

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

MAY 9, 2011

+ + + + +

The Regular 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 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman  
GREG SELFRIDGE, Commissioner  
MICHAEL G. TURNBULL, FAIA,  
Commissioner (OAC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON  
ARLOVA JACKSON

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

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular meeting held on May 9, 2011.

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

Proposed Action  
Z.C. Case No. 05-28E  
Lano Parcel 12, LLC and D.C. Primary Care  
Association - PUD Modification at Square  
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Hearing Action  
Z.C. Case No. 11-10  
Office of Planning - Map Amendment at Square  
553, 554 and 554W  
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1 P-R-O-C-E-E-D-I-N-G-S

2 6:34 p.m.

3 CHAIRPERSON HOOD: This meeting  
4 will please come to order. Good evening,  
5 ladies and gentlemen.

6 This is the May 9, 2011 public  
7 meeting of the Zoning Commission of the  
8 District of Columbia. My name is Anthony  
9 Hood. Joining me are Commissioner Selfridge  
10 and Commissioner Mike Turnbull. We're also  
11 joined by the Office of Zoning staff, Ms.  
12 Sharon Schellin and Ms. Donna Hanousek, Office  
13 of Attorney General, Mr. Ritting. Also, the  
14 Office of Planning, Mr. Lawson and Ms.  
15 Jackson.

16 Copies of today's meeting agenda  
17 are available to you and are located in the  
18 bin near the door.

19 We do not take any public  
20 testimony at our meetings unless the  
21 Commission requests someone to come forward.

22 Please be advised that these

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1 proceedings are being recorded by a court  
2 reporter and is also webcast live.  
3 Accordingly, we must ask you to refrain from  
4 any disruptive noises in the hearing room.  
5 Please turn off all beepers and cell phones.

6 Does the staff have any  
7 preliminary matters?

8 MS. SCHELLIN: Yes, sir. Staff  
9 has one just to advise that staff has one item  
10 to add under correspondence. When we get to  
11 that section it will be for Zoning Commission  
12 No. 05-28B.

13 CHAIRPERSON HOOD: Okay. Thank  
14 you, Ms. Schellin. Let's go right into  
15 proposed actions. Zoning Commission Case No.  
16 05-28E. That's Lano Parcel 12, LLC and D.C.  
17 Primary Care Association, PUD modification at  
18 Square 5055.

19 Ms. Schellin?

20 MS. SCHELLIN: Yes, sir.  
21 Commissioner May has been delayed. His flight  
22 is not going to arrive in time to be here this

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1 evening. He has requested that the Commission  
2 defer action on this case so that he can  
3 participate this evening and he'd like to have  
4 the Commission defer action to our May 23rd  
5 meeting so he can participate.

6 CHAIRPERSON HOOD: Okay. Okay,  
7 Commissioners. I think this whole process in  
8 this case of 05-28E is very important on how  
9 we proceed and I would be inclined to defer  
10 action as requested by our colleague, who I  
11 think brings a lot of expertise into this;  
12 while we may not agree with it, but I think it  
13 brings a lot of it into this. And I would  
14 prefer, Commissioners, that we delay this  
15 until the 23rd of May.

16 He wasn't at the Hawks game last  
17 night?

18 MS. SCHELLIN: I'm not sure, but I  
19 just know that he did call me from the airport  
20 late this afternoon and made that request. He  
21 was held up.

22 CHAIRPERSON HOOD: Okay. So,

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1 Commissioners, let's just deal with that on  
2 the 23rd of May. And I apologize to anyone  
3 who came down for that particular case.

4 Next hearing action, Zoning  
5 Commission Case No. 11-10, Office of Planning,  
6 map amendment at Squares 553, 554 and 554W.

7 Ms. Jackson?

8 MS. JACKSON: Good evening, Chair  
9 and Commissioners. For the record, my name is  
10 Arlova Jackson with the Office of Planning.

11 The case before you is a map  
12 amendment brought forth by the Office of  
13 Planning on behalf of the Office of Public  
14 Education Facilities Modernization.

