

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

IN THE MATTER OF:

Petition of Anne Sellin
and Richard Busch to
Amend the Zoning Map,
Portions of Squares 176,
177, 177N, 178, 190, 191,
206, and 207, and Related
Text Amendment to Include
the Properties in the
Dupont Circle Overlay
District.

Case No. 07-34

Monday,
April 28, 2008

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

The Public Hearing of Case No.
07-34 by the District of Columbia Zoning
Commission convened at 6:40 p.m. in the Office
of Zoning Hearing Room at 441 4th Street,
N.W., Washington, D.C., 20001, Gregory N.
Jeffries, Vice-Chairman, presiding.

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

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

2 6:42 p.m.

3 VICE CHAIRMAN JEFFRIES: Good

4 evening, ladies and gentlemen. This is the
5 Public Hearing of the Zoning Commission of the
6 District of Columbia for Monday, April 28,
7 2008. My name is Gregory Jeffries. Joining
8 me this evening are Commissioners Curtis
9 Etherly, Peter G. May, and Michael Turnbull.
10 We are also joined by the Office of Planning
11 and the Zoning Staff, Sharon Schellin and
12 Donna Hanousek.

13 This proceeding is being recorded
14 by a court reporter and is also webcast live.
15 Accordingly, we must ask you to refrain from
16 any disruptive noises or actions in the
17 hearing room.

18 The subject of this evening's
19 hearing is Zoning Commission Case Number 07-
20 34. This is a request by the Petitioner for
21 a map amendment to rezone various properties
22 in the area generally bounded by S, T, U,

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1 15th, and 16th Streets and New Hampshire
2 Avenue, and a text amendment to the Zoning
3 Regulations to include those properties in the
4 Dupont Circle Overlay District.

5 Notice of today's hearing was
6 published in the D.C. Register on March 14,
7 2008, and copies of that announcement are
8 available to my left on the wall near the
9 door. This hearing will be conducted in
10 accordance with the provisions of 11 DCMR
11 Section 3021, as follows: number 1,
12 preliminary matters; 2, presentation by the
13 petitioner; 3, report by the Office of
14 Planning; 4, reports of other Governmental
15 agencies, if any; 5, reports of the ANC; 6,
16 organizations and persons in support; 7,
17 organizations and persons in opposition.

18 The following time constraints
19 will be maintained in this hearing: the
20 Petitioner gets 30 minutes; organizations get
21 five minutes; and individuals get three
22 minutes. The Commission intends to adhere to

1 the time limits as strictly as possible, in
2 order to hear the case in a reasonable period
3 of time. The Commission reserves the right to
4 change the time limits for presentations, if
5 necessary, and notes that no time shall be
6 ceded. All persons appearing before the
7 Commission are to fill out two witness cards.
8 These cards are located to my left on the
9 table near the door. Upon coming forward to
10 speak to the Commission, please give both
11 cards to the reporter sitting to my right
12 before taking a seat at the table.

13 When presenting information to the
14 Commission, please turn on and speak into the
15 microphone, first stating your name and home
16 address. When you are finished speaking,
17 please turn your microphone off so that your
18 microphone is no longer picking up sound or
19 background noise.

20 The decision of the Commission, in
21 this case, must be based exclusively on the
22 public record. To avoid any appearance to the

1 contrary, the Commission requests that persons
2 present not engage the members of the
3 Commission in conversation during any recess
4 or at any time. The Staff will be available
5 throughout the hearing to discuss procedural
6 questions. Please turn off all beepers and
7 cell phones at this time, so not to disrupt
8 these proceedings.

9 At this time, the Commission will
10 consider any preliminary matters. I believe
11 there are two preliminary matters, but I will
12 actually let the Staff of the Office of Zoning
13 address those preliminary matters.

14 MS. SCHELLIN: Okay. The first
15 one is just to note that ANC-2F, there are a
16 couple of properties that actually fall within
17 that ANC's boundaries. And the ANC was not
18 listed on the hearing notice; however, they
19 were sent notice.

20 VICE CHAIRMAN JEFFRIES: Okay.

21 MS. SCHELLIN: So just to
22 acknowledge that. And the second one is with

1 regard to the Petitioner's Affidavit of
2 Posting; they posted the signs on time.
3 However, they filed the Affidavit of Posting
4 less than 30 days before the hearing. So they
5 just need a waiver for the late filing.

6 VICE CHAIRMAN JEFFRIES: Okay.
7 Well, Commission, I mean, we've heard these
8 preliminary matters. Does any of the
9 Commission have any concern about these two
10 items? Okay. So I think we're fine and we'll
11 just waive both those instances.

12 Okay. Next, why don't we move on
13 to the presentation by the Petitioner? What
14 I'd like to say is, during the set down, I
15 think that your case was very straight forward
16 and, you know, actually I live three blocks
17 from this area, so I walk down New Hampshire
18 Avenue, and I work out at Results Gym. So I
19 know the area pretty well. But, from my
20 recollection during the set down, I thought it
21 was a pretty straight forward consistency
22 case. So, you know, if you want to take a

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1 full 30 minutes, you can go straight ahead.
2 But, you know, my suspicion is that you might
3 be talking to a fairly, you know, favorable
4 Commission.

5 So however, please come forward.
6 I ask the Petitioner to come forward. But
7 again, if you want to take 30 minutes, you can
8 go ahead. But I just wanted to let you know
9 that, you know, we all pretty much thought
10 your case was straight forward. But there
11 might be a few question. But you can proceed.

12 MS. SELLIN: My name is Anne
13 Sellin. A number of groups and people in the
14 neighborhood worked on this case, doing all of
15 the survey work. I live at 1834 16th Street.

16 I'd like to give a bit of the
17 zoning history of the neighborhood. The
18 zoning that exists today dates back to 1958,
19 when new zoning regulations for the entire
20 city were written. The first draft of the
21 regulations prepared in 1956 called for low
22 and moderate zoning for the Dupont Circle area

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1 and for most of the residential row house area
2 surrounding downtown. But, by 1957, the
3 Freeway Plan had been hatched, designed to
4 enable suburbanites to commute easily and
5 quickly downtown. And so the Federal planners
6 envisioned residential areas now surrounding
7 downtown as natural places for high density
8 apartment buildings. The Freeway Plan, which
9 would have meant the destruction of 40,000
10 housing units, enraged citizens of Washington.
11 The area under consideration in the case, the
12 north side of T Street, would have been
13 demolished; all of Caroline Street, as well as
14 residential units on other corresponding
15 blocks of the east and west, to make way for
16 a super highway, which would have cut a wide
17 swath through the local plan, all over the
18 city. Almost all neighborhoods of the city
19 united in a battle to defeat the Freeway Plan,
20 a conflict which lasted over ten years.

21 The zoning plan which was enacted
22 in 1958 was drastically different from the

1 draft plan of two years earlier, reworked as
2 it was to enable the destruction of row houses
3 so they could be replaced by much higher
4 apartment buildings near downtown.

