

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

DECEMBER 12, 2011

+ + + + +

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., Anthony J. Hood, Chairman], presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary

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

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation

JOEL LAWSON

KAREN THOMAS

PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

This transcript constitutes the minutes
from the Regular Meeting held on December 12,
2011.

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

2 6:30 P.M.

3 CHAIRMAN HOOD: This meeting will
4 please come to order. Good evening, ladies
5 and gentlemen. This is December 12th, 2011.
6 The Public Meeting of the Zoning Commission.

7 My name is Anthony Hood. Joining
8 me Vice Chairman Schlater and Commissioners
9 Cohen, May and Turnbull. We are also joined
10 by the Office of Zoning staff, Ms. Sharon
11 Schellin, Office of the Attorney General, Mr.
12 Ritting. Office of Planning, Ms. Steingasser,
13 Mr. Lawson, Ms. Thomas and Mr. Goldstein.

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

19 Please be advised that this
20 proceeding is being recorded by a Court

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1 Reporter and is also webcast live.
2 Accordingly, we must ask you to refrain from
3 any disruptive noise or actions in the hearing
4 room. Please turn off all beepers and cell
5 phones.

6 Does the staff have any preliminary
7 matters?

8 MS. SCHELLIN: Yes, sir, just one.

9 Staff has added under
10 Correspondence one item which was the letter
11 from the Zoning Administrator regarding
12 notification pursuant to Section 2409.8 with
13 regard to Case Number 96-14, if the Commission
14 would allow that to be added.

15 CHAIRMAN HOOD: Okay. So, we'll
16 add that to our agenda. Any other preliminary
17 matters?

18 MS. SCHELLIN: No, sir.

19 CHAIRMAN HOOD: I would also like
20 to move under "Other Business" a selection of
21 the Office of Zoning Director. If we could do
22 that right after the Consent Calendar item.

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1 Actually, we don't have any Consent, so I
2 would actually like to start off with that.

3 Okay. The Office of Zoning's
4 former Director resigned in August of this
5 year. Since his departure Rick Nero has been
6 the Acting Director. We appreciate the good
7 job he has done and are grateful to have him
8 on the staff at OZ. And also I want to thank
9 the staff for holding their own and continuing
10 to not miss a beat.

11 In my tenure, I've had the
12 opportunity to hire or be a part of a process
13 of two directors and each time the Office of
14 Zoning has continued to excel. The first
15 director was Jerrily Kress who this room is
16 named after the a lot of those individuals
17 that were in that office she had the
18 opportunity of placing them and I will tell
19 you the work that they do has really excelled
20 and she has assembled a good team. Former
21 director has just resigned, Jamison Weinbaum.
22 He resigned in August thereabout of this

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1 year. So, those that don't know, authority
2 was given to the three appointed Commissioners
3 to appoint the director of the Office of
4 Zoning pursuant to D.C. Official Code 1-
5 604.01(b)16. Accordingly, the Commission had
6 discussion about how we wanted to proceed with
7 selection of the next director and it came
8 down to this. We wanted to promote from
9 within. That having been said, we are
10 appointing Sara Bardin as the new Director of
11 the Office of Zoning effective January the
12 1st.

13 Sara has worked for OZ since 1999.

14 Sara is very talented and knows all aspects
15 of operations here and in OZ. We are
16 confident in her abilities and believe she is
17 the best individual to fill this position.

18 Before I go to our other two
19 colleagues, I'm going to ask my other two
20 colleagues who helped with the decision-making
21 if they had any comments. If not, I will go
22 to my other two colleagues and then we'll call

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1 the vote.

2 Ms. Cohen?

3 COMMISSIONER COHEN: Yes, I think
4 that our decision to promote within was,
5 again, we recognized that there was an
6 outstanding individual and that we also
7 believed strongly that her promotion actually
8 would improve employee morale and the staff
9 did respect her and she actually did train two
10 prior zoning administrators. So, we felt that
11 she had the necessary skills in leadership as
12 well as respect of the staff. So, we're very
13 pleased to have announced her selection.

14 CHAIRMAN HOOD: Just want to
15 correct. It was the Zoning Directors. We
16 don't want the Zoning Administrators to be mad
17 with us but that's fine, but your comments are
18 well taken. Thank you, Commissioner Cohen.

19 Do you have a comment, Mr.
20 Schlater?

21 VICE CHAIRMAN SCHLATER: Thank you,
22 Mr. Chairman. I just want to say simply

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1 congratulations to Sara, so richly deserved
2 promotion. She's well regarded throughout the
3 District and I know is going to do a great job
4 leading this office for many, many years to
5 come and I look forward to working with her.

6 CHAIRMAN HOOD: Okay. Let me open
7 it up to my other two colleagues. While they
8 don't necessarily in the charter do not vote,
9 we kept them informed because at the end of
10 day we all are a Commission and we kept them
11 abreast of exactly what went on through this
12 process and I wanted to give them an
13 opportunity if they wanted to say something.

14 Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Other than
16 I approve and look forward to working with
17 her.

18 CHAIRMAN HOOD: Good.

19 COMMISSIONER MAY: I think Ms.
20 Bardin is an excellent choice and I think that
21 my colleagues here will be acting wisely if
22 they vote to approve.

