

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

-----:
IN THE MATTER OF: :
:
TEXT AMENDMENT TO ALLOW THE :
ESTABLISHMENT OF A WATER :
TOWER ON THE SAINT ELIZABETH'S : Case No.
CAMPUS : 09-10
-----:

Thursday,
September 24, 2009

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

The Public Hearing of Case No. 09-10 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD SCHLATER, Commissioner
PETER MAY, Commissioner, NPS

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

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
ARLOVA JACKSON

The transcript constitutes the minutes from the Public Hearing held on September 24, 2009.

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

6:34 p.m.

CHAIRMAN HOOD: Good evening ladies and gentlemen. This is the Public Hearing of the Zoning Commission of the District of Columbia for Thursday, September 24, 2009. Here beside me are Commissioner Schlater and Commissioner May. We are also joined by the Office of Zoning Staff. We will be expecting the Office of Planning very shortly.

These proceedings are being recorded by a court reporter and are also webcast live. Accordingly, we must ask you to refrain from any disruptive noise or actions in the hearing room. The subject of this evening's hearing is Zoning Commission Case Number 09-10. This is a request by the Office of Planning for a text amendment to the Zoning Regulations to enable construction of a water tower on the St. Elizabeth's campus. Notice of today's hearing was published in the D.C. Register on August 7, 2009, and copies of that

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1 announcement are available to my left, near
2 the wall, near the door. The hearing will be
3 conducted in accordance with the provisions of
4 11 DCMR 30-21, as follows: preliminary
5 matters; presentation by the Office of
6 Planning; reports of other government
7 agencies; reports of the ANC -- in this case
8 ANCs 8-A and 8-C, if any; organizations and
9 persons in support; organizations and persons
10 in opposition.

11 The following time constraints will
12 be maintained at this hearing: organizations,
13 five minutes; individuals three minutes. The
14 Commission intends to adhere to these time
15 constraints as much as possible, in order to
16 hear this case in a reasonable period of time.

17 The Commission reserves the right to change
18 the time limits for presentations, if
19 necessary, and notes that no time shall be
20 ceded.

21 All persons appearing before the
22 Commission are to fill out two witness cards.

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1 These cards are located to my left on the
2 table near the door. The decision of the
3 Commission, in this case, must be based
4 exclusively on the public record. To avoid
5 any appearance to the contrary, the Commission
6 requests that persons present not engage the
7 members of the Commission in conversation
8 during any recess or at any time. Upon coming
9 forward to speak to the Commission, please
10 give both cards to the reporter sitting to my
11 right before taking a seat at the table.

12 The staff will be available
13 throughout the hearing to discuss procedural
14 questions and Ms. Sharon Schellin is to my
15 left, if you have any procedural questions.
16 Please turn off all beepers and cell phones at
17 this time, so as not to disrupt these
18 proceedings. At this time, the Commission
19 will consider any preliminary matters. Does
20 the staff have any preliminary matters?

21 MS. SCHELLIN: No, sir.

22 CHAIRMAN HOOD: Okay. With that,

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1 we will come off the record and wait for the
2 Office of Planning.

3 (Whereupon, off the record from
4 approximately 6:36 p.m. until approximately
5 6:37 p.m.)

6 CHAIRMAN HOOD: All right. At this
7 time, we will turn it over to the Office of
8 Planning, once they are ready to begin. Ms.
9 Jackson.

10 MS. JACKSON: Good evening, Chair
11 Hood and Commissioners. For the record, my
12 name is Arlova Jackson and I'm a Development
13 Review Specialist in the D.C. Office of
14 Planning. The case before you is a text
15 amendment brought forth by the Office of
16 Planning, that would allow for the
17 establishment -- excuse me, of a WASA water
18 tower on the east campus of St. Elizabeth's
19 Hospital. The proposed text amendment would
20 do the following: amend Section 106 by adding
21 a provision to exempt the establishment of a
22 water tower facility on the east campus of St.

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1 Elizabeth's from limitations on the use of
2 unzoned property; amend Section 3202 by adding
3 a provision to permit the issuance of a
4 building permit for a water tower facility on
5 the east campus of St. Elizabeth's prior to
6 the creation of the establishment of a Lot of
7 Record; and add a new Section 3206, which
8 establishes a process for the Office of
9 Planning to review and provide input to the
10 Zoning Administrator on building permit
11 requests for water tower facilities on the
12 east campus of St. Elizabeth's, in order to
13 evaluate compliance with adopted plans for
14 this site.