5 The residents of D.C. won the
6 battle against the Freeway Plan. The
7 resulting solution, of course, was the subway
8 system. But the citizens who lived near
9 downtown were stuck with an obsolete zoning
10 plan which threatened the fabric of their
11 neighborhoods and did lead to the destruction
12 of a number of original row houses near Dupont
13 Circle, on Corchoran, P Streets, Q, and New
14 Hampshire Avenue. Mansions such as the Hitt
15 House on Dupont Circle, judged by architects
16 as a jewel by John Russell Pope, was also
17 demolished.

18 Beginning in the 1970's, when the
19 subway system opened, the Dupont Circle
20 neighborhood initiated rezoning cases to
21 remedy this situation. Eventually totalling
22 four in number, the resulting downzoning cases

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1 achieved reduction in some 45 blocks. PUDs
2 were also restricted in some areas. The
3 objective of bringing the zoning into
4 conformance with the actual land use in the
5 neighborhood turned out to be only partially
6 achieved, however. In the '80s, the Logan
7 Circle community was successful in rezoning
8 from R-5-B to R-4, a large residential area
9 stretching north of Q Street to U, and from
10 14th Street to 9th Street.

11 Whereas, the majority of the row
12 houses in that area are three stories, the
13 block for which R-4 is requested in this
14 application contain mostly two story row
15 houses. There is now no zoning category that
16 really appropriately accommodates these two
17 story houses. The streets that were populated
18 by mostly two story row houses, but were zoned
19 too high in '58, have been left out of our
20 other rezoning cases. They were not perceived
21 as threatened. Unforseen, was the burgeoning
22 new construction and conversion to

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1 condominiums that the city is experiencing
2 toady. While these large buildings are
3 appropriate for much of downtown and along
4 thoroughfares like 14th and U Street, the
5 character of nearby residential blocks needs
6 to be protected from having their existing
7 housing stock threatened by denser use.

8 Row houses, themselves, are
9 undergoing unfortunate changes. Already,
10 small two and three story row houses are being
11 cut up into small units, since R-5-B has no
12 minimum apartment size. The attendant
13 additions of inappropriate extra storage as
14 experienced in Columbia Heights and Washington
15 Heights needs to be checked. R-4 is the
16 closest zone to protect the character of these
17 blocks.

18 Another problem arose in the early
19 1990's when the Zoning Commission converted
20 all buildings in the R-5-C zone to a new,
21 denser R-5-D zone, without any survey work to
22 justify it or a mapping case before the Zoning

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1 Commission. No input from citizens was heard
2 in this zoning case.

3 This application will remedy that
4 situation in the areas of 16th Street and New
5 Hampshire Avenue, which were subjected to this
6 odd, across the board, rezoning. The Zoning
7 Commission's approval of citizen generated
8 rezoning cases attests to its support of
9 zoning consistent with the historic fabric of
10 neighborhoods.

11 The rationale for the lower zoning
12 categories is to bring existing zoning into
13 conformance with actual use; to bring existing
14 zoning into conformance with the 2006 D.C.
15 Comprehensive Plan; to retain the row house
16 character of the overall neighborhood; to
17 preserve open green space, trees, light and
18 air; and to preserve the scale and character
19 of the historic districts within which the
20 zoning reduction area lies. The application
21 covers portions of areas that were not
22 downzoned in the four earlier cases.

1 And I'll skip over to just a few
2 things from the Comprehensive Plan that
3 support our rezoning. MC-1.1-8, Rezoning of
4 Row House Blocks: selectively rezoned, well-
5 established residential areas where the
6 current zoning allows densities that are well
7 beyond the existing development pattern, the
8 emphasis should be on row house neighborhoods
9 that are presently zoned R-5-B or higher,
10 which include the areas between 14th and 16th
11 Streets, N.W., parts of Adams Morgan, areas
12 between S and U Streets, N.W., and sections of
13 Florida Avenue, Calvert Street, and 16th
14 Street. And then, in Section 218.1, the
15 residential character of the neighborhoods
16 must be maintained and improved. Many
17 District neighborhoods possess social,
18 economic, historic, and physical qualities
19 that make them unique and desirable places in
20 which to live. These qualities can lead to
21 development and redevelopment pressures that
22 threaten the very qualities that make the

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1 neighborhoods attractive. These pressures
2 must be controlled to insure that neighborhood
3 character is preserved and enhanced.

4 The District of Columbia contains
5 many buildings and sites that contribute to
6 its identity. Protecting historic resources
7 through preservation laws and other programs
8 is essential to retain the heritage that
9 defines and distinguishes the city. Special
10 efforts should be made to conserve row houses
11 as a defining element of many District
12 neighborhoods. And this is 218.4.

13 Then one more thing I'll quote is
14 2002.2, Parts of the mid-city planning area
15 contain row houses, flats, and high rise
16 apartments on the same block. This pattern
17 has been perpetuated, in part, by high density
18 zoning; a vestige of the time when the older
19 housing in the area was thought to be obsolete
20 and in need of replacement. Then in 2007.2,
21 The row houses that define these neighborhoods
22 should be conserved. Some are even zoned for

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1 high density apartments. A variety of
2 problems have resulted, including demolition
3 and replacement with much larger buildings,
4 the subdivision of row houses into multi-unit
5 flats, and top-story additions that disrupt
6 architectural balance. Intact box row houses
7 should be zoned for row houses and not for
8 tall apartment buildings. And conservation
9 districts should be considered to promote
10 architectural character.

11 And I'll skip the rest. And go to
12 the map. Yes. We propose to rezone 16th
13 Street, three blocks, from S to U Street, from
14 R-5-D to R-5-C, the buildings that face that
15 area. And on New Hampshire, going south, just
16 a block from U Street, those small two-story
17 row houses in this crazy rezoning of the early
18 '90s, were zoned to R-5-D, which is 75 percent
19 occupancy, nine story -- 90 feet, excuse me.
20 Those are all two-story row houses except for
21 two four-story apartment buildings. And we
22 propose that that go from R-5-D to R-4. The

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1 rest of the area is presently R-5-C, and we
2 propose -- R-5-B, excuse me, B, and we
3 propose to go to R-4. So that's R-5-B to R-4.

4 And the next map, this is the
5 area, and there are two Advisory Neighborhood
6 Commissions, 2-B, which is most of the area,
7 and then there's just a little tiny slice at
8 the bottom, which is 2-F, Logan Circle. And
9 we have informed them and made presentations
10 to Logan Circle on this case. The next map
11 please? This is just a current zoning map
12 with a survey area outlined.

13 So I think we can go on and go on
14 to the photographs of the neighborhood, which
15 Richard Busch will present.

16 MR. BUSCH: My name is Richard
17 Busch and I live at 1520 Caroline Street N.W.,
18 in the District. Three other people who have
19 worked with Anne and me on this project are
20 Dan Gamber, who is working on the laptop this
21 evening, Charles Gaynor who, with Dan, did a
22 lot of the photography, and Charles Robertson

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1 who did a substantial portion of the actual
2 block by block survey.

