

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

JANUARY 30, 2012

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Konrad Schlater, Vice Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

KONRAD W. SCHLATER, Vice Chairman
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
MARCIE COHEN, Commissioner
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic Preservation

JOEL LAWSON

KAREN THOMAS

MAXINE BROWN-ROBERTS

MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

JACOB RITTING, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on
January 30, 2012.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

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

6:30 p.m.

VICE CHAIRMAN SCHLATER: Good evening. This meeting will please come to order.

Good evening, ladies and gentlemen. This is the January 30, 2012 Public Meeting of the Zoning Commission for the District of Columbia.

My name is Konrad Schlater, Vice Chairman of the Zoning Commission. And I'm joined today by Commissioners Marcie Cohen, Peter May and Michael Turnbull. We are also joined by Office of Zoning staff Sharon Schellin, Office of Attorney General staff Jacob Ritting. And from the Office of Planning we have Jennifer Steingasser, Joel Lawson, Matt Jesick, Maxine Brown-Roberts and then Karen Thomas. Sorry.

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

1 We do not take any public
2 testimony at our meetings unless the
3 Commissioner requested someone to come
4 forward.

5 Please be advised that this
6 proceeding is being recorded by a court
7 reporter and is also webcast live.
8 Accordingly, we must ask you to reframe from
9 any disruptive notices or actions in the
10 hearing room. Please turn off all beepers and
11 cell phones.

12 Does the staff have any
13 preliminary matters?

14 MS. SCHELLIN: Yes. No, sir. Not
15 unless the Vice Chairman would like to
16 rearrange the agenda any.

17 VICE CHAIRMAN SCHLATER: I don't
18 think so. I think we should plow right
19 through. Do you want to rearrange the agenda?
20 No. I think it's okay.

21 Let us proceed with the agenda.
22 The first item tonight is Zoning Commission

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1 Case No. 08-14B (Kelsey Gardens Property
2 Company, LLC - PUD Minor Modification at
3 Square 421).

4 I think where we left this off is
5 we had resolved most of the issues in regard
6 to this minor modification, but asked for more
7 information on the roof as well as the green
8 roof.

9 Any thoughts?

10 COMMISSIONER MAY: Or Chairman or
11 Mr. Vice Chairman -- Mr. Vice Chairman, yes. I
12 looked over the material that we received.
13 And some issues I think are clarified. You
14 know, there still is an inconsistency in the
15 drawings from what I had -- from even the 2009
16 drawings where what's show in plan versus
17 what's shown in section -- I'm sorry, in
18 elevation are inconsistent. And specifically
19 this has to do with the enclosing wall for
20 what is now the swimming pool area along the
21 west side of the property which does not exist
22 in plan on the 2009 approved roof plan. Or,

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1 at least if it exists, I can't see it and I
2 know how to read plans. But it is showing up
3 in the rear elevation from 2009, but it's
4 rendered in such a way that I'm not sure
5 exactly what it is or where it is in plan.
6 I'm not sure everybody can follow me, but
7 there's that enclosing wall at the back side
8 of the pool. And it now is essentially
9 continuous with the rear wall of the
10 apartment.

11 You know, again it's not -- I
12 think it is a significant change from what I
13 thought we had approved. I also think it's a
14 bad idea.

15 I mean, if we look at this
16 carefully, it looks like the entire pool is
17 enclosed by like a 12 foot high wall on four
18 sides. I'm sure there's some rational for
19 that, but I just think it's -- it's kind of
20 silly. You're going to be up on the roof and
21 you're not going to be able to see anything.

22 VICE CHAIRMAN SCHLATER: It could

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1 be that condenser farm that's surrounding it
2 on both sides.

3 COMMISSIONER MAY: Well, yes. But
4 the condenser farm is on the north and the
5 south, it's not on the east and west. And
6 there are ways to screen things like that
7 don't involve building 15 foot walls or 12
8 foot high walls.

9 So, I don't know. I'm not in favor
10 of this particular change. I'm not sure if
11 there's a real rational in terms of the
12 relief, the additional relief that's needed
13 here and whether that constitutes a minor
14 modification. But I didn't support the final
15 approval of this building in the first place,
16 and I'm not sure I'm inclined to support this
17 particular change for that reason. But I
18 don't expect to be the majority in this
19 circumstance.

20 VICE CHAIRMAN SCHLATER: Any other
21 thoughts?

22 COMMISSIONER TURNBULL: Well,

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1 Commissioner May, I know you were in total
2 approval but we share your angst when you're
3 looking at something now. And I think we want
4 to make sure as to what you think the
5 applicant should be doing, or what would you
6 like to see them do?

7 COMMISSIONER MAY: I think if
8 there were more thought put into the design of
9 the enclosure for that pool and it was drawn a
10 little bit more. I mean, maybe what I'm
11 imagining is not actually accurate. But it's
12 hard to know. I mean, we've seen very limited
13 drawings on this. If they were to produce
14 something that really were thoughtfully
15 designed and the drawings clearly represented
16 it, it might not be an objectionable thing.

17 I certainly don't have any problem
18 with the -- I think we've probably already
19 discussed this. I don't have any problem with
20 the change in the retail on the ground floor.

21 And I'm not losing any sleep over the green
22 roof versus the cool roof at this point. I

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1 don't think their argument was particularly
2 persuasive, I just don't think it's that big a
3 deal.

4 You know, this is just really not
5 a good design. I don't want to give it my
6 blessing.

7 MR. RITTING: I just wanted to
8 interrupt for a second and bring the
9 Commissioners' attention to the rule that says
10 that "Any member of the Commission may remove
11 any item from the Consent Calendar for any
12 reason. Any matter that is not placed on the
13 Consent Calendar or that is removed from the
14 Consent Calendar shall be action on by the
15 Commission according to the applicable
16 procedures contained in other sections of this
17 chapter."

18 So if it's an instance, Mr. May,
19 where you believe it's off the Consent
20 Calendar, there's no need for a majority vote.

21 COMMISSIONER MAY: You know, all
22 along in these discussions I have not said

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1 that this is something that rises to the level
2 of needing a public hearing, which is what I
3 think you know the Consent Calendar question
4 is about. So I don't have any objection to
5 this being considered on the Consent Calendar.
6 I'm just not in favor of approving it. I
7 assume that that's a legal position I could
8 take.

9 MR. RITTING: I think that sounds
10 reasonable. Yes, I support that.

11 COMMISSIONER COHEN: The issue
12 that was of great concern to me was -- and I
13 am disappointed that there won't be a green
14 roof, but again I don't think it rises to an
15 objection to just have a regular roof, white
16 roof.

17 COMMISSIONER TURNBULL: Well, I
18 would just go along and say that, Commissioner
19 May, I'll support you in sending this back to
20 the applicant for further consideration. I
21 think they've got one out of two and they've
22 got to resolve the last part. But I'll

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1 support you on this.

