

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

JULY 12, 2010

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA,
Commissioner(AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
STEPHEN MORDFIN
MAXINE BROWN-ROBERTS
STEVEN COCHRAN
ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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

ALAN H. BERGSTEIN, ESQ.
JACOB RITTIG, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on July
12, 2010.

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TABLE OF CONTENTS

	<u>Page No.</u>
Preliminary Matters, SHARON SCHELLIN , Secretary	5
Consent Calendar, SHARON SCHELLIN	
Final Action, SHARON SCHELLIN	
A. Zoning Case No. 03-12J/03-13J (Capper/Carrollsborg Venture, LLC & DCHA - Two-Year PUD Time Extension @ Square 881W)	5
B. Z.C. Case No. 05-28D (Lano Parcel 15 12, LLC - Two-Year PUD Time Extension @ Squares 5041, 5055, & 5056)	
C. Z.C. No. 09-03 (Skyland Holdings, 22 LLC - Consolidated PUD & Related Map Amendment @ Squares 5632, 5633, 5641, 5641N & Various Parcels	
Proposed Action, SHARON SCHELLIN	
Hearing Action, Office of Planning	
A. Z.C. No. 10-15 (Office of Zoning - Text Amendment to Chapter 30, Section 3004, Minutes & Transcripts	32
B. Z.C. Case No. 10-18 (Office of Planning - Text Amendment to Chapter 17, Sections 1703 & 1711, to Allow Additional Flexibility for Fast Food Establishments & Prepared Food Shops within Square 375)	35
C. Z.C. Case No. 05-28B (D.C. Primary Care Association - Modification to 1st-Stage PUD, 2nd Stage PUD, & Related Map Amendment @ Square 5055	43

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

2 6:45 p.m.

3 CHAIRMAN HOOD: I'm going to say
4 good evening. We are going to be getting
5 started very shortly, just waiting our other
6 Commissioner. We are going to go ahead and
7 get started.

8 Okay, this meeting will please come
9 to order. My name is Anthony Hood. Joining
10 me this evening are Commissioners Peter May
11 and Commissioner Turnbull. We are also joined
12 by the Office of Zoning Staff, Office of
13 Attorney General Staff, and the Office of
14 Planning Staff.

15 Copies of today's meeting and
16 agenda are available to you and are located in
17 the bin near the door. We do not take any
18 public testimony at our meetings, unless the
19 Commission requests someone to come forward.

20 Please be advised that this
21 proceeding is being recorded by a court
22 reporter, and also webcast live. Accordingly,
23 we must ask you to refrain from any disruptive
24 noises or actions in the hearing room. Please
25 turn off all beepers and cell phones at this

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1 time, so as not to disrupt these proceedings.

2 Does the staff have any preliminary
3 matters?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: If not, let us
6 proceed with the agenda.

7 Let's go first to final action of
8 Zoning Commission Case No. 03-12J/03-13J
9 (Capper/Carrollsborg Venture, LLC & DCHA) Two-
10 Year PUD Time Extension at Square 881W.

11 Ms. Schellin.

12 MS. SCHELLIN: Yes, sir.

13 We did receive an additional filing
14 this afternoon, Exhibit 10. It was a letter
15 in support from the ANC Commission 6D.

16 This is a request from the Applicant for
17 a two-year PUD time extension. We ask the
18 Commission to consider this.

19 CHAIRMAN HOOD: Okay,
20 Commissioners.

21 I believe this is the one that we
22 dealt with once before, and now we have a
23 request for a two-year -- a two-year time
24 extension at Square 881W.

25 Again, in the submission, which is

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1 dated -- in Exhibit 1 -- which is dated May
2 28th, the Applicant goes through the tests for
3 us to be able to look at even evaluating a
4 time extension, and now in this time -- I used
5 to didn't buy this argument, but in this time
6 economics and the market conditions, the
7 extension is requested also to enable the
8 Applicant to continue his diligent efforts to
9 secure the necessary project financing.

10 This Applicant is saying that he's
11 diligently been aggressively seeking to get
12 the financing for this project, and we also
13 have a letter from the District of Columbia
14 Housing Authority in the back, also in support
15 of this request.

16 So, let me open it up to the
17 Commissioners. Any questions, comments,
18 concerns?

19 Commissioner May?

20 COMMISSIONER MAY: Well, I think
21 the -- the crux of this case is how long is it
22 going to take to get the community center
23 built, and we struggled with this last year
24 when it came before us for the extension, and,
25 frankly, I'm struggling with it now.

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1 I'd like to know with greater
2 certainty when this is going to happen, and
3 it's good to see that we have votes in favor
4 from both ANCs to support the time extension,
5 or rather, maybe not both, but ANC 6D and ANC
6 6B. I'm glad to see the letter from ANC 6D,
7 because it states some things that the
8 Applicant has agreed to that's going to help
9 satisfy the ANC, in terms of the need for the
10 community center and keeping the community
11 well informed.

12 The ANC 6B had also suggested that
13 there be a commitment with regard to when the
14 -- where the money is going to come from and
15 when, and, frankly, I'd be interested to know
16 whether that's something that the Applicant is
17 willing to do or not.

18 CHAIRMAN HOOD: Okay. And also,
19 even though I know this -- i thought this was
20 the suggestion, I would like to also know
21 about, say, this letter comes from Friends and
22 Residents of Affordable Housing, and it says,
23 "We do wish to offer a possible interim
24 solution . . .," and they go on to mention their
25 solution. And, I'm just curious also if that

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1 solution has even been mentioned to the
2 Applicant.

3 So, I think, Mr. Turnbull, did you
4 have anything you wanted to add?

5 COMMISSIONER TURNBULL: No, I agree
6 with both of you, maybe we could have someone
7 representing the Applicant to talk about it.

8 CHAIRMAN HOOD: Okay. I believe --
9 I believe Mr. Friedman is here, if he could
10 come forward. And, if he needs to bring his
11 Applicant, I guess you could do that also.

12 I think you all have heard our two
13 issues, unless Mr. Turnbull or somebody else
14 wants to add something to it.

15 COMMISSIONER TURNBULL: No, I agree
16 with both of you.

17 CHAIRMAN HOOD: Okay, thank you.

18 If you could just respond to those
19 two issues.

20 MR. FREEMAN: Good evening, Members
21 of the Commission. My name is Kyrus Freeman.

22 I'm an attorney with the law firm of Holland
23 & Knight, here on behalf of the Applicant.

24 Seated to my immediate right is
25 Asmura Habte with the D.C. Housing Authority,

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1 and to my far right is Dan McCabe, with Urban
2 Atlantic.

3 With respect to the two questions
4 that the Commission raised, the first question
5 from Commissioner May was what assurance does
6 the Commission have that the cost for
7 construction of the community center will be
8 included in the second phase of the pilot bond
9 issuances.

10 The letter we included with our
11 submission at Tab 2, the second paragraph, if
12 you will, from the bottom, talks a little bit
13 about the \$55 million in pilot funds that DCHA
14 anticipates to get, and how those funds will
15 be used. \$29 of that amount will go towards
16 repayment of some prior notes that were used
17 to construct some infrastructure at the
18 project, the overall project. The remaining
19 portions of the proceeds will be used for the
20 community center, as well as additional
21 infrastructure work.

22 Asmura and/or Dan can speak in a
23 little more detail, but once -- when the
24 Council approved the actual pilot bond
25 issuance, attached to that approval was a cost

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1 breakdown. So, included in that \$55 million
2 were specific costs for specific things, which
3 included the community center. So, as a part
4 of that Council approval they had to include
5 those amounts.

6 COMMISSIONER TURNBULL: So, of the
7 -- excuse me, Mr. May -- of the \$26 million
8 there that's specifically for the pilot funds,
9 discounting the \$29, now you've \$26 left, so
10 there was a tally of how the \$26 was broken
11 down?