3 And this includes four historic
4 districts, Driver's Section, 16th Street,
5 Greater U Street, and Greater 14th Street. As
6 we go through these images, I think the thing
7 that will jump out at you if you're not
8 familiar with the neighborhood is that it's
9 essentially a two and three-story row house
10 neighborhood that we believe merits the zoning
11 recommendation that we've made in the
12 application. This -- what I'd like to do is
13 go up the two major thoroughfares, 15th Street
14 and 16th Street, from S as far north as U, and
15 then get the cross streets after that.

16 So 15th Street, the 1800 block,
17 you can see from these images, that it's
18 essentially two stories. On the west side,
19 it's two stories to begin with, and then when
20 we get into the 1900 block, it's three
21 stories. Moving on to 16th Street, the east
22 side, three stories. And here are two of the

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1 three non-conforming residential structures
2 that are in the proposed area for rezoning in
3 the 1900 block. On the west side -- that's
4 the end of the 1900 block -- on the west side,
5 you have these three-story, second empire
6 buildings right here in the 1800 block, which
7 were built in 1870. This photograph doesn't
8 do justice to them. They're really
9 exceptional. And then, continuing in the 1800
10 block, a series of three-story town houses
11 that were built early in the 20th century.
12 And the 1900 block -- this large building
13 shown here and here in the slide next to it,
14 appears to be, if you're not -- if you don't
15 know the neighborhood, a structure that could
16 have many units in it -- many residential
17 units in it. It's actually twin town houses
18 and each one is a single family unit. That
19 was the way it was designed and that's the way
20 it's being used today. And the building --
21 the pink building here is the other non-
22 conforming structure that is five stories.

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1 This row, beginning on the 1400
2 block of F Street N.W. was built in 1860.
3 This is the row that's the south side of 1400
4 block. This is the block that's in the 2F
5 ANC. This is a -- it's really an exceptional
6 row of two and three-story town houses. The
7 1500 block, a mix of two and three stories.
8 Swann Street, 1400 block, two stories on the
9 north side, and two and three stories on the
10 south side. And here's -- I guess that was a
11 little out of order -- being on 14th. This
12 one on the 1500 block, a mix of two and three
13 story town houses. The south side, three
14 stories. Certainly. T Street, 1400 block,
15 this is a totally intact row of two-story
16 houses. T Street 1500, three stories on the
17 north and two stories, primarily, on the
18 south, with the exception of some of them
19 being three stories. Then we get into the
20 1600 block of T, which is sort of a mix with
21 one two-story house. It's got bookends at
22 each end, in the sense that they're

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1 neighborhood -- little neighborhood shops and
2 a condominium building in the middle. The
3 south side of the 1600 block has a series of
4 five, three-story town houses. New Hampshire
5 Avenue, the 1900 block -- the east side is
6 really a very handsome row of two-story
7 houses, but with a bookend at each end of a
8 three-story building. And the west side --
9 these images right here were built in the
10 1970s. To build those, they demolished images
11 like this at the other end of the block.
12 Caroline Street, one block long, 1500 block,
13 it's a street of double houses with tiny
14 slivers of land on each side. If you see one
15 side of the street, you see the other side,
16 built in 1870.

17 Now, what we thought it would be
18 useful for the Commission to do is, if we
19 presented something that the Zoning Commission
20 has already approved, as Anne pointed out in
21 her comments, in the 18 -- in the 1980s. So
22 this is the 14 -- is east of 14th Street, the

1 900 block of French Street, two story units.

2 MS. SELLIN: That were downzoned
3 from R-5-B to R-4.

4 MR. BUSCH: R-5-B. Yes. Thank
5 you. Wallet Place, 1300 block, now R-4. 900
6 block of S Street, three stories, and the 1100
7 block of 10th Street, two story houses.

8 One of the other things we're
9 trying to achieve is protection of -- of green
10 space and the tree canopy that exists now.
11 And so this slide and the next one give you
12 some sense of -- of what's there, in addition
13 to what's along the street. You see trees
14 like this in the alleys.

15 We have some summary data that I'd
16 like to point out. These next two or three
17 slides show that it's predominantly a two-
18 story row house neighborhood, with a good
19 smattering of -- of three-story houses. The
20 usage is primarily for single residences, out
21 of 179 of those. And the -- we thought it was
22 also important to point out that this zoning

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1 change will not affect the number of units
2 available in the neighborhood, overall,
3 because of construction that has taken place
4 during the last several years nearby. So you
5 have the Ellington on 13th Street -- on U
6 Street with 190 units; Langston Lofts on V
7 with 49. And then we're going to omit the
8 Chastleton, because that was really a
9 renovation. Union Row, a little farther up
10 14th at B, with 259, and the Metropole, which
11 is going to open sometime at the corner of
12 15th and C. The Whitman-Walker site,
13 something is probably going to happen there,
14 but that's to be determined.

15 VICE CHAIRMAN JEFFRIES: Excuse
16 me. What is that site? The Whitman-Walker
17 site?

18 MR. BUSCH: It's at 14th and S --
19 14th and R, excuse me, 14th and -- is it S?
20 Okay. So, when you add the -- yes -- when you
21 add the Ellington, Langston, Union Row, and
22 Metropole, you come up with 400 and -- 488

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1 units, I think -- 588 units. And what's also
2 in the wings is a project that's under review
3 right now by the Historic Preservation Review
4 Board for the southwest corner of 14th and U
5 Streets, which looks very much like they're
6 ready to approve it. That will add another
7 250 rental units to the -- to the
8 neighborhood.

9 In conclusion, I would just like
10 to add that this project has cosponsors of ANC
11 2B and Curtis Farrar, the Deputy Chair of the
12 ANC is here this evening. The Dupont Circle
13 Citizen's Association, Ron Halligan,
14 President. Charles Gamber, a Director of the
15 Dupont Circle Conservancy, will be making some
16 remarks on behalf of the Conservancy's co-
17 sponsorship. Kay Eckles will be doing the
18 same in her role as President of the
19 Residential Action Coalition, and Dan Gamber
20 the same as Chair of the Caroline Street
21 Residents' Association. And we would very
22 much leave happily tonight if a bench decision

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1 were made on this. Thank you, very much.

2 VICE CHAIRMAN JEFFRIES: Thank
3 you. Thank you, very much, for coming down.
4 So I'm going to open it up for the
5 Commissioners. Any questions? You first, Mr.
6 Turnbull.

7 COMMISSIONER TURNBULL: Thank you,
8 Mr. Chair. And I guess maybe the question is
9 not so much -- I don't know whether it's an
10 Office of Planning question or maybe they can
11 weigh in on it. I have no -- that -- it was
12 an excellent presentation. And I think, as
13 Mr. Jeffries said, I think we all are
14 sympathetic to the desires of what we want to
15 accomplish here. I guess my question is more
16 directed to the edge of the separation between
17 the R-5-B and R-5-D. And it looks like it
18 goes -- follows the alley straight down. And
19 I'm looking on the bigger map that clearly
20 shows a bit better. And my only question is,
21 there's -- there would be -- on T Street,
22 there would be three row houses that would

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1 fall into the R-5-D, rather than the R-5-B.
2 On Swann Street there would be three. There's
3 actually going to be, on T Street, six. Where
4 there's no alley on the north side, we seem to
5 suddenly just cut between the third and fourth
6 row house and say three on that side are going
7 to be R-5-D and the rest of the block are
8 going to be R-5-B. My question is why
9 wouldn't we have cut back to the corner
10 building and included all of the row houses on
11 the north edge? And why are we -- I
12 understand that the alley is a significant
13 break and that's how you're probably doing it,
14 but it looks like there's about nine town
15 houses that could have been -- row houses that
16 could have been still included in the R-4? It
17 -- it looks like, on this map, the separation
18 between the R-5-B that you want and the R-4
19 goes straight -- follows down the alley, the
20 line. It looks like the separation goes
21 straight down the alleys -- follows the alleys
22 all the way down

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1 MS. SELLIN: Oh. Oh. On U
2 Street, you mean?