15 The proposed amendment would  
16 rezone the existing Dunbar Senior High School  
17 campus from R-4 to R-5-B. The subject  
18 property is located at 1301 New Jersey Avenue,  
19 N.W., roughly bounded by New Jersey Avenue on  
20 the west, P Street on the north, 1st Street on  
21 the east, and N Street on the south. The  
22 property is currently improved with an eight-

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1 story school building, playing fields and  
2 surface parking areas. The property owner  
3 would like to redevelop the site with a new  
4 school building and a relocated ball and  
5 playing fields.

6 The proposed map amendment would  
7 allow for additional flexibility with regard  
8 to the site and building design. The new  
9 structure is proposed to be shifted to the  
10 southeast portion of the site along 1st and N  
11 Streets. The R-5-B Zone, a moderate-density  
12 residential zone, would allow increased  
13 building height and lot occupancy for public  
14 school use. While the school campus itself is  
15 identified as a public facilities use in the  
16 2006 Comprehensive Plan, the future land use  
17 designation for the immediately adjacent  
18 properties is shown as moderate-density  
19 residential.

20 The Applicant also asks the Zoning  
21 Commission to hear a request for variance  
22 relief from off-street parking requirements.

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1 The proposed school redevelopment project  
2 would provide 74 of the required 253 parking  
3 spaces which would accommodate all faculty and  
4 staff parking, but eliminate the 179 spaces  
5 required for the gymnasium.

6 The Office of Planning finds that  
7 the proposed map amendment is not inconsistent  
8 with the 2006 Comprehensive Plan in that it  
9 will help facilitate the redevelopment of the  
10 Dunbar Senior High School campus and supports  
11 policies and objectives found in the framework  
12 land use and educational facilities elements.

13 The proposed project would  
14 consolidate and reconfigure the school  
15 building and playing fields to help limit  
16 their impact on surrounding residential areas  
17 and the proposed zone, which is designed to  
18 accommodate a wide range of residential and  
19 institutional uses would be applied to an area  
20 anticipated to remain a local public facility  
21 and surround it by low to moderate-density  
22 residential.

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1           OP recommends that the requested  
2 map amendment be set down for a public hearing  
3 and our staff report would serve as the  
4 prehearing statement.

5           And finally, after discussing it  
6 with the Office of the Attorney General, we  
7 would agree that in light of the request for  
8 variance relief it should be treated as a  
9 contested case.

10           Thanks. And I'll take any  
11 questions you have at this time.

12           CHAIRPERSON HOOD: Okay. Thank  
13 you, Ms. Jackson.

14           Commissioners, any questions?

15           COMMISSIONER TURNBULL: I just had  
16 one. I mean, basically there's no more land.  
17 They're confined to their site. And so  
18 they're going to be going up --

19           MS. JACKSON: Exactly.

20           COMMISSIONER TURNBULL: -- on some  
21 new buildings within the site?

22           MS. JACKSON: Yes.

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1 COMMISSIONER TURNBULL: Is that  
2 your understanding? And reconfiguring some of  
3 the field? Are they going to move the  
4 football field?

5 MS. JACKSON: Yes, the existing  
6 building would be demolished.

7 COMMISSIONER TURNBULL: The whole  
8 building?

9 MS. JACKSON: The whole building.  
10 The design allows for students to continue to  
11 go there during the construction because the  
12 new building would be at the opposite corner  
13 of the site.

14 COMMISSIONER TURNBULL: Okay.

15 MS. JACKSON: And the playing  
16 field would be out of use during that  
17 construction time and would be relocated  
18 closer to the location where the existing  
19 building is now.

20 COMMISSIONER TURNBULL: Do we know  
21 what the proposed student capacity would be?

22 MS. JACKSON: Eleven-hundred

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1 students.

2 COMMISSIONER TURNBULL: Eleven-  
3 hundred?

4 MS. JACKSON: The current building  
5 I believe was designed to accommodate 2,400,  
6 and there's only -- there's much less than  
7 that now.

8 COMMISSIONER TURNBULL: Yes.

9 MS. JACKSON: And the new one  
10 would be designed to accommodate 1,100  
11 students.

12 COMMISSIONER TURNBULL: Eleven-  
13 hundred? Okay. Thank you.

14 CHAIRPERSON HOOD: Commissioner  
15 Selfridge?

16 COMMISSIONER SELFRIDGE: Thank  
17 you, Mr. Chairman.

18 So, they're going to -- the  
19 school's -- Dunbar's going to stay open?  
20 They're going to build the new building and  
21 then shut down and demolish Dunbar as we know  
22 it today? So, where on this map is the new

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1 school being proposed?

