

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

THURSDAY

JUNE 1, 2006

+ + + + +

The Special Public Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4<sup>th</sup> Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:00 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON  
STEVE COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MARY NAGELHOUT, ESQ.

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The transcript constitutes the minutes  
from the Special Public Meeting held on June 1, 2006.

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P R O C E E D I N G S (6:18 p.m)

1  
2 CHAIRPERSON MITTEN: Good evening, ladies  
3 and gentlemen. This is a special public meeting of  
4 the Zoning Commission of the District of Columbia for  
5 Thursday, June 1st, 2006.

6 My name is Carol Mitten and joining me  
7 this evening are Vice Chairman Anthony Hood and  
8 Commissioners Mike Turnbull, John Parsons and Greg  
9 Jeffries.

10 The subject of our special public meeting  
11 is Zoning Commission Case No. 06-15, and this is a  
12 hearing action that we postponed pending some  
13 additional submissions from the Applicant, and copies  
14 of our agenda -- it's very brief -- are available to  
15 you, and they're on the table by the door.

16 I'd just like to remind folks that we  
17 don't take any testimony at our public meetings,  
18 unless the Commission specifically requests someone to  
19 come forward, and I'd also advise you that we're being  
20 recorded by the court reporter and also being Webcast  
21 live. I'd ask you to turn off all beepers and cell  
22 phones, so as not to disrupt the special public  
23 meeting, and for those of you who are here for our  
24 hearing later, we'll start the hearing as soon as  
25 we're finished with this special public meeting.

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1 Mrs. Schellin, did you have any  
2 preliminary matters?

3 MS. SCHELLIN: No.

4 CHAIRPERSON MITTEN: I'd like, if we  
5 could, since we just received the supplemental report  
6 from the Office of Planning, if we could just get a  
7 brief overview from you, since we haven't had a chance  
8 to do anything other than take a cursory look at that.

9 MR. COCHRAN: Thank you, Madam Chair. For  
10 the record, my name is Steven Cochran with the Office  
11 of Planning, and I'll just go through this  
12 supplemental report, very briefly. Essentially what  
13 I've done is taken our preliminary report and just  
14 highlighted certain sections where there were either  
15 responses from the Applicant that pertained to  
16 comments or concerns of the Zoning Commission or OP,  
17 or things that have just changed in response to some  
18 of those comments or concerns.

19 The Applicant's revised their application  
20 to respond to these concerns. They're now requesting  
21 consolidated review and approval of a 3.78 million  
22 square foot residential, retail PUD. It would now  
23 have 110-foot buildings throughout the project. None  
24 of the buildings would rise to 130 feet. There would  
25 be relief requested for providing 10 percent rather

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1 than the required 15 percent of the residential gross  
2 floor area as recreation space.

3 There would also be an associated  
4 amendment to go from CM-1 to CR, rather than the  
5 previous request from CM-1 to C3C. The Office of  
6 Planning continues to strongly support the project.  
7 OP believes the change to CR and the height reduction  
8 on New York Avenue have made the project stronger, and  
9 recommends that the Zoning Commission schedule this as  
10 a public hearing for this consolidated PUD.

11 OP believes that the supplemental material  
12 answers the concerns and questions raised by the  
13 Commission in the issues noted by OP to a level of  
14 detail that's appropriate for a set-down.

15 The site CM-1 zoning precludes residential  
16 development. The project is located, as we know, just  
17 south of Woodridge, at the intersection of New York  
18 and Florida Avenues.

19 The Applicant is requesting a PUD-related  
20 zoning to CR to permit development of a new mixed use  
21 neighborhood. The residential component would have  
22 3.5 million gross square feet and about 3800 to 4100  
23 units. The Commission had asked that the rather broad  
24 range that the Applicant had previously noted be  
25 narrowed down, so now it's down to about a 300 unit

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1 range, which is fairly small, out of about 4000 units.

2 The affordable housing is now reserved at  
3 8 percent of the GSF for the residential GSF for  
4 affordable housing. The Applicant had previously said  
5 250,000. Just before the last meeting, they had  
6 committed to 8 percent but that hadn't gotten into the  
7 written reports.

8 This would now comprise about 280,000  
9 square feet of affordable housing. The retail is the  
10 same as before. The grocery store and other retail  
11 space along New York Avenue. The open space in the  
12 private park has been reduced as a result of  
13 reconfiguration of the New York Avenue units, from 3.5  
14 acres to 3.1 acres. The recreation space is basically  
15 the same, as is the parking and loading.

16 With respect to the design, the buildings  
17 would now rise 110 feet along New York Avenue, not 130  
18 feet, and five would rise 110 feet along Bladensburg  
19 and Montana Avenue, as they had previously.

20 The skyline would vary now as there's a 20  
21 foot grade change between New York Avenue and the  
22 intersection of Bladensburg Road and Montana Avenue.

23 The Applicant also did some redesign to  
24 the face of the buildings on Montana Avenue and  
25 lightened that up. The landscape architecture and

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1 sustainable design remain essentially the same,  
2 although the Applicant has given considerably more  
3 detail on just how much of the area would be given  
4 over to landscape and to pervious surfaces. There'd  
5 be, I believe it was 2.5 acres, now to pervious  
6 surfaces. And the Applicant noted that there would be  
7 set-backs of between 28 and 35 feet along Bladensburg  
8 Road and three to eight feet along Montana Avenue--  
9 these would be landscaped--in addition to the 21 foot  
10 set-back along New York Avenue after they've already  
11 provided for the service road.

12 On page three of the report that we handed  
13 in tonight, we've given you a table that revises the  
14 zoning summary that had been in our previous report.

15 With respect to the revised application  
16 for associated zoning, the CR Zone is intended to  
17 encourage a diversity of compatible land uses, that  
18 may include a mixture of residential office, retail,  
19 recreational, light industrial and other miscellaneous  
20 uses. Development shall be guided by an approved  
21 public policy or plan, and through the use of the  
22 planned unit development, special exception, or other  
23 site plan review process. I'm quoting from section  
24 600.1 and .2 of the zoning regulations.

25 The proposed project would provide such a

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1 mix of residential and retail development through a  
2 PUD process. As I noted, the Applicant's requesting  
3 relief for residential recreation space and continues  
4 to request relief from a prohibition on multiple roof  
5 structures and roof structures of varying heights.

6 OP supports all of these above requests.  
7 If you look at section four in tonight's report,  
8 you'll see newly proposed of confirmed public  
9 benefits. Many of these had been orally suggested by  
10 the Applicant or in writing to OP through e-mails but  
11 had not been actually put in formally submitted text.  
12 So I'm just going through the ones that are new or  
13 recently confirmed.