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1 I also want to commend the Chairman
2 for the manner in which the process has been
3 conducted. I know that's it's been fair and I
4 know that he's made every effort to keep all
5 the Commission informed of how things have
6 come to pass and I'm looking forward to an
7 extended creative excellence on the part of
8 the Zoning Commission staff.

9 CHAIRMAN HOOD: I want to thank
10 everyone for their comments. With that, I
11 would move that we appoint to the position of
12 Office of Director for the Office of Zoning to
13 Sara Bardin and ask for a second?

14 COMMISSIONER COHEN: I'll second.

15 CHAIRMAN HOOD: It's been moved and
16 properly seconded.

17 Any further discussion?

18 CHAIRMAN HOOD: All those in favor,
19 aye.

20 (AYES)

21 CHAIRMAN HOOD: Not hearing any
22 opposition, Ms. Schellin, would you please

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1 record the vote.

2 MS. SCHELLIN: Yes, to clarify that
3 it's effective January 1st. Is that correct?

4 CHAIRMAN HOOD: January 1st. I'll
5 leave that up to --

6 MS. SCHELLIN: Okay. Then we'll
7 record the vote, three to zero to zero to
8 approve Sara Bardin as the next Director for
9 the Office of Zoning. Commissioner Hood
10 moving, Commissioner Cohen seconding,
11 Commissioner Schlater in support.

12 CHAIRMAN HOOD: And I will just say
13 I appreciate everyone's support. I told
14 somebody the other day the third time seemed
15 to be a charm. I didn't get beat up like I
16 did the first and the second time so the third
17 time seems to be the charm. But I'll know
18 tomorrow evening about this time, but I think
19 the third time is going to be a charm. And
20 thank everyone for their comments.

21 Let's go right into final action.
22 Zoning Commission Case Number 11-01-A, Office

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1 of Planning Technical Corrections to Zoning
2 Commission Order Number 11-01. Ms. Schellin.

3 MS. SCHELLIN: Yes, sir, on this
4 case, the staff has nothing further to add.
5 This was a technical correction that if you
6 recall was taken up on the Consent Calendar.
7 Proposed Rule-making was published. Thirty-
8 day comment period has expired and we would
9 ask the Commission to consider final action on
10 this case.

11 CHAIRMAN HOOD: Okay.
12 Commissioners, I think we went around about on
13 this during Proposed and I was trying to
14 remember the parking in industrial zone, I
15 think we went through that, so I'm not going
16 to rehash that.

17 Let me open up any discussion. If
18 not, I'd like to get a motion from someone.

19 VICE CHAIRMAN SCHLATER: Mr.
20 Chairman, I'll make a motion that we approve
21 Zoning Commission Case Number 11-01A, Office
22 of Planning Technical Correction to Zoning

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1 Commission Order Number 11-01.

2 CHAIRMAN HOOD: It's been moved.

3 Can I get a second?

4 Moved and properly seconded. Any
5 further discussion?

6 Are you ready for the question?

7 All those in favor, aye.

8 (AYES)

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

12 MS. SCHELLIN: Yes, Staff will
13 record the vote four to zero to one to approve
14 final action on Zoning Commission Case Number
15 11-01A. Commissioner Schlater moving,
16 Commissioner Turnbull seconding, Commissioners
17 Hood and May in support. Commissioner Cohen
18 not voting, having not participated.

19 CHAIRMAN HOOD: Okay. Next, the
20 Final Action on Zoning Commission Case Number
21 07-12B, PerStar M. Street, LLC, PUD
22 Modification at Square 50.

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1 Ms. Schellin.

2 MS. SCHELLIN: The only thing that
3 staff would like to add is that we did receive
4 an NCPC report at Exhibit 52. That's why we
5 were able to take it up this evening because
6 it's either 30 days to fire or when we
7 received the report whichever is sooner and we
8 did receive the report early and they stated
9 that it would not be in consistent with the
10 National Comp Plan nor would it adversely
11 affect any Federal interest. So, Staff would
12 ask the Commission to consider final action
13 this evening.

14 CHAIRMAN HOOD: Okay. Vice
15 Chairman Schlater.

16 VICE CHAIRMAN SCHLATER: Mr.
17 Chairman, I would just like to say I reviewed
18 the order in pretty good detail and I think
19 the Office of the Attorney General did an
20 excellent job capturing the discussion that we
21 had. In particular, related to the discussion
22 of the lay-by-lanes, the discussion of the

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1 hotel signage and the discussion of the
2 Francis Field Park and I'm prepared to support
3 moving this forward.

4 CHAIRMAN HOOD: Any other
5 comments/discussion?

6 Somebody like to make a motion?

7 COMMISSIONER TURNBULL: Madam Chair

8 --

9 CHAIRMAN HOOD: You know what, BZA
10 and maybe you're thinking about Carol Mitten,
11 Carol Mitten and I have favored for years --

12 COMMISSIONER TURNBULL: Well, Mr.
13 Chair, I would like to make a motion that we
14 approve Zoning Case Number 07-21B, PerStar M
15 Street, LLC, PUD Modification at Square 50 and
16 look for a second.

17 CHAIRMAN HOOD: I'll second it.
18 It's been moved and properly seconded. Any
19 further discussion? Are you ready for the
20 question?

