in respect to the 8th
13 Street, SE, corridor it will assist that corridor in
14 becoming the vibrant commercial corridor that it was in
15 the history of our city when once it was one of the most
16 thriving commercial districts in the city.

17 For too long these commercial corridors have
18 been hampered by restrictions on commercial density.
19 The unfortunate result has been too many partially vacant
20 or underutilized buildings in our commercial corridors,
21 limited foot traffic and diminished customer demand for
22 restaurants and retail services. The increased density
23 proposed by the overlay will provide the incentive
24 necessary to make building renovation or new infield
25 development economically feasible.

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1 In turn, the renovation of our lovely,
2 historic commercial buildings will attract the kinds of
3 businesses we need and will, in fact, begin to cater to
4 the numbers of new people who have taken advantage of
5 some of our tax incentives to move back into the District
6 of Columbia and have been coming to Capitol Hill in great
7 numbers, both young people with their families and
8 empty-nesters who are finding it more and more attractive
9 to live in the city in retirement.

10 The implementation of the proposed text
11 amendment will promote the vision of both the residents
12 of Capitol Hill and its business community. The overlay
13 district will only result in increased FAR. Restrictions
14 on building height, setbacks, lot occupancy and use would
15 not be affected, which, of course, is very important,
16 particularly for those areas that are the subject of the
17 overlay which are part of the historic district.

18 While housing on the upper floors of these
19 commercial corridor buildings will still be permitted,
20 building owners will now have sufficient incentives to
21 make renovation economically feasible. This will enable
22 owners to attract the types of businesses which will help
23 revive and build the base needed to restore the ambiance
24 of these major corridors on Capitol Hill in a balanced
25 way.

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1 Service businesses, such as designers,
2 planners, architects, accountants and other consultants,
3 would be a perfect fit for the small floor plates in the
4 three and four story buildings that typically line 8th
5 Street and Pennsylvania and Massachusetts Avenues.
6 These businesses do not generate noise or significantly
7 increase parking demands, rather they provide the
8 activity and pedestrian traffic that is currently in such
9 short supply. This kind of activity and pedestrian
10 traffic, as we know, is the sort of activity that makes
11 our streets safer. So, I consider this to be a public
12 safety issue as well.

13 We need to attract these types of small and
14 midsize businesses to create the type of daytime
15 pedestrian traffic that is a precursor to the active and
16 vibrant community business district desired by the
17 residents of Capitol Hill.

18 It is also my hope that the increased
19 commercial FAR will cause owners to renovate the upper
20 floors of their buildings for office use, so that office
21 uses can move upstairs and retail and service tenants
22 can replace office uses at the street level, so that,
23 hopefully, we will have a little bit more retail activity
24 at the street level.

25 I hope the Commission will move expeditiously

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1 to approve this important text amendment.

2 I do know that the Office of Planning is
3 concerned that we not reduce residential in these
4 corridors and I also have some concerns about that. In
5 my view, going to this higher FAR does not reduce or
6 preclude the opportunity for residential, but rather it
7 increases the opportunities for the kinds of low impact
8 businesses that I've described in my testimony.

9 Thank you, Commissioner Mays for the water.

10 I will drink it and answer any questions that any of
11 you have.

12 VICE CHAIRPERSON HOOD: Thank you, Council
13 member Ambrose. As always, it's a pleasure to see you.

14 We appreciate you taking the time to come and offer your
15 testimony.

16 Colleagues, do we have any questions for
17 Council member Ambrose?

18 Seeing none, thank you again for your
19 testimony.

20 COUNCILMEMBER AMBROSE: Thank you very much.

21 VICE CHAIRPERSON HOOD: Okay, let me go back
22 in the agenda. Preliminary matters. Staff, do we have
23 any preliminary matters?

24 MR. BASTIDA: The staff has one preliminary
25 matter. The Certificate of Posting has been provided

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1 and the Petitioner is in compliance with the posting
2 requirements.

3 VICE CHAIRPERSON HOOD: Thank you.

4 Next, we're going to have our case that's
5 going to be presented by the Petitioners. I'd ask them
6 to come forward.

7 I would ask that you identify yourselves,
8 also the organization which you are representing as you
9 get started. Thank you.

10 MR. REED: My name is Frank Reed. I am
11 Chairman of the Planning and Zoning Committee of the
12 Capitol Hill Association of Merchants and Professionals.

13 MR. WOLF: I am Dick Wolf. I am City
14 Planning Chair for the Capitol Hill Restoration Society.

15 MR. LYLE SCHAUER: Lyle Schauer, Zoning
16 Chair, Capitol Hill Restoration Society.

17 MR. SCALLAN: Andrew Scallan. I represent
18 CHAMPS, also.

19 MR. DEPUY: I'm Jacques DePuy, attorney with
20 Greenstein, DeLorme and Luchs, representing these two
21 fine community organizations.

22 VICE CHAIRPERSON HOOD: Thank you, Mr.
23 DePuy. Let me just ask about how much time do you think
24 you need?

25 MR. DEPUY: The staff told us to try to limit

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1 our testimony to fifteen minutes. So, if that's the wish
2 of the Chair, we'll try to do that.

3 VICE CHAIRPERSON HOOD: If it's doable.
4 We'll be flexible to a point, but fifteen minutes is the
5 preference.

6 MR. DEPUY: We will certainly try.

7 VICE CHAIRPERSON HOOD: Thank you.

8 MR. DEPUY: Mr. Chair, members of the Zoning
9 Commission, because we have limited time and we have a
10 number of important witnesses, I will really be very,
11 very brief.

12 I do want to point out, however, that as a
13 result of meetings that these organizations have had with
14 the Advisory Neighborhood Commissions and with the
15 community, other aspects of the community, it has been
16 brought to our attention that several aspects of the
17 original proposal met with some concerns in the community.

18
19 Therefore, one of our witnesses will testify
20 with respect to some modifications, that is, deletions,
21 elimination of some parts of the original application
22 that were submitted. So, I wanted the Commission to be
23 aware that that will be coming and one of our witnesses
24 will address it.

25 At this point, other than that, again, given

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1 the time, I'll waive any opening statement and call our
2 first witness, Mr. Richard Wolf.

3 MR. WOLF: Thank you. I do not have written
4 testimony, but I have oral testimony. I've testified
5 many times here on other matters.

6 I'm very pleased to be here with CHAMPS in
7 connection with this. It's unusual for a citizen's
8 organization primarily concerned with a residential
9 neighborhood to be cosponsoring a zoning case which is
10 primarily to benefit, at least at first blush, a business
11 community. However, CHRS has a long, long history of
12 recognizing the importance of responsible commercial
13 development for supplying the needed goods and services
14 to our community.

15 We are somewhat isolated. We are not as
16 available as Adams-Morgan or Georgetown or other parts
17 of the District of Columbia, so we don't have a lot of
18 people coming in from outside. So over the years we've
19 done such things -- before there was a CHAMPS and a Hill
20 Rag business directory. We had a business directory.
21 We've supported many variance requests (and you'll hear
22 more about that) for responsible infill and extension
23 of commercial activity within particular buildings.

24 We've just recently been involved in
25 supporting CHAMPS and the Main Street Program in the

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1 zoning overlay for 8th Street below the freeway going to
2 the Navy yard and assisting in being the primary assistant
3 in securing historic preservation overlay for extending
4 the historic district to that area, too.

5 Now, the Office of Planning's report covers,
6 we believe, really all the relevant reasoning for this
7 initiative. I am not going to belabor the point. Other
8 speakers will cover the details of what is included in
9 the overlay and what we have agreed to delete for sound
10 reasons.

11 This overlay is very carefully tailored to
12 meet our specific needs as a community. In this respect,
13 I've heard concerns from other neighborhoods, such as
14 Logan Circle, DuPont Circle, Adams-Morgan, Georgetown
15 and others that this could set a bad precedent for them.

16 I assured them that this was only for us and
17 that C2A which is ubiquitous throughout the city as a
18 commercial zone needs tailoring for each neighborhoods'
19 needs. That means, you folks and we are going to have
20 to look at an overhaul of our antique zoning. But for
21 now we have to do what we need to do for this, for our
22 purposes now, which is an overlay, in fact an overlay
23 on an overlay.

24 With respect to process, we have received
25 a number of comments that there hasn't been enough

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1 process. All I can say to you is, we started in this
2 four or five years ago, as Mrs. Ambrose has alluded to.

3 She had her own little committee to deal with these
4 issues. We went to the Council. There was a hearing
5 before the Council. It is now law, it is part of the
6 amendment to the Ward 6 plan. We went to the Office of
7 Planning to seek their implementation. They told us
8 several years ago that they didn't have the resources
9 to do this. So we've done it ourselves and we paid for
10 it ourselves. The business community has largely paid
11 for it. It's been a fairly rigorous and expensive
12 process.

13 We have met with neighborhood organizations,
14 primarily the ANCs, before their various committees and
15 their whole ANCs. We gave the ANC 6B a heads up about
16 a year ago concerning this matter. We've met with Stanton
17 Park Neighborhood Association and you will hear from all
18 these folks. We have tried to be responsive to their
19 needs and concerns.

20 We believe this is indeed a modest and
21 targeted proposal. We think it will help facilitate
22 responsible and supportive development for our community.

23 And, as you will hear from others, getting the kinds
24 of retail and services into the business districts of
25 these neighborhoods is very, very difficult to do. This

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1 may not solve the problem, but it certainly gives a good
2 incentive. It's just one of a number of ways to do it.