14 The 8 percent affordable housing, there's  
15 a 60 by 70 foot public park with a fountain at the  
16 intersection of Bladensburg Road and Montana Avenue.  
17 The service road is provided along New York Avenue and  
18 there's a 21 foot sidewalk. There's a vest pocket  
19 park on New York Avenue, which overlooks the  
20 development at about its midpoint on New York Avenue.  
21 Actually, it overlooks--excuse me--the private park  
22 that is in the center of the development.

23 The allowance for Ward 5 residents to join  
24 as paying members of the 40,000 square foot Arbor Club  
25 recreational and exercise amenity. They've committed

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1 to the LSDBE and First Source Employment Program.  
2 There's an unspecified contribution to improvements  
3 and renovations of the Arboretum recreation center at  
4 24th and Rand Place. An unspecified contribution to  
5 improvements and renovation in the Washington Humane  
6 Society's animal shelter. A contribution to the  
7 support and promotion of the Friends of the National  
8 Arboretum. Support for physical improvements are put  
9 under the Langdon Elementary School, which is the  
10 inbound school for students that would be residing in  
11 this proposed development, and a commitment to the  
12 provision of shuttle bus service to Metrorail.

13 Should the case be set down, of course the  
14 Applicant would need to provide additional information  
15 before a public hearing, including the specific  
16 amounts and detailed outlines and agreements for the  
17 last five of these proposed public benefits.

18 All of the amenities and benefits of  
19 course would need to be finalized by the time of the  
20 decision meeting. And finally, on page nine, I've  
21 gone through the list of the twenty-two, which  
22 actually was only twenty-one cause we repeated  
23 ourselves one time, issues that we had listed in the  
24 preliminary report.

25 I would note that the Applicant has

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1 responded to or satisfied all of the 21 issues, to an  
2 extent that is typical for a public meeting stage.  
3 There are probably three that the Commission should be  
4 aware or, where the Applicant will need to pay  
5 particular attention.

6 They're going to need to finalize the  
7 concepts they've presented for the additional  
8 amenities and public benefits. They'll need to work  
9 very closely with DDOT on the transportation  
10 management plan and mitigation measures.

11 The transportation plan that they  
12 submitted gives about three or four pages worth of  
13 possible mitigation and demand management measures,  
14 but it doesn't specifically identify which ones that  
15 they are committing to.

16 And finally, again, the concepts and firm  
17 dollar amounts for the public benefits.

18 In summary, OP believes that the concerns  
19 that have been raised by the Commission and by OP have  
20 been sufficiently addressed for the public meeting  
21 stage in the Applicant's supplemental filings. OP  
22 supports this as a consolidated PUD and recommends the  
23 Commission set this down for public hearing.

24 Thank you.

25 CHAIRPERSON MITTEN: Thank you, Mr.

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1 Cochran. Would you address yourself to one of the  
2 main concerns that I had raised at the last meeting,  
3 and that the Applicant addressed in their Exhibit B,  
4 which has to do with the amount of density that's  
5 being proposed here for a site that's not within  
6 walking distance to a Metro station, and I mean, I've  
7 walked from Georgetown to Dupont Circle. I know that  
8 that's a special case. But West End is not, to me, in  
9 this category cause that's closer. So, you know,  
10 we're talking about quite a distance.

11 So I'm just going to generalize a little  
12 bit from the chart and say that it looks like the  
13 maximum density that's permitted in an area that would  
14 be similar to this, anywhere else in the city, with  
15 IZ, is 4.8 FAR, and here, we have 5.4 FAR being  
16 proposed. And so tell me why that's appropriate.

17 MR. COCHRAN: It's an unusual site in the  
18 ability of the Applicant to control all of the site,  
19 and to actually create something that's not likely to  
20 be createable in most other parts of the city, which  
21 is a new neighborhood. Sufficient density is needed  
22 to support all of the elements of a new neighborhood,  
23 such as the retail.

24 This doesn't displace any residential,  
25 right now. We think that it's a very good place to

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1 put this much density.

2 CHAIRPERSON MITTEN: So why haven't we  
3 done it other places? I mean, I thought that, you  
4 know if there's a planning principle, the planning  
5 principle would be that we build this kind of density  
6 in proximity to mass transit, because that's where we  
7 want to concentrate people. We don't want them to be  
8 car-dependent.

9 We want them to concentrate them where  
10 it's easier to get around. This is not one of those  
11 kinds of locations. I know there's a lot of roads  
12 that come there but it's also heavily impacted.

13 MR. COCHRAN: Right. Obviously, it's not  
14 on top of Metro. The Applicant has committed to  
15 providing regular shuttle service to either one or two  
16 best Metros, at least until Metro itself is able to  
17 provide direct connections and more of those  
18 connections. The big difference with this project  
19 again is size. You're not likely to be able to  
20 achieve this much new housing for Washington and this  
21 much new affordable housing for Washington at sites  
22 near to a Metro.

23 As many people have observed, the low-  
24 hanging fruit have been picked. This site, it seems  
25 to me, especially witness the commitments that the

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1 Applicant has made, represents a reasonable compromise  
2 between being relatively close to Metro and being a  
3 site where you can achieve the kind of quality and  
4 size of development that the Applicant is proposing.

5 Also, with the very significant  
6 contributions that it's going to make to the fiscal  
7 health of the city through the contribution of  
8 transfer taxes and income taxes, etcetera.

9 MS. STEINGASSER: If I might also add a  
10 piece, part of the unique nature of this being under  
11 the control of one individual is that they can control  
12 the traffic in a way that's different than if it were  
13 in multiple ownerships. They can take that, they can  
14 control the parking in a much larger context, and  
15 control the site circulation and how the traffic  
16 enters and leaves the site, and how it's arranged  
17 within the parking structures on a much larger area  
18 than if it were in multiple ownerships like you might  
19 find in other parts of the city where you have smaller  
20 lots.

21 Each lot has to have its own, you know  
22 subterranean parking structure and you end up with all  
23 these multiple entries and exits, creating a much  
24 worse traffic impact. In this case, they can control  
25 the entries, they can organize it in a much more

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1 unified way, which is very unique to this particular  
2 site.

3 CHAIRPERSON MITTEN: Okay. I think I'm  
4 done on that. Anyone else? Mr. Hood.

5 VICE CHAIRPERSON HOOD: Madam Chair, I  
6 just want to say in respect to the previous time we  
7 tried to consider this to be set down, and I'll say,  
8 Mr. Cochran, in your first report to me we had 22  
9 outstanding issues, and I think when I asked a  
10 question, what has been resolved and what hasn't, I  
11 can tell you in this report that we received this  
12 evening, it's very clear that a lot of work has been  
13 done in the two or three weeks, as far as I'm  
14 concerned, and this Commission is concerned, to help  
15 give me a comfort level to where I need to be moving  
16 to.