12 MS. HABTE: That's correct.

13 COMMISSIONER TURNBULL: Okay. Do we
14 have a copy of -- can we get a copy of that?

15 MS. HABTE: You do not. We don't
16 have a copy of it here.

17 COMMISSIONER MAY: Can you tell us
18 how much was indicated for the community
19 center?

20 MS. HABTE: I believe it's \$7.2
21 million.

22 COMMISSIONER MAY: Okay. ANC 6B is
23 citing a number of \$7.5 needed for the
24 construction of the community center, but \$7.2
25 is close, if it's \$7.2 or \$7.5.

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1 And, you say that has Council
2 approval?

3 MS. HABTE: The Council did approve
4 the \$55 million, what is it, legislation for a
5 \$55 million issuance.

6 COMMISSIONER MAY: Okay.

7 COMMISSIONER TURNBULL: Could you
8 submit that document for the record?

9 MS. HABTE: Yes.

10 MR. FREEMAN: Yes.

11 COMMISSIONER TURNBULL: Good, thank
12 you.

13 CHAIRMAN HOOD: Okay, and Mr.
14 Freeman?

15 MR. FREEMAN: The second point you
16 referenced was the letter from the neighbors,
17 in terms of interim recreation uses.

18 What we've been able to do, I think
19 you've likely seen a letter from ANC 6D, what
20 we agree to do with the community in that
21 letter, the last paragraph, ANC voted to
22 support the extension, in the last paragraph
23 we agree to do a certain number of things, one
24 of which is to help work with the DCHA/D.C.
25 Department of Parks and Recreation, and the

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1 Marine Corps, to figure out a way to help make
2 the Marine Corps playing fields available to
3 more people in the community.

4 There is an executed MOU with the
5 Marine Corps that's been in the record of this
6 case. The MOU was actually executed back in
7 2005, between Department of Parks and Rec and
8 the Marines. So, what we've agreed to do is
9 sit down, meet with all of the parties, and
10 figure out a way for this interim solution, in
11 terms of recreation activities.

12 We've also agreed, in working with
13 the Office of Planning, to install some
14 additional computers for the use of the
15 residents in Senior Building 1, so that's
16 something we've already committed to do, in
17 conjunction with the Office of Planning.

18 CHAIRMAN HOOD: Okay. Any other
19 questions of this panel?

20 Mr. Freeman, I think you have
21 adequately addressed our concerns, but I
22 better not speak too fast. I never know how
23 the vote is going to go.

24 Okay, I think, Commissioners, I
25 think he has adequately, at least from my

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1 standpoint, and I'd just like \to hear from my
2 colleagues if you are ready to go ahead and
3 vote on this now.

4 COMMISSIONER MAY: Yes, I'm okay
5 with it. The -- the -- it's good to have some
6 substance and know that there's been some
7 agreement with the community about the efforts
8 that you are making to make the community
9 center happen, because we know that that's
10 been an issue for members of the community, at
11 least they've testified to us about that.

12 So, I'm satisfied.

13 CHAIRMAN HOOD: Okay. So, with
14 that, I would move approval of Zoning
15 Commission Case 03-12J/03-13J, with two years
16 for the filing of a building permit by July 1,
17 2012, and to begin construction by July 1,
18 2013.

19 Is that correct, Mr. Freeman?

20 MR. FREEMAN: Yes, sir.

21 CHAIRMAN HOOD: Don't let me give
22 you anymore time than what you need.

23 Okay, it's been moved, can I get a
24 second?

25 COMMISSIONER TURNBULL: Second.

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1 CHAIRMAN HOOD: It's been moved and
2 properly seconded. Any further discussion?

3 Are you ready for the question?

4 All those in favor, aye?

5 (Ayes.)

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

9 MS. SCHELLIN: The staff records
10 the vote 3.0.2,, to approve final action on
11 Zoning Commission Case No. 03-12J/03-13J,
12 Commissioner Hood moving, Commissioner
13 Turnbull seconding, Commissioner May in
14 support, Commissioner Slater not present, not
15 voting, the third mayoral appointee position
16 vacant, not voting.

17 CHAIRMAN HOOD: I want to thank you
18 all for coming down and answering our
19 questions. Very helpful. Thank you.

20 Okay, next, Zoning Commission Case
21 05-28D. This is the Lano Parcel 12, LLC Two-
22 Year PUD Time Extension at Squares 5041, 5055,
23 and 5056.

24 Ms. Schellin?

25 MS. SCHELLIN: Yes. This, too, is

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1 a request for a two-year extension of their
2 PUD, and staff would ask that you consider
3 this.

4 CHAIRMAN HOOD: Okay, thank you,
5 Ms. Schellin.

6 Colleagues, when I look, I guess my
7 first concern is, when I look at the
8 submission, this does not expire -- it's
9 already in existence, I believe it does not
10 expire until October the 3rd, 2011.

11 As I was reading this, I had to
12 remember what year we were in. This is -- we
13 haven't got to October 3, 2010, but I will
14 tell you, I have a concern, I'm not sure if my
15 other colleagues have additional concerns, but
16 let me open it up, and then we'll see how we
17 are going to proceed.

18 Mr. Turnbull?

19 COMMISSIONER TURNBULL: Yes, Mr.
20 Chair.

21 I'm just confused why this thing is
22 coming before us so early. I think it's
23 premature to be asking for an extension.

24 CHAIRMAN HOOD: Okay. Mr. May, do
25 you have anything else?

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1 COMMISSIONER MAY: No, I would just
2 agree that it's puzzling that it's this soon.

3 CHAIRMAN HOOD: I think it would
4 behoove us to maybe hear from the Applicant
5 and find out exactly why we hear so much in
6 advance.

7 Okay, Ms. Roddy, if you could
8 identify yourself.

9 MS. RODDY: Hi, my name is
10 Christine Roddy, and I'm an attorney
11 representing the Applicant in this matter, and
12 we filed it because we filed, as you may
13 notice, another application for a second-stage
14 community for the same project, as well as a
15 modification of the first stage.

16 What we initially did is, we
17 included it all together, because it made
18 sense that since we would be coming before the
19 Commission we thought we would just include
20 that request, while that project was before
21 you.

22 We since separated it out, and so
23 there's an extension request, and it does not
24 require a hearing.

25 So, to us it made sense to -- and

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1 to be efficient, and to put this in front of
2 you.

3 You may also have noticed that we
4 have gone forward with two blocks of this
5 community and received approval for that, and
6 have two applications pending for two
7 additional blocks.

8 So, the Applicant has made every
9 effort to go forward with the second stage,
10 but given the size of the project, it's over
11 15 acres, they just know that they won't be
12 able to complete the project within the next
13 year.

14 CHAIRMAN HOOD: Okay.
15 Commissioners, any questions of Ms. Roddy?

16 Thank you very much for that
17 clarification, appreciate it.

18 I don't know how we want to
19 proceed. I would not be in favor of moving,
20 at least with this two-year time extension, at
21 this point. I think as we move closer to the
22 date of 2011, and even closer into maybe the
23 other hearings, that we may be able to take
24 action. I don't see myself taking action on
25 this a year and a half prior, and I know there

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1 are some other things, some other pieces to
2 the puzzle, but I just -- I don't feel like
3 moving in that direction, and I just open it
4 up to see.

5 Commissioner May?

6 COMMISSIONER MAY: Yes, I would
7 agree, Mr. Chairman. On the one hand, I like
8 the idea of people thinking ahead, but I think
9 that thinking too far ahead is not the best
10 thing when it comes to PUD extensions.
11 Circumstances can change significantly in 15
12 months, which is about what we would have.

13 And, I would prefer to take this up
14 at a later time.

15 CHAIRMAN HOOD: Okay.

16 COMMISSIONER TURNBULL: I would,
17 too, Mr. Chair.

18 I think, although Ms. Roddy got
19 into the additional actions that are going to
20 be before us, I think that only muddies the
21 water more. I would put this off until we get
22 into this hearing action.

