

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

MONDAY, SEPTEMBER 25, 2006

+ + + + +

The special meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 5:30 p.m., CAROL J. MITTEN, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chair
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
MICHAEL TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
ESTHER BUSHMAN	General Counsel
DONNA HANOUSEK	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

STEVE COCHRAN
TRAVIS PARKER
JENNIFER STEINGASSER

This transcript constitutes the minutes from the special meeting held on September 25, 2006.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

AGENDA ITEM	PAGE
I. PRELIMINARY MATTERS Mrs. Schellin	4
II. CONSENT CALENDAR Mrs. Schellin	4
A. Z.C. Case No. 02-50A	4
III. PROPOSED ACTION Mrs. Schellin	6
A. Z.C. Case No. 05-23	6
B. Z.C. Case No. 06-04	12
IV. FINAL ACTION Mrs. Schellin	29
A. Z.C. Case No. 06-06	29

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

(5:59 p.m.)

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a special public meeting of the Zoning Commission of the District of Columbia for Monday, September 25th, 2006. My name is Carol Mitten. Joining me this evening are Vice-Chairman Anthony Hood and Commissioner Greg Jeffries.

I apologize for the late start. We knew we were going to be down one commissioner. We're hoping that Commissioner Turnbull joins us. Otherwise we won't have -- well, I guess we could take final action on one case that Mr. Hood didn't participate in but hopefully won't have to deal with that.

Copies of the meeting agenda for the special public meeting are in the wall bin by the door. I would just like to remind folks that we don't take any public testimony at our meetings unless the Commission specifically requests someone to come forward.

I would like to advise you that the proceeding is being recorded by court reporter and is also being Webcast live. So we ask you to refrain from making any disruptive noises in the hearing room during the meeting so as not to distract from that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And I would also ask you to turn off all beepers and
2 cell phones at this time for the same reason.

3 I. PRELIMINARY MATTERS

4 CHAIRPERSON MITTEN: Mrs. Schellin, do you
5 have any preliminary matters before we get started?

6 MS. SCHELLIN: No, ma'am.

7 CHAIRPERSON MITTEN: Thanks.

8 II. CONSENT CALENDAR A. Z.C. CASE
9 NO. 02-50A

10 CHAIRPERSON MITTEN: Okay. So the first
11 item on the consent calendar is case number 02-50A,
12 which if you recall from our last -- good evening,
13 Commissioner Turnbull -- if you recall from our last
14 regular monthly meeting, we had requested the
15 applicant's assistance in converting this PUD
16 modification to a minor modification so we could put
17 it on our consent calendar. And that appears to have
18 been done.

19 So the one comment that I would make is I
20 didn't have any issues with the nature of what was
21 being requested. The only issue that I had was with
22 the timing of what was being requested, which is it
23 was all after the construction was completed.

24 And while it all worked out this time
25 because we were satisfied that the design changes they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 had made were consistent with what we had approved and
2 in some cases were even improvements, I'm not sure we
3 would always feel that way. So I wouldn't want this
4 to become a habit with applicants coming in after the
5 fact with numerous modifications, however minor they
6 might think they are.

7 So with that, I would move approval of
8 case number 02-50A for minor modification. Is there a
9 second?

10 VICE-CHAIRPERSON HOOD: I will second it.

11 CHAIRPERSON MITTEN: Thank you, Mr. Hood.
12 Any discussion?

13 (No response.)

14 CHAIRPERSON MITTEN: All those in favor
15 please say aye.

16 (Whereupon, there was a chorus of "Ayes.")

17 CHAIRPERSON MITTEN: Those opposed please
18 say no.

19 (No response.)

20 CHAIRPERSON MITTEN: Mrs. Schellin?

21 MS. SCHELLIN: Yes. Staff will record the
22 vote 5 to zero to zero to approve Zoning Commission
23 case number 02-50A, Commissioner Mitten moving,
24 Commissioner Hood seconding, Commissioners Jeffries
25 and Turnbull in favor, Commissioner Parsons in favor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 by absentee ballot.

2 CHAIRPERSON MITTEN: Thank you.

3 III. PROPOSED ACTION A. Z.C.

4 CASE NO. 05-23

5 CHAIRPERSON MITTEN: Next under "Proposed
6 Action" is Zoning Commission case number 05-23. And
7 this is the case in Eckington, which was CSX Realty
8 and Fairfield Development.

9 I know we have several items that have
10 been submitted to the record after we closed the
11 record, some of which we could have anticipated since
12 we had taken this off of our agenda for our last
13 meeting and asked that the ANC be given more time to
14 respond to the changed distribution or I guess it was
15 the changed distribution for the amenities package.

16 And so I would move that we reopen the
17 record to receive exhibits 39 through 43 and ask for a
18 second.

19 COMMISSIONER TURNBULL: Second.

20 CHAIRPERSON MITTEN: Any discussion?

21 (No response.)

22 CHAIRPERSON MITTEN: All those in favor
23 please say aye.

24 (Whereupon, there was a chorus of "Ayes.")

25 CHAIRPERSON MITTEN: Mrs. Schellin, we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have none opposed.

2 MS. SCHELLIN: Staff will record the vote
3 4 to zero to one to reopen the record to accept
4 exhibits 39 through 43, Commissioner Mitten moving,
5 Commissioner Turnbull seconding, Commissioners
6 Jeffries and Hood in favor, Commissioner Parsons not
7 present, not voting.