2 COMMISSIONER MAY: I think they've
3 addressed two out of three at this point.

4 COMMISSIONER TURNBULL: Two out of
5 three, yes.

6 COMMISSIONER MAY: This is the
7 only remaining issue where they really have
8 not --

9 COMMISSIONER TURNBULL: You're
10 right. You're right.

11 COMMISSIONER MAY: -- prove that
12 it's worth doing.

13 VICE CHAIRMAN SCHLATER: The only
14 thing that I would add to this debate is that
15 I think the addition of a pool to the roof is
16 an additional amenity for the building. It
17 makes it a better building. And if you look
18 at the actual -- the alley elevation and 7th
19 Street elevation, they're not significantly
20 changed.

21 I mean when I was reviewing this
22 latest submittal I was just flipping through

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1 and comparing those elevations. And I don't
2 think the applicant is asking -- and there are
3 changes, I'm not saying there aren't changes.

4 But the elevations look substantially
5 similar.

6 So, you know my inclination is
7 this is an important project for Shaw. This
8 would be -- you know, promote affordable
9 housing in the area. It would take what's an
10 abandoned block and move it forward.

11 I'm ready to see this project move
12 forward. And I'm not sure what more work needs
13 to be done. I'm ready to move it forward.

14 But if Commissioner May and
15 Commissioner Turnbull are at a point where
16 they're not ready to move it forward, we then
17 must decide what to do. You can either yank
18 it off the Consent Calendar, we can send them
19 back to do more work on the elevations or we
20 can approve it tonight. I think those are our
21 options.

22 COMMISSIONER MAY: I really don't

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1 think it's worth having a public hearing. I
2 mean, I just think it needs to be I think
3 designed better, drawn better.

4 I know that they're anxious to
5 move on. There's some sort of deadline
6 looming for them as well.

7 VICE CHAIRMAN SCHLATER: I think
8 Ms. Giardano would like to address the
9 Commission. If you would like to say a few
10 words, you can come up.

11 MS. GIARDANO: Cynthia Giardano
12 with Saul Ewing law firm representing the
13 applicant.

14 We were planning to submit for
15 building permit approval on the 27th of this
16 month. We've delayed it a little bit.

17 I think it would be helpful if we
18 just knew that the pool, the three out of the
19 three, is acceptable and we can go back and
20 look at that elevation and bring it back. But
21 if we just had the guidance that we're almost
22 there, that would be helpful. We know that we

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1 can go ahead and submit the plans. We can
2 always modify them slightly for this change in
3 the design.

4 And I think I understand what our
5 concern is.

6 COMMISSIONER MAY: Yes. Yes, I
7 think the only real problem I have at this
8 point is the placement of that wall along the
9 western facade, the alley facade there and --

10 MS. GIARDANO: The east west
11 facades. East to west.

12 COMMISSIONER MAY: Well, I mean
13 the eastern facade, that wall is integral to
14 the architectural embellishment of the sort of
15 a raised facade at the center of the building.
16 So, I don't expect that to change. It's what
17 happens on the alley side.

18 But, frankly, they ought to be
19 looking at what happens on the north and south
20 walls there too. Because it's just going to
21 be I think an unpleasant space if you're up
22 there on the roof and you can't see anything

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1 other than walls. I mean, there may be other
2 reasons why it was designed that way, I don't
3 know what they are. But I just -- I don't --
4 I think they ought to look at it more
5 thoroughly.

6 But again, it's just the matter of
7 the placement of the wall, it's not the
8 feature of the pool it itself.

9 MS. GIARDANO: The alternative is
10 that the Commission could approve the plans
11 with flexibility to modify them along the
12 lines that Commissioner May is suggesting so
13 we don't have to come back but the Zoning
14 Administrator could look at it. We'd be
15 willing to do either one.

16 VICE CHAIRMAN SCHLATER: Any
17 thoughts on that, Commissioner May?

18 COMMISSIONER MAY: You know, I
19 said before I'm not particularly inclined to
20 vote in favor of this as it is right now. I
21 would hope that if we saw more improved
22 drawings that I'd be inclined to vote in favor

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1 of it. But if the Commission wanted to move
2 ahead without me and trust that the applicant
3 would make the changes necessary, I would not
4 be hurt.

5 VICE CHAIRMAN SCHLATER: Well, I
6 guess that leaves it up to Commissioner
7 Turnbull. Is that how we should proceed
8 tonight?

9 COMMISSIONER TURNBULL: Well, I
10 guess the only thing is you're not going to
11 see any drawings.

12 COMMISSIONER MAY: I'll be all
13 right.

14 COMMISSIONER TURNBULL: You'll
15 live through that?

16 COMMISSIONER MAY: I will.

17 COMMISSIONER TURNBULL: Okay.

18 COMMISSIONER MAY: Okay.

19 VICE CHAIRMAN SCHLATER: Well,
20 with that I'm going to make a motion that we
21 approve Zoning Commission Case No. 08-14B
22 (Kelsey Garden Property Company, LLC - PUD

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1 Minor Modification at Square 421) with the
2 expressed provision that there's flexibility
3 with regard to this roof structure around the
4 pool and the urging of the Commission to make
5 modifications to those walls to improve it.

6 COMMISSIONER COHEN: I'll second
7 it.

8 VICE CHAIRMAN SCHLATER: All
9 right. The motion properly seconded.

10 Any further discussion? All in
11 favor say aye.

12 ALL: Aye.

13 VICE CHAIRMAN SCHLATER: Opposed?

14 COMMISSIONER MAY: No.

15 MS. SCHELLIN: Does the Commission
16 want the revised plans once they get them, a
17 copy to be placed into the record or not?

18 VICE CHAIRMAN SCHLATER: Sure.

19 MS. SCHELLIN: Okay. So if Ms.
20 Giardano could provide us with a copy once she
21 has them.

22 Staff will record the vote four-

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1 to-zero-to one to approve final action in
2 Zoning Commission Case No. 08-14B.

3 Commissioner Schlater moving,
4 Commissioner Cohen seconding, Commissioners
5 Turnbull and May in support, Commissioner Hood
6 not present, not voting.

7 VICE CHAIRMAN SCHLATER: So that's
8 three-zero-one? Three -- you said four-to-
9 zero-to one.

10 MS. SCHELLIN: Did he oppose it?
11 I'm sorry. Three-to-one-to-one; Commissioner
12 Schlater moving, Commissioner Cohen seconding.
13 Commissioner Turnbull in support, Commissioner
14 May opposed, Commissioner Hood not present,
15 not voting.

16 VICE CHAIRMAN SCHLATER: Okay.
17 All right. Thank you, Sharon.

18 We're going to move on to Zoning
19 Commission Case No. 07-26D (O Street Roadside,
20 LCC - Minor Modification to Pud at Square
21 398).

22 I think the submission is fairly

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1 self-explanatory. Any issues with this
2 modification?