3 VICE CHAIRMAN JEFFRIES: And it
4 also might be helpful if you could point out
5 the square and the lots for some of the row
6 dwellers?

7 MS. SELLIN: Yes. Yes.

8 COMMISSIONER TURNBULL: It would
9 appear that, on T Street, Lot 0042, 0041, and
10 0040 will be in R-5-B, while the others are
11 going to be in R-4.

12 MR. BUSCH: We don't have lot
13 numbers on our map.

14 COMMISSIONER TURNBULL: Here. Why
15 don't you take my map.

16 MS. SELLIN: Okay. Okay.

17 VICE CHAIRMAN JEFFRIES: I think
18 the lots in question is Square 0190, and that
19 would be Lot 42, 41, and 40, and then in
20 Square 0191, the question -- it would be Lots
21 96, 97, 98, and then -- oh.

22 COMMISSIONER TURNBULL: It looks

1 like there are nine -- I see nine row houses.

2 VICE CHAIRMAN JEFFRIES: Yes.

3 COMMISSIONER TURNBULL: Three I
4 questioned -- my main question is just on
5 three of them because there's no alley that
6 separates them from anything else. The other
7 three do have alleys separating them from the
8 rest of them. And I'm just wondering what's
9 the logic by eliminating those nine row houses
10 and putting them in R-5-D and not R-4.

11 VICE CHAIRMAN JEFFRIES: I just
12 gave you -- I just gave you six lots, so that
13 the last three that Mr. Turnbull is
14 questioning is in Square 0191 and that is 90,
15 91, and 92. Those are the lots. So I'm just
16 trying to see if you can identify the lots.

17 MS. STEINGASSER: I think there
18 might be some confusion in how we're reading
19 the maps.

20 VICE CHAIRMAN JEFFRIES: Okay.

21 MS. STEINGASSER: The only things
22 that were left out were already apartment

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1 buildings. So I think we're actually on the
2 west side of 16th, not the east side.

3 VICE CHAIRMAN JEFFRIES: Yes?

4 MS. STEINGASSER: And everything
5 -- working off the smaller map, where you've
6 got a solid red line and a dashed purple line,
7 the dashed purple line is rezoned -- is what's
8 being proposed for rezoning. So most of those
9 row houses are coming in. Those that are left
10 out stay on Square 0177, the north side of
11 Swann, is a series that are left out; 35, 125,
12 and 124. Those are already apartment
13 buildings so the neighborhood didn't want to
14 bring those in. Then, as you go down the
15 alley, it does scoop out to the west and bring
16 the rest of those row houses into the R-5 --
17 the R-4 zone. So it brings those -- so I'm
18 not sure what map you have, but this one, if
19 you follow the purple line --

20 COMMISSIONER TURNBULL: Right.

21 MS. STEINGASSER: -- the purple
22 line is bringing the rezoning in.

1 COMMISSIONER TURNBULL: But on the
2 red line, I see --

3 MS. STEINGASSER: The red line is
4 the existing zoning.

5 COMMISSIONER TURNBULL: Right.

6 MS. STEINGASSER: And the purple
7 dashed line is the proposed. So --

8 COMMISSIONER TURNBULL: Well,
9 where do you separate between R-5-D and R-4
10 then?

11 MS. SELLIN: Behind the facades of
12 16th Street, R-5-B will go to the alleys
13 behind 16th Street on the east side and the
14 west side.

15 COMMISSIONER TURNBULL: Does
16 anybody else -- does everybody follow this?

17 COMMISSIONER MAY: Yes. I think
18 the line that you're talking about is a line
19 that's the existing separation between the two
20 zones, the more dense zone and the less dense
21 zone. And those all just shift without
22 changing that line.

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1 MS. SELLIN: But I -- I can see
2 the confusion because it is not really
3 delineated in the maps. The R-5-D is not very
4 well delineated. It -- it involves the
5 facades of 16th Street, actually -- the R-5
6 from R-5-D to B is only the facades on 16th
7 Street.

8 VICE CHAIRMAN JEFFRIES: I'll tell
9 you what. Okay --

10 MS. SELLIN: And I see why you're
11 confused because there aren't lines on the
12 map. I can understand.

13 VICE CHAIRMAN JEFFRIES: Okay.
14 Where -- what area is being -- are you
15 proposing to be designated R-5-D? I mean, I
16 have a sense of R-4, which is --

17 MS. SELLIN: Yes. The area on
18 16th Street which is now R-5-D --

19 VICE CHAIRMAN JEFFRIES: Right.

20 MS. SELLIN: -- will go to R-5-B.
21 And that's predominantly three-story row
22 houses, although there are some two-story row

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1 houses and two apartment buildings that are
2 higher.

3 MS. STEINGASSER: In the OP
4 report, there's an actual break-out by lot and
5 squares that goes through each zoning category
6 -- oh, I'm sorry, the legal notice that was in
7 the packet.

8 (Whereupon, a short, off mike,
9 discussion ensued.)

10 MS. SELLIN: So, in short, all the
11 buildings that have addresses on 16th Street
12 go from R-5-D to R-5-B.

13 COMMISSIONER TURNBULL: No. I
14 understand that. My only question was if you
15 keep the existing line, there's still -- there
16 still what looks to be nine row houses there
17 that will be now included in that R-5-D. And
18 if you're trying to -- I mean R-5-B. And if
19 you're -- I mean maybe they're not worthy to
20 be R-4. I mean maybe they're already
21 overdeveloped. I'm not sure.

22 MS. SELLIN: Now, just a second.

1 Is that in Square 0190? Is that it?

2 COMMISSIONER TURNBULL: Right.

3 MS. SELLIN: Okay. Those are on U
4 Street and those are commercial buildings.

5 COMMISSIONER TURNBULL: No. No.
6 No. No. No.

7 MS. SELLIN: No?

8 COMMISSIONER TURNBULL: On T
9 Street.

10 MS. SELLIN: On T Street?

11 COMMISSIONER TURNBULL: You look
12 on T Street.

13 MS. SELLIN: Okay.

14 COMMISSIONER TURNBULL: Once you
15 get off of 16th Street there's what appears to
16 be three -- four row houses up on the north
17 and three row houses on the top that -- on the
18 bottom, the south, that will be R-5-B and not
19 R-4.