8 CHAIRPERSON MITTEN: Thank you.

9 The one thing that continues to concern me
10 about this proposal is that there were a number of
11 issues that were raised. And if they were dealt with
12 in some additional submissions, I did not see it. But
13 there had been a number of concerns raised by DDOT in
14 their report regarding -- let me find that.

15 (Pause.)

16 COMMISSIONER JEFFRIES: Issues beyond what
17 was addressed in the OP report?

18 CHAIRPERSON MITTEN: Right. The OP report
19 seemed to focus on specific contributions that were
20 being made, but the DDOT report said, among other
21 things, that DDOT is concerned that the applicant did
22 not study the nearby signalized intersections of
23 Florida Avenue and Eckington Place and North Capitol
24 Street and R Street.

25 Then it said DDOT staff met with the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 traffic consultant and shared the concerns listed
2 above and requested additional analysis. It says,
3 "The traffic consultant agreed to investigate the
4 following." And then it lists four additional things
5 that the traffic consultant was tasked with
6 addressing.

7 And I didn't see an additional submission
8 on that additional study. And it's not clear from the
9 Office of Planning report that DDOT dealt with this
10 head on other than these additional contributions, the
11 \$25,000 for the traffic light, the \$55,000 for DDOT,
12 and then the Q Street extension.

13 COMMISSIONER JEFFRIES: There's a
14 discussion here about there could be an MOU that would
15 be submitted before our final decision.

16 CHAIRPERSON MITTEN: Well, I think --

17 COMMISSIONER JEFFRIES: Could we somehow
18 get some of that covered there?

19 CHAIRPERSON MITTEN: Mrs. Schellin just
20 handed me a submission that says -- just a second.

21 MS. SCHELLIN: It should be exhibit 35.

22 CHAIRPERSON MITTEN: Yes. I just -- okay.
23 There was a memo from Ken Laden that said that they
24 had reviewed the additional materials that had been
25 supplied and that the only outstanding issue related

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the 3rd and Rhode Island traffic signal. So I
2 guess it has been dealt with sufficiently.

3 COMMISSIONER JEFFRIES: What's the date of
4 that, Madam Chair?

5 CHAIRPERSON MITTEN: This is August 28th.

6 COMMISSIONER JEFFRIES: Okay.

7 CHAIRPERSON MITTEN: Thank you. All
8 right. So then we have -- along with the applicant's
9 August 25th submission to the Commission, we have a
10 proposed order that outlines the proffers and with any
11 modification to the proffer to DDOT for these
12 additional transportation improvements. I think that
13 has been flushed out sufficiently. We have the
14 support of the ANC on this case.

15 VICE-CHAIRPERSON HOOD: Madam Chair, I
16 don't know about my other colleagues, but I have
17 probably gotten the amenities package mixed up with
18 the -- it's the same ANC with another case that we
19 have.

20 CHAIRPERSON MITTEN: That's true.

21 VICE-CHAIRPERSON HOOD: And when I looked
22 at them, I don't know if I got them mixed up, but it
23 looks like it's the same amendments package for the
24 other case. I mean, if it's good, so be it, but I
25 just wondered if anybody else saw it that way.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: I think there are
2 some overlapping recipients. There will be some
3 overlapping recipients. They're talking about making,
4 as I read out of the OP report, a \$55,000 contribution
5 for a pedestrian and bicycle connection to the
6 Metropolitan Branch Trail, a \$20,000 contribution to
7 the McKinley Tech Fund. And I believe in the
8 Florida-Q PUD, which will be the next one up, there is
9 also a contribution to McKinley of some kind.

10 The Harry Thomas Rec Center would get
11 \$10,000 for a new scoreboard. North Capitol Main
12 Streets Program would get \$25,000. And I think
13 there's overlap with the Florida and Q.

14 VICE-CHAIRPERSON HOOD: I'm showing --

15 CHAIRPERSON MITTEN: Yes, that's right.

16 VICE-CHAIRPERSON HOOD: This is it?

17 CHAIRPERSON MITTEN: Yes.

18 VICE-CHAIRPERSON HOOD: For this case?

19 CHAIRPERSON MITTEN: Yes. Yes, that's --

20 VICE-CHAIRPERSON HOOD: There's some
21 overlap. And they're also the same dollar amounts. I
22 just wanted to make sure that I wanted that confused.
23 Good. Okay. Thank you.

24 CHAIRPERSON MITTEN: Then there's a series
25 of other proposed conditions that are outlined in the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 proposed order as well, including affordable housing
2 and some restrictions on the facade treatments for the
3 retail, no through-the-wall HVAC, no use of efface.

4 COMMISSIONER JEFFRIES: Madam Chair, if
5 there aren't any more questions or comments, I would
6 like to make a motion that we approve Zoning
7 Commission case number 05-23. It's a PUD and zoning
8 map amendment. The applicant is FF Realty, LLC. I
9 would like a second.

10 CHAIRPERSON MITTEN: Second. Okay. Is
11 there any further discussion?

12 (No response.)