17 I've watched PUDs all over the city and  
18 they come in with half of it done and half of it not  
19 done. I think what we would have done was had a  
20 hearing which wouldn't waste the Applicant's, our  
21 time, we'd have been hashing all that stuff out for  
22 three and four hours, trying to convince them. So  
23 this gives me a comfort level, what I see here  
24 tonight.

25 Also, the amenities and public benefits is

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1 here now. It was not here, as far as I'm concerned,  
2 it was not here as far early on when we first  
3 considered this. So I will go on record and say that  
4 I really think--and this is the first time I saw  
5 evidence of this since I've been on the Zoning  
6 Commission, that the set-down rule, where we're able  
7 to give the Applicant input, it really works, and I  
8 will be in support of setting this down, depending on  
9 my other colleagues, I'm only one vote--but I will  
10 tell you that there has been tremendous strives and  
11 efforts made, at least to satisfy this Commissioner to  
12 move forward, and if I had an opportunity to do it  
13 again the exact same way, I would.

14           The only concern that I have, though, Mr.  
15 Cochran, is in one of the public amenities it says--  
16 and I don't think we can do this. I just remember  
17 this happening in another area. The allowance of Ward  
18 5 residents only--I'm not knocking it cause I live in  
19 Ward 5, I'm glad to see it here, but I just don't  
20 think we can segregate this to Ward 5, and I want to  
21 make sure that if it's set down, that the Applicant  
22 knows that it has to be for the whole city. I'm not  
23 sure now. I guess the legal counsel will be able to  
24 help me with this, but I don't think we can just say  
25 Ward 5 residents only

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1                   , and we may be getting on some shaky ground  
2 there.

3                   So I just think that we might need to  
4 rediscover that and see exactly, if you can just  
5 include Ward 5 residents only. I don't think you can  
6 do that. But other than that, I think the Applicant  
7 is listening to the concerns that I raised at the  
8 first set-down. Thank you.

9                   CHAIRPERSON MITTEN: Thank you, Mr. Hood.  
10 Anyone else?

11                   Mr. Jeffries.

12                   COMMISSIONER JEFFRIES: I just have some  
13 questions. I too believe that the Applicant has  
14 considerably moved the ball up the field from the last  
15 time we considered this application for a set-down.  
16 I have a few questions I'd like to put on the table,  
17 however. One is I just want to get a clear  
18 understanding of its affordability.

19                   I think on page eight of the Applicant's  
20 supplemental submission, under Housing and Affordable  
21 Housing, it says, "Further, as detailed above, the  
22 Applicant commits to the devotion of 8 percent of the  
23 residential gross floor area to workforce floor area."

24                   What does that mean? Do you have a sense  
25 of that? This is the supplemental submission.

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1 MR. COCHRAN: Okay. Which bullet? I'm  
2 sorry.

3 COMMISSIONER JEFFRIES: The second one  
4 that says Housing and Affordable Housing.

5 MR. COCHRAN: Honestly, it just looks to  
6 me like a typo.

7 COMMISSIONER JEFFRIES: Okay. So they're  
8 really doing affordable housing up to 80 percent.

9 MR. COCHRAN: Up to 80 percent; right.

10 COMMISSIONER JEFFRIES: Okay.

11 MR. COCHRAN: The only thing that requires  
12 clarification is the commitment and the process for--  
13 if they do wind up having rental housing in here, what  
14 would be the length of time they'd commit to for that.  
15 But that's the kind of issue that typically would get  
16 resolved between a set-down and a public hearing.

17 COMMISSIONER JEFFRIES: Okay. And so  
18 they're not proffering workforce housing in this  
19 project at all. I mean, they've stated here that they  
20 think that some of the market rate will be marketed as  
21 workforce housing but this--

22 MR. COCHRAN: No, they're committing.  
23 Okay. Let's assume that the entire project is for  
24 workforce housing because of where it is. Let's just  
25 assume that.

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1 Over time, with this proposal, 80 percent  
2 of those units will have their prices rise because the  
3 market forces will continue to increase their value,  
4 we think. Twenty percent of them--excuse me. Let me  
5 get my math correct. Ninety-two percent of them will  
6 go up. Eight percent will stay affordable for at  
7 least 20 years, and then if somebody sells before the  
8 20 year commitment period is up, then that commitment  
9 period renews itself again, just as it does with the  
10 IZ proposal.

11 COMMISSIONER JEFFRIES: Okay. So I'm just  
12 trying to get comfortable that it's a real proffer as  
13 it relates to workforce, because in this area, I might  
14 there might not be much of a difference, you know  
15 between workforce housing, which is what? 80 to 120  
16 percent of the needed income--

17 MR. COCHRAN: Right.

18 COMMISSIONER JEFFRIES: --versus exactly  
19 what could be market rate here. I mean, obviously,  
20 some of it, I mean some of the units that are on the  
21 top floor, and positioned differently will definitely  
22 be, you know a different number.

23 MR. COCHRAN: I don't have the numbers for  
24 what something would sell for here, right with me  
25 tonight. I do know that the big difference is the

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1 duration of affordability. Eight percent is  
2 covenanted at 80 percent.

3 COMMISSIONER JEFFRIES: Up to 80 percent.

4 MR. COCHRAN: Up to 80 percent, yes.

5 COMMISSIONER JEFFRIES: Okay. The other  
6 question is, I mean there's still a 300 unit gap  
7 between, you know what's being set forth in terms of  
8 residential. What accounts for that? What's the  
9 flexibility that's needed there?

10 MR. COCHRAN: I cannot answer that for the  
11 Applicant.

12 COMMISSIONER JEFFRIES: Okay. You've not  
13 had a conversation with the Applicant around that?

14 MR. COCHRAN: No.

15 COMMISSIONER JEFFRIES: I mean, it's  
16 closed but the three hundred gap is still fairly  
17 significant. Now also, the Applicant, are they  
18 proffering the delivery of a grocery store or space  
19 for a grocery store?

20 MR. COCHRAN: They're proffering space  
21 that has been designed for a grocery store and they  
22 have submitted information about the retailers with  
23 whom they have had discussions.

24 COMMISSIONER JEFFRIES: Okay. So it's  
25 possible that if, for whatever reason, if market

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1 forces are such that they cannot deliver a grocer in  
2 this space, they could come in and ask for an  
3 amendment to this PUD.

4 MR. COCHRAN: If the Commission makes this  
5 a condition, of course, that it has to be a grocery  
6 store, then they would have to come in for an  
7 amendment to that. But right now, all they're  
8 proffering is space.