3 COMMISSIONER MAY: I have no
4 concerns.

5 COMMISSIONER TURNBULL: I'm in
6 support of it.

7 VICE CHAIRMAN SCHLATER: Okay.
8 I'd like to make a motion that we approve
9 Zoning Commission Case No. 07-26D (O Street
10 Roadside, LCC - Minor Modification to Pud at
11 Square 398).

12 COMMISSIONER TURNBULL: Second.

13 VICE CHAIRMAN SCHLATER: Any
14 second, any further discussion?

15 All in favor?

16 ALL: Aye.

17 VICE CHAIRMAN SCHLATER: Oppose.

18 MS. SCHELLIN: Staff records the
19 vote four-to-zero-to-one to approve final
20 actions on Zoning Commission Case No. 07-26D.

21 Commissioner Schlater moving,
22 Commissioner Turnbull seconding. Commissioner

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1 Cohen and May in support. Commissioner Hood
2 not present and not voting.

3 VICE CHAIRMAN SCHLATER: Great.
4 We'll move to Final Action.

5 Zoning Commission Case No. 08-33A
6 (Conference Center Associates I, LLC - Two-
7 Year PUD Time Extension at Parcel 121/31).

8 Commissioners, we have a report
9 from the Office of Planning recommending
10 approval of the extension of the consolidated
11 PUD as well as the first stage PUD, I believe.

12 It's important to note that the
13 applicant is seeking a time extension to both
14 first stage and second stage approvals. First
15 stage approval will not expire for another two
16 years.

17 COMMISSIONER COHEN: It seems to
18 me that this request is very preliminary. I
19 mean I don't know why they have to even
20 request the extension if they still have two
21 years on it.

22 COMMISSIONER MAY: Well, did I

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1 understand correctly that the stage two hadn't
2 expired, it stayed because of the application
3 but that has expired so that needs to be
4 extended?

5 VICE CHAIRMAN SCHLATER: We
6 certainly need to act on this on the
7 consolidated portion of it.

8 COMMISSIONER MAY: Right.

9 VICE CHAIRMAN SCHLATER: We could
10 choose if we wanted to, to defer action on
11 extending the first stage approval.

12 COMMISSIONER MAY: That would be
13 consistent with what we've done in the past
14 where we haven't taken up certain things even
15 when there was 10 and 11 months to go. Two
16 years to go it seems far too early.

17 VICE CHAIRMAN SCHLATER: I mean
18 I'm certainly in support of that. I will say
19 that I doubt that there's going to be a large
20 change in the circumstances of this particular
21 development by the time that first stage
22 expires. But things in the neighborhood could

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1 change. There are circumstances that could be
2 different at that time, and I think we should
3 only consider the extension of the
4 consolidated approval tonight as well.

5 COMMISSIONER TURNBULL: I would
6 concur with the Vice Chair. I think we ought
7 to defer the first stage action right now.

8 VICE CHAIRMAN SCHLATER: Does
9 anybody have objection to the extension on the
10 consolidated PUD? Okay.

11 Do I hear a motion?

12 COMMISSIONER TURNBULL: I would
13 move that we approve Zoning Commission Case
14 No. 08-33A (Conference Center Associates I,
15 LLC - Two-Year PUD Time Extension at Parcel
16 121/31) for the consolidated portion of the
17 PUD and deferring the first stage PUD.

18 VICE CHAIRMAN SCHLATER: Second?
19 Okay. Motion has been made and properly
20 seconded. Any further discussion?

21 All in favor say aye.

22 ALL: Aye.

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MS. SCHELLIN: The staff records the vote four-to-zero-to-one to approve final action Zoning Commission Case 08-33A.

Commissioner Turnbull moving, Commissioner May second, Commissioners Cohen and Schlater in support. Commissioner Hood present, not voting.

VICE CHAIRMAN SCHLATER: Great. Thank you.

We're going to move forward to Zoning Commission Case No. 11-15A (Howard University - Further Processing of Campus Plan & Special Exception.)

Howard has made a number of changes to the proposed -- to the drawings and the location of the entrance of one of the dormitories. And let's see what else we got.

Anybody have further issues with this application?

COMMISSIONER MAY: Mr. Chairman, I would just comment that I appreciate the work that was done in reconsidering the

1 organization of the building. I think that
2 the shifting the entry point to the center was
3 beneficial for the upper floors of the
4 building.

5 I was rather surprised to see that
6 the shift to the center point for the entrance
7 meant that entrance was now going to be in the
8 middle of the block as opposed to on the
9 street face.

10 I guess there are reasons why
11 that's being done and that makes sense. I'm
12 not sure that that's really an improvement for
13 the entry sequence to the building, but I
14 think that the net effect is beneficial for
15 the residents of the building and what
16 happened overall.

17 So I think generally speaking it
18 has improved as a result of that change, and I
19 appreciate the fact that they investigated it
20 and decided that there were some room for
21 improvement.

22 I'm not sure if that fully

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1 addressed any of the roof top setback reliefs
2 they might have needed. But I just don't
3 recall.

4 In any case, I don't have any
5 objection if they do need relief because I do
6 think that they have done some work to kind of
7 push the stuff closer to the middle that
8 needed to be closer to the middle of the
9 building.

10 VICE CHAIRMAN SCHLATER: Any other
11 comments, Commissioners?

12 COMMISSIONER TURNBULL: No. I'm
13 fine with it.

14 VICE CHAIRMAN SCHLATER: Great.

15 Do we hear any motions?

16 COMMISSIONER TURNBULL: I would
17 move that we approve Zoning Commission Case
18 No. 11-15A (Howard University - Further
19 Processing of Campus Plan & Special
20 Exception.) And ask for a second.

21 VICE CHAIRMAN SCHLATER: Second.

22 Motion has been made and properly

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1 seconded. Any further discussion.

2 All in favor say aye.

3 ALL: Aye.

4 MS. SCHELLIN: The staff records
5 the vote four-to-zero-to-one to approve final
6 action in Zoning Commission Case No. 11-15A.

7 Commissioner Turnbull moving,
8 Commissioner Schlater seconding, Commissioners
9 Cohen and May in support. Commissioner Hood
10 not present, not voting.

11 VICE CHAIRMAN SCHLATER: Okay.
12 The last item that's listed under Final
13 Action, but we're actually not taking action
14 on the item. I think we're really giving
15 guidance. It's Zoning Commission Case 11-07A
16 (American University - Further Processing of
17 North Hall). I think the intent here is to
18 give guidance to the applicant so that in the
19 event that we approve the Campus Plan, they
20 will have drawings that are in good shape such
21 that we can also approve North Hall and it can
22 be moved forward and be in place for the 2013

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1 academic year or 2013/2014 academic year.