3 Thank you for listening to me and I hope you
4 will implement this into the zoning ordinance.

5 VICE CHAIRPERSON HOOD: Next.

6 MR. SCHAUER: Mr. Chairman, members of the
7 board, my name is Lyle Schauer. As I said before, I'm
8 the Zoning Chair of the Capitol Hill Restoration Society.

9 In connection with this case, I looked at
10 the Board of Zoning Adjustment cases over the last twenty
11 years, beginning in 1980 to the present. I discovered
12 there were at least 21 cases that I could identify. I
13 have a feeling there were a few others, but our Society
14 records are not real adequate, particularly in the earlier
15 years and I suspect some of the cards in the card file
16 in the office next door have gotten misplaced over the
17 years.

18 At any rate, I did identify 21 cases and I
19 have attached to my testimony a table that shows the cases.

20 They are right here in ascending order of the commercial
21 FAR that was proposed. But I think the significant thing
22 is that there is a consistent pattern of approval by the
23 BZA of variances like this. I think this clearly
24 demonstrates that the floor area maximum is too low in
25 the Capitol Hill commercial corridors. If you'll look

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1 at the table, you'll see that only one of those cases
2 was denied by the Board of Zoning Adjustment. The other
3 20 cases were granted. I think that speaks volumes.

4 As to the affect of the proposed overlay,
5 we can expect that it will eliminate about three quarters
6 of future applications for variances for commercial FARs
7 in excess of the present maximums. There's a little table
8 at the top of page two that shows -- and here I'm down
9 to 18 cases because I could not find the FAR for three
10 of the cases. I examined both the BZA orders and our
11 office files and I could find no reference.

12 They were certainly cases that involved
13 extension of FAR, but I could not find any information
14 as to the proposed extent of the FAR. At any rate, if
15 you look at the table with FARs from 1.5 to 2.5, 12 of
16 the 18 cases fell into that category. Then between FAR
17 2.5 and FAR 3.0, outside the Capitol Interest District
18 where the proposed FAR is 3, there was one case. That
19 certainly would be included. Inside the Capitol
20 Interest District, there were three cases and all of them
21 of course would still require variances because they are
22 above two and a half and that's the maximum in that
23 interest district. Then all cases at proposed FARs of
24 greater than three have to have variances.

25 So, of the 18 cases, 13 of them would not

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1 require variance had this overlay been in effect, only
2 five of them would. They're the larger cases in general
3 and I suppose that's appropriate.

4 As to the position of the Society, we have
5 consistently supported variances in excess of allowable
6 FARs for extending commercial use in existing buildings.

7 It's talking about existing buildings first of all.
8 I have a little quote here from one of my predecessors
9 as the zoning chair in 1988. He said, "It should be noted
10 that the 1.5 FAR in the C2A district is not realistic
11 especially where as in this case the structure already
12 exceeds the allowable FAR.

13 Now, when it came to additions or new
14 construction, we did not always support them in additions
15 where the increased FAR was sought because of an addition
16 being placed on the commercial building. We supported
17 two and we opposed two. And new construction, we didn't
18 support any of them. We took no position with one and
19 opposed the other. But generally it's my personal
20 feeling that smaller infill projects and additions needed
21 to renovate older buildings to meet the difficulty
22 complying with building codes would be well served by
23 this overlay.

24 That's all I have, Mr. Chairman.

25 VICE CHAIRPERSON HOOD: Thank you, Mr.

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1 Schauer. Next.

2 MR. REED: Good evening, Mr. Chairman and
3 members of the Commission. As I mentioned earlier, my
4 name is Frank Reed. I am Chairman of the CHAMPS Planning
5 and Zoning committee. I'm pleased to have the
6 opportunity to address this application this evening.

7 The underlying premises behind this overlay
8 are twofold. One is the fact that the mixed use in the
9 current zoning code has not worked. It has not achieved
10 its desired purpose which is to have people live over
11 the shops that are located in our commercial corridors.

12 In this day and age, people are just not inclined to
13 do that. As a consequence, the residential component
14 of the zoning has not really born fruit or been realized.

15 The second premise is that in order for our
16 commercial corridors to be vibrant and vital and
17 Councilperson Sharon Ambrose commented on this, we need
18 to put more people on the sidewalks during the weekday
19 who will frequent and utilize retail shops. We have a
20 very difficult time attracting good retail to our
21 commercial corridors and one of the reasons is that there
22 are not apparent to those who may be so inclined, it's
23 not apparent to them that there is a sufficient daytime
24 population to make retail viable.

25 By way of illustration, in the two and three

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1 hundred blocks of Pennsylvania Avenue which are close
2 to the Madison Library and the Capitol congressional
3 office buildings, you will find a good number of good
4 retail operations. You will not find that as you move
5 out from the Capitol.

6 What the proposed overlay does primarily is
7 to permit the existing commercial properties to be used
8 entirely for commercial purposes and in this case in
9 particular we mean by that office use above the first
10 floor of the buildings in this corridor. The present
11 zoning is very restrictive. It allows 1.5 FAR for
12 commercial purposes and 1.0 in addition for a total of
13 2.5 to be used residentially. In order for an owner to
14 use his property entirely for commercial purposes, he
15 has to get a variance if the physical FAR of the existing
16 structure exceeds 1.5 and most of those, let me say, a
17 good many of the buildings in our commercial corridors
18 do.

19 As a result, an expensive variance process
20 is required and I'm told reliably by counsel who is engaged
21 in this endeavor that the variance process now can cost
22 upwards of \$10,000 for a fairly routine variance, in this
23 case it would be an area variance, and take as long as
24 ten months.

25 As a result we find that owners of these small

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1 row houses, buildings are not willing to bear that
2 expense, take that chance and to spend that amount of
3 time and of course people interested in purchasing and
4 redeveloping these properties are often not likely to
5 do so either. We know in CHAMPS that there are a number
6 of situations where retailers and investors have been
7 interested in these properties but have declined to take
8 any initiative with respect to them for that very, very
9 reason. This is in spite of the fact that the Restoration
10 Society and the community have supported these area
11 variances, as Mr. Schauer pointed out.

12 The removal of the variance barrier would
13 increase the availability of office space and this would
14 have the desired effect of putting foot traffic on our
15 streets as I mentioned. It would also curtail the illegal
16 use of properties in our residentially zoned areas as
17 offices. There would be no excuse for people illegally
18 using a townhouse in a residential area for business or
19 any other purpose. There will be adequate office space
20 available for that purpose.

21 So far as the increased FAR (the .5 increase,
22 which takes the existing 2.5 to 3.0) is concerned there
23 were two rationales for that. One, we wanted to make
24 the overlay consistent with the overlay south of the
25 freeway which this Commission approved several years ago.

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1 It's a 3.0 FAR. I think the classification is C3A.
2 It is immediately adjacent to our proposed overlay area,
3 at least in the Southeast corridor, and we wanted the
4 overlay to be consistent with that.

5 Also, in the limited situations in which this
6 increased FAR, this .5 might be available to owners where
7 they could enlarge their existing buildings, we wanted
8 the .5 to compensate for the loss of rentable or usable
9 space created by the modifications in the building and
10 fire codes, the HANDI app. Cap. Requirements and fire
11 code requirements which often require sprinkler systems
12 in even very small buildings, all of which takes up and
13 eats up rentals square footage. So the .5 was designed
14 to do that.

15 Where do I think this .5 would be available
16 to commercial property owners? Where they have an
17 opportunity to build at the rear of their existing
18 properties, where there is an alley sufficient to stage
19 that construction.

20 All these properties are in the historic
21 district. The facades and rooflines are not going to
22 be allowed to be altered and any proposed modifications
23 will require HPRB, Historic Preservation Review Board
24 approval.

25 So, I think there's very little likelihood

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1 that anything that is not compatible with the historic
2 district would occur and I think that it's only where
3 additions can be built by and large where that .5 would
4 be significant in terms of existing structures.

5 There are a few infill sites still left, not
6 many. As we drive through our commercial corridors,
7 there are not more than a handful, frankly, and they're
8 small sites. Of course, the 3.0 would be available to
9 someone seeking to build in our commercial zones on an
10 infill site.

11 So, we regard this, as was stated earlier,
12 as a modest proposal, a step in the direction of creating
13 a more viable commercial corridors in our historic
14 district. We at CHAMPS are very eager to see this
15 proposed zoning overlay adopted by this Commission for
16 obvious reasons and for all the reasons that have been
17 stated by the prior speakers. Thank you.

18 VICE CHAIRPERSON HOOD: Thank you. Next.

19 MR. SCALLAN: I'll try to be very brief.
20 I'm Drew Scallan.

21 In the process of going through the community
22 organizations and talking to the community organizations
23 about this, it became clear to us that there are some
24 areas of concern that the proposed overlay included some
25 lots if you want to say or street frontages which were

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1 not really part of the Comprehensive Plan.

2 Our concept was that the Comprehensive Plan
3 calls for established commercial corridors which are
4 Massachusetts Avenue, Pennsylvania Avenue, 8th Street and
5 7th Street above Pennsylvania Avenue to be in it.

6 So, just very briefly, I have asked Mr. DePuy
7 to give you several exhibits which will if you want to
8 say pare down the areas. I'll just briefly say what they
9 are.

10 The first one is in the NE corridor,
11 Massachusetts Avenue, Square 754 which faces 2nd Street
12 and the new Administration of the Courts building is taken
13 out of this because it does not face Massachusetts Avenue.