9 COMMISSIONER JEFFRIES: Okay. I'm happy  
10 to see that the Applicant is looking to engage a  
11 consultant to sort of give us a sort of detailed  
12 assessment of the jobs that are going to be created,  
13 permanent and temporary. I think a lot of that  
14 information I think is in terms of some of the  
15 benefits that's going to inure to the District, is  
16 part of what drives me to, you know feeling  
17 comfortable about, you know setting this down this  
18 evening.

19 So I'm happy to see that they're looking  
20 to start to delineate that, and clearly articulate  
21 what those numbers look like.

22 I do have some concerns about the  
23 fenestration or some of these overall elevation design  
24 changes that I see. I think they're in building D and  
25 E. Those are the elevations that are long Montana

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1 Avenue. Then also, on New York Avenue, which I'm most  
2 concerned about, Building B. I can't tell, it seems  
3 like the window treatments have changed a bit, and  
4 from what is shown here in the revised design, it  
5 looks like those windows are looking punched out, and  
6 particularly along New York Avenue, I would have a  
7 fairly serious problem with that.

8 It might be just the way this is being  
9 illustrated, that it's very similar, but I just can't  
10 make the difference, because the shadows and the  
11 color, and so forth, haven't really been quite  
12 denoted.

13 So I just wanted to point that out, that  
14 that's a concern. And then the other concern that I  
15 have is that, you know I'm hoping that the Applicant  
16 can revisit the treatment of the roof lines,  
17 particularly along New York Avenue. It just seems to  
18 be a very long, horizontal line, even at 110 feet, and  
19 I understand the issues that have been set forth as  
20 relates to the kind of FAR that this Applicant needs  
21 to get, given probably the cost of assembling, and so  
22 forth, and I'm very clear on that.

23 But I'm also clear that, you know this is  
24 a gateway, this is a fairly large project, and I'm  
25 concerned that this long horizontal line here could

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1 look somewhat monotonous, and I'm hoping that we can  
2 perhaps look at some variation on this roof line, to  
3 break it down a little bit, so that it doesn't seem as  
4 if, you know, we have a fairly monolithic, straight-  
5 away design here. I think you could provide a little  
6 bit more drama as you're driving into the District on  
7 New York Avenue.

8 So those are my questions and concerns.

9 CHAIRPERSON MITTEN: Anyone else?

10 Mr. Parsons.

11 COMMISSIONER PARSONS: Well, I guess I'd  
12 pick up on what Mr. Jeffries just said. You know,  
13 they've responded to the concern that we had last  
14 time. They've lowered it by two stories. As a  
15 result, the amenity of the public space or the gardens  
16 and landscape has been reduced, because they've hadn't  
17 reduced the square footage of the project; rather,  
18 they've increased it, which is surprising to me, but  
19 that's what they did.

20 As I understand it, it used to be 3  
21 million 729 and now it's 3 million 787. So I think  
22 what we expected was a reduction in density as well  
23 and that didn't happen. It was just a height  
24 reduction.

25 So now we still have this continuous

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1 uninterrupted roofline, which needs to be articulated.  
2 I'm also concerned, that although we've got some  
3 commitment to give money to the Arboretum and the  
4 Humane Society, and the Friends of the Arboretum, and  
5 so forth, there's no monetary commitment here, and I  
6 don't mean on a specific, I'll give this to them and  
7 this to them. But are we talking a million? Three  
8 million? What's the range here?

9           So I am not comfortable with the  
10 consolidated PUD at this point. I just think we're  
11 still grappling with what we really need to do with  
12 this project and not rush it through as a  
13 consolidated. So that's where I am, is we're ready  
14 for first-stage PUD and I know we have the right, or  
15 in our regulations, we have the right to change, if we  
16 set it down for consolidated and we get halfway  
17 through, we can say no, but I think my sense at this  
18 point is we're not ready for a consolidated PUD.

19           CHAIRPERSON MITTEN: Thank you, Mr.  
20 Parsons.

21           Mr. Turnbull.

22           COMMISSIONER TURNBILL: Thank you, Madam  
23 Chair. I think you've all touched on some of the same  
24 points that I had, and I would agree with Mr. Hood, it  
25 looks like they've done a lot of work and I commend

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1 them for that. But I think when you go back, and as  
2 Mr. Jeffries first pointed out, when you look at the  
3 elevations, they show the reduced height as compared  
4 to the old elevations, but when they go to show you  
5 the new--they introduced these new elevations which  
6 are, unfortunately just in black and white, and so  
7 when you look at them it reads very monolithic. It  
8 reads like you're building a wall, and I think there's  
9 a sensitivity, that we can't, at least I can't really  
10 tell that you're introducing for at least a  
11 residential area, that this really picks up. I mean,  
12 you could see it in the early elevations.

13 Again, they are not varying the rooflines  
14 at all, there is a sameness to it, and I think it's  
15 more accentuated when they've done it now, and I think  
16 that that's a little troubling. And I would share  
17 your concern, too, about the density, and Mr. Parsons'  
18 note, that although it's been reduced, the density is  
19 still the same.

20 I get the feeling the sense is build it  
21 and the infrastructure will come. But I don't know if  
22 that's the rational approach. I think we have to be  
23 certain that people here can definitely have  
24 transportation. So I share your concern about how  
25 that ties together, and I would agree with Mr. Parsons

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1 on the changing it from consolidated.

2 CHAIRPERSON MITTEN: Maybe just to circle  
3 back around, I feel pretty strongly that we're still  
4 at a first-stage PUD here, because at least for me, I  
5 have some of these fundamental concerns,  
6 notwithstanding the Office of Planning's explanation  
7 for why this is appropriate, and I think it's a valid  
8 point to say that, you know the traffic can be  
9 controlled in a different way because of the amount of  
10 land that's in a single ownership here.

11 But we haven't seen a lot of traffic  
12 analysis yet on this project, and I really don't want  
13 this to become almost like a suburban kind of  
14 development, and I also am concerned that it's going  
15 to be isolated, an island of development in an area  
16 that is going to have a different character than this  
17 triangle will have.

18 And so, you know I really need more  
19 convincing that density in excess of, you know four  
20 and a half or 4.8 FAR is appropriate here.

21 I agree with Mr. Parsons' point that, you  
22 know, I think we have to have a better sense of the  
23 order of magnitude of the amenities that are being  
24 proffered, and I think also that I want to be real  
25 clear about my concerns, so that we don't, if we get

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1 into it, as we have done in certain instances, and  
2 changed up, I don't want to change up midway through.

3 You know, they're asking for, they need  
4 some certainty, and they want more probably than I'm  
5 willing to give them, but I want to give them--I don't  
6 want to mislead them about where my head is at, and,  
7 frankly, you know one a the things that Mr. Cochran  
8 was advocating for is that we look at the benefits of  
9 the project itself as a compelling reason to grant  
10 this kind of density, and one of the kind of themes  
11 that has been coming at us in subtle ways is because  
12 we've expressed this very strong desire to--the  
13 Commission, as a whole, has expressed a couple of  
14 strong desires.