13 CHAIRPERSON MITTEN: All those in favor
14 please say aye.

15 (Whereupon, there was a chorus of "Ayes.")

16 CHAIRPERSON MITTEN: Those opposed please
17 say no.

18 (No response.)

19 CHAIRPERSON MITTEN: Mrs. Schellin?

20 MS. SCHELLIN: Staff will record the vote
21 5 to zero to one to approve Zoning Commission case
22 number 05-23, Commissioner Jeffries moving,
23 Commissioner Mitten seconding, Commissioners Hood and
24 Turnbull in favor and Commissioner Parsons in favor by
25 absentee ballot.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Thank you.

2 B. Z.C. CASE NO. 06-04

3 CHAIRPERSON MITTEN: Next for proposed
4 action is case number 06-04. This is what we were
5 just making reference to, the PUD Florida and Q
6 Streets. And I don't think we have any untimely
7 submissions there.

8 We had another submission from the ANC
9 stating their continuing support for the project. And
10 we had an additional submission from the applicant
11 August 24th, which attempted to respond to the
12 concerns that we had articulated at the end of the
13 hearing.

14 I will say since I have seen Commissioner
15 Parsons' absentee ballot. And this was an issue that
16 he had raised and others had raised that he's not
17 satisfied with the design changes that have been made
18 to make the building more residential in appearance.
19 And he was advocating that we ask the applicant to
20 return to revisit the design again.

21 And I don't know if that is a feeling, a
22 sentiment that is shared by other commissioners or
23 not, but perhaps I will find out. Mr. Jeffries?

24 COMMISSIONER JEFFRIES: Well, I will
25 speak. I do continue to be somewhat disappointed with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the architecture of this building. Again, I voiced
2 clear concerns about sort of identity problems with
3 the building. I think it's in a very prominent
4 location in the District of Columbia.

5 And I know that there is a lot of support
6 on behalf of the ANC and the residents, but I do think
7 this building is situated in such a way that it really
8 needs to be at another level of design.

9 It seems to have scale problems in
10 addition to some identity problems. And I see that
11 some of the work that has been put into the hinge of
12 this building in terms of trying to articulate the
13 windows and bring a little bit more texture to the
14 surfaces, but it still is lacking in my estimation.
15 There is just something very, very peculiar about it.

16 I think it starts at the ground level. It
17 just does not remind one of something that looks, you
18 know, residential from the standpoint of a District
19 building.

20 I still continue to have problems with
21 this penthouse and sort of the lone emperor that looks
22 over the countryside here, that one penthouse
23 apartment.

24 Again, my problems still are at the hinge.
25 I think it's with the scale. I think it's also,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 again, identity. And I also think there are some
2 problems with fenestration.

3 So I certainly don't want to be in a
4 position to say no to PUD based on design because, of
5 course, that could be somewhat subjective, but I do
6 feel very strongly about this, so, again, because of
7 the location of this building.

8 And I am familiar with the architecture
9 firm. They do a lot of good work in the District.
10 But somehow it seems to be falling short here.

11 So I would probably agree with
12 Commissioner Parsons that we should probably ask them
13 to go back and revisit or I would like for them to
14 revisit the design.

15 CHAIRPERSON MITTEN: Anyone else?
16 Commissioner Turnbull?

17 COMMISSIONER TURNBULL: I would concur
18 with Commissioners Parsons and Jeffries that we
19 revisit it.

20 CHAIRPERSON MITTEN: Can I just ask, can
21 you make some specific suggestions? I know you
22 articulated some of your concerns. I think, to be
23 fair -- and I am happy to support your effort to
24 improve the design, just think we should give as much
25 helpful constructive guidance to the applicant that we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 can.

2 So if either of you could be more specific
3 about what is not working for you? I mean, have they
4 moved in the right direction, for instance? And do
5 you need them to move farther in that direction?

6 COMMISSIONER JEFFRIES: This is the very
7 difficult part --

8 CHAIRPERSON MITTEN: Right.

9 COMMISSIONER JEFFRIES: -- because, you
10 know, I don't think we should be in the business of
11 design review here --

12 CHAIRPERSON MITTEN: But we are.

13 COMMISSIONER JEFFRIES: -- and start
14 designing the buildings for individuals. I think we
15 could send them on a path. I mean, when I speak about
16 vocabulary and sort of identity, again, I think the
17 wings that are on Florida Avenue and North Capitol
18 look somewhat residential, but then the middle of this
19 thing -- I mean, you have the mansard roof that's on
20 the Florida Avenue and North Capitol side. And then
21 you have this cylindrical kind of thing in the middle.
22 It just seems very disjointed.

23 And I think part of the problem is that it
24 is a three-sided site. And it probably lends itself
25 to some confusion. But, somehow or another, I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 know whether the middle portion should be more glass.

2 I don't want to just step out and say exactly what
3 they need to do, but there's something very, very
4 peculiar about this building and --

5 CHAIRPERSON MITTEN: Well, let me just ask
6 --

7 COMMISSIONER JEFFRIES: Sure.

8 CHAIRPERSON MITTEN: -- because, I mean,
9 I'm not good about articulating these things, but, for
10 instance, what you were just commenting on about the
11 mansard on the wings, would that help to kind of carry
12 that through across those?