23 To me, it's a little bit confusing.

24 CHAIRMAN HOOD: Okay.

25 COMMISSIONER TURNBULL: And, it

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1 could raise other issues. So, I'm not in
2 favor.

3 CHAIRMAN HOOD: Okay. So, I guess
4 my question is to Mr. Bergstein. Do we need
5 to take a motion on this action?

6 MR. BERGSTEIN: Yes, because there
7 is a request before you, and the options would
8 either be to deny the request without
9 prejudice for a later refiling, or to hold it
10 in abeyance, and depending on what you do on
11 hearing action, you can bring up the matter
12 later as the other projects develop, or allow
13 the Applicant to simply request that the
14 matter be placed back on the calendar after a
15 certain period of time.

16 So, those are really the two
17 options that you have, I think.

18 CHAIRMAN HOOD: Okay. Well, in
19 that case, I would move that we deny without
20 prejudice Zoning Commission Case No. 05-28D,
21 and ask for a later filing at the appropriate
22 time, leaving us the caveat to maybe revisit
23 this as we get into some modification cases
24 pertaining to this parcel in this case, and
25 ask for a second.

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1 COMMISSIONER MAY: Second.

2 CHAIRMAN HOOD: It's been moved
3 and properly seconded, any further discussion?

4 Mr. Bergstein, was that motion
5 okay?

6 MR. BERGSTEIN: It was legally
7 sufficient.

8 CHAIRMAN HOOD: It was legally
9 sufficient, okay.

10 Okay, it's been moved and properly
11 seconded. Any further discussion?

12 Are you ready for -- are you ready
13 for the question?

14 All those in favor?

15 (Ayes.)

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

19 MS. SCHELLIN: Yes. The staff
20 records the vote 3.0.2, to deny without
21 prejudice Zoning Commission Case No. 05-28D,
22 Commissioner Hood moving, Commissioner May
23 seconding, Commissioner Turnbull in favor of
24 denial, Commissioner Slater not present, not
25 voting, the third mayoral appointee position

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1 vacant, not voting.

2 CHAIRMAN HOOD: Also, we did have
3 an Office of Planning report in that case. I
4 was so busy worrying about the time extension,
5 I'm not sure what -- what did the Office of
6 Planning say?

7 MR. BERGSTEIN: They concurred --
8 I'm sorry. Go ahead.

9 MS. STEINGASSER: We recommended
10 that the Commission not take action as the
11 filing was premature.

12 CHAIRMAN HOOD: All right, good.
13 Okay.

14 Thank you very much, Ms.
15 Steingasser. We don't want to overlook good
16 reports from you, especially, when people do
17 all the hard work and give them to us.

18 Okay, next, Zoning Commission Case
19 No. 09-03 (Skyland Holdings, LLC),
20 Consolidated PUD and Related Map Amendment at
21 Squares 5632, 5633, 5641, 5641N, and various
22 parcels.

23 Ms. Schellin?

24 MS. SCHELLIN: Yes, sir.

25 We do have a late submission that

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1 was filed by the Fort Baker Drive Party. It
2 was their response to the Applicant's July 6th
3 submission, and I would ask whether the
4 Commission would like to reopen the record to
5 accept this submission.

6 CHAIRMAN HOOD: Is this something
7 that we asked for?

8 MS. SCHELLIN: It was -- it was.

9 CHAIRMAN HOOD: Okay, and it was --
10 how late was it?

11 MS. SCHELLIN: They submitted it by
12 email, and our policy is that anything that is
13 submitted after 3:00 will be processed the
14 next business day, and it came in at after
15 4:00 p.m., so, therefore, it was not processed
16 until today.

17 CHAIRMAN HOOD: So, the emailing --
18 so this came in after 3:00.

19 MS. SCHELLIN: Yes, it actually
20 came in after 4:00 on Friday.

21 CHAIRMAN HOOD: The process is, it
22 goes to the next business day, which would
23 have been today.

24 MS. SCHELLIN: Today.

25 CHAIRMAN HOOD: So, let the record

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1 reflect we now know what our emailing
2 procedures are.

3 MS. SCHELLIN: Yes.

4 CHAIRMAN HOOD: Commissioner --

5 MS. SCHELLIN: Other options are to
6 hand deliver or fax.

7 CHAIRMAN HOOD: -- okay, hand
8 deliver or fax, by 3:00.

9 MS. SCHELLIN: Yes. Well, there
10 was no time stated for those filings, so they
11 could have filed up until 5:00, but the email
12 policy is totally separate from any other
13 deadline.

14 CHAIRMAN HOOD: Okay. Thank you
15 very much for that clarification.

16 Commissioners, we have a request to
17 be heard, there may be some uncertainty of the
18 email policy. There may or may not, but
19 anyway, we have in front of us a request to
20 accept this submission from Fort Baker Drive
21 residents.

22 Unless anyone objects -- okay, no
23 objection, we will accept it.

24 Anything else, Ms. Schellin?

25 MS. SCHELLIN: No, sir.

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1 CHAIRMAN HOOD: Give us a few
2 moments to look over the submission. This is
3 the response to Applicant's July 6th
4 submission regarding the expiration of a PUD
5 approval, and I think that's the only proposed
6 action. Everything else, I think, was flushed
7 out, and I think we had an issue with the
8 length of trying to nail things down to a more
9 time certain.

10 And, we have a submission from the
11 Applicant, Exhibit No. 126. The two issues
12 that the Zoning Commission asked the Applicant
13 to address were, the date of the expiration of
14 the order in this case, the time in reverse
15 financial and in-kind service contributions
16 from the profit benefits the amenities. And,
17 Applicant has done so, he says, and I'm just
18 taking it straight from his June 30th
19 submission.

20 In response to those comments, the
21 Applicant has revised Condition No. 2, and
22 Condition No. 17, of proposed conditions that
23 were submitted to the Zoning Commission on June
24 18, 2010.

25 All of the other conditions of

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1 approval proposed by the Applicant in his
2 filings of June 18, 2010, remain the same.

3 And, he has it spelled out in the
4 back of that submission on June the 30th. You
5 can just peruse that, or if anybody has any
6 issues let's discuss them, on the time or on
7 the amenities, and how they are going to be
8 the time limits.

9 COMMISSIONER MAY: Mr. Chairman?

10 CHAIRMAN HOOD: Yes, Commissioner
11 May.

12 COMMISSIONER MAY: Yes. I'm -- at
13 this point, generally, satisfied with what we
14 see, in terms of the changes to the deadlines,
15 and how this will all come to pass. I like
16 the certainty of knowing that the order will
17 be enforced for ten years, and not something
18 which when we last took it up seemed quite
19 nebulous and could be 15 or 17 years. Granted
20 it wouldn't all be finished, necessarily, in
21 ten years, but there's a date certain for
22 filing for all the building permits, and I
23 think that's what we were looking for.

24 It would be nicer, I think, if it
25 were a bit more aggressive, but this is a big

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1 project, and it's not unusual for us to have
2 large PUDs that take upwards of ten years to
3 complete, when it's on this kind of a scale.

4 I think that there is one small
5 tweak, I think, to the conditions with regard
6 to when certain amenities would be delivered,
7 and the timing of that, and to alter it so
8 that it's -- the final completion of these
9 contributions, and of funds or services, would
10 be completed within ten years or by the filing
11 of the building permit for the final phase of
12 the project, whichever is sooner. So, if it
13 all happens -- if all the applications get
14 filed sooner, and the project moves along at a
15 faster clip than is currently anticipated,
16 that all of the amenities would be delivered
17 in that same more accelerated time frame.

18 And, as I understand it, the
19 Applicant has agreed to that tweak of the
20 conditions.

21 So, I also would mention that what
22 we heard from the party in opposition, it was,
23 I think, good to have their analysis and to
24 get their take on the timing and the
25 conditions, and, frankly, you know, I have

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1 sympathy for some of it, that's what drove us
2 to postpone taking final action last time
3 around, but I don't have the same concern that
4 the project overall wouldn't be viable, and
5 that it needs to be built within two years.
6 This is not the sort of economic climate when
7 a project this large can be financed and
8 brought to completion that quickly.