2 MS. JACKSON: At the corner of 1st  
3 and N.

4 COMMISSIONER SELFRIDGE: 1st and  
5 N? So the -- I'm terrible, but the southeast  
6 corner we're talking about, is that correct?

7 MS. JACKSON: Right.

8 COMMISSIONER SELFRIDGE: Okay.

9 MS. JACKSON: Southeast corner of  
10 that square.

11 COMMISSIONER SELFRIDGE: Okay.

12 Great. So, there --

13 MS. JACKSON: Similar to the  
14 location of the previous Dunbar before --

15 COMMISSIONER SELFRIDGE: Before  
16 this Dunbar?

17 MS. JACKSON: Yes, that's where it  
18 was prior to this building.

19 COMMISSIONER SELFRIDGE: Certainly  
20 predates me. I guess I'd be curious just how  
21 that relates to the row houses. It looks like  
22 row houses on the east side of 1st Street, but

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1 I'm sure we'll see that down the road. But I  
2 think that obviously that would be something  
3 we'd want to see. As you go from a maximum  
4 height of 60 feet -- and what's the current  
5 school at right now?

6 MS. JACKSON: I'm not sure of the  
7 -- I believe it's eight levels, so this would  
8 definitely be shorter than the current  
9 building.

10 COMMISSIONER SELFRIDGE: Oh, it  
11 would? I thought I saw it was four levels  
12 somewhere. Is that not true?

13 MS. JACKSON: No.

14 COMMISSIONER SELFRIDGE: Oh, okay.

15 MR. LAWSON: I think it kind of  
16 varies in height.

17 COMMISSIONER SELFRIDGE: Okay.

18 MR. LAWSON: But there are  
19 sections that are at least eight stories high.

20 COMMISSIONER SELFRIDGE: Okay.  
21 Well, great.

22 MR. LAWSON: The school will be

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1 subject to full design review by NCPC and CFA.

2 COMMISSIONER SELFRIDGE: Okay.

3 MR. LAWSON: And in fact our  
4 understanding is that they've already  
5 completed conceptual review. Both of those  
6 bodies have completed conceptual design review  
7 of the school

8 COMMISSIONER SELFRIDGE: Okay.

9 Great. Thank you.

10 MS. JACKSON: Sure.

11 CHAIRPERSON HOOD: I don't  
12 necessarily have any questions, but I think  
13 this is -- I'm looking forward to this case.

14 Okay. I would move that we set  
15 down Zoning Commission Case No. 11-10 and ask  
16 for a second.

17 COMMISSIONER TURNBULL: Second.

18 CHAIRPERSON HOOD: Moved and  
19 properly seconded.

20 And also, let me include that we  
21 set it down and also add the motion also to  
22 include the parking variance. So, I would

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1 include that in my motion. And, Mr. Turnbull,  
2 will you accept it?

3 COMMISSIONER TURNBULL: Yes, I  
4 will.

5 CHAIRPERSON HOOD: Okay. So, it's  
6 moved and properly seconded with the amendment  
7 of including the parking variance.

8 Any further discussion?

9 (No audible response.)

10 CHAIRPERSON HOOD: All those in  
11 favor? Aye.

12 COMMISSIONER TURNBULL: Aye.

13 COMMISSIONER SELFRIDGE: Aye.

14 CHAIRPERSON HOOD: Not hearing any  
15 opposition. Ms. Schellin, would you please  
16 record the vote? And do we have any proxies?

17 MS. SCHELLIN: No proxies. Staff  
18 would record the vote 3 to 0 to 2 to set down  
19 Zoning Commission Case No. 11-10 as a  
20 contested case along with the Zoning  
21 Commission retaining the right to hear the  
22 parking variance with this case. Commissioner

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1 Hood moving, Commissioner Turnbull seconding,  
2 Commissioner Selfridge in support.  
3 Commissioners May and Schlater not present,  
4 not voting.