21 All those in favor aye?

22 (AYES)

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

4 MS. SCHELLIN: Yes, sir. Staff
5 would record the vote four to zero to one to
6 approved final action on Zoning Commission
7 Case Number 07-21B. Commissioner Turnbull
8 moving, Commissioner Hood seconding,
9 Commissioners May and Schlater in support.
10 Commissioner Cohen not voting, having not
11 participated.

12 COMMISSIONER COHEN: I think I did
13 participate a little.

14 MS. SCHELLIN: No. You were not at
15 the hearing.

16 COMMISSIONER COHEN: Well, I must
17 have channeled it.

18 CHAIRMAN HOOD: We can always --

19 MS. SCHELLIN: Good thoughts are
20 always good.

21 CHAIRMAN HOOD: We can always redo
22 the motion and wait and let her read the

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1 record.

2 MS. SCHELLIN: No.

3 CHAIRMAN HOOD: All right. Okay.

4 Mr. Turnbull.

5 COMMISSIONER TURNBULL: Mr. Chair,
6 please indulge my snafu. I must have been in
7 a BZA brain something or other.

8 CHAIRMAN HOOD: So, you're saying
9 me and Meredith look like two. Okay. I'll
10 remember that tomorrow. Okay.

11 COMMISSIONER TURNBULL: Boo Hoo.

12 CHAIRMAN HOOD: Okay.

13 COMMISSIONER TURNBULL: On that
14 note, I'm not going to say anything else.

15 CHAIRMAN HOOD: It's much better
16 than I do.

17 COMMISSIONER TURNBULL: I'm not
18 going to say anything else. I'm done.

19 CHAIRMAN HOOD: No, that's no
20 problem. I've been called a lot worse I'm
21 sure.

22 COMMISSIONER TURNBULL: I can't

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1 imagine you as a blond. Well, maybe.

2 CHAIRMAN HOOD: Maybe I should try
3 that.

4 COMMISSIONER TURNBULL: Okay.

5 CHAIRMAN HOOD: Okay. Let's go to
6 Hearing Action. Zoning Commission Case Number
7 11-12, ANC 8B, Map Amendment at Squares 5729
8 and 5729W.

9 Ms. Thomas.

10 MS. THOMAS: Good evening, Mr.
11 Chairman, Members of the Commission. I am
12 Karen Thomas for the Office of Planning.

13 The Office of Planning is
14 recommending that the Commission set down ANC
15 8B's petition to rezone the properties in
16 Squares 5729 and 5729W from the R-5-A District
17 to the R-3 District.

18 The ANC's position is based on
19 complaints about concerns within the Squares
20 as expressed in the petition submission. The
21 proposed amendment is supported by the
22 Comprehensive Plan's Land Use Map, therefore,

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1 we are recommending that the petitioner's
2 request is set down for a public hearing in
3 support of the goal of developing lots and the
4 reuse of vacant buildings within those squares
5 which would be consistent with the
6 neighborhood's character.

7 Thank you.

8 MR. LAWSON: Mr. Chair, if I could,
9 I'd just like to note that we just realized
10 that we got the zones flipped in this one in
11 the first page. And it's actually a proposal
12 from R-3 to R-5-A, not the other way around.

13 MS. THOMAS: Sorry about that.

14 CHAIRMAN HOOD: So, let me ask
15 this. Remember when John Moore was here,
16 remember we took that big initiative. I think
17 we did it twice.

18 MR. LAWSON: I certainly do.

19 CHAIRMAN HOOD: We changed the
20 zoning. Did we change the zoning from R-5-A
21 to R-3? Now, we're going back from R-3 back
22 to R-5-A? Was that included in what we did

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1 previously?

2 MR. LAWSON: Yes, it was.

3 MS. THOMAS: Yes, it was. Yes.

4 Yes, this was part of Case 08-12 back in 2008.

5 This particular --

6 CHAIRMAN HOOD: So, I guess my
7 question is, were these squares left out or we
8 realized that they should not have been
9 included or what? I'm not following. I'm
10 trying to figure out what happened.

11 MR. LAWSON: These squares were
12 included in that proposal. Since then the ANC
13 has approached us and said that they feel that
14 they should be rezoned back to R-5-A.
15 Rezoning them back to R-5-A would be
16 consistent with the general character of the
17 area since the ANC wants to promote
18 development on these blocks, on the vacant
19 lands in this area and they feel that zoning
20 under R-5-A is more consistent with the
21 existing character than the R-3 would be.
22 This is at the request of the ANC to rezone it

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1 back.

2 CHAIRMAN HOOD: And I'm sure that,
3 Ms. Lawson, we mentioned to ANC 8B that the
4 reason we did that to begin with was because
5 they said there was an abundance of apartment-
6 type use. So, all that was mentioned to them
7 and they're fine with that?

8 MR. LAWSON: Yes, absolutely. And
9 we discussed the intended original one and we
10 certainly worked closely with the ANCs as part
11 of that original case, but since then some
12 things have changed a little bit on the
13 square. The one building burned down, for
14 example, and the ANC feels this is just the
15 best way to make sure that these two squares
16 develop in the future.

17 CHAIRMAN HOOD: Okay. Well, I want
18 to applaud the Office of Planning. I'm not
19 sure of my other colleagues, but I haven't
20 participated in that piece. We saw where
21 something needed to be changed and I don't
22 applaud the Office of Planning a lot, for not

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1 letting any grass grown under your feet,
2 coming right back for us to redo this with the
3 conditions that exist today. So, my hat is
4 off to you.