14 It has no Massachusetts Avenue frontage.

15 Also there are several lots on 2nd Street
16 facing on the Square 755 which does face Massachusetts
17 Avenue. There are several lots that are facing 2nd Street
18 that we've also removed because they don't face Mass.

19 On Square 781 which is at 4th Street and
20 Massachusetts Avenue at Stanton Park, there are several
21 townhouses on 4th Street itself that have no Massachusetts
22 Avenue frontage and we've removed those from the plan
23 also.

24 Then in the SE area near the Metro Plaza and
25 8th Street, the concept was that this was to apply to the

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1 8th Street corridor and it turned out that we had included
2 originally properties facing 7th Street, E Street, G Street
3 and I Street. So, the plan has been that we're proposing
4 here after the deletions are made only the properties
5 that face the Metro Plaza and D Street and those properties
6 that face 8th Street from D down to the freeway are
7 included.

8 I'll be glad to answer any questions, but
9 those are -- oh, yes. I'm sorry. There's one other
10 significant property and that is Eastern Market and the
11 Natatorium, both owned by the city, one an historic
12 structure, we've suggested be taken out of this overlay.

13 VICE CHAIRPERSON HOOD: Is that it?

14 MR. SCALLAN: That's it. Thank you.

15 VICE CHAIRPERSON HOOD: Mr. DePuy, do you
16 have anything that you want to add?

17 MR. DEPUY: That completes our testimony.

18 We appreciate very much the Commission's
19 interest and we'll be prepared for any further questions
20 if there are any later on.

21 VICE CHAIRPERSON HOOD: Okay. First,
22 before you gentlemen move, let me thank you for your
23 testimony.

24 Colleagues, do we have any questions of this
25 panel of Petitioners?

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1 COMMISSIONER PARSONS: I think I'm just
2 confused, so help me out, please.

3 Under a PUD circumstance in C2A, a building
4 can go to 65 feet. That's my recollection. Where as
5 the underlying matter of right is 50 feet. And in looking
6 at the structure of the proposed regulations, I think
7 we have loophole here.

8 Certainly, you don't mean for these buildings
9 to go to 65 feet. But in reading 1572.1, it says the
10 maximum permitted building height in CH overlay district,
11 shall be a height permitted in the underlying zone
12 district.

13 I think you should probably put a cap on that
14 if that's your desire. We should think about that.

15 MR. SCALLAN: It was not our intention to
16 change building heights at all.

17 COMMISSIONER PARSONS: Didn't think so!
18 And maybe our staff could look at that as well. But it's
19 just an observation.

20 MR. REED: We're prepared to stipulate to
21 that this evening Commissioner.

22 VICE CHAIRPERSON HOOD: Commissioner May?

23 COMMISSIONER MAY: Thank you. Mr. Schauer,
24 with regard to your analysis of the variances, I'm sure
25 that with a number of those variances that are on your

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1 chart and I mean I haven't completely digested everything
2 that's in your testimony, but were there other variances
3 or special exceptions through other zoning requirements
4 that were requested in this?

5 In other words, it's relatively unusual for
6 someone to come before the BZA with something that is
7 just a single variance, very often it's two or three or
8 four. Did you look at that at all, whether you know half
9 of these cases might still have been there for other
10 reasons?

11 MR. SCHAUER: No, I did not. And your point
12 is well taken. Usually these are accompanied by some
13 kind of area variance in addition to the use variance.

14 I did not look at that, and in that sense, my analysis
15 here or the statement of it goes a bit too far.

16 COMMISSIONER MAY: Okay. The reason I ask
17 that is it seems to me that there are a number of other
18 fairly restrictive requirements within C2A that,
19 particularly given the circumstances in these streets
20 on Capitol Hill where they may already be non-conforming
21 or there isn't a lot of rear yard available or things
22 like that, that -- I mean, I don't want to suggest at
23 this moment that it be broadened any further, but you
24 know 60 percent lot occupancy, limit 20 foot yard, side
25 yard requirements, parking requirements, they could all

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1 -- I'm just wondering whether you looked into those issues
2 in terms of their effect?

3 MR. SCHAUER: No, I did not.

4 COMMISSIONER MAY: Has anybody else looked
5 at that question, whether there are other restrictions
6 within the C2A that perhaps should be addressed by the
7 overlay?

8 MR. DEPUY: Let me answer.

9 Mr. May, I've handled several of the variance
10 cases on Capitol Hill and several of them have just been
11 area variance FAR cases, including one very recently on
12 Pennsylvania Avenue in the 300 block.

13 I don't recall cases that were done some time
14 ago. I'm sure some of them might have included other
15 variances. But I am familiar with some that were solely
16 FAR variances, particularly in many cases on the Hill
17 because of the fact that we're dealing with existing
18 buildings and simply trying to use the existing building,
19 and in that case, the only variance that would be required
20 would be FAR.

21 MR. SCALLAN: May I say something?

22 The other thing I will say that we didn't
23 address and I guess then I won't say it, I believe in
24 areas where HPRB denies curb cuts, it's kind of hard to
25 provide parking.

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1 COMMISSIONER MAY: I think that goes to a
2 different issue. I was just curious about how much --
3 I mean it's interesting to look at this just in terms
4 of lightening the load of the BZA and the burden on the
5 developers or property owners on these cases, but it may
6 not be buying as much flexibility with this or gaining
7 as much flexibility with this. But I don't have any
8 particular knowledge. I was just curious whether you
9 did.

10 I know that from knowing the work that many
11 of you have already done on Capitol Hill in various
12 circumstances, I was wondering if you could speak in
13 particular to the flexibility that comes with this in
14 terms of being able to modernize or develop property.
15 I mean one of the things that really struck me in reading
16 the material in advance of this meeting was that new code
17 requirements, ADA requirements, etc., all pose a burden.

18 And I know, I have personal knowledge of
19 buildings that have been affected by this where it has
20 been required. It's very hard to try to modernize a
21 building in these circumstances and I was wondering if
22 in particular Mr. Reed or Mr. Scallan wants to address
23 that from their point of view as people who have dealt
24 with this directly as I understand it?

25 MR. REED: There is no question that

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1 developing and renovating these essentially townhouses
2 or row houses which populate our commercial districts,
3 it is very, very difficult because space is restricted.

4 The requirements to meet code reduces the rentable square
5 footage and therefore making a viable economic project
6 out of any of these spaces is very challenging and a lot
7 of them don't lend themselves to that.

8 But the major concern and the consensus seems
9 to be among the business people that we associate with
10 and based on our own experience is the requirement that
11 you get an area variance in order to get out from under
12 the 1.5 commercial use restriction. The other criteria
13 are not insurmountable. Speaking for myself, we have
14 been able to pretty much work with those.

15 Parking is an issue if you're enlarging one
16 of these buildings, but it's not if your not changing
17 the footprint because in the historic district there are
18 no -- the parking requirements that are otherwise
19 applicable are not. So parking does not tend to be an
20 issue unless you're enlarging the space in one of these
21 buildings and then you confront a parking requirement.

22 Parking is a hot button issue and it's not one that we're
23 here to address, here or anytime in the future.

24 Other than that, I would say that if we are
25 granted this zoning relief, this map change, I think it

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1 will be a major step forward in terms of reinvigorating
2 the commercial corridors.

3 VICE CHAIRPERSON HOOD: Any other questions?

4 COMMISSIONER MAY: I just had one more. I
5 understand all the areas that we're talking about are
6 within the historic district. Can somebody remind me
7 what the borders of the historic district are? By the
8 map or -- Dick, you know them by heart, right?

9 MR. WOLF: Actually, we have a map for you.

10 I actually have one with me too. It runs basically from
11 the Capitol on the west, out to about 13th and 14th Street,
12 depending on the way it's configured, there is a little
13 jogging, out on the east and the freeway on the south,
14 except we've now extended beyond the freeway along 8th
15 Street several squares in order to bring that all within
16 the Main Street Program, and it goes to, I think, F Street
17 on the north.

18 Now there's some work being done by some
19 people living in NE. They have a grant from the Historic
20 Preservation Office to consider extending the historic
21 district in the NE side. Originally when it was proposed
22 the Capitol Hill Historic District was proposed back in
23 the early '70s, it was proposed to go to H Street and
24 actually further out towards the stadium.

25 And it got so big and I think there were some

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1 political issues connected with it, that it was drawn
2 back to this configuration. But at the time of its
3 establishment, it was the largest historic district in
4 the country. Now, it's still about the second largest
5 historic district. There are about eight or nine
6 thousand buildings in it. So we're dealing with a lot
7 of history.

8 COMMISSIONER MAY: Thank you.

9 VICE CHAIRPERSON HOOD: Any other questions?

10 Let me just ask, has anyone seen the ANC 6Bs letter?
11 I'm sitting here grappling with it. I'm trying to
12 understand it. It was something that was submitted to
13 us prior to us just coming in for the hearing tonight.

14

15 In this letter -- do you have a copy of it?

16 Let me read it then. Well, not the whole letter. They
17 requested a modification that the overlay only apply to
18 those lots located in squares listed in the section 1571.3
19 which actually face or front the streets listed in section
20 1571.2. "We request this modification due to the fact
21 that some commercially zoned lots in some of the squares
22 list do not face the listed streets and therefore should
23 not be part of the overlay area."

24 Have you all dealt with that issue or were
25 you aware of that issue?

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1 MR. SCALLAN: Yes.