15 No changes have been made to the
16 proposed text since the case was set down in
17 July. We just will note that it's formatted
18 differently -- slightly, from what was in the
19 public notice to take into account previous
20 amendments; clean up the structure; as well as
21 a proposed amendment that was recently adopted
22 by the Council on the 21st of September.

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1 Briefly, St. Elizabeth's site is
2 approximately 336 acres, separated by Martin
3 Luther King Avenue into an east and west
4 campus. The entire site is a designated
5 historic district. The east campus came under
6 District control in 1987. As such, being a
7 locally and federally designated district,
8 it's subject to review by the Historic
9 Preservation Review Board, the Commission of
10 Fine Arts, and a number of additional
11 agencies, as part of the Section 106 National
12 Historic Preservation Act review process.
13 This review process, which is used to
14 determine the impact of the proposed water
15 tower on existing historic resources will
16 ultimately guide the selection of the new
17 water tower location. Two consulting party
18 meetings have already taken place to refine
19 the location. Excerpts from the first meeting
20 were included as attachment to the staff
21 report, which also includes photographs of how
22 the tower may be seen from a variety of

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1 viewpoints.

2 And upgrade of the existing water
3 service, including the new storage facility,
4 is needed to improve fire protection, address
5 poor water pressure, maintain existing water
6 quality, and support future development in the
7 area. WASA conducted a study in 2007 to
8 evaluate potential sites, which determined
9 that the east campus was the best location for
10 several reasons, including adequate ground
11 elevation, sufficient distance from current
12 and planned residential uses, and a central
13 location within the service area. As part of
14 the study WASA also determined that the new
15 storage tower should have the capacity of two
16 million gallons and be seated at least 310
17 feet above mean sea level.

18 St. Elizabeth's has been the
19 subject of various planning studies, including
20 a three-year planning process which led to the
21 completion of a draft framework plan in 2006.

22 The St. Elizabeth's east redevelopment

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1 framework plan, which was also attached to
2 your report, is an update of this effort and
3 was adopted by Council last December. The
4 plan identifies site constraints; highlights
5 development opportunities; and establishes
6 development principles for the eventual build
7 out of the property. The framework plan
8 anticipates the construction of a new water
9 tower onsite, which is needed to support
10 future development envisioned in the plan, as
11 well as the current needs of existing
12 residents. The requested text amendment is
13 not inconsistent with this plan, as it would
14 allow for the immediate development of a water
15 tower, needed to serve current and future
16 residents of Ward 8.

17 The current zoning regulations
18 prohibit the issuance of a building permit for
19 any property that does not have a zone
20 district or is not located on a lot of record.

21 While the Office of Planning is currently
22 working on a zoning proposal for the entire

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1 east campus, the size of the site, the mix of
2 uses, and involvement of the District and
3 federal government in the decision process
4 will make the selection of the appropriate
5 zones for the site complex. In addition, the
6 exact location of record lots and dedicated
7 streets would not be determined until a master
8 developer is selected or a development
9 scenario is adopted. The proposed amendments
10 to Section 106 and 3202 would only allow the
11 issuance of a building permit for the
12 establishment of a WASA water service facility
13 on the east campus of St. Elizabeth's. The
14 proposed new Section 3206 allows for an
15 advisory review by the Office of Planning. It
16 would consist of a memorandum that would be
17 sent to the Zoning Administrator from the
18 Office of Planning, that assesses the proposed
19 tower location and appearance and its
20 consistency with the adopted comp plan, St.
21 Elizabeth's east redevelopment framework plan,
22 or other relevant plans or studies for this

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1 site. A similar process is currently used for
2 antennae and projects in the DD Overlay.

3 Under the proposed procedure, if
4 the facility is not found to be in keeping
5 with adopted plans and policies, it could
6 either be redesigned or sent to the BZA for
7 consideration as a special exception request.

8 Finally, the policies within the
9 land use urban design and infrastructure
10 elements of the 2006 Comprehensive Plan lend
11 support to the requested text amendment,
12 particularly those that address the
13 redevelopment of large sites, design reviews,
14 and modernizing infrastructure. The proposed
15 amendments would also further a relevant
16 policy of the far southeast/southwest area
17 element by providing the infrastructure
18 necessary to allow for the redevelopment of
19 St. Elizabeth's east campus. Therefore, the
20 requested amendment is not inconsistent with
21 the 2006 Comprehensive Plan, as it will allow
22 for the immediate development of a water tower

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1 needed to serve the current and future
2 residents of Ward 8. OP is comfortable that
3 the level of review provided via the 106
4 process, in addition to the advisory OP review
5 proposed here, would allow WASA to move
6 forward with a much needed improvement of
7 water service in this area, while insuring
8 that adequate protections are in place for the
9 historic resources found on St. Elizabeth's
10 east campus. OP recommends that the Zoning
11 Commission adopt the requested text amendments
12 as proposed in our staff report. Thank you.
13 And I'll take any questions that you have.