5 So, let me open it up to any
6 comments, Commissioners.

7 Okay. If not, I would move that we
8 set down Zoning Commission Case Number 11-23,
9 as noted, and ask for a second.COMMISSIONER
10 COHEN: Second.

11 CHAIRMAN HOOD: Thank you. It's
12 been moved and properly seconded. Any further
13 discussion?

14 All those in favor, aye.

15 (AYES)

16 CHAIRMAN HOOD: Any opposition? So
17 ordered.

18 Staff, would you record the vote?

19 MS. SCHELLIN: Yes, Staff would
20 record the vote five to zero to zero to set
21 down Zoning Commission Case Number 11-23 as a
22 Rule-making case. Commissioner Hood moving,

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1 Commissioner Cohen seconding, Commissioners
2 May, Schlater and Turnbull in support.

3 CHAIRMAN HOOD: Okay. Thank you.
4 Let move right on.

5 Zoning Commission Case No. 11-13,
6 TC/CSG St. Matthews, LLC, Consolidated PUD and
7 Related Map Amendment at Square 546.

8 Mr. Goldstein.

9 MR. GOLDSTEIN: Good evening Mr.
10 Chairman and Members of the Commission.

11 The Applicant in this case has
12 filed a consolidated planned unit development
13 and a related map amendment to CR. Plans call
14 for an approximately 210 unit residential and
15 new church sanctuary with accessory space, a
16 residential building, that is.

17 The site is located at 222 M
18 Street, Southwest, from the southwest corner
19 of M Street and Delaware Avenue. The site is
20 currently unimproved, following the 2008
21 demolition of an earlier St. Matthews church
22 facility.

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1 It is located about a block east of
2 the Waterfront Metro Station. The site is
3 presently zoned R-3, but it is in an area of
4 relatively abrupt changes in residential
5 height and density.

6 The proposed map amendment, the CR
7 would accommodate a new residential building
8 that would reach 110 feet in height on M
9 Street. It would drop down to 80 feet on its
10 southern wing and have a 35-foot tall church
11 sanctuary at the Northeast portion of the
12 site. It would have an overall floor area
13 ratio of 4.17 FAR or approximately 210,000
14 square feet.

15 The site design, particularly the
16 project height, evolved over time in response
17 to discussions with the Office of Planning and
18 the Historic Preservation Office. It
19 concentrates the bulk of development away from
20 the path of the historic Delaware Avenue right
21 of way with the tallest section of the
22 proposal along M Street.

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1 The project requests flexibility
2 from the size of the rear yard court width,
3 amount of open space in the buildings
4 principal entrance and the loading berth
5 dimension requirements. The Applicant has
6 also made some changes to the project since
7 the filing of the initial application. Most
8 significantly, following discussions with both
9 OP and DDOT, the Applicant has moved the
10 loading to an underground location with access
11 from Delaware Avenue. The OP considers this
12 to be an important project feature and a
13 preparable site design. The general proposed
14 massing height and uses have not changed.

15 Concerning benefits and amenities,
16 the Applicant would designate two percent of
17 the residential units for below 80 percent of
18 AMI, above and beyond the inclusionary zoning
19 requirements. Other features include the
20 return of a church facility to the site, the
21 improvement of an underused lot in Metro for
22 housing, community center space and

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1 operations, a landscaped courtyard,
2 underground loading and an electric vehicle
3 charging stations -- several of them.

4 Following a setdown, OP would
5 continue to work with the Applicant to clarify
6 the benefits and amenities package before a
7 public hearing.

8 A concern of the Comprehensive
9 Plan, the future land-use map designates a
10 site as residential, medium density. The
11 proposed CR zoning would primarily accommodate
12 the project's height, while the proposed FAR
13 would be about half of what is otherwise
14 permitted for PUDs in CR zones.

15 As detailed in the OP Report, the
16 Applicant's proposal is not inconsistent with
17 the designation or the Comp Plan's land use
18 policy guidance.

19 The Office of Planning recommends
20 the Commission set down the application for a
21 public hearing and with that I'd be happy to
22 take any questions the Commission may have.

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1 CHAIRMAN HOOD: Okay. Thank you
2 very much, Mr. Goldstein.

3 Commissioners, any questions of the
4 Office of Planning?

5 Commissioner May.

6 COMMISSIONER MAY: Yes, I have a
7 couple.

8 What happened with the right of way
9 of Delaware Avenue? I mean, had a plan. Did
10 it get cut in half, is that what happened?

11 MR. GOLDSTEIN: I believe it did.
12 The western portion of Delaware Avenue got
13 abandoned at some point in the past. I'm not
14 aware of quite when that was. So, I guess
15 it's down from 160 feet to 80 feet, I believe.

16 COMMISSIONER MAY: Really? So, the
17 new property line is essentially or the
18 current property line is essentially the
19 midpoint of the old right-of-way or
20 thereabouts?

21 MR. GOLDSTEIN: I believe that's
22 correct, yes.

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1 COMMISSIONER MAY: Wow. I never
2 looked at that closely. It just seemed so
3 strange in the plan. In the building that
4 existed there before is it similarly placed
5 with respect to the right of way? Because the
6 other buildings that are to the South seem to
7 be set back further from Delaware Ave.?