2 So, with that I'll ask if we have
3 any guidance we want to give on North Hall?

4 COMMISSIONER MAY: Thank you, Mr.
5 Vice Chairman.

6 You know, I read with great
7 interest the discussions that were the
8 submissions that we had seen after our
9 hearing, the reactions from ANC-3D and the
10 University's filing with regard to what
11 further discussions they had regarding the
12 design of the building.

13 And I really was optimistic,
14 perhaps I guess naively optimistic, but I was
15 optimistic that there would be further
16 progress on the design and that there could be
17 a meeting of the minds between the neighbors
18 and the University about the design of this
19 building. But sadly I was disappointed.

20 I do think there actually is still
21 room for modification of the building to
22 address some of the concern about how tall the

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1 building is or how tall it is perceived to be
2 from Massachusetts Avenue. And I think my
3 personal opinion is that it would benefit the
4 University to study that more fully. I'm not
5 suggesting a full redesign of the building is
6 appropriate or necessary. But I think that
7 more could be done to kind of reduce that
8 sense that this is looming over Massachusetts
9 Avenue. I don't quite agree with that word
10 that it's "looming over." It's not tall
11 enough to loom, but it is a bigger building
12 than was in the area, and I think it would be
13 beneficial for it to be setback or to be
14 manipulated somewhat so that it does not seem
15 to be as close and as tall to Massachusetts
16 Avenue.

17 So, I mean that's just my thought.

18 Thanks.

19 VICE CHAIRMAN SCHLATER:

20 Commissioner Turnbull?

21 COMMISSIONER TURNBULL: Thank you,

22 Vice Chair.

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1 I guess after hearing all the
2 arguments I'm not that opposed to some of the
3 aspects of North Hall, I think the design.
4 But I agree with Commissioner May in that the
5 Massachusetts added new part could have been
6 reduced a bit.

7 I think when you look at how it
8 relates to the rest of the campus as a section
9 through it, I mean obviously it relates to the
10 double hall, it relates to the internal
11 aspects of the campus itself. And I think the
12 arrangement of the building, I have no issue
13 with the way it's laid out and the planning
14 that goes into meeting the slope of the hall,
15 the ADA and what they're trying to do. But I
16 think there could have been something done
17 with Massachusetts Avenue.

18 I mean, I think it's a minor
19 thing, but I think I agree with Commissioner
20 May. They could have set it back just a
21 little bit. But overall, I think it fits in
22 with the site. I think it's a workable

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1 building for that site. I just think that a
2 little bit of more massaging with that front
3 on Massachusetts Avenue could help it. It
4 would alleviate some of the fears.

5 I mean, there are some tall
6 buildings along Massachusetts Avenue. I mean,
7 but I-- there's nothing that I have that shows
8 me how it relates totally to it as it goes
9 along, other than we saw the pictures
10 originally. But I think they could have
11 alleviated some of the concerns by stepping it
12 back a bit.

13 VICE CHAIRMAN SCHLATER: All
14 right. Commissioner Cohen didn't sit on this
15 case, I should note. So that leaves it up to
16 me.

17 I think that this is a good site
18 for the residence hall. I think largely the
19 testimony supported that. And in terms of how
20 it relates to the rest of the campus, I
21 support my fellow colleagues in there and
22 request to get further refinements made to the

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1 facade in and how it relates to Massachusetts
2 Avenue. But I really don't have much more
3 besides that.

4 I think it's a good project and I
5 think it's important to move forward and
6 design campus housing initiatives, and support
7 them, which I do.

8 So, with that, I think that's all
9 we have tonight on this particular item.

10 COMMISSIONER MAY: Mr. Chairman,
11 I'm sorry.

12 VICE CHAIRMAN SCHLATER: Yes.

13 COMMISSIONER MAY: There was
14 something else that I forgot to mention.

15 VICE CHAIRMAN SCHLATER: Sure.

16 COMMISSIONER MAY: Another thing
17 that resonated for me from the ANC's comments
18 were the specific design concerns that the
19 neighbors or the residents had had. And I'll
20 just read this.

21 "Residents object to the floor to
22 ceiling wrap around corner windows along the

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1 northwest side of the building front
2 Massachusetts Avenue corridor that are likely
3 to omit light nearly 24 hours a day and would
4 be particularly objectionable during the
5 evening and late evening hours. And,
6 residents object to the metal screening design
7 element along Massachusetts Avenue side of the
8 building."

9 And I think that those are both
10 valid criticisms. And I think the University
11 should look at those issues as well.

12 You know, I understand the design
13 concept that the architect is pursuing in the
14 design of the building, but I don't think that
15 it has to be so rigidly pursued. And I think
16 that, again, there is some room for the
17 University to make some modifications to the
18 design of the building with regard to those
19 couple of criticisms.

20 VICE CHAIRMAN SCHLATER: Okay.
21 With that, maybe we can go to Ms. Schellin and
22 figure out a schedule for submissions on the

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1 revised drawings.

2 MS. SCHELLIN: In order to keep
3 this on the February 16th agenda for
4 consideration along with Campus Plan, we would
5 need to have the applicant's response in one
6 week, which would be February 6th. And then
7 parties would have until February 13th 3:00
8 p.m. to respond. That's cutting it close, but
9 I think we can make that work if they want to
10 stick with that date. If not, w can move it
11 out.

12 MR. TUMMONDS: Yes. Paul Tummonds
13 for the record the attorney Goulston and
14 Storrs on behalf of American University.

15 Yes. As we mentioned before, the
16 only way that we can have this project come on
17 line by fall 2013 is to have a decision on the
18 16th. So, we will do as much as we can in a
19 week to, hopefully, address the concerns that
20 you have. And then I think at that point we
21 will have what we have. And I think we really
22 do need a decision to be made on February 16th

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1 so that we can move this forward or not. So,
2 we will abide by the February 6 file.

3 MS. SCHELLIN: 3:00 p.m.

4 MR. TUMMONDS: 3:00 p.m.

5 MS. SCHELLIN: And parties have
6 until the 13th 3:00 p.m. to file a response to
7 the applicant's filing.

8 VICE CHAIRMAN SCHLATER: Thank
9 you, Ms. Schellin.

10 I think we can move forward then
11 to Hearing Action tonight. Zoning Commission
12 Case No. 04-14B (Florida Rock Properties, Inc.
13 & MRP Realty - PUD Modification at Square
14 708).

15 Do we go to the Office of Planning
16 on this? Office of Planning?

17 MS. THOMAS: Yes, sure.

18 Good evening, Mr. Chairman,
19 Members of the Commission. Karen Thomas with
20 the Office of Planning.

21 The Office of Planning is
22 recommending that the Commission set down the

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1 requested modifications to the approved
2 consolidated PUD and related map amendment for
3 the development of the parcel best known as
4 Florida Rock as petitioned by Florida Rock
5 Properties, Inc.