9 It is going to take some time, I
10 understand that may prolong the construction
11 impacts, but it won't be 12 years of constant
12 construction, it may be intermittent, but it
13 will -- it will take some time to build out
14 the project.

15 So, I appreciate having that to
16 read, but I don't think it changes my
17 willingness at this point to support the
18 conditions as they've been most recently
19 drafted.

20 CHAIRMAN HOOD: Okay, thank you.

21 Commissioner Turnbull, did you want
22 to add anything?

23 COMMISSIONER TURNBULL: I just had
24 a question picking up on Commissioner May's
25 additive language.

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1 I'm just going to ask Mr.
2 Bergstein, where would that get added into the
3 order?

4 MR. BERGSTEIN: There are several
5 conditions that have a ten-day -- ten-year
6 deadline, and I'm looking at G, but I'll start
7 with A. So, for example, A, 2A begins by
8 saying that, "The full amount of the
9 contribution, whether in form or in-kind
10 services, monetary contributions or both,
11 shall be made by the Applicant no later than
12 ten years after the effective date of this
13 order," and I would just add in that the
14 alternative or by the date the final building
15 permit is filed, whichever is first, will
16 occur, and there is other iterations of that
17 in B, and in other conditions.

18 So, that's what I would do.

19 COMMISSIONER TURNBULL: So, it's
20 just in Condition 2?

21 MR. BERGSTEIN: Well, Condition 2
22 is the actual condition that sets forth that
23 there is contributions.

24 COMMISSIONER TURNBULL: Okay.

25 MR. BERGSTEIN: And so -- and,

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1 sometimes there are contributions, sometimes
2 there are training, but in most of the
3 instances, except for one, the time period is
4 ten years, and that's the one I would change,
5 to ten years or by time of the first building
6 permit.

7 There's one that, actually, has a
8 later one, because --

9 COMMISSIONER TURNBULL: That was 12
10 years.

11 MR. BERGSTEIN: -- yes, because
12 there's a build-out subsidy, and that won't
13 become relevant until the CFO is issued, but
14 I'll figure out something that works with
15 that.

16 COMMISSIONER TURNBULL: Okay, thank
17 you.

18 Thank you.

19 CHAIRMAN HOOD: Okay, thank you.

20 I would associate myself with the
21 comments of Commissioner May. We have other
22 PUDs and applications that the distance is
23 much more volume, much more area, and I know
24 some of them may go up to 20 years. So, I
25 think this is the right scope for this

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1 particular PUD, and I will just say that, had
2 it not been, and I would associate myself also
3 with your comments about Fort Baker Drive, had
4 it not been for them being in opposition with
5 some of the things, we would not have pursued,
6 because first of all we wouldn't have been
7 given the information.

8 But, I think even though they
9 didn't get all of that wanted, I think that a
10 lot of what they asked for we tried to do
11 within our jurisdiction, to see if we could
12 make sure that at least their interest was
13 protected.

14 Now, I don't think this letter that
15 was submitted today, or emailed on Friday and
16 clocked in today, rises to the level of me
17 having a concern not to move forward with
18 final action. I think that this case, they,
19 actually, helped tailor this case for us to
20 make this a better PUD, and I'm sure the
21 Applicant would agree with that input, they
22 made this a better PUD.

23 So, anything else?

24 With that, I will do final approval
25 with the corrections that were articulated

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1 today on the dias. Approval of Zoning
2 Commission Case No. 09-03, Skyland Holdings,
3 and ask for a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: It's been moved and
6 properly seconded. Any further discussion?

7 All those in favor?

8 (Ayes.)

9 CHAIRMAN HOOD: Not hearing any
10 opposition, Ms. Schellin, would you record the
11 vote?

12 MS. SCHELLIN: Yes, Staff would
13 record the vote 3.0.2 to approve final action
14 on Zoning Commission Case No. 09-03 as
15 modified, Commissioner Hood moving,
16 Commissioner Turnbull seconding, Commissioner
17 May in support, Commissioner Slater not
18 present, not voting, the third mayoral
19 appointee position vacant, not voting.

20 CHAIRMAN HOOD: Okay, let's move
21 right into Hearing Action, Zoning Commission
22 Case 10-15, Office of Zoning Text Amendment to
23 Chapter 30, Section 3004, minutes and
24 transcripts, Ms. Brown-Roberts.

25 MS. BROWN-ROBERTS: Good evening,

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1 Mr. Chairman, and Members of the Commission.

2 I am Maxine Brown-Roberts from the
3 Office of Planning.

4 The Office of Zoning has proposed a
5 text amendment to Section 3004, minutes and
6 transcript. The proposed amendment would
7 replace meeting and hearing summary minutes
8 with meeting and hearing transcripts.

9 Currently, the regulations require
10 that the record and proceedings of a public
11 hearing or meeting be retained in the form of
12 a summary of minutes. However, with
13 technology, the Office of Zoning has been
14 provided other accessed information, including
15 video on demand, and the availability of a
16 transcript within 11 days of a hearing or
17 meeting.

18 These allowances would complete --
19 would allow complete access to all case
20 information, rather than just summary minutes.

21 Other amendments to the section
22 address the availability of transcripts and
23 outline a more streamlined process for
24 correcting substantial errors in a transcript.

25 The requested changes are

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1 administrative procedures, and have no impact
2 on the Comprehensive Plan or the Zone Plan.
3 The Office of Planning, therefore, recommends
4 that the proposal be set down for public
5 hearing.

6 Thank you, Mr. Chairman.

7 CHAIRMAN HOOD: Okay, thank you
8 very much, Ms. Brown-Roberts.

9 Any questions, Commissioners,
10 questions or comments?

11 I think this hearing will probably
12 go -- I'm hoping this hearing will probably go
13 pretty fast, so maybe we can couple this up
14 with something.

15 MS. BROWN-ROBERTS: They already
16 have.

17 CHAIRMAN HOOD: Oh, they are --
18 well ahead of me. Okay.

19 Any other questions or comments?

20 Would you like to make a motion?

21 COMMISSIONER TURNBULL: Yes.

22 CHAIRMAN HOOD: Okay.

23 COMMISSIONER TURNBULL: Mr. Chair,
24 I would like to move that we approve Zoning
25 Commission Case No. 10-15, Proposed Text

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1 Amendments to 11 DCMR, Chapter 30, text in
2 Section 3004, minutes and transcripts, and ask
3 for a second.

4 CHAIRMAN HOOD: Okay, I'll second
5 that.

6 It's been moved and properly
7 seconded. Any further discussion?

8 All those in favor?

9 (Ayes.)

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

13 MS. SCHELLIN: Yes, staff would
14 record the vote 3.0.2 to set down Zoning
15 Commission Case No. 10-15, as a rulemaking
16 case, Commissioner Turnbull moving,
17 Commissioner Hood seconding, Commissioner May
18 in support, Commissioner Slater not present,
19 not voting, and the third mayoral appointee
20 position vacant, not voting.

21 CHAIRMAN HOOD: Okay, next we have
22 Zoning Commission Case 10-18, Office of
23 Planning Text Amendment to Chapter 17, 1703
24 and 1711, to allow additional flexibility for
25 fast food establishments, and prepared food

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1 shops, within Square 375.

2 Ms. Jackson?

3 MS. JACKSON: Good evening, Chair,
4 Members of the Commissioner.

5 For the record, my name is Arlova
6 Jackson with the Office of Planning. The text
7 amendment before you is being requested by the
8 Office of Planning, on behalf of 733 10th and
9 G Street LLC, to allow a wider range of ground
10 floor retail uses within Square 375.