20 VICE CHAIRMAN JEFFRIES: Okay.

21 Listen, can I -- I just stepped in here for
22 one second. I just spoke with the Office of

1 Planning and I think, from what they're
2 looking at, it appears that these nine lots
3 that you're referring to are actually part of
4 what's being proposed as R-4. It's just that
5 graphically it's not being shown here.

6 MS. SELLIN: Yes.

7 COMMISSIONER TURNBULL: Oh. It
8 would have been good to have a map to show
9 that.

10 VICE CHAIRMAN JEFFRIES: Because
11 you -- you would show the notches. You know,
12 you would show the notches so that you would
13 capture those lots.

14 MS. SELLIN: I'm sorry. It -- it
15 would. You're right. You're right. I'm
16 sorry. I'm sorry.

17 VICE CHAIRMAN JEFFRIES: Into the
18 R-4.

19 MS. SELLIN: Because they would go
20 -- they would go to R-4. You're right.

21 VICE CHAIRMAN JEFFRIES: Yes.
22 Okay. That was the confusion.

1 MS. SELLIN: But they are spelled
2 out in the lot numbers.

3 COMMISSIONER TURNBULL: So are we
4 confirmed with the Office of Planning that
5 those are going to be R-4?

6 MR. JESICK: Yes. It is shown in
7 the legal advertisement that those specific
8 squares and lots are going to R-4, whereas the
9 buildings that are fronting on 16th Street are
10 going to R-5-B.

11 (Whereupon, off mike discussion
12 and comments ensued.)

13 COMMISSIONER TURNBULL: Okay. It
14 looks like we're clear now. It looks like my
15 concern --

16 MS. SELLIN: Yes.

17 COMMISSIONER TURNBULL: It looks
18 like they are included in the R-4.

19 MS. SELLIN: I can understand
20 that. And at the northeast corner of 16th and
21 T, it looks like that building faces T Street.
22 It actually has an entrance on 16th Street.

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1 COMMISSIONER TURNBULL: It looks
2 like my issue about certain houses has been
3 covered. It looks like those are going to be
4 R-4.

5 MS. SELLIN: Good. Okay. Good.

6 VICE CHAIRMAN JEFFRIES: Thank
7 you. Any more questions from any of the
8 Commissioners? Okay. So we're going to move
9 on to the report by the Office of Planning.

10 MR. JESICK: Thank you, Mr.
11 Chairman and members of the Commission. My
12 name is Matt Jesick. The Office of Planning
13 is happy to stand on the record in support of
14 this application, but we'd be available for
15 any questions that any person might have.

16 VICE CHAIRMAN JEFFRIES: Thank
17 you. Thank you. I appreciate you standing on
18 the record. Any questions from the
19 Commissioners? None? Okay. We're going to
20 move on to reports of other Governmental
21 agencies. Do we have any Governmental
22 agencies? Any individuals representing

1 Governmental agencies here this evening? Yes?
2 No. I'm going to come to you next. Okay. So
3 there's no representatives from Governmental
4 agencies.

5 MS. SCHELLIN: We don't have any
6 representatives, but we did receive a DDOT
7 report late this afternoon.

8 VICE CHAIRMAN JEFFRIES: Yes.
9 Okay. Yes. We have a report from DDOT, dated
10 April 23, 2008. Okay. And then let's move on
11 to the report from the ANC. Please come
12 forward. And that is 2B and 2F.

13 MR. FARRAR: Good evening Mr.
14 Chairman and Commissioners and Zoning
15 Commission members. My name is Curtis Farrar.
16 I reside at 1727 S Street, N.W., and I'm the
17 Vice-Chair of Advisory Neighborhood Commission
18 2B. I'm representing the ANC in place of its
19 Chair, Ramon Estrada, who is out of the city
20 because of a family emergency.

21 In October 2007, ANC 2B voted
22 unanimously to support this initiative and to

1 become a co-sponsor. We believe that the
2 proposed zoning change with its reduction of
3 future heights and density will have -- help
4 protect the existing character of this fragile
5 two and three story row house neighborhood and
6 bring the zoning of the area under review into
7 alignment with actual land use and with the
8 land use policies stated in the 2006 D.C.
9 Comprehensive Plan.

10 Much of the housing stock in this
11 area is well into its second century of use.
12 It has remained remarkably intact and it
13 requires this additional measure of land use
14 control if its generally low scale is to be
15 preserved.

16 As you know, much of the area
17 north of O Street N.W. between 14th and North
18 Capitol Streets was rezoned R-4 during the
19 1970s; a category that has helped it retain
20 its residential character and the unique
21 architectural contribution it makes to our
22 city's landscape. This category has allowed

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1 the expansion of residential dwellings by the
2 creation of English basement units. ANC 2B
3 hopes that the Zoning Commission shares our
4 views that R-4 does not place burdensome
5 restrictions on row house owners in our
6 neighborhood and that you will move quickly to
7 implement the recommended changes. Thank you
8 for this opportunity to comment.

9 VICE CHAIRMAN JEFFRIES: Thank
10 you, Commissioner Farrar. And is there anyone
11 here representing ANC 2F? Okay. So are there
12 any questions for Commissioner Farrar? No
13 questions. Thank you very much for coming
14 down.

15 MR. FARRAR: Thank you, very much.

16 VICE CHAIRMAN JEFFRIES: Okay. So
17 we're going to start on the next portion of
18 the hearing, organizations and persons in
19 support. I have several proponents. We're
20 going to start off with Anne Sellin. Oh, I'm
21 sorry. I'm sorry. Gaynor? Okay. Yes,
22 Charlie Gaynor with it says DCC. I guess

1 that's Dupont Circle Conservancy. Okay. You
2 can come forward. And then I have Ron
3 Halligan with DCCA -- the acronym I have on
4 here. And Peter Knapp who is -- well,
5 actually that's a person -- okay. Kathryn
6 Eckles? Yes. She's with RAC. Can you come
7 forward, ma'am? Thank you. Okay. So then we
8 have Charles Robertson. So why don't we start
9 with Charlie Gaynor? Yes. Okay.

10 MR. GAYNOR: All right. Yes.
11 Good evening. My name is Charlie Gaynor. I'm
12 the Director of the Dupont Circle Conservancy
13 and am representing the Conservancy this
14 evening. The Conservancy is a co-sponsor of
15 the application now before as Case No. 07-34.
16 I also live in the 1400 block of Swann and I'm
17 a realtor.

18 The Conservancy's mission is to
19 promote the protection and preservation of the
20 historic and architectural character of the
21 greater Dupont Circle neighborhood. The
22 neighborhood area under review in this case is

1 part of that larger area. The D.C. Office of
2 Planning's 2006 Comprehensive Plan clearly
3 states that zoning in this mid-city
4 neighborhood does not track with the actual
5 residential land use and with the land use
6 policies that the city itself wishes to
7 promote. It recognized that today's zoning in
8 this neighborhood is a carryover from an era
9 when 19th century row houses were thought to
10 be obsolete and in need of replacement.
11 Further, it's policy calls for, and I quote,
12 "retention and reinforcement of the historic
13 character of mid-city neighborhoods,
14 particularly its row houses, older apartment
15 houses, historic districts, and walkable
16 neighborhood shopping districts. The area's
17 rich architectural heritage and cultural
18 history should be protected and enhanced."