14 CHAIRMAN HOOD: Sorry about that.
15 Thank you very much, Ms. Jackson. Ms.
16 Steingasser, did you want to add anything?

17 MS. STEINGASSER: No, sir.

18 CHAIRMAN HOOD: Okay. With that,
19 colleagues, any questions? Commissioner May?

20 COMMISSIONER MAY: Certainly. I've
21 always got a couple. The -- first of all,
22 I'll say the -- the information that's been

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1 presented in the report and in the inclusion
2 of the framework -- Redevelopment Framework
3 Plan was very helpful in filling in the
4 picture. I think, at the set down, I probably
5 spoke up on my overall concern about doing
6 sort of more piecemeal zoning or text amending
7 or whatever, to allow certain things to
8 proceed on the campus. Given that -- that, in
9 my prior tenure on the Zoning Commission,
10 there were two PUDs that allowed portions of
11 the site to be zoned and to move forward and
12 the fact that we had a very strong sense, at
13 that point, that we didn't really want to see
14 a lot more pieces being done; that we really
15 wanted to see the comprehensive zoning
16 package. I also can appreciate how
17 complicated it is trying to come up with the
18 right redevelopment plan. I -- I had been
19 thinking of this in similar terms to
20 Reservation 13, where it -- it was possible to
21 proceed with zoning, without having a
22 developer on board and to lay out streets and

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1 things like that. But I think this is a much
2 more complicated site, topographically,
3 Historic Preservation wise, and everything
4 else. So it's -- I can see why there's a
5 certain hesitance about moving ahead and
6 zoning it.

7 So I'm more or less comforted by
8 what we have now. I do have a few questions
9 about it. How is water pressure maintained in
10 other areas of the city? Because we don't
11 have water towers in many other locations or I
12 don't even know how -- I mean, do we have them
13 in any other locations?

14 MS. JACKSON: I'm certain that we
15 have them in other locations. And I'm not an
16 engineer. But I believe it's a function of
17 topography and whether or not there's enough
18 elevation.

19 COMMISSIONER MAY: Right. Well
20 there's -- I mean, there are reservoirs on
21 high points and some of them tend to be on
22 park service land because the high points are

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1 where -- which were good for Civil War
2 defenses of Washington, are also good for
3 giving you the height you need for water. But
4 I mean, is it just pump houses? I mean, are
5 there more pump houses in other parts of the
6 city? Or do we know?

7 MS. JACKSON: I don't know.

8 COMMISSIONER MAY: No? Okay. I
9 guess I'll have to ask -- I meet with WASA
10 from time to time. I should just ask them
11 that. What is the reference to the evidence
12 warehouse project that's within the plan? Is
13 that something that is still happening on this
14 campus? Because I remember hearing something
15 about a ground breaking of a similar facility
16 down at D.C. Village, or did I imagine that?

17 MS. JACKSON: I don't know of
18 ground breaking at D.C. Village, but I -- we
19 haven't heard anything about it being on this
20 site in probably at least a year. So I --

21 COMMISSIONER MAY: Okay. So it may
22 not be an active consideration at this point?

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1 MS. JACKSON: It may not be.

2 COMMISSIONER MAY: Okay. Again,
3 I'm just -- my radar's up for sort of
4 piecemeal things and I don't want that to sort
5 of arrive on the door step. The -- do we know
6 what actual location they're looking at for
7 the water tower, at this point?

8 MS. JACKSON: They actually had
9 their second consultation meeting on the 14th
10 of September, and they went through a list of
11 -- of alternative sites. It looks like
12 they're leaning towards one that's east of the
13 reservoir -- I mean of the ravine. Sorry.

14 COMMISSIONER MAY: Right. East of
15 the ravine? Because what's shown on this is
16 west of the ravine.

17 MS. JACKSON: Yes. What's shown in
18 the plan is basically the same location of the
19 existing tower.

20 COMMISSIONER MAY: Yes. Yes. And
21 it's a pretty broad swath. That's why I'm
22 concerned about it.

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1 MS. JACKSON: Right.

2 COMMISSIONER MAY: So it could be
3 on the other side of the ravine, in what I
4 would characterize as the more institutional
5 portion of the campus.