11 The subject square is located in
12 the central employment area and bounded by H
13 Street to the north, G Street to the south,
14 9th Street on the east, and 10th Street on the
15 west. The square is bisected by G Place NW, a
16 public street which largely provides access to
17 parking and loading areas for the adjacent
18 buildings. The square mainly includes office
19 buildings and the Martin Luther King public
20 library. The square is located within the C-4
21 zone and Downtown District overlay and the
22 portion south of G Place is located within the
23 Downtown Arts District.

24 Both the base and overlay zones
25 allow a variety of uses at a high density in

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1 an effort to support development of the
2 District's retail and office core. However
3 the DD overlay specifically regulates ground
4 floor retail uses in the form of area-wide and
5 site-specific use and design standards. These
6 include lists of "preferred" uses and
7 requirements as to how they should be
8 distributed in certain parts of the downtown.

9 As a result for the subject square:
10 Minimum of 0.5 FAR of all ground floor uses
11 must either be arts, arts-related, retail or
12 service uses

13 - Of that amount no more than 20
14 percent can be devoted to a specific list of
15 uses, which include fast food establishments,
16 prepared food shops, banks, dry cleaners,
17 etc...

18 AND - on top of that for the portion of the
19 square south of G Place

20 - A minimum of 50% must be devoted
21 solely to arts or arts-related uses as
22 specified in Section 1711

23 The proposed amendment would allow
24 fast food establishments and prepared food
25 shops to locate under the same parameters as

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1 restaurant uses, only within Square 375, and,
2 therefore, they'd be allowed to occupy more
3 than 20 percent of the ground floor GFA and
4 satisfy the minimum 50 percent preferred use
5 requirement.

6 OP feels the proposed text
7 amendment is appropriate in this location due
8 to the existing characteristics of the square
9 and its limited impact on the overall retail
10 core and downtown ARTS district.

11 The proposed amendment is not
12 inconsistent with policies found within the
13 Central Washington area element of the
14 Comprehensive Plan in that it will expand
15 choices for retail development and mixed use
16 projects.

17 OP recommends setdown of the
18 proposed text amendment, and will take any
19 questions you have at this time.

20 CHAIRMAN HOOD: Thank you very
21 much, Ms. Jackson.

22 Commissioners, any questions for
23 Ms. Jackson?

24 Commissioner May?

25 COMMISSIONER MAY: Yes. I'm just -

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1 - with the amount of information I have, I'm
2 just confused about why this is, actually,
3 necessary in this square. Is there something
4 about the physical circumstance of the various
5 buildings that don't give us the right, or the
6 normal ratios, that would allow this to
7 conform to the existing zoning? I'm looking
8 for something that's physically different that
9 makes it this way, makes it necessary.

10 MS. JACKSON: I think it's a
11 combination of what's already on the ground,
12 and how it's being used. So, for the portion
13 of the square that's south of G Place, 75
14 percent is taken up by the library. The only
15 remaining parcel to be developed is currently
16 under construction, and that's going to
17 include bringing back the First Congregational
18 United Church of Christ. And, the only
19 portion of that development that would have
20 retail is about -- it's a little less than
21 4,000 square feet that's mainly located along
22 G Place, which, while it's a public street,
23 and is subject to all of the retail
24 requirements for fronting a public street,
25 functions more like an alley.

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1 So, that currently is the only
2 vacant lot within the square. The rest of it,
3 the northern portion is largely taken up by
4 office buildings, and there are, I believe,
5 two historic structures that are under
6 renovation. And, there's only one retail use
7 currently on the square, and that's on 9th
8 Street, which is a restaurant.

9 COMMISSIONER MAY: And so, is there
10 -- is there vacant space that can't be leased
11 because the ratios don't work?

12 MS. JACKSON: For the only
13 developable -- the only parcel that remains to
14 be developed, for that space it doesn't work.

15 COMMISSIONER MAY: But, the rest of
16 the existing buildings, north of G Place, are
17 they all leased out in the ground floor?

18 MS. JACKSON: One of them is the
19 offices of, I believe, Department of Homeland
20 Security. That takes up over half of the
21 northern portion. I'm not sure what's going to
22 happen in --

23 COMMISSIONER MAY: But, I mean,
24 there's not --

25 MS. JACKSON: The way the building

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1 is configured, there's no -- it's office
2 lobby, there's no --

3 COMMISSIONER MAY: -- yes, I'm
4 familiar with the building.

5 MS. JACKSON: Okay.

6 COMMISSIONER MAY: At least that
7 building, but I'm not familiar with everything
8 on the block. I'm just curious about whether
9 there's vacant space here that cannot be
10 leased now, but after the text amendment could
11 be leased.

12 MS. JACKSON: The only -- once the
13 building is completely constructed, the
14 available space that will be left for lease
15 will be so small that to start parceling it
16 out to meet the Code requirements of the 20
17 percent, it becomes unmanageably small spaces
18 to be able to meet fire codes and building
19 codes.

20 COMMISSIONER MAY: Okay, all right.
21 That's the core of what I'm trying to get to.

22 And, that's the parcel that's under
23 construction south of G Place?

24 MS. JACKSON: Yes.

25 COMMISSIONER MAY: Yes, okay, and

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1 that's -- and one of the reasons why that's so
2 constrained is because the church is coming
3 back into it.

4 MS. JACKSON: Yes.

5 COMMISSIONER MAY: Yes. Okay. Now
6 I understand.

7 CHAIRMAN HOOD: Any other comments
8 or questions?

9 COMMISSIONER TURNBULL: I'd hate to
10 deprive Homeland Security of a fast food
11 restaurant.

12 CHAIRMAN HOOD: Okay. All right,
13 so we have a request to set this down for
14 hearing. I would move that we set down Zoning
15 Commission Case No. 10-18, and ask for a
16 second.

17 COMMISSIONER MAY: Second.

18 CHAIRMAN HOOD: Moved and properly
19 seconded.

20 Any further discussion?

21 Are you ready for the question?
22 All those in favor, aye?

23 (Ayes.)

24 CHAIRMAN HOOD: Not hearing any
25 opposition, Ms. Schellin, would you record the

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1 vote?

2 MS. SCHELLIN: The Staff records
3 the vote 3.0.2 to setdown Zoning Commission
4 Case No. 10-18, as a rulemaking case,
5 Commissioner Hood moving, Commissioner May
6 seconding, Commissioner Turnbull in support,
7 Commissioner Slater not present, not voting,
8 the third mayoral appointee position vacant,
9 not voting.

10 CHAIRMAN HOOD: Thank you very
11 much, Ms. Schellin, and also thank you, Ms.
12 Jackson.

13 Next, I think our last deal for the
14 night, unless we have -- do we have a status
15 report?

16 MS. SCHELLIN: No.

17 CHAIRMAN HOOD: Okay. We won't
18 have to go there. Okay, great.

19 Zoning Commission Case No. 05-28B,
20 D.C. Primary Care Association, Modification to
21 First Stage PUD, Second Stage PUD, and related
22 map amendment at Square 5055.

23 Mr. Mordfin?

24 MR. MORDFIN: Good evening, Mr.
25 Chairman, and Members of the Commission. I'm

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1 Stephen Mordfin, with the Office of Planning.

2 This application does include a
3 second stage PUD application filed for
4 Parkside, a 15-acre mixed use PUD for the
5 construction of a health clinic.

6 The Applicant proposes to modify
7 the first stage approval, which approved a
8 high-rise apartment building for the site.
9 Subject application proposes instead to
10 construct a three-story health clinic on half
11 of the site, and a temporary parking lot on
12 the remainder of the site. The temporary
13 parking would remain in place until
14 construction begins on the proposed Flagship
15 Building for the Community College of the
16 District of Columbia.

17 The proposed building requires the
18 following modifications to the first stage
19 approval: change of use from residential to
20 health care clinic, reduction of the building
21 height from 90 feet to 23.83 feet along
22 Kenilworth Avenue, reduction of the building
23 height from 54 feet to 45.66 feet along
24 Kenilworth Avenue, and change of use from
25 residential to parking lot for the temporary

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1 parking lot.