19 Further, the Comprehensive Plan
20 calls for actions to rezone row house blocks.
21 Again a quote, "Selectively rezone well-
22 established residential areas where the

1 current zoning allows densities that are well
2 beyond the existing development pattern. The
3 emphasis should be on row house neighborhoods
4 that are presently zoned R-5-B, or higher,
5 which include the areas between 14th and 16th
6 Streets N.W., parts of Adams-Morgan, areas
7 between S and U Street N.W., and sections of
8 Florida Avenue, Calvert Street and 16th
9 Street."

10 The Conservancy believes that the
11 work undertaken by neighborhood volunteers
12 will contribute significantly to the 2006
13 Comprehensive Plan goals with lasting benefits
14 to the city neighborhood. We ask for your
15 support for this proposal. Thanks for your
16 consideration.

17 VICE CHAIRMAN JEFFRIES: Thank
18 you. We'll hold questions until the entire
19 panel has spoken. Thank you. Why don't we
20 have Mr. Halligan? Did I pronounce that
21 correctly?

22 MR. HALLIGAN: Rob Halligan.

1 VICE CHAIRMAN JEFFRIES: Halligan?

2 Okay. Okay.

3 MR. HALLIGAN: President of Dupont
4 Circle Citizens' Association.

5 VICE CHAIRMAN JEFFRIES: Okay.

6 MR. HALLIGAN: Thank you, Mr.
7 Chair and/or Mr. Vice-Chair and Commissioners.
8 Can you hear me? I seem to have trouble with
9 these microphones. Well, given your indicated
10 disposition, I'll make this briefer. The DCCA
11 is pleased to co-sponsor this initiative. The
12 area in which the change is requested is
13 almost exclusively within DCCA's borders. At
14 a DCCA board meeting, we voted to sponsor the
15 -- this initiative and we had a presentation
16 at our general meeting and a presentation at
17 a board meeting and voted unanimously to
18 support this. This is a core mission of our
19 group. We have been working to support such
20 things for 86 years. And we're very happy to
21 support this one. I think that's where the
22 history and quite a few of the other things

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1 we've done in the past -- but I'll skip that
2 part.

3 We hope you act favorably and
4 quickly on this action and thank you for your
5 time.

6 VICE CHAIRMAN JEFFRIES: Thank
7 you, Mr. Halligan. And then next we have Ms.
8 Eckles.

9 MS. ECKLES: Good evening, Mr.
10 Chairman and colleagues and fellow citizens.
11 My name is Kathryn A. Eckles. I've been an
12 owner/dweller at 1524 T Street N.W. since
13 1973. I live in Square 191. I remember every
14 house in that block because I've researched
15 them; photographed them; and picked up the
16 building permits.

17 I'm here representing the
18 Residential Action Coalition. Our
19 neighborhood organization was founded in 1983
20 to restore historic preservation, planning,
21 and licensing and zoning in the greater Dupont
22 Circle area. The Residential Action Coalition

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1 whole heartedly supports the proposed zoning
2 mapping that you are hearing tonight. RAC
3 believes that for too long this neighborhood
4 zoning has been at odds with existing land use
5 and we further believe that the
6 recommendations, as presented at this evening,
7 are exactly what we need to brook this
8 situation. The neighborhood is low scale and
9 low housing character and we need a zoning
10 character that better recognizes that, not one
11 that was planned 50 years ago, when much
12 denser residential neighborhoods were
13 envisioned as an adjunct to a massive freeway
14 system. Thank the Dear Lord we were spared
15 that, one leg of which was to cut directly
16 through the area under review. As an approach
17 to the U Street Freeway, houses along Swann,
18 S, T, and Caroline in the 1500 blocks, would
19 have been demolished.

20 RAC so strongly believes in this
21 all voluntary neighborhood proposal that it
22 has helped fund some of the costs associated

1 with the application's preparation. Further,
2 we hope that the Zoning Commission will agree
3 with us. The time has come to make the zoning
4 change which has been sought since the
5 Comprehensive Plan was first presented in
6 1982. Thank you.

7 VICE CHAIRMAN JEFFRIES: Thank
8 you, Ms. Eckles. And last we have Mr.
9 Robertson, representing himself.

10 MR. ROBERTSON: Right. I'm
11 Charles Robertson. I've lived at 1516 T
12 Street N.S. for 30 years. I own the house and
13 strongly support the downzoning.

14 VICE CHAIRMAN JEFFRIES: Brevity.
15 Thank you, very much. Any questions from the
16 Commissioners for this panel? Thank you very
17 much for coming down this evening. Thank you,
18 very much. Now, is there anyone else here who
19 did not sign the list of witnesses page, but
20 would like to speak in support of this
21 remapping and text amendment? Please come
22 down and state your name and address.

1 MR. GAMBER: My apologize, Mr.
2 Chairman. I filled out the cards but I
3 neglected to get my name on the list. I'm Dan
4 Gamber -- excuse me -- Chairman of the
5 Caroline Street Resident's Association. I've
6 lived on Caroline Street since 1976.

7 The Association came together in
8 1979 and has been active ever since, albeit,
9 not incorporated so that we're speaking as a
10 group of citizens -- a group of residents,
11 rather than an association like DCCA. The
12 proposed downzoning has been discussed
13 numerous times on the street, both in our list
14 serve, which is fairly active on occasional
15 topics, and we actually had a meeting
16 dedicated purely to the issue on September 11,
17 oddly enough, 2007. The -- everybody on the
18 street has supported downzoning. The question
19 has been how do we fit? Which works? Should
20 it be R-2 or R-4, because Caroline Street
21 doesn't fit any existing zoning definition as
22 the Office of Planning has noted. The most

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1 appropriate would appear to us to be R-4, and
2 bringing us into conformance with the rest of
3 the area from, that would be basically
4 everything from 16th Street all the way to the
5 Anacostia River, with the exception of some
6 commercial corridors, would then be R-4.
7 Thank yo.

8 VICE CHAIRMAN JEFFRIES: Thank
9 you, very much, Mr. Gamber. Any questions
10 from the Commission? Okay. I have one person
11 listed as an opponent. On this list I have
12 Peter Knapp. Also Jim Secreto. Are any of
13 these individuals here, this evening? If you
14 can come forward, please? Hi. Could you
15 state your name and address for the record?

16 MR. KNAPP: Yes. My name is Peter
17 Knapp. I live at 1425 S Street, and I just
18 want to make a couple of points. I'm a
19 homeowner who's living in an existing flat
20 that would become non-conforming if the zone
21 changed to R-4, because my lot is less than 18
22 feet wide, so there's nothing I can do to

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1 change that. I'm concerned that that would
2 prevent me from getting a Certificate of
3 Occupancy for my English basement rental
4 apartment. The DCRA is requesting or actually
5 requiring that I do that. And I don't know
6 what to do if the zoning changes because then
7 I -- I don't know what the outcome would be.
8 But I'm concerned that it would prevent me
9 from getting a Certificate of Occupancy. And
10 just the last thing, which is just an
11 administrative thing, when I took a look at
12 the application, my property is not identified
13 correctly. I live on Square -- or in Square
14 206, Lot 233, not Lot 0811. And I know this
15 because five years ago when I added a third
16 floor to my house, DCRA forced me to change
17 the lot number for tax purposes. So I'm
18 guessing that when this application was
19 created it was using data that was older than
20 five years. Thank you.

