

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

MONDAY
OCTOBER 17, 2005

The Public Hearing by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning, Hearing Room 220 South, 441 4th Street, N.W., Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
KEVIN HILDEBRAND	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Acting Secretary
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OFFICE OF PLANNING STAFF PRESENT:

ARTHUR JACKSON
JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL:

JACOB RITTING, ESQ.

This transcript constitutes the minutes from the Public Hearing held on October 17, 2005.

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

(6:40 p.m.)

1
2
3 MS. MITTEN: Good evening, ladies and
4 gentlemen. This is a public meeting of the Zoning
5 Commission of the District of Columbia for Monday,
6 October 17, 2005. My name is Carol Mitten and joining
7 me this evening are Vice Chair Anthony Hood and
8 Commissions Kevin Hildebrand, Greg Jeffries and John
9 Parsons.

10 The Agendas for this evening's hearing are
11 on the table near the door, and I have a couple of
12 revisions to make. I would just like to remind folks
13 that we don't take testimony at our public meetings
14 unless people are specifically invited forward by the
15 Commission. I would ask you to turn off all beepers
16 and cell phones so as not to disrupt our meeting
17 tonight.

18 The couple of modifications that I'd like
19 to make are on the Agenda that's on the table, there's
20 a case that was left off, which is Case Number 05-19,
21 which is a consolidated PUD and Map Amendment for 4100
22 Georgia Avenue, and we will take that up as the fifth
23 item under Hearing Action tonight. We will postpone
24 the second case under Proposed Action, Case Number 02-
25 06, the Neighborhood Commercial Overlay. So we'll take

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1 that one up at our November meeting.

2 Other than that, Mrs. Schellin, did you
3 have any preliminary matters before we start?

4 MS. SCHELLIN: Nothing.

5 MS. MITTEN: Okay. Then what I would like
6 to do is just postpone, since we have such a full
7 Agenda, the Office of Planning Status Report, and take
8 that up at the end, and move right to our Consent
9 Calendar. The first item is Case Number 04-17A, which
10 is a Request for a Minor Modification From MedStar
11 Health. We have the submissions in the record so far,
12 and we've received some additional things today. I did
13 have -- I just have a question for the Office of
14 Planning, if they could answer it since you did review
15 that particular Plan and Modification Request, is as it
16 relates to the electrical substation, how is it that
17 when -- there's discussion in the proposal that when
18 it's first constructed where it's a stand-alone thing
19 and it's underground, it won't count towards FAR, and
20 then after the addition, or the building in which it
21 will be contained is constructed, it will count for its
22 FAR?

23 MR. COCHRAN: I can give you my answer and
24 then if I have answered it incorrectly, I'd ask you to
25 ask the Applicant. I believe it is going to be

1 underground to begin with, but the grade will change so
2 substantially by the time that the rest of the building
3 is constructed at some later year, that it will then be
4 above grade.

5 MS. MITTEN: Okay. The other thing was it
6 appears that it will be larger, too, that the existing
7 substation as is proposed is going to be three levels
8 and this will be four levels. Do you have any --

9 MR. COCHRAN: I'm sorry, I didn't look at
10 that.

11 MS. MITTEN: Okay. The one thing that
12 makes this a little bit difficult to take a vote
13 tonight is the fact that we don't have the specific
14 language that actually amends the Order, which is what
15 is being proposed, that we amend our Order. So I don't
16 know what the other Commissioners think, but I don't
17 have any problem taking this up as a minor
18 modification. It's just that we don't have the
19 specific language that we're voting on and that would
20 just make it much more clear if we did. So I'd just
21 like to ask the Applicant to submit that and then we'll
22 take it up as soon as we can schedule a Special Public
23 Meeting. We have hearings all through October and
24 November. We can just schedule a Special Public
25 Meeting and take it up then.

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1 MR. PARSONS: I agree. This material that
2 we received today is two and a half pages. It began to
3 consolidate the Request, but it didn't get to the point
4 that we ought to revise the Order in this following
5 paragraph. That's what's missing.

6 MS. MITTEN: Yes. Anyone else?

7 (NO RESPONSE.)