2 VICE CHAIRPERSON HOOD: You may have
3 responded to it.

4 MR. SCALLAN: That's in essence what we
5 responded to.

6 VICE CHAIRPERSON HOOD: Okay.

7 MR. SCALLAN: We believe that we have
8 responded to that point to point.

9 VICE CHAIRPERSON HOOD: I was just making
10 sure that's where you went when you said you responded
11 to those issues.

12 I just want to say, Mr. Schauer, I really
13 appreciate the chart. It's very helpful. And Mr. Wolf,
14 yes it is unusual. I don't think I've seen that since
15 I've been here. It is unusual.

16 Thank you gentlemen for your testimony and
17 your presentation, and your timeliness. Thank you.

18 Next we will move to the Office of Planning's
19 Report. Mrs. Maxine Brown-Roberts.

20 MS. BROWN-ROBERTS: Good evening, Mr.
21 Chairman and members of the Commission. I'm Maxine
22 Brown-Roberts from the Office of Planning. Just to
23 expedite the report which is submitted to you, I'll just
24 sort of highlight some of the things.

25 We support this map amendment and for many

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1 of the reasons which were stated by the Applicant. In
2 February, 1999, the Comprehensive Plan was amended. It
3 recommended certain commercial corridors in Ward 6. Five
4 areas were specified. Some of these areas were
5 identified for various reasons are not a part of this
6 amendment and these reasons have been outlined in our
7 report.

8 A number of issues have been obstacles to
9 demand for residential space and providing residential
10 uses in this area. There has been no great demand in
11 the area for residential above commercial space,
12 including renting portions of the upper floors to
13 residential use and trying to retrofit the buildings to
14 accommodate commercial and residential use has not been
15 physically or economically feasible.

16 Small infill developments or renovation to
17 existing buildings are also affected by these limitations
18 and have resulted in a number of applications to the Board
19 of Zoning Adjustment.

20 It seems possible that the overlay zone will encourage
21 owners of unrenovated and vacant space to bring such space
22 into compliance with building code and provide additional
23 space.

24 Current requirements that portions of
25 buildings be dedicated to residential use limits the space

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1 available for small offices which have resulted in office
2 use spillover into adjacent residential areas. The
3 additional commercial space would relieve some of these
4 pressures on the residential area as it will open up
5 additional commercial space along the corridors.

6 The additional .5 FAR increases an incentive
7 to property owners who wish to renovate their buildings.

8 A large majority of the buildings within the overlay
9 area were built prior to the modern zoning regulations,
10 the requirements of ADA, BOCA and fire codes and may
11 require substantial renovations to meet these codes.

12 A number of properties that may be able to
13 take advantage of the additional FAR may be limited as
14 they are either close to the 2.5 FAR and may need to have
15 alley access to the rear of their buildings to make
16 conditions feasible.

17 The impact of the overlay will be to provide
18 incentives for redevelopment in increasing space
19 available for commercial use. There are approximately
20 four infill sites within the area and therefore it is
21 not envisioned that there will be very large new
22 developments generated by this overlay.

23 The Office of Planning has some concerns that
24 this text amendment may be seen as setting a precedent
25 for the deletion of residential use on the C2A district

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1 in other parts of the city and would like to state that
2 the proposed overlay district is specific to this area
3 due to the number of unique circumstances that may not
4 +apply to other C2A zone areas.

5 We strongly support having a mix of uses that
6 include residential use on upper floors along commercial
7 corridors to encourage pedestrian movement in the
8 neighborhood and therefore create day and night
9 activities in the city. To this end, OP has encouraged
10 property owners to seek other avenues such as tax
11 incentives, through the bid to attract retailers to the
12 Capitol Hill area.

13 The Office of Planning supports the proposed
14 text amendment with a proposed amendment to the boundary
15 that was submitted tonight and recommends approval of
16 the proposed Capitol Hill Commercial Overlay District.

17 Thank you, Mr. Chairman.

18 VICE CHAIRPERSON HOOD: Ms. Brown-Roberts.

19 Colleagues, any questions of the Office of Planning?
20 No questions. Thank you for a thorough report.

21 MS. BROWN ROBERTS: Thank you.

22 VICE CHAIRPERSON HOOD: Moving right along.

23 Do we have any reports, Mr. Bastida, of any other
24 government agencies? I don't recall.

25 MR. BASTIDA: I don't believe that is the

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1 case. I do have report from an Advisory Neighborhood
2 Commission 6A.

3 VICE CHAIRPERSON HOOD: Right. I'm getting
4 to that. I just wanted to know if anyone else weighed
5 in. Okay.

6 MR. BASTIDA: Thank you.

7 VICE CHAIRPERSON HOOD: Thank you. Moving
8 right along, I'm going to ask the reporter of ANC 6A and
9 6B, whoever is representing those two ANCs to come
10 forward. Let me take an order. Let me begin with 6A,
11 and then we will end with 6B.

12 MR. FERRELL: Thank you, Commissioner Hood.

13 My name is Advisory Neighborhood Commissioner Gregg
14 Ferrell. I am the chair of ANC 6A, Zoning License
15 subcommittee.

16 Advisory Neighborhood Commission 6A heard
17 from both the Applicants at a subcommittee meeting and
18 also at the full ANC. The full ANC met I believe it was
19 March the 7th and there were 13 members present. They
20 unanimously voted to support the overlay concept, with
21 the exception of some modifications.

22 Community members were present at the ANC
23 meeting and they were very concerned about the impact
24 the overlay would have on some residential property that
25 abut Massachusetts Avenue and some residential property

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1 along certain side streets, such as 3rd Street, I believe
2 it's on the odd side, 4th Street and also the Red River
3 Grill was a concern. Members from the community were
4 very aware of the expense that it takes to file a variance
5 to use the property that is currently zoned residential
6 for commercial usage.

7 To increase the FAR was somewhat of an issue
8 that came before the ANC, but the ANC voted to support
9 the expansion of the FAR requirement. The community was
10 very concerned with forfeiting their right that they
11 currently had to have individual commercial developers
12 file for variance if they wanted to use certain properties
13 between 2nd and 6th of Massachusetts Avenue so that the
14 community would be able to weigh in on the issue
15 individually as opposed to allowing a matter of right.

16 After hearing the statements from the
17 Applicants with regards to addressing some of the concerns
18 that they heard at the ANC subcommittee level and also
19 at the full ANC, I think that somewhat satisfies some
20 of the major issues that we were confronted with.

21 I think that that basically sums up the matter
22 as it relates to ANC 6A. Our community wasn't as impacted
23 as ANC 6B. We only had a certain portion of 6A that would
24 be effected by this overlay.

25 VICE CHAIRPERSON HOOD: Thank you,

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1 Commissioner Ferrell. But let me just ask, I see your
2 name also here on the list twice. Are you going to testify
3 independently too?

4 COMMISSIONER FERRELL: No.

5 VICE CHAIRPERSON HOOD: Okay, I'll just
6 scratch your name off. Thank you. If you can just hold
7 your seat.

8 Mr. Jarboe, did I pronounce your name right?

9 MR. JARBOE: That is correct. Thank you,
10 Mr. Chair. I have copies of my testimony for the board.

11 VICE CHAIRPERSON HOOD: You can just pass
12 it to staff.

13 MR. JARBOE: I apologize for the typo in the
14 letter. It should have been "listed" rather than "list"
15 which you caught.

16 VICE CHAIRPERSON HOOD: Believe it or not,
17 some of us make mistakes once in a while!

18 MR. JARBOE: That's the problem with spell
19 check.

20 My name is Ken Jarboe. I am chair of ANC
21 6B. 6B is the ANC that covers most of this proposed
22 overlay.

23 At our regularly scheduled meeting of March
24 12, 6B voted eight to zero to one abstention to support
25 with a modification this text amendment.

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1 You have my statement. I am going to
2 summarize it very quickly and then get into the question
3 that you asked which was whether the modification meets
4 our requirements or not. But let me go through the
5 testimony here quickly.

6 There has been a concern raised that the
7 changes in the FAR in this amendment will result in a
8 greater density within the commercial areas.

9 It's our belief that this is true to the
10 extent that it provides a modest incentive to developers
11 to either add an extra story for commercial use to existing
12 small buildings, those few one-story buildings that we
13 still have in our commercial areas. It also may allow
14 for slightly larger buildings in the few remaining infill
15 lots.

16 However, we believe that these changes are
17 only minor in nature. Overall height restrictions remain
18 in place, except for that potential loophole that I agree
19 should get plugged concerning the PUD. Only the
20 commercial areas included in the overlay, assuming the
21 adoption of these modifications, will be the major
22 corridors in the neighborhood. So, this overlay does
23 not cover all of the auxiliary commercial areas that we
24 have in the neighborhood.

25 Finally, we believe that any increase in

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1 commercial density will be limited to existing commercial
2 areas which is exactly where we want that commercial
3 development to occur.

4 I'd like to make a couple of quick comments
5 on my own behalf. I'm not speaking for the ANC at this
6 point. I'm speaking in my role as a commissioner but
7 not speaking for the entire ANC.

8 There's a couple of things that this overlay
9 area leaves out. One, as noted, it stops at the historic
10 district. So the area from Pennsylvania Avenue down to
11 Barney's Circle and the river is left out of this overlay.

12 There are efforts in place to do some planning and
13 potential overlays for that area and I hope that we'll
14 be back in front of you in the not too distant future
15 to talk about what we do to help revitalize that area.