8 MR. GOLDSTEIN: I don't recall the
9 placement of the earlier facility.

10 COMMISSIONER MAY: Okay. I'm kind
11 of curious about that from the historic
12 perspective. I'm not sure how relevant it is.
13 I'm just curious.

14 Your report doesn't reference
15 needing any kind of relief for root
16 structures. So, I'm a little confused about
17 what we have in the way of root structures. I
18 mean, there is a full penthouse above the main
19 roof, right?

20 MR. GOLDSTEIN: Yes, there is.

21 COMMISSIONER MAY: Okay. And if
22 you look at the picture on 2.4, perspective

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1 view on 2.4 in the report. Perspective view 4
2 on page 2.4.

3 MR. GOLDSTEIN: Yes.

4 COMMISSIONER MAY: Okay. So, it
5 seems that the roof structure at 18.6 above,
6 the 110 is continuous with the rest of the
7 building. Is that right? Am I understanding
8 that correctly? So, was there a relief
9 requirement there or is this, I mean, what's
10 going on with the --

11 MR. LAWSON: We can clarify this
12 with the Applicant. If you look at the roof
13 plan which is 4.7.

14 COMMISSIONER MAY: Right.

15 MR. LAWSON: It appears that the
16 rooftop structures would conform to the
17 zoning, but we'll confirm that and if relief
18 is needed we can make sure that that's added
19 to the application. I believe what we're
20 looking at in that diagram is a screen wall
21 and architectural embellishment essentially.
22 I'm not entirely sure either so I think it's a

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1 good catch. We'll make sure that that's
2 confirmed by the Applicant.

3 COMMISSIONER MAY: Yes. The other
4 reason I'm actually concerned about this is,
5 you know, unlike a number of buildings where
6 we have rooftop structures that are, you know,
7 facing alleys or what have you, this one is
8 facing the street. And so I mean this may
9 actually be a Height Act issue, not that we're
10 that concerned with Height Act, but we can't
11 grant relief to something that would violate
12 the Height Act and you'd run into a snag at
13 the NCPC review. So, anyway, may be nothing
14 at all, but something looks funny to me.

15 Thanks.

16 CHAIRMAN HOOD: Anybody else have
17 any questions?

18 Mr. Turnbull.

19 COMMISSIONER TURNBULL: Thank you,
20 Mr. Chair.

21 was looking at drawing 2.1 which
22 shows a rendering from the other side of M

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1 Street and I guess the only thing -- it shows
2 the shadows on the townhouses across the
3 street. I think those are the only shadows
4 that really -- I mean, I think you are going
5 to get shadows as you cross M Street. It may
6 be very minimal though. But I wouldn't mind
7 seeing a shadow study of the impact of the
8 various homes just to see the -- I mean, I
9 think I'm okay with most of it but I'd like to
10 see it.

11 MR. LAWSON: We'd be happy to
12 recruit the Applicant to make sure that they
13 provide those. We would note that the main
14 bulk of the building is actually to the
15 north --

16 COMMISSIONER TURNBULL: That's
17 right.

18 MR. LAWSON: -- of the site. So,
19 the shadows that we're seeing here would be,
20 you know, like a very early morning shadow.

21 COMMISSIONER TURNBULL: It's right
22 at the Southeast and that's where the --

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1 MR. LAWSON: Right.

2 COMMISSIONER TURNBULL: I noticed
3 that and it's going to go away rather quickly.
4 But I'd just like to see what happens as
5 across the street on M Street. Thank you.

6 CHAIRMAN HOOD: Vice Chairman
7 Schlater.

8 VICE CHAIRMAN SCHLATER: Thank you,
9 Mr. Chairman.

10 Just for the record, I used to live
11 a block away from this site. I lived on the
12 1300 block of Delaware Avenue. I've since
13 moved but I'm very familiar with the site and
14 the neighborhood.

15 My first question, I guess, is
16 piggy-backing off of Commissioner May. This
17 preservation of the Delaware Ave. right-of-way
18 issue, there's a building. I mean, there's
19 many building and tall building sin the
20 Delaware Avenue right-of-way right now and it
21 seemed like it happened during urban renewal
22 period.

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1 MR. LAWSON: Well, actually right
2 now most of the buildings in the Delaware
3 Avenue right-of-way are relatively low. That
4 would be the buildings to the South of the
5 site along Delaware Avenue, three to four --
6 you know two to three stories. The buildings
7 on the other side--

8 VICE CHAIRMAN SCHLATER: What about
9 a nine-story 86-foot building on the southern
10 part of the block?

11 INVESTIGATOR LAWSON: Well, that
12 one I'd have to extend to Delaware. It looks
13 like it was. I'm not sure historically
14 whether Delaware Avenue went that far down. I
15 just don't know.

16 VICE CHAIRMAN SCHLATER: Okay.

17 MR. LAWSON: I'd have to go through
18 the L'Enfant plan to see. But certainly we
19 worked with this extensively without Historic
20 Preservation Office and with SHIPO. In fact,
21 the Applicant originally or former iterations
22 of the Applicant had had the bulk of the

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1 development actually at the corner of Delaware
2 and M and it was through the process of
3 working with SHIPO that a lot of that bulk was
4 shifted further west. SHIPO was very
5 comfortable with having an institutional
6 building within what was the Delaware Avenue
7 right-of-way which is why the church is
8 located where it's proposed to be located now.