15 Over a longer period of time, we've  
16 expressed a desire for housing, where those  
17 opportunities present themselves, and more recently,  
18 we've expressed our desire to have affordable housing  
19 where the opportunities present themselves, and in  
20 some cases that becomes, you know almost like an  
21 overriding justification for why an Applicant should  
22 get what they want.

23 It still has to make sense from, you know  
24 a land use perspective and a contextual perspective,  
25 and so I just am not convinced yet. The proposal

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1       itself does not provide sufficient justification to  
2       me, to grant the kind of density that's being  
3       proposed.

4               So I'm willing to set the case down with  
5       all of the concerns that I've tried to articulate, so  
6       that we can sort out what is the appropriate amount of  
7       density, what is the appropriate amount of height, how  
8       should these things be massed, before we start talking  
9       about--and, you know I'm not meaning to minimize your  
10      concerns, but fenestration and some of the finer  
11      details.

12             I'm not ready to have that kind of a  
13      discussion yet.

14             Other Commissioners?

15             COMMISSIONER PARSONS: I don't know if I'm  
16      necessarily on board with you guys about the first and  
17      second stage PUD. I will be realistic, as someone who  
18      lives in the area, and when you look at that area--and  
19      I'm not saying that this pertains to zoning--but from  
20      a citizen's standpoint, when you look at that area,  
21      we're talking about density and the facade. Right  
22      now, the only thing we have--and this is naturally  
23      much better than what we have now because right now  
24      the density is prostitutes from New York who walk up  
25      and down New York Avenue, we have pimps who come in,

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1 and I think that's disenfranchising those who live in  
2 Ward 5 and in that area. So taking a step back and  
3 looking at as far as trying to expedite or trying to  
4 move something forward to get it done, I think that if  
5 we looked at it as a consolidated PUD, I think that  
6 the Applicant has the concerns that all of us have,  
7 and I think they're going to come in here with those  
8 amounts that need to go a certain place, in a certain  
9 place, because the reason I'm confident is because  
10 they heard what this Commission said previously. And  
11 what actually are we going to get out of it in the  
12 first-stage PUD as opposed to a consolidated PUD,  
13 except for time?

14 I mean, that's just where I am. I may be  
15 in a minority but that's where I am. I think we can  
16 start off with a consolidated and, if not, the  
17 Applicants, they're here to here us, we may have to go  
18 back to the first-stated PUD. So I don't know if I  
19 agree with those last few comments that I heard.  
20 Thank you.

21 CHAIRPERSON MITTEN: Thank you, Mr. Hood.  
22 Anyone else?

23 COMMISSIONER JEFFRIES: Maybe I missed it  
24 but did the Applicant respond to our questions around  
25 whether this should be consolidated, or two stage/

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1 I'm sorry if I missed it in what they put forward.

2 MR. COCHRAN: I don't believe I noticed  
3 anything either.

4 COMMISSIONER JEFFRIES: Okay.

5 MR. COCHRAN: We certainly, you know have  
6 absolutely no problem with it.

7 COMMISSIONER JEFFRIES: Well, you know  
8 once again, Madam Chair, I mean, I clearly understand  
9 your concerns, and this whole business of sort of  
10 balancing, you know land use needs and planning needs  
11 with, you know economic development needs, and, you  
12 know I find myself on this Commission in this tough  
13 place all the time, you know, because I mean we do  
14 need more housing. We need more retail.

15 There's a lot of things that are needed  
16 and I do think that those economic development issues  
17 are, quite frankly, very persuasive and compelling to  
18 me, that we should move forward on this.

19 I think that we could spend a considerable  
20 amount of time giving them, as you say, more refined  
21 comments, but maybe, in fact, larger comments that,  
22 you know they can address, you know during an actual  
23 hearing.

24 I think that this Applicant has done a  
25 considerable amount of work and also in a short amount

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1 of time.

2 I too have concerns about the size and  
3 scale of this, and that we should be more thoughtful  
4 as we approach it. But it seems to me that this  
5 development team has sort of stepped up to the plate  
6 in this sort of Herculean fashion, to move this  
7 project forward, which is going to be terribly  
8 catalytic in terms of economics, and I think we can  
9 really start to address, you know some of, as you say,  
10 the basics, you know within the confines of a  
11 consolidated PUD at a hearing.

12 So with some concern, going forward, I  
13 would be willing to set this down tonight as a  
14 consolidated PUD, with all the concerns that I have.  
15 That's where I'm at.

16 CHAIRPERSON MITTEN: Thank you, Mr.  
17 Jeffries.

18 Mr. Parsons.

19 COMMISSIONER PARSONS: Well, the clear  
20 signal, from a consolidated PUD set-down is we're  
21 talking about details. We're not talking about, Is  
22 this too dense? Is this too big? I'll compare it  
23 with Parkside, which is a very similar project on the  
24 other side a town, but very similar. Where did this  
25 kind of density come from? Forget the fact that it's

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1 across the street from Metro.

2 But it was the same issue. Are we  
3 developing this anomaly in our, quote, suburbs of this  
4 city?

5 So if we're willing to set down a  
6 consolidated PUD, it means to the Applicant. We're  
7 worried about facades, we're worried about  
8 landscaping, we're worried about amenities. We're  
9 worried about that. We're not worried about the fact  
10 that it's so many million square feet and maybe isn't  
11 right for this site.

12 So at least that's what it means to me.  
13 The two step versus the first step is we still need to  
14 take a look at the basic project.

15 So I don't know how you feel, but I'm  
16 still wanting to look at the basic project.

17 CHAIRPERSON MITTEN: I want you to hold  
18 your thought. I'm just saying that I think that's a  
19 very appropriate way of sort of dividing, okay, when  
20 are we in first-stage mode and when are we in  
21 consolidated mode? I just wanted to reinforce, that  
22 I think Mr. Parsons has captured the essence of the  
23 difference. Go ahead. I'm sorry.

24 COMMISSIONER JEFFRIES: I clearly  
25 understand the difference between the basics versus

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1 refinements. I think the concern I have is  
2 predictability in the process and I'm just a bit  
3 concerned here, that we spoke, you know, not at great  
4 length, but we did have discussions about--in fact, I  
5 think I asked the question, Should this be a  
6 consolidated or a two-step PUD? We had some  
7 discussion here. It's quite unfortunate that the  
8 Applicant didn't want to, you know really step on that  
9 and address it, in totality. But I think that they  
10 have put a considerable amount of time--I think  
11 they've operated and worked in good faith here, in  
12 terms of trying to address many of the concerns that  
13 we had.