6 Subsequent to the 2008 approval
7 for a consolidated PUD to be developed in four
8 phases, a new partner joined the development
9 team and a new team has reconsidered the use
10 mix and site plan of the development. So a
11 full series of discussions with OP and DDOT
12 they're asking the Commission to consider:

13 Firstly, the use change from an
14 office building to a residential building in
15 the first phase of the consolidated PUD;

16 Secondly, they would like a
17 revision to the first stage approval for
18 phases 2 through 4. Bear with me on this
19 phase and second issues.

20 And finally, they're asking the
21 permission to consider modifications to the
22 entire project, including the overall site

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1 plan and design.

2 The current proposal is similar to
3 the approved PUD as it would continue to
4 provide a mixed use development in four
5 phases, including residential, retail, office
6 and hotel uses with extensive open space and
7 accessible river front and retention of
8 important view sheds throughout the site. And
9 underground parking would remain.

10 No change to the approved PUD
11 related map amendment to C3C is proposed.

12 I will highlight the more
13 important features of the modification as
14 follows:

15 The use change from office to
16 residential, which would add 324 more
17 residential units and 23,000 additional square
18 feet of affordable housing;

19 A simplified building footprint
20 that would provide an improved street wall
21 along Potomac Avenue, an extensive open space
22 and landscape improvements to better

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1 compliment the existing community and parks;

2 There would be less curb cuts and
3 improved pedestrian connectivity throughout
4 the site.

5 The site's overall FAR is
6 minimally increased by 0.2 with a significant
7 decrease in lot occupancy from about 58
8 percent to 44 percent. And the building
9 heights have varied somewhat. In the first
10 phase the office building is being converted
11 to the residential building, the height has
12 been changed from 92 feet to 94 feet. And the
13 second phase of the second residential
14 building the height is bumped up from the
15 approved 112 feet to 130 feet.

16 At OP's request, the phases 2
17 through 4 is proposed to be used for temporary
18 uses to enliven the space until construction
19 of those phases can take place.

20 So the site's development delays
21 the applicant taken steps to move the project
22 forward as I had in my report, and we are

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1 recommending that the application be set down
2 for public hearing.

3 The proposed changes are not
4 inconsistent with the Comprehensive Plan and
5 they support the Commission's expressed desire
6 in a most recent approval for more residential
7 use on the site.

8 I'll be happy to take any
9 questions at this point. And I'd like to
10 refer you to page 21 of the applicant's site
11 plan submission where you would find the site
12 plan of the design phases.

13 Let me know if you have any
14 questions. Thank you.

15 COMMISSIONER TURNBULL: Ms.
16 Thomas, good evening.

17 MS. THOMAS: Good evening, sir.

18 COMMISSIONER TURNBULL: Let me ask
19 you how you consider this a modification and
20 not a wholesale change of the original PUD
21 that was approved? This PUD was being on for
22 like 20 years and the last time we went

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1 through this it was a very careful massaging
2 of the applicant. The buildings were
3 carefully structured. The site plan, the
4 views, the vista, the architecture, the urban
5 plan, the plaza; very carefully structured.
6 How do you consider this -- it is a
7 modification. I think it's a major gut, a
8 major change to the original PUD,
9 significantly. I'd like to hear your
10 comments, though.

11 MR. LAWSON: I guess our comment
12 would be just to note that the applicant, this
13 is what the applicant applied for.

14 COMMISSIONER TURNBULL: Okay.

15 MR. LAWSON: So this is how we
16 reviewed the application.

17 We understand sort of your
18 concerns about some of the changes to the
19 project. We think that many of the original
20 aspects to the application have been retained.

21 We think that some aspects are certainly I
22 guess more changed than other aspects of the

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1 project. But basically because this was what
2 was applied for, this is what we reviewed.

3 COMMISSIONER TURNBULL: I
4 understand.

5 My feeling is -- well, I'll wait
6 to give my comments later. But I just feel
7 that this was a wholesale change of the PUD
8 from what we went through. You know, I think
9 it ought to be reinitiated. I mean, I think
10 they ought to apply for a whole new PUD
11 because this is so different.

12 The housing, I don't begrudge
13 adding additional housing. I think that that
14 might be an aspect that I could go along with.

15 But the design, the layout of this PUD from
16 what we had originally -- well, I'm not going
17 to comment right at this point. I'll comment
18 on it later. But I just think that this is a
19 major change.

20 They've included a little
21 footprint of what the PUD looked like, a
22 little sketchy floor plan of the four

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1 buildings. And when you look at, the other
2 building, you go "Oh gee, you know it looks
3 like there's an open space." You got to look
4 at this thing in 3D. You have to look at this
5 from the elevation of the streets. You have
6 to look at this from many different views to
7 know what was proposed previously. And I
8 think this is a wholesale change, a brand new
9 PUD.

10 VICE CHAIRMAN SCHLATER: Anyone
11 else?

12 COMMISSIONER MAY: I had a similar
13 reaction when I first saw that this was on the
14 agenda.

15 And, I mean maybe there's a -- I
16 don't know. Maybe it's a more technical kind
17 of question. You know, at what point when
18 you've changed the PUD over and over again, at
19 what point do you say "No, this ain't a PUD
20 anymore. You need to start over again."

21 And I recall that a long, long
22 time ago something like this occurred in

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1 another PUD. And this goes back to my prior
2 tenure. And I think there was another
3 suggested modification or extension, and that
4 point we simply say "Enough is enough." It's
5 over.

6 This has been through a number of
7 changes. I've witnessed different changes in
8 my various years. And at a certain point, you
9 know, it does sort of raise the question:
10 When do you just sort of throw it out and
11 start over again?

12 I mean this time around actually I
13 feel like they've done that in many ways. And
14 I'm actually much more comfortable with what's
15 proposed here than I was with the last version
16 of this. Because I had a lot of anxiety about
17 what was proposed before from a design
18 perspective and from the overall sort of
19 urbanistic feel of it and some of the other
20 features of it which I really questioned. So
21 I think as a project I'm more comfortable with
22 this, but it's almost like a technical

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1 question.

2 I mean, at one point does it just
3 make sense to stop and start from scratch
4 again? I mean, I know it has cost
5 implications for the applicant, but I don't
6 know.

7 VICE CHAIRMAN SCHLATER: I agree
8 that this application could have done a better
9 job of showing what the old plan was and what
10 the new plan is and how they compare.

11 COMMISSIONER MAY: Yes.

12 VICE CHAIRMAN SCHLATER: Because I
13 don't actually have a lot of that history on
14 what the old project was, because I wasn't on
15 the Commission at that time.

16 What I will say is that aside from
17 the switching out of the residential building
18 -- well, the office building for residential,
19 the project does bear a strong resemblance to
20 the previous project. And we're talking about
21 the same number of buildings. We're talking
22 about a similar open space scheme. I think

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1 the changes are substantial, but I'm just not
2 sure what starting over again would really
3 accomplish in this instance. Because I don't
4 think the changes that are being proposed here
5 today really require us to reweigh the
6 benefits and amenities of the PUD. Some of
7 those PUD amenities have already been pushed
8 forward, such as the construction of Diamond
9 Teague Park. Actually, I rather like the open
10 space plan that's been put forward in this
11 application. And I like how the buildings
12 relate to the street wall as well. So, I think
13 there's some things that are improved.