6 MS. JACKSON: Right.

7 COMMISSIONER MAY: Which I think
8 would make a lot of sense. And one last
9 question, and this relates more to the
10 framework plan, I don't see -- and I'll admit
11 I didn't read every word of the plan -- but I
12 did skim it and I looked, in particular, to
13 the agencies with which there had been
14 coordination. And I didn't see an indication
15 of coordination with the Department of the
16 Environment. And I'm just wondering about
17 that, because of the potential for something
18 like this to be very close to the ravine,
19 which is a significant topographical feature.
20 I don't know if it's -- if there's actually --
21 -- is there any water in the ravine, at all?
22 Or is it just a completely dry formation?

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1 MS. JACKSON: I --

2 COMMISSIONER MAY: Don't know?

3 MS. JACKSON: I don't know.

4 MS. STEINGASSER: It's dry. It's
5 mostly filled with ash.

6 COMMISSIONER MAY: Well, at one
7 end.

8 MS. STEINGASSER: Yes.

9 COMMISSIONER MAY: But not at the -
10 - at the center, there.

11 MS. STEINGASSER: I've been there.
12 There's no water that goes through it at all.

13 COMMISSIONER MAY: Okay. And do
14 you know if there's been any discussion with
15 the Department of the Environment about the
16 framework plan?

17 MS. JACKSON: Not --

18 MS. STEINGASSER: I know NPS has
19 been directly involved in the 106
20 consultations.

21 COMMISSIONER MAY: Well, I'm --
22 yes. I'm aware of that too.

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1 MS. STEINGASSER: But the -- I
2 don't know who, from -- if the Department of
3 the Environment had an alternate
4 representative.

5 COMMISSIONER MAY: Okay. All
6 right. That's it for my questions. Thank
7 you.

8 CHAIRMAN HOOD: Commissioner
9 Schlater?

10 COMMISSIONER SCHLATER: I've just
11 got a few questions myself. I'm wondering,
12 from a zoning perspective, how is the water
13 tower treated, in terms of -- are there any
14 limitations on the height and bulk of a water
15 tower? Are there any places where water
16 towers are matter of right throughout the city
17 right now?

18 MS. STEINGASSER: In the industrial
19 zones, they would be considered a public
20 utility and they would be allowed as a matter
21 of right. It would be similar to some of the
22 stuff you see on the blue planes. You could

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1 probably go there.

2 COMMISSIONER SCHLATER: Okay. And
3 is there any limitation on the height of the
4 water tower?

5 MS. STEINGASSER: That is still
6 being researched, whether it's subject to the
7 Height Act or whether it would be considered
8 mechanical and be exempt from the Height Act.

9 COMMISSIONER SCHLATER: Because I
10 think, in what I read in the materials here,
11 we're talking about something that's 175 feet
12 tall.

13 MS. STEINGASSER: Okay.

14 COMMISSIONER SCHLATER: And 20
15 times the volume of the current water tower,
16 which is actually going to have a major impact
17 on the skyline --

18 MS. STEINGASSER: That's good.
19 Right.

20 COMMISSIONER SCHLATER: -- of east
21 of the river.

22 MS. STEINGASSER: And that's --

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1 that's the main focus of the 106 consultation
2 is the impact on the skylines and the natural
3 -- and the historic resources campus.

4 COMMISSIONER SCHLATER: And is the
5 reason why you're coming to us right now with
6 this text amendment basically to streamline
7 the approvals process?

8 MS. STEINGASSER: Yes.

9 COMMISSIONER SCHLATER: I'm just
10 wondering why now, of all times. We don't
11 know where it's going to be on the site; we
12 don't know how tall it's going to be; what
13 it's going to look like. You're just trying
14 to pave the way for the 106 process to be the
15 deciding factor?

16 MS. STEINGASSER: It's happening
17 right now. The 106 process is happening right
18 now. So it's a -- there's a lot of things
19 happening concurrently. But yes, basically,
20 we're trying to not impair WASA from being
21 able, you know, at the conclusion of this, to
22 apply for permits and get started.

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1 COMMISSIONER SCHLATER: And what is
2 WASA's time line for the design and
3 construction of the water tower?

4 MS. STEINGASSER: They have at
5 least two more consultant party meetings, then
6 they have to go before the Historic
7 Preservation Review Board. I think their
8 tentative schedule for that is November. I
9 just looked at their website today and it
10 looks like they would like to complete
11 construction by 2013. So to have, I guess,
12 all the entitlement done by the end of this
13 year, so that they can begin design and
14 engineering next year.