8 MS. MITTEN: Okay, so we'll just take that
9 up as soon as the Applicant can get us the requested
10 information. We'll take that up and schedule a Special
11 Public Meeting before one of our Public Hearings.

12 So the next item under -- on the Consent
13 Calendar is Case Number 01-09A, which is the Request
14 for Minor Modification for the Station Place PUD. In
15 that case, we do have requested language and it's in
16 the letter that we received today. This relates to
17 enclosing a portion of Courtyard 1 so that it can be
18 devoted to play area for the childcare center. I would
19 move approval of that language that's in the October
20 17th letter from the Applicant's counsel.

21 MR. PARSONS: Second.

22 MS. MITTEN: Any discussion?

23 (NO RESPONSE.)

24 MS. MITTEN: All those in favor, please say
25 "aye."

1 (AYES.)

2 MS. MITTEN: Mrs. Schellin, I believe we
3 have none opposed.

4 MS. SCHELLIN: Yes, staff will record the
5 vote five to zero, zero to approve the Minor
6 Modification in Case Number 01-09A. Commissioner
7 Mitten moving, Commissioner Parsons seconding,
8 Commissioners Hildebrand, Hood and Jeffries in favor.

9 MS. MITTEN: Thank you.

10 Next is the first item under Hearing
11 Action, which is Case Number 05-17, which is the
12 Broadway Atlantic 1 LLC Request for a Consolidated PUD
13 and Related Map Amendment. Mr. Parker will make the
14 presentation?

15 MR. PARKER: Good evening. I'm Travis
16 Parker with the Office of Planning. This application
17 is actually two planning and developments, with four
18 separate sites. If you're following on Page 2 of the
19 Office of Planning Report, Sites A, B and D are the
20 first PUD and are separated by B Street and by an alley
21 in between 8th and 9th, and Parcel C is a separate
22 planning and development, only because it is not
23 separated only by a street or alley. They're being
24 considered together and will, hopefully, go through the
25 process as one project.

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1 The Request is for a planned new
2 development to develop all four sites, Sites A, D and C
3 are in the C-R District. Site B is in the RC-2A
4 District. The flexibility being requested is for,
5 mainly for FAR. The sites in the CR will be looking
6 for an 8 FAR and in the C-2A, a 6.3. The aggregate for
7 all four sites will be under the total allowed us as a
8 PUD development for FAR. Additional flexibility being
9 requested is for roof structures, for rear yards, for
10 lot occupancy as outlined in the Office of Planning
11 Report, in addition to recreation space down to ten
12 percent and some loading dock issues.

13 In terms of amenities, the projects offer
14 several major amenities that the Office of Planning has
15 been discussing with Applicant. The main amenity from
16 the Office of Planning viewpoint is the addition of
17 some right-of-way for a future east/west connector
18 between Florida Avenue and Georgia Avenue, Northwest.
19 I don't have a graphic in the report, as I should and,
20 hopefully, the Applicant will provide that. But to the
21 north of Site C, from W Street over to Bryant Street,
22 Northwest, the Applicants and City foresee a connection
23 in the future as allowed by Howard's development. Site
24 C has been designed to allow for a future right-of-way
25 at such time that the City and Howard work that out.

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1 The other main amenity would be affordable
2 housing, 300,000 -- excuse me -- 30,000 square feet of
3 this project have been set aside for affordable housing
4 and it'll be mixed between the four sites
5 proportionally. OP has worked closely with the
6 Applicant on site design to ensure that the
7 architecture and the layout of the sites are compatible
8 with the neighborhood and really work well with both
9 each other and the surrounding buildings.

10 We find that the amenities, both the one
11 that I mentioned and the minor amenity as listed in my
12 report, in addition to the site design that I
13 previously talked about, and the comprehensive plan
14 policies all support set down of this planned unit
15 development and I recommend that it be set down for
16 public hearing.

17 MS. MITTEN: Thank you. Are there any
18 questions for Mr. Parsons? Mr. Jeffries?

19 MR. JEFFRIES: So the facade designs have
20 changed, correct, from the typically -- to the pink --

21 MR. PARKER: You should have some amended
22 designs.

23 MR. JEFFRIES: Excuse me?

24 MR. PARKER: You should have some amended
25 designs. Those should have been submitted as a

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1 supplementary.