14 We talked quite a bit about building  
15 height. Perhaps the transcript will show that we  
16 talked a lot about density as well, and FAR. But I  
17 think that this Applicant has spent a considerable  
18 amount of time really dealing with the issues around  
19 refinement and addressing some of the basics, and the  
20 basics, one of the basic was this is perhaps too tall.

21 So I hear what my colleagues are saying  
22 here but I'm just a little concerned about how we are  
23 communicating some of our concerns to this Applicant,  
24 because I think this Applicant has, quite frankly, has  
25 moved, you know rather quickly through addressing a

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1 lot of our issues, and I think if the issue was going  
2 to be--Listen, I think this will need to be a two-step  
3 PUD, then I don't know if we would be here today, you  
4 know and I don't think we gave the Applicant that kind  
5 of information three weeks ago. That's the concern I  
6 have.

7 VICE CHAIRPERSON HOOD: I have a question.

8 CHAIRPERSON MITTEN: Yes?

9 VICE CHAIRPERSON HOOD: And Mr. Parsons  
10 brought up Parkside. Did we do that in a two-stage  
11 PUD?

12 CHAIRPERSON MITTEN: The first stage is  
13 what's before us.

14 VICE CHAIRPERSON HOOD: Okay. Well, then  
15 I'd better not say anything on that. I was going to  
16 add something but since it's in front of us, I'll  
17 withdraw what I was going to say.

18 COMMISSIONER TURNBILL: Madam Chair.

19 CHAIRPERSON MITTEN: Mr. Turnbull.  
20 Please.

21 COMMISSIONER TURNBILL: I wonder if we  
22 could just--what are we trying to achieve? I mean,  
23 we've got a significant project. Is density our main  
24 concern? Is that where we're really going on all of  
25 this/ I mean, there's infrastructure. I mean, I'm

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1 concerned about how this thing survives out there with  
2 all these people trying to get back and forth and not  
3 making a suburban--we have all these cars. But I  
4 guess we've got to decide what's the primary thing we  
5 want to do.

6 Are we concerned about density? Do we  
7 want the Applicant to go back and revisit that? And  
8 do we need to say that? I mean, I don't know what the  
9 consensus is of all of us now, where we're going.

10 CHAIRPERSON MITTEN: That's a very good  
11 point. I hope I've been clear, that I have an issue  
12 with it, and I believe Mr. Parsons has an issue with  
13 it. I don't know to what extent Commissioner Jeffries  
14 has an issue with it, although I think I heard some  
15 concern, I couldn't weigh it, relatively, and I  
16 haven't heard that concern from Mr. Hood.

17 VICE CHAIRPERSON HOOD: Let me just go on  
18 record. The issues that I raise have been addressed.

19 CHAIRPERSON MITTEN: Okay.

20 COMMISSIONER JEFFRIES: Well, let me say  
21 this. I am concerned about a suburban look, and I'm  
22 on record for saying this is a large-scale  
23 development. So I think we need to move, you know  
24 rather carefully through the process.

25 But, you know we're talking about 5.4. I

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1 mean, maybe the number can be 5.0. I don't know what  
2 that number looks like and what the density is, but,  
3 you know my concerns I think can be addressed through  
4 a consolidated PUD. So I think I don't have the same  
5 level of distance that the two of you have as it  
6 relates to density.

7 CHAIRPERSON MITTEN: Okay. So the  
8 magnitude of the concern is less on your part.

9 COMMISSIONER JEFFRIES: Yes; yes.

10 CHAIRPERSON MITTEN: But just to carry  
11 that forward a little bit, one of the things that you  
12 expressed--and I'm not trying to challenge you, I'm  
13 just trying to sort of flesh all this out--is  
14 predictability. And so one of the things I believe is  
15 true from--that Mr. Parsons said--is that we do send  
16 a signal when we set down a consolidated PUD, that we  
17 are dealing with finer points. So we don't have big  
18 concerns, concerns perhaps on the order of magnitude  
19 that you have about density types of things.

20 But I think the concern that you're  
21 hearing from at least three of us is to be  
22 predictable, we don't want to send a signal by setting  
23 down a consolidated PUD, that we don't have a  
24 significant concern about density, which is why we  
25 have this difference of opinion about first stage

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1 versus consolidated. That was just an explanation.  
2 That's really not meant to try and convince you of  
3 anything.

4 COMMISSIONER JEFFRIES: Again, and maybe  
5 I am not being quite eloquent here, but I am not  
6 certain, we had considerable discussion, three weeks  
7 ago, on this dias, about whether this should be a  
8 consolidated PUD or a two step. I remember starting  
9 the questioning off, I asked the question, I think  
10 perhaps, Madam Chair, you spoke, and what I'm saying  
11 is that if we felt so strongly, three or four of us--  
12 and the transcript might in fact say that everyone  
13 said that. I don't recall that.

14 And so in terms of predictability, that's  
15 all I'm speaking of.

16 COMMISSIONER PARSONS: There was no reason  
17 to say that. What we said is this project is too big,  
18 too dense, too tall. I think that's what we said.

19 COMMISSIONER JEFFRIES: Yes.

20 COMMISSIONER PARSONS: Come back. So what  
21 they've done is they've taken two floors off the  
22 building and spread more square footage out on to the  
23 site. So they haven't responded to us. Yes, they've  
24 responded to the issue of it's too tall, but they  
25 haven't responded to the issue--as a matter of fact

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1 they've increased the square footage. So that's what  
2 I have trouble with. It's still too dense, and  
3 they've reduced the amount of open space that existed  
4 in this place two weeks ago.

5 COMMISSIONER JEFFRIES: I only wish that  
6 three weeks ago, this Commission said, from this dias,  
7 that listen, this is too tall, this is too dense, and,  
8 quite frankly, because these issues are so incredibly  
9 basic, and not dealing with refined issues, that then  
10 perhaps we won't be really probably looking at this as  
11 a consolidated PUD.

12 I guess what I'm saying is I'm feeling  
13 like we have, three weeks later, sort of, you know  
14 tightened our grip here.

15 CHAIRPERSON MITTEN: Can I just interject  
16 something--

17 COMMISSIONER JEFFRIES: Sure.

18 CHAIRPERSON MITTEN: --cause I actually  
19 have a pretty good memory of this particular subject,  
20 because we were trying to give direction to the  
21 Applicant, and I had asked, I think it was near the  
22 end of our conversation, of our deliberation on this,  
23 whether or not we wanted to say now, or three weeks  
24 ago, say then whether or not we wanted this as a first  
25 stage or a consolidated, and the consensus of the

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1 Commission was we don't know right now, because we  
2 don't know what the Applicant will come back with  
3 after hearing our comments.