15 COMMISSIONER SCHLATER: One of my
16 concerns is that the -- to insure that the
17 community east of the river has a voice in the
18 design of this facility, which is going to
19 have a major impact on the visual skyline over
20 there. So I'm wondering, if we approve this
21 text amendment, I realize that there's a 106
22 process under way, what is the community input

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1 process during the design review of this water
2 tower?

3 MS. STEINGASSER: I know that all
4 of the ANCs are -- were invited. And I know
5 they attended at least the first consultant
6 party meetings. And that's largely -- you
7 know, once they -- once they settle on a
8 location --

9 COMMISSIONER SCHLATER: Yes?

10 MS. STEINGASSER: -- the next phase
11 of it is totally going to talk about the
12 design of the tower.

13 COMMISSIONER SCHLATER: I guess my
14 question is, when -- when a community member -
15 - if a community member has any objections to
16 the design, what is their formal process for
17 comment and input? Are they going to have a -
18 - I realize they have a seat at the table in
19 these consultant party meetings. How is that
20 taken into account?

21 MS. STEINGASSER: Well, they have
22 the public meetings. They also then will

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1 issue a formal public document that will be up
2 for public comment, where somebody can
3 respond, in writing. And then they would have
4 -- the applicant, WASA, would have to respond
5 to those comments, directly, in writing, as
6 part of their -- their response.

7 COMMISSIONER SCHLATER: And then,
8 if you've got this 106 process going forward,
9 why does OP need this added layer of review
10 over the design?

11 MS. STEINGASSER: Just to make sure
12 that when they get to permits, they are
13 compliant with the Section 106 concluded
14 design and the CFA and the HPRV. It's just a
15 --

16 COMMISSIONER SCHLATER: Okay. So
17 you think that the design they come up with
18 through the 106 process is going to be the one
19 that is going to be carried through. And then
20 this is just a -- the process that you're
21 instituting through this text amendment is
22 just confirming that?

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1 MS. STEINGASSER: That's correct.
2 We -- we felt, both from the Office of
3 Planning standpoint, that -- and from what we
4 anticipated the Commission would have, that
5 there would be a little bit of discomfort just
6 turning this over to outside bodies to review,
7 and then sign off. So we -- we kind of
8 interjected ourselves in, that we would
9 confirm that it was -- that the design was
10 compliant with all that had been approved.
11 There will also be opportunities for anyone to
12 weigh in at -- at -- at the HPRB, which is a
13 public meeting and hearing, and the CFA, which
14 is a public meeting and hearing.

15 COMMISSIONER SCHLATER: Okay.
16 Would OP consider doing a public meeting as a
17 final -- in their final review of the plans,
18 to make sure that those comments were further
19 heard?

20 MS. STEINGASSER: Well, having a
21 hearing before the Zoning Commission?

22 COMMISSIONER SCHLATER: No. I -- I

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1 realize that's not what this is. And I'm just
2 trying to get comfortable that there's going -
3 - that the process is going to take into
4 account not just the consulting -- I don't
5 know -- there's also -- there's HPRB. I don't
6 know who else -- who the other consulting
7 parties are. But I want to just make sure
8 that the community has a strong voice at the
9 table, which they do when they come before the
10 Zoning Commission. So I just want to make
11 sure that that's not lost through the process
12 we're setting up here.

13 MS. STEINGASSER: I don't believe
14 it -- it would be. OP, as you know, the
15 Historic Preservation Office is part of the
16 Office of Planning, and they are coordinating
17 with the Neighborhood Planning Division,
18 through these 106 plans. So we're at the
19 table through all of these public meetings as
20 they proceed forward. So, to have an
21 additional hearing at -- I'm not sure what we
22 would gain, and we would have no authority at

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1 that stage to actually make amendments.

2 COMMISSIONER SCHLATER: Yes.

3 MS. STEINGASSER: To the design.

4 COMMISSIONER SCHLATER: Okay. But
5 you feel comfortable that it's a good process
6 and people are going to be heard and this
7 isn't just going to be steamrolled through the
8 community.

9 MS. STEINGASSER: I'm very -- I'm
10 comfortable -- I've very comfortable about
11 that. Our Historic Preservation Office is
12 very adamant about -- about -- about the
13 process; that it follows the -- the rigid and
14 public and transparent process that it's
15 supposed to. So yes, we're pretty
16 comfortable. We know that there have already
17 been several community meetings going back;
18 that they will see the design. WASA has hired
19 an architectural design firm.