2 The application also requires
3 relief from four provisions of the Zoning
4 Regulations. Those provisions are to reduce
5 the on-site parking from 81 spaces to 12
6 spaces, to permit the use of off-site parking
7 to allow the clinic to use the temporary
8 parking lot, to reduce the minimum side yard
9 adjacent to the existing pedestrian overpass,
10 to allow for a wider sidewalk between the
11 building and the existing pedestrian overpass,
12 and to eliminate the required loading platform
13 and loading berth.

14 While in construction of the
15 Community College building, the clinic would
16 then have available to it 79 new parking
17 spaces within the Community College building.

18 Public benefits and amenities
19 associated with this application include
20 additional bicycle parking spaces, a widened
21 sidewalk adjacent to the pedestrian overpass
22 to facilitate pedestrian movement, a green
23 roof and the provision of a health clinic to
24 neighborhood residents, regardless of the
25 ability to pay.

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1 The application is consistent with
2 the Comprehensive Plan, in that it will
3 contribute to the mixed use aspect of
4 Parkside, by adding a medical clinic to the
5 list of uses, while still maintaining
6 residential uses within the PUD at this vacant
7 site in close proximity to the Minnesota
8 Avenue Metrorail Station.

9 The proposed parking garage will be
10 screened from public view, and would include a
11 green roof. The screening would consist of a
12 perforated screen wall panel that would allow
13 for ventilation of the garage.

14 Therefore, the Office of Planning
15 recommends that the Commission setdown the
16 application.

17 Thank you.

18 CHAIRMAN HOOD: Thank you very
19 much, Mr. Mordfin.

20 I will tell you, this is a number
21 of moving parts for me. I'm very confused.
22 Maybe things changed when I left and came
23 back, but maybe if this is setdown for a
24 hearing maybe I'll understand it a little
25 better. I'll be frankly honest.

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1 Commissioners, any -- and that's
2 nothing against you, Mr. Mordfin, because your
3 report, you know, it was still moving, but I
4 looked at the submissions and I will tell you
5 that for me it's just all over the place, and
6 maybe that's how it's always been. I don't
7 remember, okay, because I've been gone for a
8 while. A weekend is a long time.

9 Okay, so let me open it up to my
10 colleagues.

11 Did you want to say something, Mr.
12 Mordfin?

13 MR. MORDFIN: I was going to say, I
14 was going to agree with you that it does have
15 many pieces to it. It does have a lot of
16 parts.

17 CHAIRMAN HOOD: Okay. Commissioner
18 May?

19 COMMISSIONER MAY: Yes, I think the
20 biggest -- the biggest piece that's missing
21 for me is that there's just not enough
22 information about the stage one of this PUD,
23 and how this very dramatic change to what was
24 previously approved affects stage -- the
25 balance of stage one.

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1 And, I mean, so much so that I
2 don't feel like I can -- I can say that this
3 is ready to setdown for a hearing. You know,
4 I understand the need for the project, and it
5 seems like it would be a significant benefit
6 to the City and to the community to have this
7 particular facility located here. It's kind
8 of surprising to see it.

9 From what little I know about the -
10 - what was in stage one, which was based on
11 doing a stage two for sites at the opposite
12 end of this PUD, this portion of the PUD was
13 supposed to be pretty high density
14 development, and now we are talking about
15 almost like a, you know, suburban office park
16 type of, you know, building, except that it's
17 not totally surrounded by parking, it just
18 has, you know, a big parking lot temporarily
19 next door.

20 So, it's a very dramatic change for
21 me, in my picture of what this PUD was
22 supposed to be, and that makes it very
23 difficult.

24 And then, you know, if I could put
25 all of that aside, I just have a great deal of

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1 very significant questions about what, in
2 particular, has been designed here. The
3 architecture seems kind of odd, and almost
4 inappropriate for the site. There are strange
5 architectural moves with the green roof. I
6 don't understand the undulating green roof. I
7 don't, frankly, understand the purpose for the
8 green roof, because it's only covering up one
9 level of parking, and it doesn't seem to
10 provide a particular amenity to the building,
11 other than simply being green. So much of the
12 first floor is taken up with a driveway that
13 brings you from Kenilworth Terrace to the
14 opposite end of the building, and it's, you
15 know, two lanes. I don't understand why they
16 are not laying out the building differently,
17 so that you can go directly into that garage,
18 instead of having to take up so much floor
19 space.

20 I mean, there are all sorts of
21 things about just the architecture of the
22 building, where I don't think that it's really
23 ready for prime time.

24 This is not to say anything about
25 the benefits, or the worthiness, or whether

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1 this is the right thing to do for this PUD at
2 this time, given the change in circumstances,
3 but I just -- I'm very uncomfortable with the
4 notion that we would set this down at this
5 moment, given the number of, I think, very,
6 very significant questions. And, if you want
7 more detail I'll tell you more of the details
8 about the architectural issues I have, but I
9 want to give others a chance to talk.

10 CHAIRMAN HOOD: Mr. Turnbull, did
11 you have something you want to add?

12 COMMISSIONER TURNBULL: Yes, thank
13 you, Mr. Chair.

14 I agree with Commissioner May's
15 comments, and I remember when we sat this down
16 that we had a lot of discussion about it. I
17 think there was going to be retail on
18 Kenilworth Terrace, and several of the
19 buildings were like a rectangular donut, and
20 there was, I'm trying to remember if there was
21 parking on the inside.

22 And, I know we struggled with all
23 of this. We talked about IZ. We had a lot of
24 issues about how people actually -- I think
25 there was a proposal for another bridge to

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1 come across, and how people could come into
2 this site, and it was really going to be a
3 tremendous overall housing project and provide
4 an additional spark to what else was there,
5 with the townhouses.

6 And, as I say, I didn't have my
7 document with me, and I think, as Mr. May was
8 saying, it would have been nice to have that
9 as part of it, so you could look at it and
10 refer back to what was originally proposed.

11 But, I'm confused also by, if this
12 is going to be a modification, the original --
13 this is where we talked about before with Ms.
14 Roddy about the previous proposal and what was
15 proffered, what were the amenities, that now -
16 - how does that change, how does that affect
17 what goes into what's left of the PUD?

18 And, I'm just concerned that we are
19 missing something of the overall flavor of
20 what that original PUD had is now being
21 deleted somehow, and I'm not sure what the
22 amenity, other than it's a medical clinic and
23 will provide services, is that in itself the
24 primary amenity that's being proffered, other
25 than the housing and other retail that was

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1 going to be there originally?

2 I guess that's a little troubling.

3 I think this needs to be discussed, but I'm a
4 little reluctant to go ahead without getting
5 some more information back that we can
6 actually look at and analyze, compared to what
7 we had originally, because we had a very
8 substantial project that we went through.
9 And, I know we had a lot of questions. We
10 talked about the topo, and the grading and
11 everything, and how you came across.

12 So, I guess I'm -- and I would
13 agree with Commissioner May, there's aspects
14 of the proposed building that are a little
15 superficial. There's a huge mechanical
16 penthouse. Now, I know it's medical and that
17 there's a lot of other equipment, but this
18 penthouse takes about two thirds of the roof
19 for their two-story building. I'd like to
20 know a little bit more about it, and what --
21 if there's a little trellis with this curved
22 aspect, and as Mr. May said, we are going
23 through a lot of effort to cover up a parking
24 for 12 cars, and in one way it seems strange
25 that we are saying, well, it's green, it's got

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1 a green roof, and we are always pushing people
2 to have a green roof, but I think there has to
3 be a logic to it, and what else is it doing,
4 and then can anybody -- is it for the benefit
5 of the people or the patients that can go out
6 on this?