4 And I thought, well, that makes sense,  
5 because if they deal with these fundamental things  
6 that trouble us, then maybe we could do consolidated.  
7 So it was still an open issue, depending on the  
8 response from the Applicant, and now that we have that  
9 response, and we're--I mean, everybody's ready to set  
10 something down, which I think is positive. But you  
11 have at least some of us that haven't received enough  
12 accommodation from the Applicant to deal with these  
13 fundamental issues, that we're ready to go to a  
14 consolidated.

15 So now we're saying, well, now that we've  
16 got the response, you know we're in the first stage  
17 camp versus the consolidated camp.

18 So I don't think there was any sense that  
19 we were all okay with consolidated and we really  
20 hadn't fleshed this out. I think we agreed it was  
21 premature at the time.

22 COMMISSIONER JEFFRIES: I certainly didn't  
23 say that we all, you know said that we were all okay  
24 with consolidating.

25 CHAIRPERSON MITTEN: No.

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1                   COMMISSIONER JEFFRIES: I mean, it's just  
2 that I don't think we were--we gave clear direction  
3 that--and you're right, I do recall what you said,  
4 that, you know let's just hold off and see where this  
5 goes, or something like that.

6                   So I recall that. But, again, I really  
7 will say that, you know it's just the process, it's  
8 just a bit unfortunate, and even it's unfortunate that  
9 the Applicant, unless I missed it, didn't really try  
10 to perhaps talk about--or actually, probably really  
11 wouldn't have made any difference, now that I think  
12 about it because, you know, it probably would have had  
13 to have shown, just in terms of how they addressed the  
14 building height and FAR, and so forth and so on.

15                  VICE CHAIRPERSON HOOD: Madam Chair, if I  
16 can just say, again, this applicant came back, they've  
17 made tremendous strides, none of us are disagreeing on  
18 that, and maybe I'm at a selfish standpoint, somehow,  
19 because my issues were addressed, and maybe that's not  
20 the way to look at it, but I think that to say that  
21 the Commission, at this point, thinks it needs to be  
22 a first-stage PUD, is not accurate, exactly correct,  
23 and I'm not saying you said that. But I think it  
24 needs to be clear that some of the Commissioners think  
25 that there needs to be a first-stage PUD.

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1           But also it was not proper for us to move  
2           in this fashion, to be consolidated, and then, as we  
3           get into the hearing, to say, well, we're going to  
4           make a first stage. That rule would have never been  
5           put in place, if it was not doable. Obviously,  
6           there's a track record. Obviously, it's been done  
7           before.

8           And the way they responded here, which  
9           gives me a comfort level of making this a consolidated  
10          PUD. Case in point. No, it is not around a Metro  
11          station, but I learned now, and it may have been  
12          earlier, cause I was focused on so many other things,  
13          that now we talk about Metro redirecting and having a  
14          bus line.

15          So, yes, we do have major transportation,  
16          public transportation going into that area, which some  
17          goes now, and New York Avenue, I mean you go out New  
18          York Avenue, you hit the Beltway, you go out 50. I  
19          know we're trying not to--more cars, but, you know  
20          we're going to have parking, we going to have cars.  
21          So I have a comfort level of Metro being able to go  
22          into that site and being able to transfer people in  
23          and out of that site and in the community, and to the  
24          Metro stations.

25          So I'm in favor of doing a consolidated

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1 PUD, and then if you guys, we get to that point, then  
2 we break it out then. I think we send that clear  
3 message. But then they know that that's an option and  
4 I believe they will come back with something similar  
5 to what we have here tonight. That's where I stand.

6 CHAIRPERSON MITTEN: Okay. Anyone else  
7 have anything that hasn't been said already?

8 COMMISSIONER TURNBILL: No. Again,  
9 talking about sending signals, I don't want to send a  
10 signal to them that if--you know. And I'm not opposed  
11 to going with a consolidated either. I just want to  
12 feel that we're going to get somewhere at the end of  
13 this, that we feel is right for the site and right for  
14 the neighborhood. I'd hate to agree to something and  
15 then come back later, and it's not working right, and  
16 because we thought we could stop it and correct it as  
17 we go down the road.

18 I don't know how we get those guarantees.  
19 I think it'd be a wonderful development. A  
20 development in that area is needed. But I think we  
21 need to structure, so that we know it's going to work  
22 for that part of the city.

23 And if there's only one bus going down  
24 there every couple a hours, it's not going to be  
25 enough.

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1 I mean, I just need to feel that if--and  
2 again--if we want to go consolidated, I'm not opposed  
3 to it, if we want to set it down. But the Applicant's  
4 going to realize that I'll be sitting back, waiting to  
5 change it to a first stage if I feel things aren't  
6 going to be going ahead right.

7 I'm just really concerned that we're  
8 building something that may not be as viable as we  
9 think. I mean, I think we all want to get something  
10 done, we think it's good for the neighborhood, but I  
11 think we want to have some reassurances that it's  
12 going to go forward in a sensible way.

13 CHAIRPERSON MITTEN: Okay. Mr. Jeffries,  
14 last point.

15 COMMISSIONER JEFFRIES: I appreciate your  
16 comments, Commissioner Turnbull. I think, you know  
17 where we're at at this point is really finding out if  
18 there is a process that, you know, could be beneficial  
19 both to the Zoning Commission as well as the Applicant  
20 as relates to this project.

21 This is a huge, mammoth project that is so  
22 incredibly catalytic. I mean, there's only so few  
23 projects in the city that could speak to this level of  
24 housing, retail, and, Madam Chair, I clearly  
25 understand this concern about sort of having a build-

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1 up, not close to a Metro station. I got it. I  
2 understand it. In fact I think their Exhibit B didn't  
3 really help their case out much.

4 But I think that, again, I really would  
5 like to give this Applicant sort of the benefit of the  
6 doubt, and, again, we have, in our process here, the  
7 Zoning Commission, we could do a lot of things up  
8 here, just as what Vice Chair Hood has said, we could  
9 just choose to vote it down. You know we can deny it,  
10 I mean, at some point, after a hearing.

11 But I think we've had enough conversation  
12 and discussion up here, we've sent many signals to  
13 this Applicant and I would just really like to see  
14 this Commission provide this Applicant the benefit of  
15 the doubt, with all the comments that we've given, and  
16 see where this goes, and not slow them down. This is  
17 a large-scale project, and I think again, we have a  
18 number of tools at our disposal, the Zoning  
19 Commission, in order to, you know put the number of  
20 stopguards on this, if this thing is getting out of  
21 control. And so that's where I'm at.