20 COMMISSIONER SCHLATER: Yes.

21 MS. STEINGASSER: They're not just
22 dealing with engineers. So we know there's

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1 sensitivity. One of the members of that
2 design firm is a member of the HPRB, so she
3 has good design sensitivities, as well.

4 COMMISSIONER SCHLATER: I guess,
5 and the last question is -- and Commissioner
6 May touched on this for one moment. I just
7 want to make sure that a water tower -- how do
8 we know that a water tower is the only
9 solution here? Is it the most cost effective
10 solution? Or is it the only solution?
11 Because I understand if it's the only
12 solution. Water pressure and infrastructure
13 is very important for investment east of the
14 river. But, if we're not seeing water towers
15 elsewhere in the city, then I guarantee you in
16 other neighborhoods throughout the city it
17 would be strongly opposed. I just don't want
18 to make the mistake of saying well WASA says
19 it's necessary, therefore, it is necessary.

20 MS. STEINGASSER: Well, we're
21 certainly not in a position to substitute our
22 judgment for WASA. And we could ask someone

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1 from WASA to come talk to the Commission if
2 you're not comfortable acting on it this
3 evening. There's not such a rush that we
4 can't ask WASA to attend and answer your
5 questions. If you wanted to defer it for a
6 month.

7 COMMISSIONER SCHLATER: I don't
8 know how my colleagues feel about that. It's
9 just something that comes to mind and I don't
10 want to --

11 COMMISSIONER MAY: I would
12 certainly be very interested in knowing
13 whether there are alternatives. Because if
14 there were something that -- even if it were a
15 water tower that could be lower and, you know,
16 with more pumps in it or something, you know,
17 I -- I don't know. It might be an alternative
18 that they need to take into consideration. I
19 think there is a tendency -- or there may be a
20 tendency to simply think that, okay, you know,
21 there's all of this land available and it
22 could be relatively -- I wouldn't say hidden,

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1 but sheltered from view in some ways. It
2 wouldn't have a big impact because of its
3 placement, and there's a tendency to think
4 that, well, okay, we can do something that
5 might be less expensive that we wouldn't be
6 able to get away with in other neighborhoods
7 of the city. So I would like to -- I'd like
8 to have more information on that before we
9 take any action on it. Preferably, it doesn't
10 necessarily mean that we need to extend the
11 hearing and get someone to testify. But I
12 think a submission, for the record, from WASA
13 might be very helpful.

14 COMMISSIONER SCHLATER: Right. And
15 I think that submission --

16 CHAIRMAN HOOD: If I could ask my
17 colleagues, for the sake of trying to move
18 things forward, I think that the Office of
19 Planning can work along with whoever needs to
20 give us that information and get it to us
21 before we take our final action, if we can
22 move in that direction. I don't think it's

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1 necessary to point -- we could just hold up
2 everything in a long meeting with proposed
3 action. I would like to see us move forward
4 and, before we give final action, if that's
5 agreeable to my two colleagues who are here
6 tonight.

7 COMMISSIONER SCHLATER: I mean, I
8 would like to see the information before we
9 take proposed action, just in this case, since
10 there's no particular rush, according to Ms.
11 Steingasser.

12 COMMISSIONER MAY: Do we know when
13 the -- when we could put this on a meeting
14 agenda, if we had additional submissions?

15 MS. SCHELLIN: October 19th would
16 be our next meeting.

17 CHAIRMAN HOOD: Do we have a lot of
18 stuff for October 19th?

19 MS. SCHELLIN: Not yet.

20 CHAIRMAN HOOD: Oh. Well, if we
21 don't have anything, that's different.

22 MS. SCHELLIN: We have a few

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1 things, but not a lot.

2 CHAIRMAN HOOD: What all do we have
3 for proposed actions? Do we have quite a bit?

4 MS. SCHELLIN: Off the top of my
5 head, I don't know that we have more than one
6 thing, at this point, for proposed.

7 COMMISSIONER MAY: Well, and I
8 don't regard this as a really heavy
9 discussion, once we get that extra
10 information. Because I think that the -- that
11 the record, otherwise, is fairly complete. I
12 think the only issue would be if we find out
13 that, in fact, you know there really is an
14 alternative that they're not taking into
15 consideration. I'd be very surprised if we
16 found that, that there really was something
17 that was going to be cost effective.

18 CHAIRMAN HOOD: I seriously doubt
19 that they would come in here -- I would hope
20 that nobody would come in front of this
21 Commission before they vetted all of the
22 alternatives. I really just think and -- I

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1 mean, that's my belief. Maybe you guys have
2 some more insight into this whole issue than I
3 do. But I would hope that all of that was
4 resolved before we even got to this point, it
5 just wasn't just willy nilly.