7 I think we need a little bit more
8 information that tells us some of the aspects
9 of what we are really getting with this
10 building, it seems like we are losing a lot
11 from the original proposal. And, I'm not sure
12 right now if it's apples to apples, and I'm a
13 little bit concerned. I think the Applicant
14 needs to come back and sort of give us a
15 better menu of what we had before, and what
16 they are giving us now, so that we can look at
17 this and say, you know, we may not agree, but
18 at least we'll have a little bit better --
19 we'll be in a better position to set this down
20 for a hearing.

21 CHAIRMAN HOOD: Mr. Turnbull, I'm
22 going to pick right up. I like what you said
23 about the menu, what we had before, and what
24 we are getting now, and I think that would be
25 a sound byte way of getting it across to us,

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1 instead of searching for what we did, what we
2 thought about, what we discussed, in 2006-
3 2007, whatever the years were, and then what
4 is in front of us now.

5 And, I will tell you that I
6 appreciate Mr. Brown for, apparently,
7 correcting where the -- took the word
8 modification out, and I greatly appreciate
9 that, because I don't know who helped him with
10 that, but I appreciate it, because I don't see
11 anything minor here. So, that is a plus in
12 the Applicant's favor.

13 Let me ask, so we are not going to
14 set this down, we asked for some additional
15 things, I guess I will just ask Ms. Schellin
16 to look and see if the Applicant understands
17 what we are kind of looking for at a later
18 date, and the question is, could that later
19 date be our only meeting that we are having in
20 September, which is --

21 MS. SCHELLIN: Yes, their case
22 being the only case. I know we have lots of
23 -- we only have one meeting in September.

24 Are you asking that the Office of
25 Planning also respond to the -- okay. So,

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1 maybe if they could file their filings by the
2 end of August, then that would allow OP to be
3 able to file their supplemental report ten
4 days prior. Would that work?

5 MS. STEINGASSER: Could I add a
6 little bit? You will be getting a -- the
7 modification to the full PUD is coming to you
8 in two weeks, so you'll have a full phase one
9 modification request before you in two weeks
10 for the rest of this PUD. So, the context
11 that you are asking about tonight will be
12 apparent to you in two weeks, when the rest of
13 that PUD comes to you. It was not as fully
14 developed as it should be to get to you
15 tonight, so we've been working with the
16 Applicant, the Lano, the original PUD
17 applicant, to get that fully before you.

18 The clinic was in a little bit more
19 of a hurry, and is the purchaser of the
20 property, so they had a slightly different
21 interest, but we understand your concerns
22 about context. But, I think we may be able to
23 get a lot of those questions answered at the
24 June 28th -- July 28th meeting, but we would
25 definitely welcome the architectural issues

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1 that the Commissioners have, the comments
2 about the design that are not context based or
3 program based, but more on the design front,
4 if the Commission would be open to that.

5 CHAIRMAN HOOD: So, if I
6 understand, we are going to see something in
7 two weeks that may answer a number of our
8 concerns tonight.

9 MS. STEINGASSER: About how this
10 part of the modification fits in with the
11 overall Parkside PUD, yes, sir.

12 MR. MORDFIN: That modification is
13 for Blocks G, H and I. The rest of the
14 properties along Kenilworth Avenue, this one
15 is I, G is the middle part, so everything
16 between Kenilworth Terrace and Kenilworth
17 Avenue will be included in that second setdown
18 -- second phase setdown for the end of July,
19 and that will include the changes in the
20 amount of office space, the changes in the
21 number of dwelling units. It doesn't include
22 why this particular use is important, although
23 this is the only clinic of its type in Ward 7.
24 There are no other type clinics like this.
25 Another one that was at 42nd and Hunt Place,

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1 N.E., closed last year, leaving a void, so
2 that's an answer to part of your question.

3 COMMISSIONER TURNBULL: Will what
4 we are going to see address the temporary
5 parking lot issue?

6 MR. MORDFIN: Yes, that one,
7 actually, proposed a building for the parking
8 lot, it proposes the Flagship Building for the
9 Community College of the District of Columbia
10 to be on that building -- I'm sorry, I mean on
11 that parking lot.

12 COMMISSIONER TURNBULL: But, it's
13 parking and offices?

14 MR. MORDFIN: It will have a
15 garage. It will be an office building with a
16 garage that will have one level of parking
17 below, with 250 parking spaces, and some other
18 spaces will be made available to the clinic,
19 79 spaces, as they deem necessary for their
20 operation.

21 COMMISSIONER TURNBULL: Thank you.

22 CHAIRMAN HOOD: So, even though I
23 understand what we are going to see in two
24 weeks, I'm probably more confused now than I
25 was previously.

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1 COMMISSIONER MAY: Mr. Chairman, I
2 mean, I would have no objection to deferring
3 taking any action on this until the 26th,
4 which is, I think, the actual --

5 CHAIRMAN HOOD: The 26th or the
6 28th?

7 COMMISSIONER MAY: 26th. You said
8 28th, I started looking at my calendar,
9 because I was like, what, the 28th? No, the
10 26th is the next meeting.

11 CHAIRMAN HOOD: So, why don't we do
12 that, because I think -- I kind of agree, you
13 know, Ms. Steingasser may shed some light on a
14 lot of the concerns and issues there, and two
15 weeks is not going to hurt you, Mr. Brown, two
16 weeks ain't going to hurt you.

17 Now, three months may, but two
18 weeks won't.

19 MR. BROWN: I agree with that, but
20 again, Patrick Grown from Greenstein DeLorme &
21 Luchs, on behalf of the Applicant, we need to
22 be careful because my client, their portion of
23 this application is, of a 15-acre site, is
24 really only 24,000 square feet of land, and
25 while we have the ability to control and

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1 influence that 24,000 square feet, and what we
2 are proposing, we can't be, and shouldn't be,
3 kind of held hostage to the other 15 acres,
4 which we have no control over. We are
5 contract purchasers from the Lano parcel, the
6 original first stage PUD applicants.

7 So, we have to establish
8 appropriate expectations, I think, from the
9 Commission, and what my client can respond to
10 the concerns you've raised, and again, we are
11 proposing a very -- as part of the overall
12 project, very small portion of that that we
13 have control over.

14 So, allowing us to get caught up
15 too deeply in the bigger balance of the 15
16 acres, I think will put my client and our
17 project, which is very important and time
18 sensitive, in an impossible position, because
19 we don't have the ability to influence
20 anything other than that 24,000 square feet at
21 the corner of Hayes, Kenilworth Terrace and
22 Kenilworth Avenue.

23 CHAIRMAN HOOD: I think we
24 understand that, Mr. Brown. I think the issue
25 was, we were trying to -- we have some

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1 concerns with this PUD in front of us period,
2 and I think the issue is, we want to look at,
3 as Ms. Steingasser has already mentioned, that
4 we are going to be revisiting a lot of the
5 overall project.

6 Now, if we go down lines which we
7 were going to go down without what Ms.
8 Steingasser put in, we probably wouldn't be
9 dealing with this again until September.
10 That's why when she said that, this may help
11 us to see a little more light at the end of
12 the tunnel, and we'll take it back up in July.

13 But, from what you are saying, if
14 we go the route you are going, I think it
15 would be even more detrimental, because we
16 won't deal with it until September the 20 --
17 whatever date that is. We only meet once in
18 September.

19 MR. BROWN: No, I'm certainly not
20 advocating for putting this off, but I'm just
21 also -- I'm trying to create what I think are
22 reasonable expectations, both from what my
23 client can deliver to the Commission, respond
24 to, and what the Commission can expect as far
25 as information on the bigger picture that we

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1 can provide.

2 To put it in some concrete context,
3 you may love our project, our little 24,000
4 square feet, and not like what's happening
5 with the balance of the first stage PUD, which
6 is, you know, the balance of 15 acres. I
7 would hate to have my important project, and
8 one of a kind in Ward 7, get held hostage to,
9 you know, the other 14.5 acres.