13 You know, there's the cylindrical hinge.
14 And then there's the two sort of like square towers
15 that are clearly different from the balance. So would
16 it help to make that seem more connected, as opposed
17 to distinctly different, those tower pieces that flank
18 the hinge?

19 COMMISSIONER JEFFRIES: I don't know if I
20 would necessarily -- I mean, because that might end up
21 looking somewhat sort of heavy and foreboding over the
22 whole site.

23 But, again, I mean, Commissioner Turnbull,
24 you can join in here if you'd like, but it's just
25 something that it looks like three separate buildings.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And again, it's in a critical location.
2 It's not end-field design. It's not like it's on 14th
3 Street and we're walking up and you can just see it as
4 you drive along. I mean, this thing is seen from a
5 lot of different sides. It's a very critical,
6 prominent site. And I just don't think it's
7 appropriate.

8 VICE-CHAIRPERSON HOOD: Well, Commissioner
9 Jeffries, I wasn't invited, but I am going to get in
10 anyway.

11 (Laughter.)

12 COMMISSIONER TURNBULL: Chairman Hood,
13 you're always invited.

14 CHAIRPERSON MITTEN: You have a standing
15 invitation to get involved in the discussion.

16 VICE-CHAIRPERSON HOOD: Okay. You know,
17 I, too, am like the Chairperson, but when I looked at
18 the -- and I think I brought this up at the hearing.
19 I understand how you can say that this may look like
20 three different buildings.

21 One of your issues is -- and what ever you
22 call it, circular or circumetrical, whatever the
23 architecturally correct terminology is. The rationale
24 that I think when I asked that question at the hearing
25 was because right in that area, there's like the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 roadway, trucks encircling and all of that. It kind
2 of has a circular definition to it.

3 And I believe that the applicant possibly
4 -- because, actually, to me I think it looks all right
5 because I like this circular part more than I like
6 anything else. It stands out to me. And I'm speaking
7 from my knowledge of architecture.

8 But as far as the difference between what
9 we saw previously and this time, it looks to me the
10 only difference is -- and you guys can help me -- that
11 the glass has gotten lighter.

12 COMMISSIONER JEFFRIES: I think they --
13 did they put more moyens in and so forth?

14 CHAIRPERSON MITTEN: Yes.

15 COMMISSIONER JEFFRIES: Yes.

16 VICE-CHAIRPERSON HOOD: What did they do?

17 CHAIRPERSON MITTEN: They are divided into
18 smaller pieces.

19 VICE-CHAIRPERSON HOOD: Did we ask them to
20 do that?

21 COMMISSIONER JEFFRIES: Well, I mean, we
22 told them that somehow initially that hinge was
23 looking, you know, very like K Street, office. And
24 you see that a lot here.

25 You know, these corner buildings, cylinder

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and panels. It is just we were just trying to tell
2 them to just soften it a little bit and make it look
3 more residential. And I think that was their attempt
4 to --

5 VICE-CHAIRPERSON HOOD: Do you think that
6 was accomplished in your expert opinion?

7 COMMISSIONER JEFFRIES: I'm not going down
8 the road of expert opinion. It's just that, listen,
9 I've got one vote up here. And I intend to use it as
10 relates to this.

11 VICE-CHAIRPERSON HOOD: Right.

12 COMMISSIONER JEFFRIES: I just think that,
13 you know -- I mean, I'm not trying to bring you over
14 to my side, Mr. Vice-Chair, but I just --

15 VICE-CHAIRPERSON HOOD: No, no. I'm just
16 trying to understand because I know where I am with
17 that one.

18 COMMISSIONER JEFFRIES: Yes, yes.

19 VICE-CHAIRPERSON HOOD: To me it looks
20 like it went worse, but that's just my opinion.

21 COMMISSIONER JEFFRIES: Excuse me?

22 VICE-CHAIRPERSON HOOD: It seems like we
23 went worse as far as --

24 COMMISSIONER JEFFRIES: Oh, you think it's
25 worse?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE-CHAIRPERSON HOOD: It's loud, and
2 it's very intrusive. But, you know, that's just my
3 one vote. But once we get off the architecture, then
4 I will get to my main issue.

5 COMMISSIONER JEFFRIES: Oh, okay. Okay.

6 CHAIRPERSON MITTEN: Well, Commissioner
7 Turnbull, is there anything specific that you could
8 articulate to give some further guidance?

9 COMMISSIONER TURNBULL: Well, I think one
10 of the issues -- and maybe it's the rendering. I
11 think the rendering is -- I think it's lost a little
12 quality.

13 This rendering is not -- the other
14 rendering at least delineated more -- and maybe that
15 made it clearer for us to see what we didn't like.
16 This one if you look at the entrance in it, maybe it's
17 just the shading or the printing of this has just made
18 it a look darker. It looks more foreboding. The
19 entry looks very -- maybe it's just the depiction of
20 it looks just not very --

21 COMMISSIONER JEFFRIES: At the ground
22 level.

23 COMMISSIONER TURNBULL: At the ground
24 level. It's just there's something. The shading just
25 doesn't kind of look that inviting as an entrance into

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the building.

2 It's difficult to -- you can see where
3 they're trying to relate to the bay articulation of
4 the residents, but somehow -- and, again, the scale
5 changes with the mansard.