6 COMMISSIONER MAY: I would hope so
7 too. And I think we'll give them the
8 opportunity to -- to demonstrate that. And I
9 don't think it's a really big deal to delay
10 proposed action, since it doesn't seem to be a
11 real rush. I mean, so as long as this text
12 amendment is in place for them to do whatever
13 it is that they want to do, whether it's this
14 solution or something else, so long as that's
15 in place before the end of the calendar year,
16 I think they'd be in fine shape.

17 CHAIRMAN HOOD: Okay. Any other
18 questions? Let me just ask -- Ms. Jackson,
19 did you want to add something?

20 MS. JACKSON: No. I was just going
21 to say, they -- I mean, they conducted a -- a
22 fairly detailed study in 2007, which I -- you

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1 know, I'm not a -- I'm not an engineer, but it
2 went through a series of alternative locations
3 and an analysis of each, with like a point
4 system. And that's how they came to this
5 decision. I could, you know, send you the
6 link, because it's hundreds of pages.

7 CHAIRMAN HOOD: You can send it to
8 the other two, but don't send it to me.

9 MS. JACKSON: I don't know that we
10 want to make copies of that for everybody.
11 But it's -- it was studied.

12 CHAIRMAN HOOD: And I actually
13 would hope --

14 MS. JACKSON: -- it was studied and
15 -- but certainly, if you want them to come and
16 talk about it or --

17 COMMISSIONER SCHLATER: I certainly
18 agree with you Kevin. If they were here
19 tonight and we could ask them that question,
20 it would make it a lot easier. Advocating on
21 behalf of their own water tower.

22 MS. STEINGASSER: I'll only add two

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1 things. They've been working on the tower
2 approach since 2002, that I -- that I know of
3 this project. And, through the -- through the
4 Section 106 process, one of the alternatives
5 that always is on the table is -- is a no
6 build and -- and other alternatives. So I can
7 -- I can guess. But again, I just don't want
8 us to try to substitute -- what you're asking
9 about is the engineering of it and we just --
10 we're just not prepared to answer that. But
11 we can absolutely get it for you in the next
12 couple weeks.

13 CHAIRMAN HOOD: Okay. That's fine.

14 If that's to agree with my colleagues, we can
15 move in that fashion. Let me just say -- are
16 you finished now, Commissioner?

17 COMMISSIONER SCHLATER: Yes.

18 CHAIRMAN HOOD: Let me just ask a
19 couple questions. And this is my question I
20 had during the set down. I'm just trying to
21 figure out how all of this is going to work.
22 And I noticed that, when we talk about a

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1 structure, as far as being recorded on a
2 separate lot, a lot of record, we have some
3 exemptions. And I noticed that the line -- I
4 noticed that we have one -- we just did a
5 trapeze, but 1804.7, and I notice that now
6 we're going to E, a water tower. And I know,
7 Ms. Steingasser, doing the zoning rewrite, are
8 we trying to not necessarily codify -- are we
9 trying to correct that? Or is the list
10 eventually just going to continue to get
11 longer? And I don't know if you understand my
12 question. But we're at E now. Then we go to
13 F, and G, and we keep on going.

14 MS. STEINGASSER: I suspect, just
15 by the evolution of the city and what we're
16 seeing in develop -- in the development realm,
17 that we probably will see additional items to
18 that list. Because we're seeing a lot of
19 property now getting developed in odd
20 locations that are not record lots that don't
21 have street frontage. You're seeing a lot of
22 the alley lots at the BZA -- those kind of

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1 cases. And, to kind of get some of that land
2 back into play and back into the development
3 arena, it needs to be exempted from that. We
4 are going to look at whether there is an
5 easier way to do it.

6 CHAIRMAN HOOD: Yes.

7 MS. STEINGASSER: But there -- we --
8 -- we don't want to over encourage people not
9 to be on a public street, but at the same
10 time, we do want to recognize a lot of the
11 historic lots that are tapped back there and a
12 lot of these odd uses that don't have any --

13 CHAIRMAN HOOD: And I think you
14 answered my question, that the Office of
15 Planning, through this ZRR is looking at other
16 ways or easier ways or a different way to do
17 it. And I think you answered my question.
18 The other -- other question is, one of my
19 concerns is, I'm starting to see this a lot
20 too. While everybody now is walking hands in
21 hands and working together, things do change
22 in this city. The administration is going to

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1 change. I don't know when. Our Planning
2 Director, possibly may change. And it might
3 not be that collaborative agreement. When I
4 look at 3206.2, the Director of the Office of
5 Planning and the Zoning Administrator may
6 agree to lengthen the time period indicated in
7 3206.1, but in not event shall the review
8 period exceed 60 days. And this may be a
9 question that -- a what if question. What
10 happens if the Director -- and I don't want to
11 call any names, because you never know what
12 may happen -- the Director of the Office of
13 Planning does not agree with the Zoning
14 Administrator? Then who -- because, the way
15 this is written or the way I understand it,
16 they have to be in agreement. What happens if
17 they are not?