9 And it's a much lower, obviously much lower
10 kind of form.

11 VICE CHAIRMAN SCHLATER: The only
12 reason why I asked that is because it does
13 seem like -- are any of the neighbors
14 concerned about the massing -- the massing
15 approach of this building in terms of being
16 next to the townhomes next door. Have you
17 heard anything?

18 MR. LAWSON: We've not heard
19 anything yet from the neighbors. We have had
20 discussions with ANC commissioners who seem
21 very satisfied with the overall massing and
22 proposal.

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1 VICE CHAIRMAN SCHLATER: Great.

2 MR. LAWSON: Because if they did
3 have concerns, I mean, there's a trade off
4 there between preserving and historic right-
5 of-way and addressing the concerns of
6 neighbors. Because it would seem if you were
7 worried about, you know, addressing the
8 concerns of neighbors, you would push the
9 density away from them if you could.

10 Yes, it is one of the reasons also
11 why we encourage the Applicant to push some
12 more of the density up onto M Street and
13 thereby reduce the density on kind of the
14 south half of the portion, half of the -- the
15 south half of the portion is open space and
16 the other half is supposed to be 80 feet in
17 height rather than 110 which is the height
18 proposal on M Street.

19 VICE CHAIRMAN SCHLATER: Do you see
20 much CR in Southwest?

21 MR. GOLDSTEIN: I believe there is
22 some CR near the ballpark, exactly where I'm

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1 not sure.

2 MR. LAWSON: A lot of Buzzard Point
3 is zoned CR. It's also within the Capital
4 Gateway Overlay. In this case, the CR zoning,
5 you know, it is sort of an interesting story.

6 Like, I mean, the CR zoning as proposed is
7 really the direct result of discussions with
8 OP and to some extent DOT in that the CR
9 zoning is to accommodate the height.
10 Certainly a much lower zone could be used for
11 the density because the FAR still 4.0 to be
12 accommodated by a very different zone. But CR
13 is one of the very few zones that allows 110
14 feet but not higher than that. So, we thought
15 it was appropriate in this case for this
16 particular PUD because of that. Again, you
17 know, since the density of the property is so
18 much below the CR limit, any consideration
19 give to the -- I read somewhere that you're
20 trying to avoid putting commercial zoning in
21 there. But there does seem to be more C-3-A
22 in that neighborhood than CR.

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1 MR. LAWSON: Well, CR is also a
2 mixed use zone. It allows most of the kinds
3 of uses that any of the C3 zones would allow.
4 Most of the kinds of uses. It is -- it
5 doesn't incentivize retail but then certainly
6 does most of our commercial zones also
7 incentivize retail. So, we just felt that it
8 would be appropriate. It was the appropriate
9 zone to tack on to this particular PUD and the
10 proposal as brought forward.

11 VICE CHAIRMAN SCHLATER: Okay.
12 Very good.

13 I will just say I'm in support of
14 setting this down for the hearing. I would
15 like to see where the affordable units are
16 going to be located. I'd like to better
17 understand. I didn't get a great sense from
18 the renderings what the materials were. So,
19 I'm sure we'll get a lot more on that in terms
20 of the materials forward. But getting a
21 better sense of the color and the feel of the
22 building would be helpful.

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1 The other thing that concerned me
2 that just didn't look great on the plan.
3 There's a condenser form on top of the
4 residential building and I guess there's not
5 too many buildings that are going to be
6 looking down on the roof of this. But it
7 didn't look like a great plan from that
8 perspective.

9 And I guess we'll talk more about
10 the open space requirement and the courtyard
11 access restrictions and better understand that
12 during the hearing.

13 Thank you.

14 CHAIRMAN HOOD: Okay. Any other
15 questions?

16 Okay. Commissioners, what is your
17 pleasure?

18 VICE CHAIRMAN SCHLATER: Mr.
19 Chairman, I'd move that we set down Zoning
20 Commission Case Number 11-13 TC/CSG, St.
21 Matthews, LLC, Consolidated PUD and Related
22 Map Amendment at Square 546.

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1 COMMISSIONER MAY: Second.

2 CHAIRMAN HOOD: Okay. It's been
3 moved and properly seconded. Any further
4 discussion? All those in favor, aye.

5 (AYES)

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

9 MS. SCHELLIN: Yes, Staff will
10 record the vote five to zero to zero to set
11 down Zoning Commission Case Number 11-13 as a
12 contested case. Commissioner Schlater moving,
13 Commissioner May seconding, Commissioners
14 Cohen, Hood and Turnbull in support.

15 CHAIRMAN HOOD: Okay. Ms.
16 Schellin, let's go back to Zoning Commission
17 Case Number 11-23. I'm not sure if we said
18 that was going to be a rule-making.

19 MS. SCHELLIN: I did.

20 CHAIRMAN HOOD: You did?

21 MS. SCHELLIN: When I recorded the
22 vote.

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1 CHAIRMAN HOOD: Okay. Great, thank
2 you.

3 Okay. Let's move right along.
4 Let's go to Correspondence. I have an item,
5 see whether I need to add it. Let's go to
6 Correspondence. A letter from Councilmember
7 Che dealing with campus plans, Ms. Schellin.