16 Second, this overlay area is slightly
17 different than the overlay area we put in place outside
18 of the Navy yard, the 8th Street neighborhood commercial
19 district. In that overlay there is a requirement for
20 retail on the first floor that is part of commercial
21 overlay districts. That requirement is not in this
22 overlay.

23 And as I state in my testimony, I understand
24 the rationale for not doing that. However, as we go
25 forward especially with the lower part of Pennsylvania

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1 Avenue where we desperately need retail and there isn't
2 necessarily the market mechanisms that we see on Barracks
3 Row and other parts of Pennsylvania Avenue. I think we
4 need to revisit that at least for that area.

5 Finally, and again I need to point out that
6 I'm right now speaking on my own behalf and not for the
7 ANC, I understand that there are some concerns that this
8 overlay may be a threat to some of our historic buildings,
9 specifically Eastern Market.

10 As you heard, the Applicants are willing to
11 exempt the square that includes Eastern Market and the
12 Natatorium from the overlay. I have no opposition to
13 that. I don't see how this is a threat. It does remove,
14 if it had gone forward it would have removed a very, very
15 minor tool I think that would have been a firebreak to
16 inappropriate development on that site, a very minor tool.

17 Let me suggest something else. If what we
18 really want to do in this process is build a firewall,
19 a zoning firewall, around Eastern Market, then amend the
20 PUD section to require that any development that is done
21 at the Eastern Market and Natatorium site, if any future
22 development is done, it must go through the PUD process.

23 At the same time, I would throw in the old
24 Navy Hospital which is at Square 948, to put a requirement
25 in that any development at those two historic sites on

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1 Capitol Hill must be a PUD, must go through that PUD
2 process. I throw that out as an individual, not speaking
3 for the ANC.

4 Let me go back to the question of whether
5 the Applicant has in their modifications in fact met our
6 concerns. There are a couple of squares and I just got
7 the list from Mr. DePuy that got left out I think from
8 their list and I'd like to just point those out.

9 One of them is Square 873 which is the
10 triangle just to the south of Eastern Market which abuts
11 Pennsylvania Avenue, 7th Street and C Street.

12 There are a row of small commercial stores
13 on the CC street side of that that should be taken out
14 of this particular overlay. I would amend their list.

15 I think it's item L in their list for Square 873, those
16 lots that abut Pennsylvania Avenue or 7th Street.

17 Similarly at item AA, at the very end of the
18 list, Square 1019 south, that entire square is zoned
19 commercial. There are houses on the G Street side of
20 that lot that should be left out. So, I would amend that
21 list AA to include only the lots that abut Pennsylvania
22 Avenue.

23 With those two modifications then the
24 Applicant's modifications exactly meet our concern raised
25 in the letter. Thank you.

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1 VICE CHAIRPERSON HOOD: Thank you both,
2 Commissioners, for your testimony.

3 Colleagues, do we have any questions of the
4 commissioners of 6A or 6B? Okay, thank you.

5 Next I'm going to ask the representative from
6 Stanton Park Neighborhood Association and also let me
7 ask Eastern Market Community Advisory Committee, are you
8 a proponent or opponent? It wasn't marked on my list.
9 I guess, I will not go by my list and I will start with
10 the lady, if you don't mind.

11 MS. OPPER-WEINER: Thank you. I have copies
12 of my testimony.

13 Good evening. My name is Ellen Opper-Weiner
14 and I am representing the Eastern Market Community
15 Advisory Committee which is known as EMCAC to which I
16 was appointed by Mayor Anthony Williams and on which I
17 currently serve as chair.

18 The EMCAC was created in May 1999 as an
19 advisory body to both the District of Columbia's Office
20 of Property Management and the Eastern Market manager
21 pursuant to the Eastern Market Real Property Asset
22 Management and Outdoor Vending Act of 1998 which was
23 passed by the District of Columbia Council.

24 At the EMCAC's public meeting held on
25 February 25, 2002 at which a quorum was present the EMCAC's

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1 members voted 6 in favor, 2 opposed that the Eastern Market
2 and Natatorium ought not to be included in this proposed
3 Capitol Hill Commercial Overlay District.

4 I am very pleased to see that the Proponents
5 and Applicants for this overlay have requested to delete
6 these two buildings.

7 This proposal to create a Capitol Hill
8 Commercial Overlay District was only discovered
9 accidentally by one of EMCAC's members. At no time was
10 EMCAC made aware of this proposal nor was it invited to
11 participate in any public or private discussion regarding
12 this proposal despite the fact that one of the areas
13 covered encompasses 7th Street, SE between North Carolina
14 and Pennsylvania Avenues, SE.

15 Eastern Market is located at 225 7th Street,
16 SE, between North Carolina Avenue, SE and C Street, SE,
17 which is half way between North Carolina and Pennsylvania
18 Avenue, SE. The Natatorium is located behind Eastern
19 Market with its entrance on North Carolina Avenue, SE.

20 Therefore, on behalf of EMCAC, I respectfully
21 request that both the Eastern Market and Natatorium be
22 deleted from the proposed Capitol Hill Commercial Overlay
23 District as presented in the document dated January 9,
24 2002. Thank you.

25 But I would also like to make some comments

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1 as an individual resident, Mr. Chair, and I don't know
2 how you would like me to do that. Would you like to wait?

3 VICE CHAIRPERSON HOOD: Normally, Ms.
4 Opper-Weiner, we usually would have you go back and come
5 back, but for the sake of time, if you could just make
6 it brief, we won't do it that way.

7 MS. OPPER-WEINER: Yes, I will make it brief.

8 I've lived on Capitol Hill for 24 years and
9 I am active in the community. I am a member of the
10 Alcoholic Beverage Control board and have been for nearly
11 three years.

12 There are several issues of concern here.
13 One was I haven't seen any evidence of whether there was
14 a thorough study performed to back up the statements that
15 were made. There may have been. I'm just not aware of
16 it.

17 And I think that's an important concern
18 because if you make statements that there's no residential
19 above any of the commercial buildings on these particular
20 streets, I'm not convinced that that is the case in fact.

21 It would be helpful, I believe, if there were a study
22 performed at which some kind of survey -- I understand
23 in Mt. Pleasant when they applied for an overlay, there
24 was a very thorough study done, an analysis of the type
25 of properties that were covered or included and excluded.

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1 I raise the question that Mr. Jarboe raises
2 of why it stops at 13th Street? I am vice chair of a group
3 called the Southeast Citizens for Smart Development and
4 we have been very interested in commercial development
5 from 11th Street east on Pennsylvania Avenue, and to a
6 lesser degree though on 11th Street which runs south of
7 Pennsylvania Avenue which is another commercial corridor.

8 I haven't had time to really adequately study this.

9 So, I think the question about why it stops
10 at 13th Street is a really important one, particularly
11 since some of the efforts lately in the neighborhood of
12 which there is a great deal of development is to unify
13 the eastern end of Capitol Hill with the rest of Capitol
14 Hill, and not leave it sort of somehow left out.

15 The next item for me of concern is the
16 abutting in this whole neighborhood. Something I've
17 learned since I've been on the ABC board is that it's
18 very difficult, the tension between commercial interests
19 and residential interests. The tension is there
20 consistently, certainly as it relates to ABC licensed
21 establishments.

22 So I think we need to be cognizant of the
23 potential issues that may arise. I just give you one
24 example, the one I know best. But there may be others,
25 parking was mentioned. So, I'm hoping that in fact you're

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1 satisfied that these issues, like parking and others that
2 relate to zoning have been addressed in this particular
3 proposal. Because as you add more density, you add
4 potential issues with other kinds of problems.
5 Potentially. I don't know if in fact it'll be the case.

6 The other issue that was mentioned was the
7 requirement of retail on the first floor and I too am
8 concerned about the silence. I do believe that there
9 has been some development on 7th Street in the 200 block,
10 SE, across from Eastern Market where there was supposed
11 to be, my understanding was, some retail, which did not
12 occur. I think that deadens the commercial vitality of
13 a street when there isn't retail on the ground floor in
14 particular neighborhoods in particular areas.

15 I think that ought to be further reviewed
16 with regard -- because this is fairly comprehensive even
17 though the FAR is small in increase. I think it's pretty
18 comprehensive in covering the various commercial strips,
19 the only ones really or most of major ones except for
20 the eastern end of Pennsylvania Avenue. So I think that
21 that would be worth considering.

22 I am not aware of a public process that really
23 occurred here and that probably is the underlying concern
24 I have most of all. I think that the reason that you've
25 had so many amendments at the last moment was because

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1 our group for example wondered why Eastern Market was
2 included and the Natatorium which abuts behind it and
3 we were never even asked what we thought about it. It
4 is a major component, it's the heart basically of Capitol
5 Hill.

6 So I think that if I had my way I'd like to
7 see more, an opportunity for us to become a little better
8 educated. From what I hear it sounds like a good idea,
9 but I'm not sure that there's sufficient information in
10 order to make an informed decision.

11 I thank you for your time.

12 VICE CHAIRPERSON HOOD: Thank you. If you
13 could just hold your seat. Next.

14 MR. EDWARDS: Thank you. My name is Monte
15 Edwards. I co-chair the Land Use committee of Stanton
16 Park Neighborhood Association.

17 Let me point out that Stanton Park's
18 membership area extends south only as far as East Capitol
19 Street, thus the portion of the overlay that is within
20 our membership area is only the Massachusetts Avenue
21 portion.