5 CHAIRPERSON HOOD: Okay. Thank  
6 you. I want to thank the Office of Planning.

7 Next let's go to correspondence.  
8 Zoning Commission Case No. 10-32, Georgetown  
9 University. We received a letter from Mr.  
10 Hinds about a scheduling request,  
11 Commissioners, and that's Exhibit -- oh, let  
12 me -- Ms. Schellin?

13 MS. SCHELLIN: I would just ask  
14 that you go ahead and proceed.

15 CHAIRPERSON HOOD: Okay.

16 MS. SCHELLIN: You were on your  
17 way.

18 CHAIRPERSON HOOD: Okay. Let me  
19 just say this: I'm going to make a statement.  
20 We have a letter from Mr. Hinds who represents  
21 the Citizens Association of Georgetown in the  
22 Georgetown University Campus Plan case. He is

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1 asking that we advise whether their experts  
2 will be needed on May 12th or not and if we  
3 could hear the parties in opposition on May  
4 16th if they're not heard on the 12th.

5 Let me say this: The Commission  
6 does what it can to accommodate parties. The  
7 case started out with accommodating parties by  
8 agreeing to keep the regular order of the  
9 hearing when it was requested to do so by the  
10 parties.

11 The May 12th hearing will resume  
12 as follows: Cross-examination by the Burleith  
13 Citizens Association and the Foxhall Community  
14 Association followed by the Office of Planning  
15 and DDoT reports, testimony by persons in  
16 support, the ANC's report, presentations by  
17 the parties in opposition, testimony by  
18 persons in opposition and rebuttal and closing  
19 by the Applicant.

20 While the Commission has control  
21 of some things, it does not have control of  
22 others. For example, it does not have control

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1 over how many witnesses will show up to  
2 testify in support, nor does it have control  
3 over how much cross-examination the parties  
4 may have for each witness.

5 So, all of this to say that we  
6 can't really tell Mr. Hinds whether he should  
7 have his experts here on the 12th or not. It  
8 will depend on how many witnesses in support  
9 show up to testify and how much cross-  
10 examination the parties have.

11 I've thought about this and tried  
12 to think of a way that would accommodate Mr.  
13 Hinds' request that they be granted --  
14 guaranteed to be present on the 12th or the  
15 16th, and the only thing I could suggest --  
16 there are two things I possibly could suggest,  
17 but one of them is that -- would be something  
18 that the ANC would have to agree to would be  
19 to see if the ANC would allow the parties in  
20 opposition to present before them.

21 As far as when his experts should  
22 show up, I think that is something that Mr.

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1 Hinds will have to work out with his experts,  
2 whether he has them here or calls them at a  
3 certain amount of time before they're needed  
4 to get here. I don't think it's up to us to  
5 suggest when they should be here. And I  
6 definitely don't want to do that because we  
7 will be held liable if we get to them and  
8 they're not here, and that could really cause  
9 a conflict.

10 What I would say though is that I  
11 don't think that we will get to Mr. Hinds --  
12 I mean, his expert witnesses on the 12th.  
13 After that, I mean, I don't know what my  
14 colleagues feel or what staff feels, but after  
15 the 12th I just can't, you know, predict  
16 anything. You know, sometimes I think we're  
17 going to be here for 20 minutes and we're here  
18 for 3 hours. Sometimes I think we're going to  
19 be here for four hours and we're here for  
20 twenty minutes. So that just tells you how we  
21 can predict these things.

22 So, I think that's the best we can

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1 do. And unfortunately Mr. Hinds is not even  
2 here. I don't know; is he going to read the  
3 transcript?

4 But I would suggest and I would  
5 ask, Ms. Schellin, if you could just work it  
6 out? You know, I'll just leave it up to you.

7 Again, I don't think we'll get to  
8 his experts on the 12th. I said I don't  
9 think. So it's safe to say on the 16th. But  
10 I also see that he says that his experts can't  
11 make on the 2nd and the 6th. I don't even  
12 want to get into that. We're going to proceed  
13 with the case as scheduled, I think, in  
14 fairness to everyone here. Even if I'm not  
15 here, the case is going to go on.

16 So, do I need to add anything else  
17 to that, Ms. Schellin?

18 MS. SCHELLIN: No, I just wanted  
19 to -- so, we are going to -- if we don't  
20 finish on the 16th, our dates are still the  
21 2nd and the 6th, because those are the dates  
22 that were announced in April.