6 And it just -- and I don't know how you
7 deal with that, but it gets to be rather large. And,
8 as you say, I mean, it's a three-sided site. But
9 right now it looks a little overwhelming.

10 It doesn't lend itself to being the most
11 inviting. There's things of it that just seem
12 overpowering. The roof element as you get to the top
13 with the grille work that they've got --

14 COMMISSIONER JEFFRIES: Right, right.

15 COMMISSIONER TURNBULL: -- just seems a
16 little overpowering for coming off of that as you go
17 through the building. To me, sitting on this site, it
18 just seems to overwhelm it. It's not as friendly as
19 it could be, especially the latest rendering it.

20 Maybe it's the rendering, too, that
21 doesn't help it. The coloring of it just makes it
22 look more foreboding. Everything looked darker. And
23 it's just -- maybe it's just the print that we got
24 that doesn't do it justice. I don't know, but the
25 railings, the stairs are broken up. It just looks

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 overwhelming, doesn't look like the friendliest site.

2 CHAIRPERSON MITTEN: Let me try something.

3 You know, this is just among the things that I could
4 -- I mean, I understand in general what you're trying
5 to express. And one of the things to me that makes
6 the corner look commercial, as distinct from the
7 wings, among the things, is there are stone elements
8 that go from top to bottom in the --

9 COMMISSIONER JEFFRIES: The pilasters?

10 CHAIRPERSON MITTEN: I guess, yes.

11 COMMISSIONER JEFFRIES: Or whatever they
12 are called.

13 CHAIRPERSON MITTEN: They have one or they
14 have a couple of them on the North Capitol Street
15 side. And then they don't have them on the -- I mean,
16 I'm sorry. They have them on the Florida Avenue wing.
17 They don't have them on the North Capitol Street
18 side, which I think works well on the North Capitol
19 Street side because then that looks really
20 residential.

21 So like what if, for instance, they were
22 to just remove that as an element. Then to me it
23 tones down those, as I called them, the square boxes
24 that flank the hinge. And maybe that would also -- if
25 they were removed from the hinge, then the hinge

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 wouldn't be -- you know, the way that they stick up at
2 the roof line and make a sharp corner doesn't make the
3 setback that's been created really appear as a setback
4 because it still has this element that's all the way
5 out to the building line.

6 So I don't know, but that strikes me as
7 something that they could revisit to help move in the
8 right direction.

9 COMMISSIONER TURNBULL: I think you're
10 right. I think the articulation of those two box
11 elements needs to be looked at again. I think you're
12 seeing that as rather hard. It is an abrupt change.

13 CHAIRPERSON MITTEN: And then there isn't
14 anything at the -- you have the terrace there, but
15 there isn't anything where the brick stops to sort of
16 say, "Okay. You've hit the top of the building."

17 So I don't know if there is some way that
18 that could be transitioned with the mansard. It
19 doesn't have to be a mansard but just some way of
20 transitioning to kind of bring that residential
21 feeling more to the corner.

22 Those are the kinds of things maybe I
23 would suggest as specific ideas that they could work
24 with if you guys think that that would move in the
25 right direction. I just don't want to send them away

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with vague ideas about what we want.

2 COMMISSIONER JEFFRIES: Well, this whole
3 notion of trying to as closely as possible emulate the
4 residential flavor, particularly along North Capitol,
5 try to do the same bay and have the same roof line,
6 you know, from the school I'm from, you know, you try
7 to depart from that as much as possible.

8 You know, you try to do something that's
9 very much unlike that. And it brings more attention
10 to what is existing, as opposed to trying to sort of
11 mimic it, because then you get into trying to match
12 styles. And it sometimes just does not come over
13 well.

14 So I will say this. I mean, for me, this
15 is just some of the residential projects that we have
16 seen that have been very good. I can name a few of
17 them. This is just not to me of that ilk.

18 And I know, again, I'm not bringing enough
19 specificity to this, but, you know, I just -- you
20 know, it just doesn't -- I don't know what else to add
21 other than vocabulary and materials. They can also
22 spend some more time looking at materials and then
23 also the scale. I think there's a lot of different
24 influences and things going on at the roof line of
25 this thing that seem rather disjointed. So anyway --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Well, let's let them
2 take another run at it and --

3 COMMISSIONER JEFFRIES: Yes. Let's see
4 what they come up with.

5 CHAIRPERSON MITTEN: Okay.

6 VICE-CHAIRPERSON HOOD: Also, Madam Chair,
7 can I? When I look back at this -- and I don't know
8 if DDOT -- this was discussed during the hearing, but
9 I know there was some conversation about coming around
10 the circle.

11 And I'm just looking at -- you know, a
12 picture is worth 1,000 words, but I'm looking at how
13 people are just walking around freely. And I know
14 that there are cars that are going to be making that
15 turn, that circular turn, around trucks encircling.

16 Does anybody remember? Did that come up
17 during the hearing or did DDOT say anything about
18 that? Obviously I think they had one or two issues.

19 COMMISSIONER JEFFRIES: At the ground
20 level just walking around there?

21 VICE-CHAIRPERSON HOOD: Yes.

22 CHAIRPERSON MITTEN: Do you mean
23 pedestrians or the number of --

24 VICE-CHAIRPERSON HOOD: The pedestrians
25 that are walking. No, not the cars. The pedestrians

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with cars coming around that circle. Did that come
2 up?