22 Initially Stanton Park was supportive of the
23 concept of concentrating commercial development on our
24 monumental avenues, such as Massachusetts Avenue. We
25 raised some concerns, however, about the initial proposal

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1 to include properties located on 2nd Street which is only
2 a 90 foot wide street.

3 With the Applicant's decision to delete
4 Square 754 and the other properties on 2nd Street from
5 the overlay region, Stanton Park supports the Applicant.

6 VICE CHAIRPERSON HOOD: Thank you. I guess
7 the Applicant has heard the cries loud and clear. Let
8 me just say, colleagues, any questions of Ms. Opper-Weiner
9 or Mr. Edwards?

10 COMMISSIONER MAY: I did want to mention,
11 I don't know how extensive the study was, but I recall
12 reading somewhere in the materials that we had gotten
13 some analysis of how much residential space there was
14 in the existing C2A.

15 MR. EDWARDS: If I may? That was commenting
16 on the study that was done for the 8th Street overlay and
17 all of the properties in the survey, I believe, were 8th
18 Street properties. I know that Stanton Park did not see
19 any studies having to do with Massachusetts Avenue or
20 Pennsylvania Avenue, or 7th Street for that matter.

21 COMMISSIONER MAY: Did somebody else read
22 that? I remember reading references to Massachusetts
23 Avenue as well. No? Okay. Well, I was just responding
24 to Ms. Opper-Weiner's statement that there was no study
25 at all and I knew I had read something somewhere.

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1 MS. OPPER-WEINER: I wasn't aware of any and
2 I think it would be a welcome thing to do in order for
3 us all to be making informed decisions with regard to
4 what is there and what this proposal will mean.

5 I come from New York City, so I'm used to
6 real density and I still think of Capitol Hill as a very
7 small town. I am very aware of the benefits of density,
8 but I'm also aware of some of the detriments. With the
9 kind of community, the historic nature of it, the small
10 kinds of townhouses, it needs to be done with care which
11 I suspect this will be.

12 But I'm just not sure we have enough
13 information particularly since apparently the Stanton
14 Park Association found out about it at the end of February.

15 The EMCAC found out about it just by accident. We were
16 never even notified or provided any of the documents.
17 I did finally get this document, dated January 9, 2002.

18 It's the only thing that I've seen.

19 But, again, if you're satisfied. I just
20 wanted to raise some of these issues as to whether or
21 not we've had enough time to oversee it and you feel
22 satisfied then obviously that's up to you to make that
23 decision.

24 COMMISSIONER MAY: Thank you.

25 VICE CHAIRPERSON HOOD: Thank you.

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1 Let me just say that I think there was
2 testimony provided today and Ms. Oppen-Weiner I am a
3 little disappointed that Stanton Park and the Eastern
4 Market Advisory were not included, But I think testimony
5 was provided today that they had been working on this
6 for five years, five or six years, I believe. Anytime
7 in a community when something's going on for five to six
8 years and everybody doesn't find out about it, I can tell
9 you that surely something's wrong.

10 I'm not saying it's foolproof. But I
11 understand I think in Mr. Wolf's testimony, I think he
12 testified that while this is not a foolproof deal that
13 will fix all of it, I think on down the line I think he
14 recognizes as we change the regulations which those
15 discussions have started taking place that we may need
16 to revisit this. But for right now, I think that his
17 testimony was saying that this is something that starts
18 in that direction.

19 I'm just sorry you all found out about it
20 on the 23rd and a half hour. But I can tell you, my
21 colleagues and I we're up here taking notes, some of the
22 things we've heard tonight for the first time and then
23 we will eventually legislate this rulemaking.

24 MS. OPPEN-WEINER: I think the concern is
25 I happen to be a member of the Restoration Society and

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1 I read everything. I read the paper every day and I just
2 urge that there be more open discussion so that the best
3 decision can be made from the part of the community
4 residents and business owners who will be effected by
5 these decisions.

6 VICE CHAIRPERSON HOOD: Ms. Oppen-Weiner,
7 one more question for the record. I guess you all would
8 be classified as proponent, or opponent?

9 MS. OPPEN-WEINER: The Eastern Market
10 Community Advisory Committee is a proponent with the
11 changes as recommended of deleting Eastern Market and
12 the Natatorium.

13 VICE CHAIRPERSON HOOD: Thank you. We
14 needed that for our record. Thank you both.

15 MS. OPPEN-WEINER: Thank you very much.
16 Appreciate it.

17 VICE CHAIRPERSON HOOD: I don't believe we`
18 have any more organizations.

19 Now we'll go to persons in support. Persons
20 in support? Going once, twice, gone.

21 Now, persons in opposition? You can come
22 forward.

23 Let me just say for the record, Ms. Larson,
24 you're at the table. This next name, I know I'm getting
25 ready to mess it up, Ms. Fredriksson? There's another

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1 one here, Concha? Last name Concha? Please join us at
2 the table.

3 MS. VINDIOLA: My name is Marta Vindiola and
4 I'm a resident of Capitol Hill. I did not register
5 previously and I would like to say a few words. May I?

6 VICE CHAIRPERSON HOOD: Yes. Let me ask
7 first, are you in support or in opposition?

8 MS. VINDIOLA: I'm in opposition.

9 VICE CHAIRPERSON HOOD: Let's start first
10 with Ms. Larson.

11 MS. ROSS-LARSON: I'm Shelley Ross-Larson
12 and I'm a resident of Capitol Hill for 25 years. I live
13 on 14th 7th Street, SE.

14 This statement is in opposition to the
15 proposed text amendment to the zoning regulations to
16 increase the permitted FAR area ratio. The text
17 amendment also establishes a capital interest overlay
18 zone, the most important commercial corridors in so far
19 as the overlay zone also increases the maximum FAR in
20 the close-in commercial areas of Capitol Hill. I also
21 oppose its establishment.

22 I submit to you a spreadsheet in matrix form
23 I have made to try and understand and to keep track of
24 the current zoning FAR and the proposed changes to it.

25 My three main reasons to oppose the amendment

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1 are the following: contrary to the reasoning of the
2 amendments proponents, increasing the size of commercial
3 buildings in comparison to their lot size will not serve
4 to encourage residential revitalization; in part because
5 said revitalization has already occurred under the
6 existing FAR. Witness the astronomical prices private
7 residences are now commanding on the Hill. What is the
8 need for further encouragement?

9 Given the demand for residential property
10 on the Hill, these proponents of the text amendments are
11 behind the times. They should be arguing for the right
12 to convert C2A to residential.

13 The amendments proponents claim that
14 allowing use of second, third and fourth floors for
15 commercial purposes instead of residences will mean that
16 offices will relocate to the upper floors, freeing up
17 ground floor space for retail. This has been proven
18 manifestly untrue in a massive building, 228 7th Street,
19 SE, across from Eastern Market.

20 It is a mixed use corridor, 7th Street between
21 Pennsylvania Avenue and North Carolina where several of
22 the text amendment proponents own property or businesses.

23 The owners of 228 7th Street received permission from
24 the DC government to tear down a non-contributing low
25 Safeway building and in exchange for being able to have

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1 offices instead of residences in the several stories they
2 were permitted to build, the builders were to create
3 retail on the ground floor.

4 Guess what's on the ground floor now? All
5 ground floor offices because the then building owners
6 who are now proponents of today's text amendments said
7 they had tried to attract retail, a grocery specifically,
8 and failed. So all that was left was to convert the ground
9 floor to office space.

10 We'll hear that little refrain again and
11 again for the next ten years if you let the proposed
12 changes go through. In Stanton Park on the corner of
13 6th and Stanton Park is another example of a similar
14 instance.

15 The text amendment proponents unabashedly
16 contend that their zoning overlay is the fastest way to
17 go and to take the normal zoning route to achieve what
18 they want, quote "would require" (and I'm reading from
19 their text in favor of it) "would require both a map and
20 text amendment case involving a revamping of the entire
21 C2A category throughout the District of Columbia."

22 Reading between those lines, what the Capitol
23 Hill Restoration Society and the Capitol Hill Association
24 of Merchants and Professionals, the main proponents of
25 the text amendment, are really saying is that they think

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1 they stand a good chance of slipping this by the
2 unsuspecting neighborhood residents.

3 As you've heard, very few people know about
4 this, but they would stand little chance if the
5 far-reaching implications of this precedent, doing away
6 with mixed use areas in order to create more office space,
7 received a city-wide hearing and all over the city
8 residential neighborhood advocates brought the full
9 weight of their arguments to bear against the weak
10 arguments that have been advanced for why the FAR should
11 be increased.

12 The deletions I request since people are
13 making requests for deletions, is Square 900 on 7th Street
14 facing west between C Street and North Carolina Avenue.

15 The reason for that is there are several low two-story
16 buildings. Many have apartments in them above the stores
17 and I don't think that the renters who are living in those
18 apartments know about this proposed text amendment.

19 VICE CHAIRPERSON HOOD: Ms. Larson, can you
20 repeat that again, Square 900?

21 MS. ROSS-LARSON: Square 900, 7th Street
22 facing west between C Street and North Carolina Avenue,
23 SE, and it's directly across from Eastern Market.

24 Then also, Square 902 abutting 7th Street,
25 SE and Square 903 and that's between basically

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1 Pennsylvania Avenue or D Street and G Street and the
2 freeway. So it's all 7th Street on the east side but facing
3 west.