18 MS. STEINGASSER: Then the 30 days
19 would apply. The shorter time frame would
20 apply. So we have 30 days under point one to
21 respond to the -- to the application. If we
22 agree with the Zoning Administrator, that

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1 additional time is warranted, if there's a
2 disagreement, then the narrower time would
3 apply and we would be obligated to respond.

4 CHAIRMAN HOOD: So, after the 30
5 days has passed since the application was
6 submitted to the Director of the Office of
7 Planning, or whichever occurs first, the water
8 tower and related water -- I still don't quite
9 understand that. So, after 30 days, if the
10 Zoning Administrator and the Director of the
11 Office of Planning disagree, then after 30
12 days, the Zoning Administrator's position
13 rules?

14 MS. STEINGASSER: Yes. That's
15 correct. That's correct. Either we would be
16 obligated to file our report within 30 days or
17 the Zoning Administrator would make the
18 determination.

19 CHAIRMAN HOOD: So, even if your
20 report -- and this is a whole lot of what ifs
21 -- I'm just trying to predict the future. But
22 even if your report went against what the

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1 Zoning Administrator believed in, from a
2 planning perspective, again, who would oversee
3 him. I mean, he still -- I guess, who would
4 have --

5 MS. STEINGASSER: He has the
6 authority. The Zoning Administrator always
7 has the authority. We would be only advising
8 him that we felt it was compliant with the --
9 with the other plans. And, if somebody
10 disagreed, they could appeal to the Board of
11 Zoning Adjustment.

12 CHAIRMAN HOOD: So it comes to the
13 Board. And I notice the recommendation, I
14 think, from the Office of Planning is to still
15 keep it. And I think that came up in the BZA.

16 MS. STEINGASSER: We're
17 indifferent. That's typically where appeals
18 and special exceptions go. If the Zoning
19 Commission wants to hear this -- this
20 particular item, if there's some disagreement,
21 we're comfortable with that, as well. It's
22 just what the Commission wants to do.

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1 CHAIRMAN HOOD: I don't know how my
2 colleagues feel, but I think I can stay right
3 there with what you all recommended.

4 MS. STEINGASSER: Okay.

5 CHAIRMAN HOOD: Unless you guys
6 want some additional. Okay. That's all the
7 questions I have. Any other questions. I
8 think that's all the questions we have. Okay.
9 Reports of other government agencies. The
10 only thing we have, again, is part of the plan
11 -- the overall plan. I don't think we had a
12 report from ANC 8A or 8C? Do we have anyone,
13 organizations or persons who would like to
14 testify in support? Or any organizations or
15 persons in opposition? Or anybody that just
16 wants to come forward and say something? Okay.
17 Not seeing anyone, okay. I think my
18 colleagues have asked that we get some
19 additional information before we take any type
20 of action. Which I will -- I don't have a
21 problem, since the Office of Planning has
22 stated that this is not a rush. So, with

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1 that, I think this will conclude tonight's
2 hearing. Ms. Schellin, do we have anything
3 further?

4 MS. SCHELLIN: That's it.

5 CHAIRMAN HOOD: Ms. Bushman, did
6 you -- you were here with us tonight. Did you
7 have anything that you wanted to say?

8 MS. BUSHMAN: No sir. I'm just
9 taking notes. Thank you.

10 CHAIRMAN HOOD: Oh, okay. Good.
11 Good to have you. Okay. Anything else? All
12 right, with that, I guess -- do we have any
13 dates that we need to put on a time schedule?

14 MS. SCHELLIN: I think OP will
15 provide something in time for our meeting on
16 the 19th, right?

17 CHAIRMAN HOOD: Okay. So we'll let
18 OP and the Office of Zoning work out any of
19 the particulars. Okay. I thank everyone for
20 their participation tonight. And this hearing
21 is adjourned.

22 (Whereupon, the hearing was

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1 adjourned at approximately 7:10 p.m.)

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