14 I'm just wondering if we were to
15 start the process over, what is accomplished
16 in that?

17 COMMISSIONER TURNBULL: Are you
18 asking me?

19 VICE CHAIRMAN SCHLATER: Sure.

20 COMMISSIONER TURNBULL: I think
21 we'd get hearings and go through the whole
22 process and look at what we're getting.

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1 VICE CHAIRMAN SCHLATER: But we
2 are going to have the hearings, I guess that's
3 the point. We're talking about today --

4 COMMISSIONER TURNBULL: My feeling
5 is architectural -- what we see is Miami
6 seawall. Is Miami seawall, it's just a hard
7 surface. If I look at 1.504 it has a
8 rendering of this phase 1 which they want us
9 to look at first. I've got this rather
10 nondescript building of the two reels that I
11 question for what we're trying to do; we had
12 higher end finishes I think on the other
13 buildings. And we have two orgasmic lead
14 towers at the end which are totally -- I mean,
15 I look at this and I'm like what does this
16 tell me? That the architects were trying to
17 develop this whole new arena along the
18 waterfront there, and I've got architecture
19 that really, as I say, there's nothing
20 enlightening about the design of this. I am
21 just not excited. I can't look at this and
22 say "Wow, I'm at the ballpark. I want to go

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1 across and see this."

2 This could be in any suburban
3 development. The design of it looks boxy. At
4 this stage I know we're looking at cartoons
5 right now, but the planning, the layout does
6 not show any creativity. I mean, it took us
7 years to work with the applicant previously to
8 get some flow. We had a piece of sculpture. We
9 had this whole idea. I look at this and I go
10 "This has really been bastardized." And I'm
11 sorry. You know, I can't mince words. I am
12 not excited by what I see before me.

13 From an urban planning standpoint,
14 yes, it has similar layouts, but you've lost
15 vestage, you've lost some of the curves that
16 opened it up more. This is just rectangles.
17 It's a game you do in design with little sugar
18 cubes trying to get them to work. And I just
19 think it has lost some of the grace and
20 elegance that it had before.

21 I agree, we didn't agree with
22 everything we saw in the last design. There

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1 was some parts of the architecture that we
2 thought could have been massaged, but the
3 applicant had worked hard trying to do this.

4 This phase 1 which they want to
5 develop first, this residential, you know
6 Miami seawall. There is nothing exciting that
7 I see architecturally that would say "Oh, yes,
8 let's jump ahead and do this. This is a nice
9 change."

10 I'm just concerned. I'm looking at
11 urban planning and architecture and how it
12 fits on this site and how this applicant is
13 going to make this work for the waterfront.
14 And I can't get excited by what I see.

15 I'll tell you if you go ahead with
16 this, I will be so damned critical as we go
17 forward on the architecture and the design of
18 this. I just feel it's an affront to the
19 Zoning Commission and it's an affront to the
20 people of D.C. I think it's slapstick. It's
21 just -- I really can't get excited about it.
22 I'm sorry. I just don't see the effort in

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1 here that says to me we want to go forward
2 with this, we want to give you something that
3 this city can be proud of. I just don't see
4 the effort there. It looks like it's been
5 cheapened. It looks like stick architecture
6 from the suburbs. And I'm just not concerned
7 at this point that I see enough excitement
8 there for me to jump on board and say "Yes,
9 it's a modification. Let's go ahead and do
10 it."

11 I'm just concerned. I mean if you
12 guys want to go ahead and vote to have this go
13 ahead, go ahead. I just cannot see. I am just
14 -- I feel that we've lost a lot. We've taken
15 ten steps backwards from where we were.

16 VICE CHAIRMAN SCHLATER: You're
17 up, Commissioner Cohen. You can be a part of
18 this case. This is a new request.

19 COMMISSIONER MAY: There are a
20 couple of things I'd like to say to Mr.
21 Turnbull, if you don't mind to continue on
22 that theme.

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1 I share some of the concern about
2 some the architecture --

3 COMMISSIONER TURNBULL: You're
4 smiling, I believe.

5 COMMISSIONER MAY: I share some of
6 the concern about the architecture, perhaps
7 not with as much energy as you do. But I
8 think that what we see here is really pretty
9 simplistic and not -- well, first of all, I
10 don't think the drawings of it are
11 particularly persuasive at this point. This
12 is, you know it's like a sketch-up model.
13 It's not very sophisticated in its
14 development. So we're not really seeing, you
15 know, the thickness of things and the depth
16 precisely, or the transparency and so on. So,
17 I don't think it does a good job of
18 representing the building.

19 I do agree that the architecture
20 is kind of boring, particularly from the water
21 side view it looks boring. And so I think
22 that there's a lot of work that needs to be

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1 done to bring it up to the right level.

2 I don't have the same fond
3 feelings I think of the original PUD or the
4 PUD that we last approved. I would say
5 "original," but the previous PUD. But it
6 certainly would be helpful to see more
7 imagines of what we had approved before to
8 understand really if we're giving something up
9 here. I think that would be appropriate for
10 us to review in greater detail what was there
11 before versus what's being proposed now.

12 As far as the continuity of this
13 as opposed to it being considered as a new
14 PUD, it seems to me that the one thing that
15 one of the good reasons to continue this as a
16 revision of the original PUD is the fact that
17 there has been a substantial investment on the
18 amenities already. I mean, the fact that
19 they've put in as much money into Diamond
20 Teague Park is really substantial. And I
21 assume that if that PUD simply went away and a
22 new one took its place, that they couldn't go

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1 back and take credit for that. And I don't
2 think that's necessarily fair. So, I think
3 there's a rational there for continuing this.

4 I do think, as I said before,
5 generally speaking that I find the overall
6 plan of this more appealing than what I saw
7 before. And there are elements of this that I
8 find appealing. So, I won't necessarily be as
9 critical as Mr. Turnbull when it comes to
10 reviewing the plan and the design. Of course,
11 that kind of depends on what we see in future
12 submissions, too, but we'll have to see how
13 that goes.

14 I do have concerns about how this
15 PUD will face on South Capitol Street and on
16 the -- they call it an oval, but it's not
17 really an oval. I forget what the right term
18 is for it. But, you know that's a traffic
19 construct and the way it's drawn it looks like
20 it's just going to be a speedway. And the way
21 I'm imagining the buildings, and I think I had
22 this issue a little bit in the previous

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1 version of it, the building seemed then to
2 turn their back on South Capitol Street. And
3 I really don't want that to happen, but I
4 always want to know that South Capitol Street
5 is actually going to be more than just an
6 expressway that carries people over the
7 bridge, or you know receives people after they
8 come over the bridge I guess on this side of
9 the street. So, I would like to know more
10 about that. I mean, I looked at the plans
11 here and the office building component, which
12 is phase 3, I guess it doesn't even indicate
13 what the first floor of the building is going
14 to be used for. I assume it's going to be
15 retail. It's probably embedded somewhere
16 outside of the drawing. And I'd like to know
17 more about what that's going to be.