8 MS. SCHELLIN: Yes, we received
9 this letter from Councilmember Che asking the
10 Zoning Commission to amend the regulations
11 with regard to campus plans relating to
12 commercial property owned by the universities
13 and staff would just like to know what the
14 Commission would like for us to do. She is
15 asking for a response from the Commission.
16 And I believe she did testify and I think she
17 said this in her letter that she testified
18 about this issue I believe it was in July at
19 either AU or either Georgetown, one of those
20 hearings.

21 CHAIRMAN HOOD: Okay. I started
22 the conversation. I actually agree with her.

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1 I did through the process. I don't think
2 that we can institute it at this point because
3 it needs to be predictable. I don't think we
4 can put a regulation while we're in process
5 and I'll leave that up to the legal folks.
6 But I think at some point in time, I don't
7 know whether this is ZRR through that process
8 when we get the campus plans that we look at
9 this. But I kind of agree with the
10 Councilmember and even without her saying it,
11 I agree because we heard a lot of testimony
12 not just from her, but I think she really
13 raised the issue and I think this is something
14 that we at some point would like maybe the
15 Office of Planning, whether it's the ZRR
16 process or the campus plan. I think the
17 campus plan process has been taken out of the
18 ZRR. Am I correct, Ms. Steingasser?

19 MS. STEINGASSER: At the request of
20 the Commission we've agreed to take an
21 independent look of the campus plans after we
22 get the first draft of the ZRR so that it can

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1 be a little bit more focus study and we did
2 agree to look at this issue and we agree with
3 Councilwoman Che during the testimony. We
4 don't advise doing it at this point because
5 the Commission has not yet decided that case
6 that this came from, but we will be looking at
7 that. And this is one of the primary issues
8 we'll be focused on.

9 CHAIRMAN HOOD: Okay. And let me
10 offer it up, but I just think that at some
11 point, colleagues, we need to address that so
12 I would ask maybe OZ staff to work with OAG
13 and also Office of Planning that we can give
14 her some type of response. I think she's
15 asked for a response too, I would appreciate
16 if you would let me know. So, she's asking
17 for a response so we will want to respond to
18 that. I just think that it would be very
19 disingenuous right now at this point for us to
20 change the rules of the game. Now, maybe 10
21 years from now or 15 or 30 years, whatever
22 length of time the campus plan will be

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1 revisited that maybe this should be looked at
2 at the appropriate time.

3 MS. STEINGASSER: And we're happy
4 to take a stab at that first draft and forward
5 it over to Ms. Schellin with the add-on
6 pieces.

7 CHAIRMAN HOOD: She actually has a
8 draft for us on the back. She did a lot of
9 work for us so we want to thank Councilmember
10 Che for getting it started. Okay.

11 MS. SCHELLIN: If I could ask Ms.
12 Steingasser if you're allowing her to do that
13 first draft if she could forward it to OAG for
14 them and then they'll send it to us.

15 CHAIRMAN HOOD: Let me hear from my
16 other colleagues. I haven't heard from my
17 other colleagues first.

18 Commissioner Turnbull.

19 COMMISSIONER TURNBULL: Yes, thank
20 you, Mr. Chair.

21 I think the only thing is that as
22 we go forward with these campus plans and get

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1 to the approval process, do we need to point
2 out that there will be a corollary that
3 properties at -- commercial properties that
4 have not been included will be or are we
5 saying that as of now any commercial
6 properties, I mean, she was getting to the
7 commercial properties and thinks that we may
8 be looking to include them. If we're not, and
9 we're waiting another 10 years before they
10 would be brought in, is that our goal? And
11 she needs to understand that then.

12 CHAIRMAN HOOD: My thing is I just
13 don't think we can change right now.

14 COMMISSIONER TURNBULL: No, I know,
15 but I think she needs to understand that we're
16 not going to include those properties until
17 the next campus plans roll around.

18 CHAIRMAN HOOD: Right. And I
19 think--

20 COMMISSIONER TURNBULL: I think her
21 expectations were that maybe we're looking at
22 trying to do it now. I think we need to make

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1 it clear that it's going to be the next
2 iteration that comes before the Zoning
3 Commission.

4 CHAIRMAN HOOD: And that's why I
5 was saying the next 15 to 30 years. I don't
6 know --

7 COMMISSIONER TURNBULL: Right.

8 CHAIRMAN HOOD: -- but at some
9 point once we get all the parties, I think
10 it's the time to look at that. I don't think
11 it's going to happen. I don't even think
12 legally, I don't know. I'm not a lawyer.

13 COMMISSIONER TURNBULL: Right.

14 CHAIRMAN HOOD: I don't know
15 legally if we can even do that --

16 COMMISSIONER TURNBULL: We can do
17 that.

18 CHAIRMAN HOOD: -- at this point
19 because people are operating on what's in
20 place.

21 COMMISSIONER TURNBULL: Well, we
22 should tell her our response but at that one

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1 point it's just very clear what we can do,
2 what we can't do and when this could expect to
3 happen.

4 CHAIRMAN HOOD: Okay. So, noted.
5 And I would ask as Ms. Schellin has already
6 said, we got the best groups in town working
7 on it. We got OZ staff, OP staff and OAG.