10 COMMISSIONER TURNBULL: Mr. Brown -
11 - oh, I'm sorry, Mr. May.

12 COMMISSIONER MAY: Yes. I really,
13 really don't like the idea of using the term
14 "held hostage." This property is part of an
15 approved stage one PUD, and you purchased it,
16 or you made a contract to purchase it, fully
17 knowing that.

18 It is inextricably connected. We
19 are trying to understand what happens when it
20 gets severed in this fashion, and it's not
21 holding anything hostage, we just need
22 information to be able to understand it, and I
23 would appreciate if we can have whatever
24 hearing we have in that kind of a context.

25 MR. BROWN: Understood.

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1 CHAIRMAN HOOD: Okay,
2 Commissioners, let me ask my colleague, Mr.
3 Turnbull, I'm sorry.

4 COMMISSIONER TURNBULL: No, I was
5 just going to agree with Commissioner May, my
6 point is the same as that. You are asking for
7 a modification. You have to meet the tests of
8 the modification, which involves going back
9 and looking at the original PUD, and what we
10 approved at that time.

11 So, in order for us to approve a
12 modification, we have to feel comfortable that
13 this, indeed, meets the test for the
14 modification.

15 MR. BROWN: And, I understand, but
16 again, going back to the point I'm making is,
17 I'm asking for a modification of a part of a
18 15 acre PUD that was specifically called for
19 certain things to happen in this only a part
20 of what they referred to originally as Parcel
21 I, which is twice as large, more than twice as
22 large as the actual site that we are talking
23 about, and that called for high-density
24 residential.

25 So again, looking at it from my

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1 client's perspective, we are asking to make
2 the change to only that portion of it that
3 affects the residential component. There are
4 other things occurring in the overall first
5 stage PUD for which we are not asking for a
6 modification of on our behalf, and won't be
7 affected, so that the rest of the parcel
8 provided, the 15 acres, provided for various
9 other things, and we are not asking for
10 changes to those.

11 So, just to be precise, we need to
12 look, and my job would be to present what we
13 are asking for a change for, and it is -- it
14 is a change, and we recognize that, but it
15 isn't a change to the entire PUD.

16 CHAIRMAN HOOD: Okay, thank you.
17 Thank you very much, Mr. Brown.

18 Do you want to comment, Mr. May?

19 COMMISSIONER MAY: No, I think we
20 can judge very well how big this is in
21 comparison to the rest of the PUD. We are not
22 trying to balance the entire weight of this
23 PUD and what it's supposed to deliver on the
24 back of this relatively small portion.

25 However, this relatively small

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1 portion should live up in some manner to what
2 was proposed in the stage one PUD, and that's
3 what we are trying to evaluate.

4 CHAIRMAN HOOD: Okay, thank you.

5 MR. MORDFIN: Mr. Chair, I was just
6 going to back to Commissioner May's original
7 statement that, when he was talking about it
8 previously from an architectural standpoint,
9 that it seemed very suburban, which is not
10 what we approved as part of the original PUD.

11 It was not -- it was a little bit better
12 developed than just suburban.

13 COMMISSIONER MAY: Yes, along those
14 lines, Ms. Steingasser asked, specifically,
15 for more architectural comment. One of the
16 things that I would -- a comment that I would
17 have, or question I would have, yes, believe
18 it or not, I can't turn that down.

19 The overall density of this portion
20 seems, well, I mean, it's significantly
21 reduced from what was originally proposed, and
22 it makes me wonder whether there is a --
23 whether there is not some other solution that
24 would integrate more with the rest of the
25 development. I mean, I'm thinking about, I

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1 mean, this may well be far beyond the ability
2 of this particular project to deliver, but
3 it's a question I would want to have answered,
4 which is, you know, could this be developed in
5 some manner, such that it allows that future
6 density to occur on the site, and the things
7 that I think about are, you know, the classic
8 examples of buildings built with sufficient
9 structure to support additional stories above
10 it. This has happened on many occasions in
11 the City, or some other solution that, you
12 know, I'm not going to try to redesign it
13 myself.

14 You know, I think that there are
15 issues with this building in the plan of it,
16 and I think part of it is just the layout of
17 the parking and how much driveway there is and
18 all of that, but, you know, the issues of
19 access into the building, and entrance points
20 into the building, I think that's -- I need
21 to understand that a little bit better, and
22 understand where people are going to be coming
23 from, and then I think overall the facades of
24 this building are kind of all over the place.
25 We've got architectural screening, and we've

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1 got a glass curtain wall, and we've got brick
2 with ribbon windows, I haven't seen ribbon
3 windows in a design in this -- to this extent
4 in a long time. I mean, it really just gives
5 you this very opaque feel to it, and I just --
6 I don't -- I don't see a place for that here.

7 The rest of the stuff is sort of
8 minor things, but I just think that the whole
9 architecture of the pieces is kind of all over
10 the place, and I think some simplification and
11 refinement of whatever gets built would be
12 appropriate, and I think that there's
13 significant money to be saved, and space to be
14 saved, in improving the plan layout of the
15 building, and making better use of the site.

16 CHAIRMAN HOOD: Okay, thank you.

17 Any other comments? Okay.

18 I guess after Mr. Brown's comments,
19 I was trying to try to help set this down so
20 we could put this on the fast track of what we
21 have, but I think after Mr. Brown's comments I
22 don't know if two weeks is going to be enough
23 time.

24 Let me finish, Mr. Brown, I don't
25 think --

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1 COMMISSIONER MAY: Mr. Chairman, I
2 mean, rather than take specific action
3 tonight, I would be very happy to just defer
4 and wait and see whether in light of what we
5 see on the 26th this makes enough sense for it
6 to be setdown at that point, and I would be
7 happy to do that.

8 CHAIRMAN HOOD: Okay, great.

9 COMMISSIONER MAY: In the meantime,
10 there's other work that they can be doing to
11 prepare for the eventual hearing, because
12 sooner or later we'll get to a hearing.

13 CHAIRMAN HOOD: Okay, and not
14 tonight, Mr. Brown. I think are you on board
15 with what Commissioner May just mentioned, and
16 Ms. Schellin?

17 MR. BROWN: I understand, and, I
18 mean, I think we can use the time we have to
19 assist the Commission. It doesn't give us a
20 lot of time, but I think it would allow us to,
21 perhaps, respond conceptually to some of the
22 things, recognizing that it will be a work in
23 progress.

24 Is that meeting your initial
25 expectations, Mr. May?

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1 COMMISSIONER MAY: That's fine, I'm
2 not looking for a lot of stuff between now and
3 the 26th. If anything can be produced that
4 can be shared with us in time, you know, I
5 think we'd be very happy to look at it then,
6 but mostly I want to see the rest of this
7 development on the 26th, to know whether this
8 will make sense after seeing that. That's the
9 biggest question.

10 MS. SCHELLIN: Anything that they
11 plan on having in the package they need to
12 really submit before -- by the 19th, I'd say
13 by noon on the 19th.

14 MR. MORDFIN: Okay.

15 CHAIRMAN HOOD: Okay, and remember,
16 if you send an email, send it in the day
17 before.

18 MS. SCHELLIN: It won't be by
19 email, because that will be color, and we
20 won't accept color emails.

21 CHAIRMAN HOOD: All right, okay, so
22 we are all on the same page. We'll try to
23 revisit this again on the 26th of July, at our
24 next meeting, and as Commissioner May has
25 said, we'll see where we move at that point.

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1 Anything else on this? Mr. Brown,
2 are we all straight?

3 MR. BROWN: I think so, thank you
4 very much.

5 CHAIRMAN HOOD: Thank you.

6 Okay, do we have anything else
7 tonight, Ms. Schellin?

8 MS. SCHELLIN: No, that's it.

9 CHAIRMAN HOOD: Okay. I want to
10 thank everyone for their participation in this
11 meeting tonight, and this meeting is
12 adjourned.

13 (Whereupon, the above-entitled
14 matter was concluded at 7:55 p.m.)

15

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