18 VICE CHAIRMAN SCHLATER:
19 Commissioner Cohen?

20 COMMISSIONER COHEN: Thank you,
21 Vice Chair.

22 I don't have any history on this

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1 project either. Similar to you, I'm pleased
2 that there is going to be a residential
3 component, so I'm certainly happy to look at
4 that.

5 The buildings feel -- they look
6 very bulky to me, but again I don't know what
7 was the original plan.

8 I will leave the architectural
9 comments to my colleagues. They can cover it.

10 And again, I really have much more
11 of a distance from this project other than for
12 phase 1, I'm very pleased that it's changed
13 uses.

14 VICE CHAIRMAN SCHLATER: I have a
15 question for the Office of Planning. It has
16 to do with retail on the site, and I'm sure
17 you've had discussions with the applicant
18 about the amount of retail. And to me one of
19 the most significant and I would say -- let's
20 see, I'll put it this way. I would have liked
21 to have see a project that could make more
22 retail on this site work. And I'm not 100

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1 percent certain that it could work, but what I
2 do know is that we don't have a lot of
3 waterfront, developable waterfront sites like
4 this, particularly on a grand scale that can
5 create this sort of scale in critical mass.
6 And to see the amount of retail trimmed back
7 so significantly concerns me. So, I'd like to
8 hear what the Office of Planning has to say.

9 MS. THOMAS: We've had several
10 discussions. In our discussions we did ask
11 the applicant to explain why, you know the
12 reasons they would reduce the retail to that
13 extent. They did bring in one of their
14 consultants. They explained that --

15 VICE CHAIRMAN SCHLATER: Who was
16 that?

17 MS. THOMAS: Streetsense, I
18 believe. And they explained a little bit why
19 it wouldn't work at this time.

20 VICE CHAIRMAN SCHLATER: Can you
21 just for some context, how much retail is
22 being provided at The Yards?

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MR. LAWSON: We'd have to look up and get that number for you. It's certainly a significant amount. A much more significant amount than is being contemplated here.

I think that when we went through the original PUD there was some discussion at that time about the amount of retail that was being proposed then and would the market support that much retail.

Karen's absolutely right, we had a lot of discussions with the applicant on the retail at this site and working with them to at least ensure that retail could be accommodated. I think they have a lot of concerns about the ability of this site in the near term to support a large amount of retail. And so I think a part of the discussion that we had with them certainly well then how could this site adapt to be providing more retail as the area around it develops, as the waterfront becomes more active, as the park space becomes more active and more residents move into the

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1 area. And I think they've tried to address
2 that through parts of their application. But
3 we can certainly get you some of the numbers
4 about the retail that is being proposed at The
5 Yards as well as in the buildings kind of on
6 the north side of the ballpark.

7 We do see it as one retail area,
8 kind of, in that each one of these components
9 helps the other component of retail and it
10 becomes a bite of a destination when there is
11 more retail. But we'd be happy to get those
12 numbers for you.

13 VICE CHAIRMAN SCHLATER: Can you
14 clarify the flexibility on the amenity/retail
15 space? What assurances do we have that that
16 will become retail space?

17 MS. THOMAS: I think we would
18 flush that out as we plan at the public
19 hearing. We did ask that 7500 square feet be
20 used as residential.

21 MR. LAWSON: I was just going to
22 add to that. But something would be worked

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1 out through the hearing and we would expect
2 the Zoning Commission to make sure that that
3 was very clear in the order how that would
4 happen. If it didn't happen, that the
5 applicant would have to come back to the
6 Zoning Commission and explain why. We would
7 assume that there would be some dates and some
8 actual sizes associated with that in the order
9 itself.

10 VICE CHAIRMAN SCHLATER: And
11 wouldn't you like to see -- I'll rephrase it.

12 I think from my perspective it
13 seems like a missed opportunity to have space
14 on the broadwalk that isn't at least
15 potentially retail or I think it should be
16 strongly encouraged to be retail as opposed to
17 residential amenity space. It just doesn't
18 feel right to have to dedicate that to a
19 residential gym or common room.

20 MR. LAWSON: I think that we
21 agree. And the community certainly want to
22 see the waterfront area activated. So I think

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1 whatever the applicant can do to make sure
2 that that's an active and a safe and
3 interesting place to be, we would definitely
4 support.

5 VICE CHAIRMAN SCHLATER: I
6 completely understand after the first
7 residential building is built, I mean the
8 applicant may not be able to fill that retail
9 space. But I think it requires a lot of
10 examination and discussion.

11 COMMISSIONER TURNBULL: I would
12 agree with your comments on the retail a 100
13 percent. We've been there, done that, we've
14 said that before. We've talked about this as
15 a destination. You got Half Street in the
16 developing going on. You've got all the other
17 development which will happen. And this was
18 to be a place to come down, the whole thing on
19 the waterfront was an exciting venue, and this
20 was to be a very vibrant neighborhood with the
21 retail. And I think losing that focus would
22 be a detriment to this area.

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1 MR. LAWSON: I think we would
2 agree with that. And certainly one of the
3 things that we had discussions with the
4 applicant about and with their retail
5 consultant was what could the applicant do to
6 spur that one instead of just reacting to the
7 perceived market to help to create the market
8 and working through the PUD process to come up
9 with those means that they would start to push
10 the market, I guess, so that all of this can
11 happen a little bit sooner rather than waiting
12 for the market to catch up.

13 MS. THOMAS: I also think that the
14 temporary space that we requested that they
15 use it as like a farmer's market. And we
16 suggested a beer garden, some things that
17 would help activate that section of the
18 waterfront and keep it lively, even while the
19 residential space exists and bring more people
20 down to that section of the waterfront as
21 well.

22 VICE CHAIRMAN SCHLATER: Is there

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1 an interim surface parking lot on the plan?

2 MR. LAWSON: It's a very small
3 surface parking lot. It would be just to
4 serve any temporary retail that's associated
5 on that site. We've made it really clear to
6 the applicant that we would not support that
7 the remainder of the site be used as a
8 temporary parking space for the baseball
9 stadium or other uses in the area.

10 VICE CHAIRMAN SCHLATER: Did the
11 applicant give any indication as to why
12 they've lowered their LEED standard target?

13 MS. THOMAS: No, that's something
14 we can examine further.

15 VICE CHAIRMAN SCHLATER: Okay.

16 COMMISSIONER MAY: What did they
17 lower it to? I mean I read it got certified,
18 although certified versus certifiable might be
19 a lowering.