3 CHAIRPERSON MITTEN: We didn't talk
4 specifically about that. I had raised a concern that
5 I thought that the sidewalk wasn't wide enough.

6 VICE-CHAIRPERSON HOOD: It's wide enough.

7 CHAIRPERSON MITTEN: And they added width
8 to the sidewalk there.

9 VICE-CHAIRPERSON HOOD: My concern now
10 looking back at it -- I don't know; maybe I should
11 have picked it up earlier -- but cars making that
12 right turn going around that circle and people just
13 happening. Hopefully maybe DDOT or --

14 COMMISSIONER JEFFRIES: Onto Florida
15 Avenue?

16 VICE-CHAIRPERSON HOOD: Yes, coming around
17 to Florida and, you know, kids or whoever. I think
18 that needs to be looked at if they have not looked at
19 that.

20 CHAIRPERSON MITTEN: Well, I think I would
21 have to go and read. And we'll have time to go back
22 and review, but, as I recall, the traffic expert, Mr.
23 George, reported to us about -- and I'm sure it's in
24 the record -- about how few cars really do make that
25 turn.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE-CHAIRPERSON HOOD: Yes. I remember
2 asking that. I think it was for the interest on
3 Florida Avenue, I believe. And we were talking about
4 the backup. And, you know, he was saying people
5 wouldn't make the turn unless the light was green.

6 I remember that part, but my concern is,
7 again, pedestrians out there walking and, God forbid,
8 a drunk driver or just somebody who can't make the
9 turn that well, you know. And I think that needs to
10 be re-looked at, especially since I looked at this,
11 the rendering, again. I would just encourage them,
12 the applicant, to have his traffic person look at it.

13 CHAIRPERSON MITTEN: Okay.

14 VICE-CHAIRPERSON HOOD: I'm pretty sure I
15 know what the answer will be, but I wanted to put it
16 on the record.

17 CHAIRPERSON MITTEN: Okay. Anyone else?

18 (No response.)

19 CHAIRPERSON MITTEN: So we'll reopen the
20 record for the applicant to submit a revised design
21 for the elevation specifically as it makes that turn.

22 Ms. Schellin, do you have a sense of --
23 why don't we give them 30 days to do it? Then we'll
24 just --

25 MS. SCHELLIN: That would give them until

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Wednesday, October 25th.

2 CHAIRPERSON MITTEN: Okay.

3 MS. SCHELLIN: And then we could take it
4 up at our November meeting, which would be the 13th.

5 CHAIRPERSON MITTEN: Okay. That sounds
6 good. Thank you. IV. FINAL ACTION

7 A. Z.C. CASE NO. 06-06

8 CHAIRPERSON MITTEN: All right. Then the
9 last item on our special public meeting agenda is for
10 final action, Zoning Commission case number 06-06,
11 which is the text amendment related to public schools.

12 VICE-CHAIRPERSON HOOD: Madam Chair, I
13 will not be participating. I did not hear in this
14 case.

15 CHAIRPERSON MITTEN: Thank you, Mr. Hood.

16 I did want to start off because we got a
17 letter from the superintendent asking us to delay
18 action because DCPS hadn't been consulted. And we
19 also -- we have heard from a number of folks about
20 their lack of opportunity to participate. And I just
21 wanted to ask the Office of Planning what efforts that
22 they had made to reach out to DCPS and other entities
23 that have written to us.

24 MS. STEINGASSER: Thank you, Madam Chair.

25 We also read that letter. We did indeed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 reach out to DCPS. We sent them -- while we didn't
2 have direct communications with the superintendent or
3 the board, we did deal with the facilities staff
4 directly. And we sent them via e-mail a prefiling
5 report that we were circulating to as many interested
6 parties as we could get hold of. And that went out in
7 January, 31st.

8 We then sent them a copy of the final
9 report. Having heard no comments back from them, May
10 2nd of 2006 and then in July, after the hearings when
11 we still had not heard from DCPS, we sent them a
12 follow-up e-mail volunteering and asking if they would
13 like us to come over and meet, brief the board or
14 brief the superintendent on those regulations.

15 We also work closely with the facilities
16 staff in developing the database that's in the record
17 to confirm that none of the public schools or the
18 public charter schools were currently being made
19 nonconforming.

20 So we did have communications. While I
21 agree we did not deal directly with Superintendent
22 Chaney, we did deal with DCPS. We also sent a copy of
23 the final report our records show to D.C. Public
24 Charter Schools, to some staff there, and did not hear
25 directly back from them.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 We met subsequently after the hearing when
2 Mr. Nida showed and testified and the Commission asked
3 us to meet with him. We did so the following week.
4 That would have been around May 17th.

5 CHAIRPERSON MITTEN: And I think there was
6 also submitted for the record that there was
7 correspondence early one I guess with Deborah Gist,
8 who is the state education officer.

9 MS. STEINGASSER: Yes as well as some of
10 the councilmen's offices, including Mrs. Paterson and
11 Mrs. Ambrose's office as well as a group called FOCUS,
12 which is a charter advocacy group. We also met with
13 them. Kindrina Rodriguez and Kevin Clinton of the
14 Mayor's office were also circulated copies of our
15 report as well as several individuals, several ANCs,
16 and different parties that were interested.