4 VICE CHAIRPERSON HOOD: Thank you, Ms.
5 Larson. Ms. Fredriksson?

6 MS. FREDRIKSSON: I am Becky Fredriksson.
7 I live at 312 D Street, NE and have lived there and owned
8 the property for 35 years. I'm also a long time member
9 and supporter of both the Stanton Park Neighborhood
10 Association and the Capitol Hill Restoration Society.

11 Neither I nor many residents, even business
12 owners and realtors living or working within the area
13 under consideration, were aware of this proposed text
14 amendment to the zoning code until very recently.

15 I think it is unconscionable that the
16 proponents have been working on this amendment for over
17 three years and that no public forums have been held.
18 And you've heard from Stanton Park Neighborhood
19 Association they had a meeting, ANC 6A had a meeting,
20 ten minutes were allocated for each of those presentations
21 with practically no time for questions.

22 However, some of the areas that we were
23 concerned about extraneous arteries to the Mass. Avenue
24 main corridor have apparently been deleted to the proposal
25 yet I'm still unaware that the Capitol Hill Restoration

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1 Society had any general membership meeting to discuss
2 and vote on the proposed amendment.

3 So we've asked ourselves throughout the
4 community why was the Mass. Avenue corridor included in
5 this overlay? Again, supposedly very few properties
6 would be effected by this proposal, if only the major
7 avenue of Massachusetts was included.

8 As you can see from the photographs that I've
9 included and I can't go into that because of time
10 limitations but you can look at them if you will, this
11 total area is overwhelmed with office use.

12 My specific concerns are will the increased
13 FAR make upper floor space available at reasonable rents?

14 How can this be controlled? Adjacent residential areas
15 still will be cheaper and as the area becomes more
16 attractive wouldn't it be as difficult or more so than
17 it is now to control leakage of commercial uses into
18 residential areas? There is a definite need for
19 enforcement of existing zoning to curb this leakage.

20 Also, shouldn't the entire District of
21 Columbia C2A category of the Comprehensive Plan be
22 revamped instead of having similar discrete proposals
23 cropping up throughout the city?

24 Although the OP doesn't recommend the
25 expansion of residential use at the expense of commercial

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1 development, it does not state that the expansion of
2 commercial use should be encouraged at the expense of
3 residential use in these areas.

4 Developers along the Mass. Avenue corridor
5 have preferred office use even to small retail. Very
6 little residential use remains. That is even the current
7 zoning designed to protect residential use has failed.

8 How can residential use be deemed feasible and
9 practicable with the proposed increase in FAR? How will
10 the main street concept be implemented without zoning
11 protection?

12 Washington, D.C. is number three as a good
13 place to have an office. I strongly recommend, as other
14 people have, with regard to Chapter 15 that lots are
15 delineated with regard to the squares.

16 To conclude, I'd like to say that there have
17 been no public forums. Does the Capitol Restoration
18 Society, their position, does that represent the majority
19 of the full membership? Does the position of the CHAMPS
20 represent the majority of the business community? What
21 does our neighborhood need?

22 A FAR that will protect mixed use zoning to
23 encourage small retail instead of office on the ground
24 floor and uses to address the neighborhood needs for a
25 viable, dynamic community and one attractive to people

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1 from other areas, not a nine to five community.

2 Modifications to the proposal have
3 ameliorated my concerns, yet obfuscation remains. Thus,
4 without having had the opportunity to attend a public
5 forum and enough time to seriously study the proposal,
6 I cannot support the amendment at this time. Thank you
7 for the opportunity to testify.

8 You do have the photos in front of you. I
9 hope I didn't speak too rapidly but I keep looking at
10 the clock.

11 VICE CHAIRPERSON HOOD: Thank you. That's
12 fine.

13 MS. FREDRIKSSON: If you have any questions
14 with regard to the photos, that should give you a very
15 good depiction of this whole Mass. Avenue area, the 2nd
16 Street corridor that they have eliminated, the D Street,
17 4th and 3rd, particularly the one that I'm quite concerned
18 about is a little apartment building 412 3rd Street, NE,
19 which is now used as an apartment, but probably will become
20 office.

21 VICE CHAIRPERSON HOOD: Thank you, Ms.
22 Fredriksson.

23 MS. FREDRIKSSON: Thank you.

24 VICE CHAIRPERSON HOOD: If you all could just
25 hold your seat. We may have questions for you. Mr.

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1 Concha? Hopefully I pronounced your name correctly.

2 MR. CONCHA: That's correct. Thank you.

3 Mr. Chairman and members of the Commission,
4 good evening. My name is Marco Concha. I come here as
5 a representative of yet another organization that was
6 not notified of this hearing in a timely fashion. So
7 I apologize, I have chicken scratch for notes. I'm
8 going to try to be brief.

9 I'm a member of the Eastern Market
10 Preservation and Development Corporation, a corporation
11 founded in 1987 to advise the mayor on various issues
12 concerning Eastern Market. It has since evolved into
13 a citizens watchdog group, that's at least an advocacy
14 group for Eastern Market. We have members who are
15 vendors, common citizens, people who have interest in
16 the market.

17 I'm a resident of Capitol Hill. I live at
18 13 10th Street, SE, and have been a resident for the last
19 six years.

20 I come here today to represent an
21 organization's concerns and I think they have been
22 addressed by previous statements, but I'd like to get
23 this in the record.

24 Our concerns about this overlay proposal is
25 that the Eastern Market and the Natatorium are listed

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1 on here in the overlay diagram. They've been removed
2 since that amendment that we've been notified by. But
3 my concern is that Eastern Market is listed in the National
4 Register of Historic Places in 1966. It is also a local
5 landmark subjected to local preservation guidelines here
6 in the District of Columbia. Part of being registered
7 in the National Register of Historic Places, it is subject
8 to certification for federal funding for the restoration
9 of the exterior.

10 So, our concern is that this FAR amendment
11 might by including Eastern Market make it vulnerable to
12 redevelopment in a non-conforming nature to these federal
13 funds. That's all I have. Thank you.

14 VICE CHAIRPERSON HOOD: Thank you, Mr.
15 Concha. Ms. Vindiola?

16 MS. VINDIOLA: My name is Marta Vindiola.

17 VICE CHAIRPERSON HOOD: Could you pull your
18 microphone up a little closer?

19 MS. VINDIOLA: Yes. I live on 116 12th Street,
20 NE. I am one of those newcomers into the District of
21 Columbia, although I have lived in the Washington
22 metropolitan area for over 30 years and I am quite familiar
23 with Capitol Hill from the early years I have lived here.

24 I think by now it's pretty clear how we were
25 not informed about this. I read most documentation that

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1 comes through on Eastern Market. I am very interested
2 in Eastern Market. I am interested in historic
3 preservation. I sell at Eastern Market. I've been
4 selling there for 12 years.

5 I think I have several sources. I check
6 several sources as well to get acquainted with what's
7 going on in the community, especially with regard to this
8 area and I haven't seen any, I did not see anything until
9 a couple of weeks ago. It was even too late to register
10 for this hearing.

11 I think that's very clear. The community
12 has not been informed and I would feel very hesitant to
13 vote for something that I don't see written in a final
14 form. I don't think that is a professional way to proceed.

15 I think there has to be a finalized proposal and then
16 it can be presented to the community and we can all approve
17 it or we can give some feedback at least. I think this
18 procedure has been conducted in a very unusual manner
19 for a democratic country.

20 Also, I would like to contest the fact that
21 parking is not an issue in building projects. I have
22 experienced several development projects and parking is
23 always integrated within the plan. I think parking is
24 a big issue on Capitol Hill, not only because of the
25 commercial increase that this would generate but also

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1 because of the incentives it provides for homeowners to
2 develop their garages and their parking spaces.

3 So, I think it is a very key issue that should
4 be included in the whole project. I'm almost done. I
5 would just appeal to you for an open discussion of the
6 issue.

7 VICE CHAIRPERSON HOOD: Let me first thank
8 you all. I'll ask you to remain seated. I want to see
9 if my colleagues have any questions they'd like to ask.
10 Commissioner Parsons?

11 COMMISSIONER PARSONS: Ms. Ross-Larson, you
12 said that you think that the proponents should be arguing
13 to convert C2A to residential. Were you serious about
14 that? Do you really feel that that is the right approach
15 here?

16 MS. ROSS-LARSON: I've noticed, I think that
17 certainly mixed use -- keep mixed use. But if the
18 proponents are really interested in getting the largest
19 dollar per square foot, it may very well happen in the
20 near future that residences are more profitable to
21 developers than even office spaces. That's what I meant.

22 COMMISSIONER PARSONS: I understood your
23 principle of point number one, but I wondered if that
24 comment was tongue in cheek?

25 MS. ROSS-LARSON: It was a bit tongue in

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1 cheek.

2 COMMISSIONER PARSONS: Okay.

3 MS. ROSS-LARSON: Because Wilkes and Artis
4 the famous lobbyists for downtown development who come
5 before you quite a bit, I understand that even they have
6 occasionally seen the light and now are advocating
7 residences in some of their buildings that they originally
8 thought would be converted into offices.

9 COMMISSIONER PARSONS: Right. We've come
10 a long way with residential in this city, especially
11 downtown. Okay, thank you.

12 Mr. Chairman, after these panelists leave,
13 I would request that the proponent come forward and give
14 us some outline of their outreach efforts just in response
15 to the concerns expressed here.

16 VICE CHAIRPERSON HOOD: Commissioner
17 Parsons, let me just say I was going to ask them for
18 something written, but if we want to do it now I think
19 that would be even better. Because I'm interested also
20 in seeing the outreach and whether it's the full body
21 of the Capitol Hill Restoration Society and also CHAMPS.