20 VICE CHAIRMAN SCHLATER: Yes.

21 COMMISSIONER MAY: Because under
22 the original proposal was that it was

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1 certifiable --

2 VICE CHAIRMAN SCHLATER: I don't
3 have all the -- I just wrote down a note.

4 COMMISSIONER MAY: I did know that
5 the current proposal that it be all LEED
6 certifiable, which I assume means they don't
7 intend to go through the actual certification
8 process. But we'll get into that in the
9 hearing, actually.

10 VICE CHAIRMAN SCHLATER: Yes.
11 Well, I guess that is the question. Do people
12 feel comfortable moving forward tonight or
13 would you like to see more before we move
14 forward?

15 COMMISSIONER MAY: Well, I guess I
16 have a question for Mr. Turnbull. Would you --
17 I mean, before we were to take action to set
18 this down, would you be more comfortable with
19 all of us taking a good look at what was there
20 before?

21 COMMISSIONER TURNBULL: You can. I
22 mean, I have my old drawings. I went back and

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1 reminded myself.

2 And you're right. I mean, there
3 were those things which we didn't agree, but I
4 thought that by time we got to where we were
5 it was being massaged as much as we were going
6 to get at that time.

7 COMMISSIONER MAY: Right. I mean,
8 if we were to try to move tonight, it doesn't
9 sound like you'd be very supportive.

10 COMMISSIONER TURNBULL: No. You
11 got three votes, though.

12 COMMISSIONER MAY: I mean, I
13 personally would like to see more of what was
14 there before. But I don't feel very strongly
15 that I need to see it now. But if the rest of
16 the Commission would prefer to see more of
17 what was originally proposed, I'm happy enough
18 to defer.

19 VICE CHAIRMAN SCHLATER: I have to
20 say that I'm less concerned about the site
21 plan that Commissioner Turnbull raises. But I
22 think it is a big question as to whether this

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1 project is going to be a retail destination on
2 the water. And for me I would be willing to
3 set this down, but I have to say that's a
4 hurdle that I haven't gotten over yet. I'm not
5 comfortable with the amount of retail on this
6 project, so I could set it down with that
7 proviso, or I could feel comfortable having
8 the applicant take another look at that.

9 COMMISSIONER MAY: You know, one
10 of the things I'm actually curious about is
11 what our Chairman thinks of the project at
12 this point as well. So, I would be happy
13 enough to defer consideration to our next
14 meeting so that we would allow the Chairman to
15 weigh in on this and maybe the applicant would
16 want to take advantage of that and submit some
17 additional information to help us.

18 COMMISSIONER COHEN: It would give
19 some of us the opportunity to go back and look
20 at the earlier file.

21 VICE CHAIRMAN SCHLATER: Okay. I
22 assume Commissioner Turnbull would be in

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1 support of delaying in taking action at this
2 time.

3 COMMISSIONER TURNBULL: Sure. I
4 mean, I think the Chairman ought to weigh in.

5 VICE CHAIRMAN SCHLATER: Okay.
6 Thank you, Commissioner May. I think that's a
7 good suggestion. We'll defer action on this
8 until the next meeting.

9 MS. SCHELLIN: And if the
10 applicant is going to file some supplemental
11 material, we would need that by 3:00 p.m. of
12 February 6th. And then we can take it up at
13 the next meeting, which is February 13th.

14 VICE CHAIRMAN SCHLATER: Thank
15 you, Ms. Schellin.

16 I think we've made it to our last
17 item of the evening, Zoning Commission Case
18 No. 08-27A (WECA's Request for Reconsideration
19 and Applicant's Response).

20 Let me see if I can find my
21 materials.

22 We have a motion from the Westend

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1 Citizen's Association, a motion for
2 reconsideration claiming that there was an
3 erroneous finding of fact number 7 and the
4 consequent missing analysis prior to the
5 Commission's September 12th decision making
6 meeting asking us to reconsider that
7 particular item.

8 I'll give everybody a chance to
9 read through this.

10 Ms. Schellin, we're not supposed
11 to take action on this? This is just a
12 correspondence item?

13 MS. SCHELLIN: No.

14 VICE CHAIRMAN SCHLATER: Okay. We
15 do have to take action.

16 I think in reading the letter it
17 would seem to me that the Westend Citizen's
18 Association is specifically related to the
19 Commission's decision on the zoning of the
20 property and whether or not the property would
21 revert to the SP Zone, which is something that
22 I think we did address in our order in

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1 relation to what was said by the ANC in this
2 case. Any thoughts?

3 COMMISSIONER MAY: It's a little
4 bit hard to recall all the things that we
5 discussed when we discussed the extension.
6 But I mean, this was all just about the
7 extension. And you know what we have to
8 consider when granting an extension, it's a
9 fairly limited state of facts and rearguing
10 your initial case isn't really one of them.
11 So, I'm not inclined to grant this motion to
12 reconsider.

13 VICE CHAIRMAN SCHLATER:
14 Commissioner Turnbull?

15 COMMISSIONER TURNBULL: You know,
16 I was just going back to the email on January
17 4th, Mr. Tummonds. And I think -- I don't
18 want to read verbatim, but I think -- allow
19 me. I'm trying to go back here and read.

20 Well, I mean I'll just try to--
21 second paragraph: "The applicant believes
22 that the ZC Order 08-27A1 appropriate

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1 addresses how the applicant satisfied the
2 standards 11 DCMR paragraph 2408.10, 2408.11
3 as well as relevant arguments that were raised
4 by ANC and WECA in opposition to the time
5 extension request." And he goes on to
6 reiterate about what -- and I think that does
7 satisfy -- I think he's -- I would agree. I
8 think that everything has been satisfied.

9 VICE CHAIRMAN SCHLATER: Okay.
10 Thank you.

11 I'm in agreement. I believe the
12 applicant's response fully addresses the
13 arguments made in the motion for
14 reconsideration. And I would move that we deny
15 this motion.

16 Do I hear a second?

17 COMMISSIONER MAY: Second.

18 VICE CHAIRMAN SCHLATER: All in
19 favor?

20 ALL: Aye.

21 VICE CHAIRMAN SCHLATER: None
22 opposed.

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MS. SCHELLIN: Staff records the vote three-to-zero-to two to deny the request for reconsideration from WECA.

Commissioner Schlater moving, Commissioner May seconding, Commissioner Turnbull in support, Commissioner Cohen not voting, having not participated and Commissioner Hood not present, not voting.

VICE CHAIRMAN SCHLATER: I think that brings us to the end of our agenda. Correct?

Do we have any requests from OP, I should say? Okay. Thank you. I think that brings our hearing to a close. Hearing is adjourned.

(Whereupon, the Regular Meeting of the Zoning Commission was adjourned at 7:37 p.m.)