17 CHAIRPERSON MITTEN: It's a little bit
18 confusing because some of the -- well, first of all,
19 you described a pretty healthy effort to engage DCPS.
20 Then as far as the State Education Office goes, the
21 e-mails that were exchanged were early when we were
22 considering taking emergency action. And then I don't
23 believe we even had testimony from anybody.

24 MS. STEINGASSER: They did not testify.
25 However, to their credit, they did meet several times

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with OP and expressed concerns about the direction the
2 regs were taking.

3 We went through the database with them,
4 showed them what we were doing, assured them that we
5 had double-checked also with DCRA to make sure that
6 there were no pending permits or any schools that were
7 in process that would be snagged by this and made
8 nonconforming.

9 CHAIRPERSON MITTEN: Okay.

10 MS. STEINGASSER: We also met with the
11 interim executive director of the D.C. Public Charter
12 School Association prior to the filing of these
13 regulations.

14 CHAIRPERSON MITTEN: So some of the
15 concerns that might have been voiced early on, there
16 was ample opportunity to deal with them through the
17 folks that you had engaged?

18 MS. STEINGASSER: Right. We did. And
19 then after the Commission held its hearing and tried
20 to propose action, we also met with several of the
21 small school advocates to talk about the small school
22 situation, which seems to be the crux of the
23 controversy. And that's when we came back to the
24 Commission with the 16-student proposal as a matter of
25 right.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Are you aware of any
2 schools that are that small?

3 MS. STEINGASSER: No.

4 CHAIRPERSON MITTEN: We did get in the
5 record from Appletree -- they said that, you know,
6 there aren't even any schools that are that small.

7 MS. STEINGASSER: We don't know of any
8 schools that small. What we were trying to do at that
9 point was come up with an option that was still
10 balancing the issues between a rowhouse neighborhood,
11 which is what we were really focusing on, not citywide
12 but just the rowhouse neighborhoods, where you have
13 very narrow, very tight lots, and based on the figures
14 that one of the architects had issued, had entered
15 into the file -- I believe his name was Daniel D.
16 Bettencourt who had entered into the Zoning
17 Commission's record that 150 to 200 square feet was a
18 typical number for students.

19 Using that in the typical R-4 zone, we
20 came up with the equivalent of 16 students. So we
21 thought that was kind of a low-impact standard that
22 might be considered. Since that time, many of the
23 neighborhood associations and certain citizens have
24 contacted us and have expressed their concern about
25 the space, that if the Commission go forward, that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there be a spacing of something that size, that there
2 not be multiple rowhouses bought and that same
3 congestion brought in through the back door.

4 CHAIRPERSON MITTEN: Right. Okay. Thank
5 you.

6 Anyone else have questions for the Office
7 of Planning?

8 COMMISSIONER TURNBULL: Are we awaiting
9 response from anyone, then, on --

10 CHAIRPERSON MITTEN: No. We're ready to
11 roll tonight. I do want to just call out that I
12 thought we got a real -- one particularly helpful
13 submission was from Lindsley Williams about some
14 things that we might want to take up, things that we
15 could take up within the context of this case and
16 other issues related to parking, loading, clarifying
17 the definition of employees and so on.

18 And, rather than piecemeal this any more
19 than we have -- and I suspect that depending on how
20 the Commission decides momentarily, there will be some
21 additional work for the Office of Planning anyway on
22 this -- I would like to have the issues raised that I
23 think have merit by Lindsley Williams taken up in
24 another case.

25 I thought the volume of disagreement with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 our attempt to accommodate the small schools coupled
2 with the fact that we now have Ms. Steingasser's
3 testimony as well as the submission from the folks who
4 seem to be advocating on the part of small schools,
5 that we haven't helped anybody. So all we did was get
6 everybody mad.

7 So I would move -- and I do want to say
8 something else, but I would move that we take final
9 action in case number 06-06 and delete the inclusion
10 of the language in 401.11 that allowed the schools of
11 16 students or fewer as a matter of right.

12 COMMISSIONER JEFFRIES: Second.

13 CHAIRPERSON MITTEN: The other thing that
14 I want to say is that I do hope there will be a
15 further ongoing discussion about whether or not small
16 schools can be accommodated appropriately, but what is
17 really frustrating is that the spokespeople for the
18 small schools appears to be Appletree.

19 And, you know, this reminds me it's not
20 parallel other than in process, but it reminds me of
21 when we did the EEFs. And there were actually a
22 number of EEFs in process at the time that the Office
23 of Planning became aware of the fact that, you know,
24 we didn't even know what EEFs were at the time,
25 electronic equipment facilities. And they came

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 forward with an emergency rulemaking to gain control
2 of this because they had the potential for adverse
3 impacts in neighborhoods. And so the emergency put a
4 special exception provision in place. And they
5 immediately availed themselves of that.

6 And they were coming through at the same
7 time that we were taking final action on the
8 rulemaking. So all this time since February -- and,
9 Ms. Steingasser, I don't know if you know or not
10 whether Appletree filed a special exception with the
11 BZA. I haven't seen anything.