22 CHAIRPERSON MITTEN: Thank you,  
23 Commissioner.

24 VICE CHAIRPERSON HOOD: Madam Chair, let  
25 me just correct something that my colleagues said.

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1 Vice Chair Hood didn't say vote it down. What Vice  
2 Chair Hood said was we can get to a point and if we  
3 decide to move it to consolidated PUD, we can get to  
4 a point and then make it a first stage, and then a  
5 second stage, at that point, if we were to vote  
6 tonight to make it consolidated. I just want to make  
7 sure the record was clear.

8 COMMISSIONER JEFFRIES: Oh, okay.

9 VICE CHAIRPERSON HOOD: This is in my  
10 neighborhood.

11 CHAIRPERSON MITTEN: Okay. I move  
12 approval of Zoning Commission Case No. 06-15 for a  
13 set-down as a first-stage PUD.

14 COMMISSIONER PARSONS: Second.

15 CHAIRPERSON MITTEN: Is there any further  
16 discussion?

17 [No response]

18 CHAIRPERSON MITTEN: All those in favor,  
19 please say aye.

20 [Chorus of ayes]

21 CHAIRPERSON MITTEN: All those opposed,  
22 please say no.

23 Any abstentions?

24 Mrs. Schellin, if you heard everybody--

25 MS. SCHELLIN: I'm not sure I did. I

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1 believe we have three to zero to two, to set it down  
2 as a first stage. Is that--

3 CHAIRPERSON MITTEN: Mr. Turnbull, how do  
4 you vote?

5 COMMISSIONER TURNBILL: Aye.

6 CHAIRPERSON MITTEN: Mr. Hood, how do you  
7 vote?

8 VICE CHAIRPERSON HOOD: First stage. Aye.

9 CHAIRPERSON MITTEN: I voted aye.  
10 Mr. Parsons?

11 COMMISSIONER PARSONS: Aye.

12 CHAIRPERSON MITTEN: Mr. Jeffries.

13 COMMISSIONER JEFFRIES: Okay.

14 CHAIRPERSON MITTEN: You have a choice of  
15 aye, nay, or--

16 COMMISSIONER JEFFRIES: Madam Chair, I  
17 know that.

18 CHAIRPERSON MITTEN: Okay.

19 COMMISSIONER JEFFRIES: I want to make a  
20 different motion.

21 VICE CHAIRPERSON HOOD: We can do that too  
22 but--

23 CHAIRPERSON MITTEN: We have to vote on  
24 the motion that's before us.

25 COMMISSIONER JEFFRIES: Okay. Aye.

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1 CHAIRPERSON MITTEN: Okay. We have a  
2 unanimous vote in favor of the--

3 MS. SCHELLIN: The Zoning Commission, the  
4 staff would record the vote five to zero to zero to  
5 set down Zoning Commission Case No. 06-15 as a first-  
6 stage PUD, Commissioner Mitten moving, Commissioner  
7 Parsons seconding, Commissioners Turnbull, Hood and  
8 Jeffries in favor.

9 CHAIRPERSON MITTEN: thank you.

10 VICE CHAIRPERSON HOOD: Madam Chair, I  
11 would move that we set Zoning Commission Case No. 06-  
12 15 down as a consolidated PUD and I ask for a second.

13 COMMISSIONER JEFFRIES: Second.

14 CHAIRPERSON MITTEN: Any discussion on the  
15 motion?

16 All those in favor, please say aye.

17 [Chorus of ayes]

18 CHAIRPERSON MITTEN: Those opposed, please  
19 say no. No.

20 Mrs. Schellin.

21 MS. SCHELLIN: Staff will record the vote  
22 two to three to zero to set down Zoning Commission  
23 Case No. 06-15, Commissioner Hood moving, Commissioner  
24 Jeffries seconding, Commissioners Turnbull, Mitten and  
25 Parsons opposed. Therefore, the motion does not pass.

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1 VICE CHAIRPERSON HOOD: Madam Chair, I  
2 have a question. Did Mr. Parsons--did you vote again  
3 it?

4 CHAIRPERSON MITTEN: Yes; he did.

5 COMMISSIONER PARSONS: Against your  
6 motion? Yes.

7 VICE CHAIRPERSON HOOD: Yes.

8 CHAIRPERSON MITTEN: Okay. Any other  
9 motions before we move on?

10 [No response]

11 CHAIRPERSON MITTEN: Okay. Thank you.  
12 The special public meeting is adjourned.

13 [Whereupon, the special public meeting was  
14 adjourned at 7:14 p.m.]

15 MS. PRINCE: Chairman Mitten, I this case--  
16 -Allison Prince speaking on behalf of the Applicant--a  
17 first-stage approval is tantamount to a denial, so I  
18 would appreciate an opportunity to address this  
19 Commission, to explain the reasons why a first-stage  
20 approval is tantamount to a denial.

21 I would really appreciate your time on  
22 this issue.

23 Mr. Jeffries said he wanted more  
24 discussion on the issue. We poured over the  
25 transcript carefully. We thought we addressed every

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1 issue, we left that issue unaddressed, and it is  
2 tantamount to a denial of this case.

3 CHAIRPERSON MITTEN: I'm going to ask you  
4 to just sit tight for a minute. We're going to  
5 convene with our lawyer in the back to see if this is  
6 appropriate. Thank you.

7 [Off the record at 7:15 p.m. to allow  
8 Commissioners to confer]

9 CHAIRPERSON MITTEN: I feel that I need  
10 to reconvene since I had already adjourned it. We've  
11 consulted with our attorney and this does not  
12 constitute a denial, and it's, as I said the last time  
13 that we met, that we have this policy that's becoming  
14 increasingly important to us, that we maintain it,  
15 that we don't allow people to speak at our special  
16 public meetings.

17 As you had the opportunity because you had  
18 heard the conversation that the Commission had at our  
19 last discussion on set-down, that we were uncertain  
20 about whether or not we would take this up as a first  
21 stage or a consolidated, and it would have been  
22 preferable to have you, if there was such a compelling  
23 reason, that it not be treated as a first-stage PUD,  
24 that that be articulated clearly for the Commission,  
25 so that we could have taken it up.

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1           The opportunity remains for you to make a  
2           submission to the Commission that we could consider,  
3           we could take it up, either at our June meeting, or at  
4           a special public meeting, if you wanted to submit  
5           something. But the consensus of the Commission is  
6           that we want such a submission in writing.

7           MS. PRINCE: Thank you for your time.

8           By way of clarification, are you saying  
9           that the record would remain open to accept a  
10          submission of that nature from the Applicant, and that  
11          you would refer the right to revisit tonight's  
12          decision after receiving such a submission? You just  
13          don't want me to talk.

14          CHAIRPERSON MITTEN: That's right.

15          MS. PRINCE: Okay.

16          CHAIRPERSON MITTEN: Thank you. Now we're  
17          adjourned.

18          [Whereupon, at 7:27, the matter was  
19          adjourned.]

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