22

23 Any other questions or comments?

24 Let me thank you all for your testimony.

25 Is there anyone else in the audience that

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1 would like to testify in opposition?

2 Anyone else in the audience would like to
3 testify? Okay, thank you.

4 Now, I'm going to ask the Petitioners if they
5 could come back to the table, and as they're coming
6 forward, Mr. Bastida, could you just remind us of the
7 process when a Petition comes in front of the Zoning
8 Commission for a change. Is it published in the Register?

9 I'm just basically asking that for the benefit of those
10 who were not informed of this process early on.

11 MR. BASTIDA: Yes, Mr. Chairman. Let me
12 briefly delineate the process. If you were to take an
13 action on the affirmative, it would be a proposed
14 rulemaking. That proposed rulemaking will be advertised
15 in the D.C. Register and be open for a period of time
16 not to be less than 30 days for their comments.

17 Then after those comments are received, the
18 comments will be analyzed by the staff and try to provide
19 some rationale for the comments as it relates to the
20 proposed regulations and proffer them to the Commission
21 for their consideration.

22 Then if you would vote that on the
23 affirmative, then there would be a final rulemaking and
24 order published in the Register that can be then within
25 ten days of the date of publication, anybody can ask for

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1 reconsideration of that order.

2 In addition, Mr. Chairman, if you would like
3 to have further information that it would be in a written
4 fashion, you can request that in writing even if it's
5 provided in a verbal fashion today and then people who
6 are opponents to it can provide some written comments
7 and we can leave the record open and provide dates for
8 that undertaking.

9 VICE CHAIRPERSON HOOD: Thank you, Mr.
10 Bastida. I think that is exactly the way we're going
11 to go so we can make sure we have a complete record.

12 For those who may not have caught everything
13 that Mr. Bastida said, you can always contact him here
14 in the Office of Zoning. Again, there will be another
15 comment period as the Commission moves forward.

16 But since my colleague Commissioner Parsons
17 brought it up, I'm going to let him start off with the
18 questions.

19 COMMISSIONER PARSONS: I think my question
20 is obvious, maybe not. But certainly you've been accused
21 of a secretive process and I thought we ought to give
22 you a chance probably Mr. Wolf but whoever on the panel
23 just wants to show I assume show how you went beyond just
24 an ANC meeting and a ten minute dissertation.

25 MR. WOLF: First of all, as I stated earlier,

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1 this was a matter which was written up some years ago
2 in our newsletter and made part of forums that I conducted
3 usually every year on planning issues with the Restoration
4 Society.

5 Now, to say specifically that the membership
6 actually voted on this, that would not be the case.
7 However, our board voted on it a number of times and it's
8 been published in the newsletter.

9 To give you again a route through the public
10 forums that this has had, Ms. Ambrose had community groups
11 as part of her advisory groups on the amendments for the
12 '99 amendments to the Comprehensive Plan. That started
13 probably in 1997 because the plan amendments didn't go
14 through for a year. It was delayed about a year.

15 It was during that time that this matter
16 surfaced and is written about in the Society newsletter
17 and part of our forums. As usual in these processes,
18 the Council member takes the advice of her constituents
19 and then puts an overlay on it to meet several
20 constituencies concerns and the concerns of other members
21 of the council as it goes through the legislative process.

22 That legislative process was advertised and was part
23 of a public proceeding in which a great many people from
24 around the District of Columbia, including Capitol Hill,
25 testified about various aspects of what was going into

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1 the plan.

2 So, it was enacted as a law. In my opinion,
3 this is a requirement. If the Zoning Commission has a
4 properly staffed out implementation of what's in the
5 Comprehensive Plan Act, I think there is some obligation
6 on the part of the Commission to act with respect to
7 implementation of the Comprehensive Plan law to implement
8 this into zoning.

9 The notion that somehow there wasn't a giant
10 community forum on this matter subsequent to the enactment
11 into law is true. There was no community-wide forum on
12 this matter. There were these meetings with the ANC and
13 I must say ANC 6B was approached more than a year ago
14 with respect to this matter.

15 We actually as a community organization,
16 citizen organization, rarely if ever are initiators and
17 proponents of a zoning case. That normally as I indicated
18 would be the responsibility of the Office of Planning,
19 but they didn't see -- as I indicated, said they didn't
20 have the resources to do it.

21 So we took on that obligation and perhaps
22 we should have done more. I must tell you that this issue
23 came up during the course of the neighborhood planning
24 effort that was performed by the Office of Planning over
25 this last year. In fact, I was the major proponent of

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1 bringing into the various Capitol Hill neighborhood
2 meetings that the Office of Planning wanted.

3 I brought in the Ward 6 plan and tried to
4 bring it up as a matter which the Office of Planning should
5 be concerned with most pertinently. It was the most
6 pertinent thing they could do. We talked about this issue
7 at several of the meetings. Was there a vote on it?
8 No, there wasn't a vote. There was a lot of scribbling
9 on white paper about what the issues ought to be. But
10 there wasn't a vote.

11 So, it was in a sense part of that
12 neighborhood planning effort too, although it was already
13 in the law. That was my point. We've got it here.

14 As I indicated, we subsequently went a year
15 ago to ANC 6B at a time when I think Ms. Brown-Roberts
16 was at that meeting and Mr. Jarboe as chair indicated
17 that we were a bit premature about it. But it certainly
18 was in their eye shot and later on their Zoning and
19 Planning committee of ANC 6A as well as 6A took the matter
20 up.

21 Now nobody asked for a continuation of this
22 matter in order to have a public forum. I put a Q & A
23 into the Restoration Society newsletter and it was put
24 on the Voice of the Hill website. Everybody pretty much
25 knows me on the Hill. There is no reluctance on the part

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1 of people to call me. And as I say it was on the website,
2 it was in our Restoration Society newsletter and I believe
3 Becky Fredriksson who testified here was the only person
4 who called me about this.

5 There was concern that there wasn't
6 sufficient notice, that nobody had had this before them.

7 Well, this was a process. Unfortunately, it's a process
8 that's been in the works for some time and it gets lost.

9 It surfaces and then it goes below the surface as other
10 things come up.

11 It's finally been set down for a zoning
12 hearing and by that time things are pretty much in place
13 and we've done our best I believe to be responsive to
14 a lot of the concerns that have been expressed here.
15 And quite frankly I simply could not understand Shelley
16 Ross-Larson's comments that somehow this was going to
17 set the stage for revisiting the entire C2A throughout
18 the District of Columbia in doing all over the city what
19 we've done here; in fact, my testimony was exactly the
20 opposite.

21 COMMISSIONER PARSON: I didn't want to turn
22 this into a rebuttal, Mr. Wolf or a debating society.
23 I think you've adequately answered the question.

24 MR. WOLF: Well, in any event, there was no
25 major community wide forum on this matter. There were

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1 -- as I indicated that was staged six months ago in
2 connection with this.

3 VICE CHAIRPERSON HOOD: I want to thank you.
4 Yes?

5 MR. DEPUY: Mr. Chair, if I could. Just for
6 the record, I'd like to point out that the notice of this
7 hearing was advertised by placarding, 113 placards in
8 all of these effected squares over 45 days ago,
9 specifically February 5th, 6th and 7th and those signs
10 have all been maintained.

11 So, not only has there been a long process
12 prior to the hearing, but there's been immediate notice
13 and ample time for people to get notice of this particular
14 hearing.

15 VICE CHAIRPERSON HOOD: Let me just say on
16 that note, there's always room for improvement. And I'm
17 not saying on the Petitioner's side. I'm saying on both
18 sides. Because the Petitioner may have been have been
19 able to do something a little more and also the community
20 may have been able to do something a little more.

21 So, I always think, there's room for
22 improvement. When your talking about somebody who sent
23 out 8,000 -- I don't want to make it personal, but I sent
24 out 8,000 notices in my neighborhood and I still missed
25 some folks and I still heard about it. So, there's always

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1 room for improvement on both ends.

2 Colleagues, any other questions, comments?

3 Let me ask. I think Mr. Wolf and Mr. DePuy
4 have given us enough. Do we need something in writing?

5 COMMISSIONER PARSONS: No, no.

6 VICE CHAIRPERSON HOOD: The transcript will
7 suffice. I want to thank each and every one of you for
8 your testimony tonight and your patience with us.

9 Ladies and gentlemen, the other members in
10 the Commission and I wish to thank you for your testimony
11 and assistance in this hearing. The record in this case
12 is closed.

13 The Commission will make a decision in this
14 case at one of its regular monthly meetings following
15 the closing of the record -- well, the record is already
16 closed. These meetings are held at 1:30 p.m. on the
17 second Monday of each month with some exceptions and are
18 open to the public. If any individual is interested in
19 following this case further, please contact staff to
20 determine whether the case is on the agenda of a particular
21 meeting.

22 You should also be aware that should the
23 Commission propose affirmative action, the proposed
24 action must be published in the D.C. Register as proposed
25 rulemakings with a period of time for comments. In

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1 addition, the proposed rulemaking will be referred to
2 the National Capital Planning Commission, NCPC, for
3 federal impact review.

4 The Zoning Commission will then take final
5 action at a public meeting following receipt of public
6 comment and the NCPC comments after which a written final
7 rulemaking and order will be published.

8 I now declare today's public hearing
9 adjourned.

10 (Whereupon, the above matter ended at 8:22
11 p.m.)

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