8 Okay. Commissioner May.

9 COMMISSIONER MAY: Yes, I just want
10 to add. I think there may be actually a
11 threshold legal question about whether we can,
12 you know, the extent to which we can regard a
13 particular -- this particular use in this
14 matter differently in commercial districts.
15 I mean, it may be something that we're not
16 going to be able to understand until we start
17 considering the question. But even if we had
18 the sincere desire to kind of roll this in,
19 there may be legal complications.

20 MR. RITTING: I'm really not
21 prepared to speak and answer that question at
22 this point but I could send you a memo so you

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1 could consider it at a future point.

2 COMMISSIONER MAY: I think frankly
3 at this moment all we really need is to have
4 that question considered when you review the
5 draft of whatever letter we would send back to
6 Councilmember Che.

7 MR. RITTING: Okay.

8 COMMISSIONER MAY: Because we're
9 not actually taking up the issue itself.

10 MR. RITTING: Okay.

11 COMMISSIONER MAY: I'm just talking
12 about when we will take up the issue. I think
13 so long as we're not promising something in
14 the future that's --

15 MR. RITTING: Okay. Well, we'll
16 definitely study that issue and we'll consider
17 it when we're reviewing it and perhaps revise
18 the letter.

19 COMMISSIONER MAY: Okay.

20 MR. RITTING: And we'll share the
21 results of that with you.

22 COMMISSIONER MAY: Okay. Thanks.

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1 CHAIRMAN HOOD: From my standpoint
2 if it is doable, I would be in favor of
3 proceeding, but if it's not doable then
4 naturally, you know. So, I guess what we need
5 to do is do the fact-finding and once we do
6 that, we'll have more clear direction on --
7 looking at her letter on the outskirts and not
8 knowing any of the legal ramifications, I'm in
9 favor of looking into that. So, that's just
10 where I stand.

11 Okay. Anybody else?

12 Okay. So noted. We will wait and
13 work with the response to the three groups,
14 OZ, OP and OAG. Do I need to do anything else
15 with this, Ms. Schellin?

16 MS. SCHELLIN: Not with that one,
17 no, sir.

18 CHAIRMAN HOOD: And here's my
19 response. I guess we will let her know that
20 we are -- I want us to do the necessary work,
21 but I want her to know that we are looking at
22 this and maybe we can just shoot her a line or

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1 two and let her know that we are looking at
2 this and taking it under advisement and we're
3 checking on a few things. Just let her know
4 we're working on it, that's all, even if it's
5 just a call to her staff.

6 Okay. The other thing is which I
7 want to add, should have done this earlier.
8 Thank you, Commissioner Cohen.

9 Also, we have a letter which is a
10 response from Mr. LeGrant and I'll go to Ms.
11 Schellin. This is Zoning Commission Case
12 Number 96-14. Ms. Schellin.

13 MS. SCHELLIN: Yes, sir, this
14 letter was sent to me advising of action to be
15 taken on this case by the ZA. It appears, if
16 you read the letter, they haven't actually
17 taken the action yet, but they are saying that
18 they believe that this action can be done
19 pursuant to the ZA's authority under Section
20 2409.6.

21 CHAIRMAN HOOD: Okay. And he's
22 exercising his flexibility. Okay.

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1 Is there any action required by us
2 or just notification?

3 MS. SCHELLIN: Nothing is required.
4 Just for you to know knowledge unless you
5 have an issue with it.

6 CHAIRMAN HOOD: Unless someone has
7 an issue, I'll just say so noted. Okay. So
8 noted.

9 The other thing is and let me just
10 bring this up and this is not on the agenda.
11 At the request of clarification from the Board
12 of Zoning Adjustment about sexually oriented
13 business establishments. While that
14 definition is still unclear, I'm not sure who
15 all we need to have work on it, whether it be
16 -- and this is not pertaining to any cases,
17 Commissioners, you have sat on or anything. I
18 think there's a lot of -- the definition is
19 unclear and that's what was expounded to me by
20 members of the Board of Zoning Adjustment
21 asking the Zoning Commission to clarify. I'm
22 not sure what process we have in place but at

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1 some point I think we need to do this sooner
2 than later. I know we usually say ZRR but I
3 think that this particular definition needs to
4 happen before we finish ZRR and think it needs
5 to happen sooner than later. That's my
6 position, but let me hear from Ms.
7 Steingasser.

8 MS. STEINGASSER: I'm not sure of
9 the exact issue but we're happy to work with
10 OAG. There's a lot of Constitutional issues
11 and we want to work with them before we bring
12 something back to you, but we will make it a
13 priority and bring it back to you very soon.

14 CHAIRMAN HOOD: Okay. Great.
15 Thank you very much.

16 Any other questions on that,
17 Commissioners? That is actually requested.
18 It came from the Board on an evening that I
19 was sitting, that day I was sitting.

20 Okay. Anything else, Ms. Schellin?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Okay. Nothing

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1 else?

2 MS. SCHELLIN: Yes, that's it.

3 CHAIRMAN HOOD: Okay. Any other
4 comments, Commissioners?

5 Okay. With that, I want to thank
6 everybody for their participation in this
7 meeting tonight and this meeting is adjourned.

8 (Whereupon, the above matter was
9 concluded at 7:11 p.m.)

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