21 VICE CHAIRMAN JEFFRIES: Any
22 questions for Mr. Knapp?

1 COMMISSIONER TURNBULL: Did you
2 say you were the owner or you're a tenant?

3 MR. KNAPP: I'm the owner.

4 COMMISSIONER TURNBULL: You're the
5 owner?

6 MR. KNAPP: Yes.

7 COMMISSIONER TURNBULL: Okay.
8 Thank you.

9 COMMISSIONER MAY: A couple of
10 questions. It's 1425 S Street, and it's flats
11 so it's a town house that's been divided into
12 two units?

13 MR. KNAPP: Correct. That was
14 done in the '70s.

15 COMMISSIONER MAY: Right. And you
16 have the apartment -- you don't have a C of O
17 now for that?

18 MR. KNAPP: Correct.

19 COMMISSIONER MAY: But you're
20 trying to have that?

21 MR. KNAPP: Correct.

22 COMMISSIONER MAY: But you're only

1 trying to do that now? I mean you didn't try
2 -- how long did you say you've owned the
3 house?

4 MR. KNAPP: I've owned the house
5 for ten years. I was not really aware that
6 that was necessary. Two years ago I got a
7 letter from a collection agency indicating
8 that I was in trouble because I was not paying
9 business taxes on the rental income. I've
10 declared the income all along.

11 COMMISSIONER MAY: Yes?

12 MR. KNAPP: There is actually --
13 from my understanding, there is a threshold of
14 \$12,000 that if you collect less than \$12,000
15 in rent, then you don't need a business
16 license. At that point in time, I was
17 collecting less than \$12,000 a year. I would
18 like to be able to, as a homeowner and also a
19 landlord, to collect more than \$12,000 a year
20 and the only way that I can do that legally is
21 to have a Certificate of Occupancy.

22 COMMISSIONER MAY: Okay.

1 MR. KNAPP: I've done all kinds of
2 work to get the unit up to code -- to the
3 building codes. There is rear egress now.
4 There is an emergency escape from the window
5 in the bedroom; all kinds of things. But,
6 because of the zoning, potentially that's
7 going to be for naught.

8 COMMISSIONER MAY: But you say
9 potentially because you don't -- I mean you've
10 done all these other physical changes to
11 comply with the building codes to make it
12 useable as a second unit, but --

13 MR. KNAPP: Oh, right. An R-4 --
14 according to my understanding of the R-4
15 zoning, a row dwelling or flat, and the
16 minimum lot area needs to be 1800 square feet,
17 my land area is 1759 square feet.

18 COMMISSIONER MAY: And that would
19 be the only way in which it would not be --

20 MR. KNAPP: The chart also
21 indicates that the minimum width needs to be
22 18 feet, and the reason the area is not large

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1 enough is because my neighbor has a little bit
2 of what would have been my 18 foot lot. I
3 have a 17.59 wide lot. It's non-conforming.

4 COMMISSIONER MAY: Okay. I
5 actually have a question for the Office of
6 Planning. These attributes of the site that
7 would make it non-conforming, is that enough
8 to prevent him from getting a C of O?

9 MS. STEINGASSER: I don't believe
10 so. A C of O is not typically required for
11 residential structures. That's what is at
12 issue --

13 COMMISSIONER MAY: But for a flat?

14 MS. STEINGASSER: It sounds like
15 this is more of a business license issue.

16 COMMISSIONER MAY: For a flat.
17 No, but in order to get a --

18 MS. STEINGASSER: Building permits
19 are allowed. And a flat would be a matter of
20 right use.

21 COMMISSIONER MAY: Right.

22 MS. STEINGASSER: So I don't think

1 that would trigger, at this point. But I'm
2 not sure. What seems to have triggered this
3 is more of a tax and revenue issue than a land
4 use. So I would suggest, and I don't -- that
5 you talk with a Zoning Administrator.

6 MR. KNAPP: Okay.

7 MS. STEINGASSER: To sort out how
8 that follows in.

9 COMMISSIONER MAY: Have you spoken
10 with the Zoning Administrator?

11 MR. KNAPP: No.

12 COMMISSIONER MAY: Okay.

13 MR. KNAPP: Where I'm coming from
14 is that I got a letter from a collection
15 agency two years ago saying that I was in
16 trouble because I didn't have a business
17 license and I wasn't paying correct taxes.

18 COMMISSIONER MAY: Right. I
19 understand that. I mean, technically
20 speaking, you shouldn't have -- in order to
21 have flats, theoretically, you should have a
22 C of O for that second unit.

1 MR. KNAPP: Right.

2 COMMISSIONER MAY: You don't need
3 it for a house.

4 MR. KNAPP: Correct. And what I'm
5 --

6 COMMISSIONER MAY: You do need it
7 if you're going to rent your unit, in theory.
8 And very commonly, people do not do that.
9 But, in theory, you need that. I've run into
10 that circumstance before. But what I was
11 trying to figure out was whether the fact that
12 it's a non-conforming property would create
13 any difficulty in getting that C of O. And I
14 have a hard time believing that. I think that
15 there are building code issues that can
16 prevent you from getting a C of O, but I would
17 be very surprised if having a non-conforming
18 from zoning would trigger that.

19 MS. STEINGASSER: I just don't
20 know. I can't speak for the Zoning
21 Administrator.

22 COMMISSIONER MAY: You don't know?

1 All right.

2 VICE CHAIRMAN JEFFRIES: The one
3 thing that I wanted to add, Mr. Knapp, is that
4 the petition that's in front of us is really
5 for consistency case that's really, you know,
6 making -- the petition is making the case
7 before us that, you know, based on the
8 existing conditions, this is the appropriate,
9 you know, zoning. And I think it would be
10 very difficult for this Commission, because
11 there could be several individuals that could
12 come forward and have some procedural or some
13 certain issues that would be caused by a
14 rezoning and so forth, but at least from where
15 I sit, I think it's very difficult for us to
16 sort of take on some of your concern.
17 Because, I mean, you know, we're really
18 looking at this purely from the viewpoint of
19 a map amendment and a text amendment and
20 really trying to make it consistent and
21 conform with the existing maps and plans for
22 the city. So I'm not trying to minimize your

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1 issue. I mean, that's something that you
2 should definitely review. But I think the
3 matter at hand for us is really around is this
4 area consistent with the map and the regs.
5 And that's what we're trying to address. So
6 I don't know if anyone else has any questions
7 to add to that.