12 MS. STEINGASSER: To my knowledge, they
13 have not filed.

14 CHAIRPERSON MITTEN: I think they could
15 have been through the process by now. So that's a
16 little frustrating. But the way I would like to move
17 forward is that we take final action in this case sans
18 the matter-of-right accommodation for the schools that
19 may have 16 students or fewer and ask the Office of
20 Planning to continue to try and shape something that
21 might accommodate small schools if you can or perhaps
22 it's just some more minor refinements of this effort
23 that are mentioned in Mr. Williams' letter to the
24 Commission, but when you get that balance between
25 folks, on the one hand, or you get the advocates, on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the one hand, that want absolutely unfettered ability
2 of charter schools to locate in neighborhoods and at
3 the other end of the spectrum we have neighborhoods
4 that are advocating for the kind of control on charter
5 schools that we have on private schools and that
6 everyone has to come in as a special exception,
7 regardless of size, I think that, you know, we have
8 done the best we can to strike the balance to promote
9 the Mayor's objectives of encouraging charter schools,
10 on the one hand, and encouraging and protecting
11 residential communities, on the other hand.

12 So I don't know if others want to comment
13 further. Mr. Jeffries?

14 COMMISSIONER JEFFRIES: Well, the only
15 comment I have is actually from the very beginning,
16 you know, when the word "emergency" was thrown out. I
17 think a few of us were sort of concerned about whether
18 it's really an emergency or not.

19 I think what happens when we do the
20 emergency thing is that we might end up being in a
21 position where the transparency piece of it becomes a
22 little unsettling for the community. I mean, I think
23 in all the letters that I continue to read in this
24 file, there was this feeling by a number of people in
25 the community that there was not transparency.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And I know the Office of Planning very
2 well. And they work very hard at that. So my
3 comments are not to be critical of the Office of
4 Planning in their community outreach, but I think as a
5 Commission, we need to be very careful about what is
6 absolutely an emergency and what isn't because I think
7 we sort of leave the door open for some criticism
8 around process.

9 We might end up being in the same exact
10 place that we are today, but, at the very least, we
11 need to get that process correct. And so, Madam
12 Chair, I would agree with you that I think this would
13 be good to -- I didn't get all that Mr. Lindsley
14 Williams was saying, but there were a couple of things
15 that made sense to me.

16 And I think it would be good if we could
17 look at a time when we could really review this in
18 more totality, more comprehensively, and not under the
19 so-called rush of emergency.

20 So, anyway, thank you.

21 CHAIRPERSON MITTEN: Any comments, Mr.
22 Turnbull?

23 COMMISSIONER TURNBULL: Madam Chair, I
24 guess my only comment was I think Mr. Jeffries is
25 right. I think the emergency thrust upon us -- I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 think there was a lot of confusion in the community.
2 I think thee was a lot of misunderstanding of what was
3 really being read into. And I think we vetted a lot
4 of that.

5 I think, hopefully, we've vetted and went
6 through a lot of the issues for most people. And
7 maybe there still is some confusion, but I think we
8 have tried to discuss this. I think the Office of
9 Planning has tried to.

10 I mean, I think it has taken a while.
11 Maybe it hasn't been quite an emergency as it has
12 been, but I think the fact that when it came up as an
13 emergency I think people thought that things were
14 being sent through without really being thought about
15 more carefully.

16 And hopefully now that we have taken a
17 little bit of time and gone through it, we have vetted
18 a lot of the issues that the community had. I mean,
19 there still I think are going to be some issues out
20 there, but --

21 CHAIRPERSON MITTEN: Well, there's a
22 fundamental disconnect. There's people, --

23 COMMISSIONER TURNBULL: Yes.

24 CHAIRPERSON MITTEN: -- as I tried to say.

25 And we're never going to --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: We're never going
2 to --

3 CHAIRPERSON MITTEN: -- get them together.

4 COMMISSIONER TURNBULL: Right.

5 CHAIRPERSON MITTEN: So, you know -- and
6 they both have merit.

7 COMMISSIONER TURNBULL: Right.

8 CHAIRPERSON MITTEN: So we struck a
9 balance.

10 COMMISSIONER TURNBULL: Right. And you're
11 right. And I think OP has tried to do exactly that.

12 CHAIRPERSON MITTEN: Yes. All right.
13 Well, if there is no further discussion, then all of
14 those in favor of the motion, which is to approve case
15 number 06-06 without the language in 401.11, please
16 say aye.

17 (Whereupon, there was a chorus of "Ayes.")

18 CHAIRPERSON MITTEN: Mrs. Schellin?

19 MS. SCHELLIN: Staff would record the vote
20 3 to zero to 2 to approve Zoning Commission case
21 number 06-06 without the language in 401.11,
22 Commissioner Mitten moving; Commissioner Jeffries
23 seconding; Commissioner Turnbull in favor;
24 Commissioner Hood not voting, having not
25 participating; and Commissioner Parsons not present,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 not voting.

2 CHAIRPERSON MITTEN: Thank you. That ends
3 our special public meeting. To allow the transition
4 of the crowd, we will take a five-minute break before
5 we go into session for the hearing tonight. Thank
6 you.

7 (Whereupon, the foregoing matter was
8 concluded at 6:45 p.m.)

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701