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1 CHAIRPERSON HOOD: I think the  
2 summer schedule is really full. I don't think  
3 we have any open dates.

4 MS. SCHELLIN: No, we don't.

5 CHAIRPERSON HOOD: Even to the  
6 point now we're meeting two Wednesdays.

7 MS. SCHELLIN: We are.

8 CHAIRPERSON HOOD: So, you know,  
9 unfortunately, you know, like we'd like to be  
10 accommodating, but you know, we have a whole  
11 lot of other people who are in the equation  
12 and we want to be courteous to them also.

13 MS. SCHELLIN: Okay.

14 CHAIRPERSON HOOD: Okay. Thank  
15 you.

16 MS. SCHELLIN: All right. Thank  
17 you.

18 CHAIRPERSON HOOD: Okay. Next  
19 under correspondence?

20 MS. SCHELLIN: Yes, sir.

21 CHAIRPERSON HOOD: -- is the --

22 MS. SCHELLIN: It's a letter that

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1 we received this afternoon and it's something  
2 that we kind of anticipated could happen.  
3 It's from our hearing that we finished last  
4 Thursday from Mr. Brown and his colleague Ms.  
5 Olson.

6 If you'll recall, at the end of  
7 the hearing from Case No. 05-28B there was  
8 indication that they were going to discuss  
9 whether they could budget for an expedited  
10 transcript and they would get back with us.  
11 And they did that this afternoon. And what  
12 this letter does is ask for the allowance to  
13 -- since they are paying for the expedited  
14 transcript and they'll provide that to the  
15 other parties on Friday, that they be allowed  
16 to provide their draft findings of fact,  
17 conclusions of law on May 20th and the  
18 Commission consider proposed action at the May  
19 23rd meeting instead of the June 13th meeting.

20 CHAIRPERSON HOOD: Okay.  
21 Commissioners, any problem with that schedule?  
22 We will hear that case on May 23rd. And

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1 everybody will be notified? Like the --

2 MS. SCHELLIN: Yes.

3 CHAIRPERSON HOOD: -- parties more  
4 less know that we -- because did we announce  
5 that we were going to hear it on June 13th?

6 MS. SCHELLIN: We did. And Mr.  
7 Brown did CC the parties with a copy of his  
8 letter.

9 CHAIRPERSON HOOD: Okay.

10 MS. SCHELLIN: I did ask him to do  
11 that and I see that he did, along with DDoT  
12 and Office of Planning. So, he did notify  
13 Eastland Gardens and the ANC today --

14 CHAIRPERSON HOOD: Okay. Great.

15 MS. SCHELLIN: -- electronically.

16 CHAIRPERSON HOOD: So, we will  
17 deal with that on the 23rd.

18 MS. SCHELLIN: Okay.

19 CHAIRPERSON HOOD: Anything else,  
20 Ms. Schellin?

21 MS. SCHELLIN: No, sir; that's it.

22 CHAIRPERSON HOOD: Office of

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1 Planning, you have a status report, or are we  
2 fine?

3 MR. LAWSON: No, we don't, sir.

4 CHAIRPERSON HOOD: Okay. I want  
5 to thank Mr. Turnbull and everyone else for  
6 their -- oh, let me also acknowledge our  
7 colleague Vice-Chairman Schlater's newborn,  
8 Theodore Anthony -- your light went out --  
9 Theodore Anthony -- how you pronounce that --  
10 Kabalan Schlater. Theodore Anthony Kabalan  
11 Schlater. So, he was born last night. We  
12 want to congratulate Vice-Chairman Schlater  
13 and his wife Maria. And I know they'll  
14 probably be up late tonight and other nights,  
15 but we want to send out our congratulations to  
16 him and his wife.

17 So, do we have anything else?

18 MS. SCHELLIN: That's it

19 CHAIRPERSON HOOD: And I also want  
20 to thank you, Mr. Turnbull, and he knows why.

21 MS. SCHELLIN: Yes.

22 CHAIRPERSON HOOD: Okay. With

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1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that then, this meeting is adjourned.

2 (Whereupon, the meeting was  
3 adjourned at 6:50 p.m.)  
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