8 COMMISSIONER MAY: I think Ms.
9 Sellin has a comment to make on our discussion
10 and I wouldn't mind hearing it.

11 VICE CHAIRMAN JEFFRIES: Oh, sure.
12 You can come down. Thank you.

13 MS. SELLIN: I believe that he
14 filed before this case was filed, he does not
15 have any problem now.

16 MR. KNAPP: Unfortunately, that's
17 not the case.

18 VICE CHAIRMAN JEFFRIES: Okay.
19 Yes. I mean, the Office of Planning, I mean,
20 do you have any? I mean, it sounds to me that
21 this is probably something that you should
22 probably take up with the Zoning Administrator

1 or DCRA. I just don't think it's really in
2 our jurisdiction. I mean, we're sympathetic,
3 but, I mean, the case is just much larger, I
4 think, than, you know, just dealing with a C
5 of O for you and this basement.

6 MR. KNAPP: Thank you.

7 VICE CHAIRMAN JEFFRIES: Okay.
8 So, I'm sorry. Any other -- and thank you for
9 coming down. We appreciate you coming down.

10 MR. KNAPP: You're welcome.

11 VICE CHAIRMAN JEFFRIES: Anyone
12 else in opposition here tonight? Okay. So
13 let's see. I think there was a request from
14 the Petitioner that we look at a bench
15 decision tonight. I'm going to turn off my
16 mike for a second.

17 (Whereupon, off microphone from
18 7:43 p.m. until 7:45 p.m.)

19 VICE CHAIRMAN JEFFRIES: Okay. I
20 think that we are prepared to make a bench
21 decision this evening. And I will make a
22 motion that we approve Case No. 07-34,

1 petition by Anne Sellin and Richard Busch to
2 amend Zoning Map portions of Square 176, 177,
3 177 north, 178, 190, 191, 206, and 207, and
4 related text amendments to include the
5 properties in Dupont Circle Overlay District.
6 Did I get that all covered? And I would ask
7 for a second.

8 COMMISSIONER ETHERLY: Second, Mr.
9 Chair.

10 VICE CHAIRMAN JEFFRIES: Okay.
11 Before we vote, I'd like to know if there's
12 any discussion from the Commission?

13 COMMISSIONER MAY: Yes. I am a
14 little trouble by the question of whether
15 rezoning a property to R-4 creates a non-
16 conformity that would prevent getting a C of
17 O for flats. The reason being that I imagine
18 that there are a number of properties there
19 that either are flats or could be flats. I
20 mean it's a clearly typical thing in our poor
21 neighborhoods to, you know, have flats during
22 the life of the house. And, you know,

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1 sometimes you have that basement apartment;
2 then it becomes the family room; then the next
3 generation makes it back into an apartment.
4 I mean, it's that sort of cycle of life in the
5 life of row houses. And I think that given
6 what we've learned tonight about the business
7 license trigger at \$12,000 a year, if you're
8 collecting, you know, that much rent, it
9 wasn't -- I mean \$12,000 was a fairly
10 threshold a few years ago for renting a
11 basement apartment. If you got \$1000 a month,
12 that would be -- you know, it might have been
13 exceptional. Now, it's not. And I imagine
14 that this could be triggered for a lot of
15 people and there may be quite a number of
16 people who are going through this sort of
17 thing throughout the city. I don't know.

18 I think I would like to know for
19 sure whether, in fact, this is an issue. And
20 maybe this is something that could be taken
21 care of. Can we do two votes on this?

22 COMMISSIONER ETHERLY: A final

1 action?

2 COMMISSIONER MAY: Could we have a
3 final action? Right?

4 VICE CHAIRMAN JEFFRIES: Yes.

5 COMMISSIONER MAY: I mean, I would
6 feel more comfortable knowing it before final
7 action, whether, in fact, this non-conformity
8 or any non-conformity that's created by
9 rezoning from R-5-B to R-4 is going to cause
10 licensing problems for flats. Because I think
11 that could be a much bigger issue for quite a
12 number of properties.

13 VICE CHAIRMAN JEFFRIES: And you
14 think that if we, in fact, find out that that
15 is a problem, then that would be reason to
16 keep the zoning designations as listed?

17 COMMISSIONER MAY: As R-5-B?

18 VICE CHAIRMAN JEFFRIES: Yes.

19 COMMISSIONER MAY: Potentially.

20 VICE CHAIRMAN JEFFRIES: Okay.

21 COMMISSIONER MAY: Because, I
22 mean, it kind of depends on what the volume

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1 is. I frankly don't think that we're going to
2 find that. But I think that we're going to
3 find that this -- the new non-conformity, I
4 think you'll find is not an obstacle.

5 VICE CHAIRMAN JEFFRIES: Okay.

6 COMMISSIONER MAY: Or at least not
7 an obstacle that's not easily overcome.

8 VICE CHAIRMAN JEFFRIES: Well, we
9 certainly have so many -- I'm sorry. We're in
10 discussion. That's fine. You know,
11 certainly, there are a number of non-
12 conforming buildings throughout the District
13 and I think there are a lot of unintended
14 consequences for a lot of decisions that we
15 make. And, you know, the hope is that, you
16 know, the Applicants have, you know, some way
17 to address things that don't work for their
18 individual properties. I'm perfectly fine,
19 you know, that -- and I don't know who would
20 actually -- whether that would be the Office
21 of Planning or whoever, could look into that
22 and let us know, you know, whether this could

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1 be a potential problem. Although it seemed
2 that it would not just be for this R-4 zone,
3 but throughout the city.

4 COMMISSIONER MAY: Right. But
5 we're not rezoning all of the, you know, a lot
6 more R-5-B down to R-4 here. I think this is
7 a good question to have answered.

8 VICE CHAIRMAN JEFFRIES: Okay.
9 Okay. So any other questions? Okay. So all
10 in favor, say aye.

11 ALL: Aye.

12 VICE CHAIRMAN JEFFRIES: Opposed?
13 Okay. So it's unanimous. No opposition.
14 Would the Staff like to record the vote?

15 MS. SCHELLIN: Yes, sir. Staff
16 records the vote 4 to 0 to 1 to approve
17 proposed action on Zoning Commission Case No.
18 07-34; Commissioner Jeffries moving;
19 Commissioner Etherly seconding; Commissioners
20 Turnbull and May in support; Commissioner Hood
21 not voting, not present.

22 VICE CHAIRMAN JEFFRIES: Okay.

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1 This is a proposed action. So the Commission
2 will make a final decision at one of our
3 regular monthly meetings following the closing
4 of the record. And the record is closed. The
5 meeting will be held at 6:30 p.m., typically
6 on the second Monday of each month, with some
7 exceptions. And they are open to the public.
8 If any individual is interested in following
9 this case further, please contact Staff to
10 determine whether the case is in the agenda of
11 a particular meeting.

12 You should also be aware that,
13 should the Commission, and we've done this,
14 proposed action will be published in the D.C.
15 Register as proposed rule making with a period
16 of time for comments. In addition, the
17 proposed rule making will be referred to the
18 National Capitol Planning Commission for
19 Federal impact review. The Zoning Commission
20 will final action at the public meeting
21 following receipt of public comments, NCPC
22 comments, after which a written final rule

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1 making order will be published.

2 I now declare today's Public
3 Hearing adjourned. Thank you for coming down.

4 (Whereupon, the Public Hearing was
5 adjourned at approximately 7:50 p.m.)

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