2 MR. PARSONS: We are very confused. There
3 are two or three sets of drawings.

4 MR. PARKER: Okay.

5 MR. PARSONS: Can you tell us if the ones
6 that are in this binding, they're both in the same
7 book, are the Application now?

8 MR. JEFFRIES: That's the most up-to-date?

9 MR. PARKER: The most up-to-date should be
10 dated October 11th.

11 MR. PARKER: Yeah, but the book isn't --
12 oh, okay. Okay, I think it's this.

13 MR. PARKER: Yeah, you're looking at the
14 most up-to-date designs, in that packet there.

15 MR. JEFFRIES: Excuse me, but could you
16 just -- what was the driver behind the change in
17 design?

18 MR. PARKER: The previous designs that were
19 submitted were preliminary in nature. I think the
20 Applicant submitted them with the intention of meeting
21 with us and putting some more thought and effort into
22 the designs. And in conjunction with us, we worked
23 with them to provide something a little more unique in
24 the City and in this neighborhood.

25 MR. JEFFRIES: Well, it's -- I'm very

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1 familiar with the area. I drive through there two or
2 three times a week. I mean it's very much sort of a
3 hodge-podge of lots of different architectural designs
4 and styles and varying heights. There are the very
5 small, 2-story row houses. What are they, like 13 feet
6 wide, I mean, they're tiny. So I'm just trying to
7 understand sort of what were some of your
8 recommendations to the Applicant as it related to how
9 the design should look?

10 MR. PARKER: One thing we discussed with
11 the Applicant was -- the building's on 8th Street, Sites
12 A and D, and the relation to that street. I think the
13 houses that you are talking to may be on 8th Street to
14 the south of the site?

15 MR. JEFFRIES: Yes.

16 MR. PARKER: Or south of Site B. That's a
17 very narrow street, as you're aware, and one of the
18 things that we had discussed with the Applicant is the
19 relation of this project to the street. The original
20 design had had a setback, the building set back further
21 from the street. In conjunction with historic
22 preservation, we thought that we would like to retain
23 the sort of intimate feel and we encouraged the design
24 of the building to come to the property line. In
25 addition, we had originally seen some retail presence

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1 on 8th Street on A. We encouraged the Applicant to look
2 more into maybe some live/work space or some
3 residential on 8th Street. It didn't seem like the
4 retail feel to the north along 8th Street.

5 MR. JEFFRIES: Yeah, that's my other
6 question, and that's something, hopefully, that the
7 Applicant can spend some time on, just retail, the
8 retail aspects of the design. I'm a little confused as
9 to sort of what is sort of the retail corridors in that
10 area. I mean there's a lot of sort of tertiary -- I
11 mean there's a lot going on in that area and so I'm
12 just trying to get some sense -- it's probably coming
13 more from the Office of Planning as to sort of what the
14 general plan is.

15 MR. PARKER: Yeah, we sort of reference
16 back to the Uptown Destination District plan called the
17 DUP plan, and that really called for retail along B
18 Street.

19 MR. JEFFRIES: Okay.

20 MR. PARKER: And so we tried to concentrate
21 our retail on both sides along B Street and the corner
22 of 8th and B. And we really sort of discouraged it
23 along the 8th Street corridor.

24 MR. JEFFRIES: Okay. Okay. I might have
25 one other question.

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1 MS. MITTEN: Does anyone else have any
2 questions for Mr. Parker? Mr. Parsons?

3 MR. PARSONS: Your report defines four
4 properties, A, B, C and D?

5 MR. PARKER: Yes.

6 MR. PARSONS: But C and D aren't before us?

7 MR. PARKER: They should be.

8 MR. PARSONS: I need help understanding
9 that.

10 MR. PARKER: Okay. They're all four
11 before you. Sites A, B and D are related in that
12 they are one planning unit development. Site C is a
13 separate one, but they're all one project. The
14 calculations for all and the designs for all should
15 be in the packet in front of you. There may be a
16 separate packet for Site C because it is a separate
17 PUD, but you should all four sites.

18 MR. PARSONS: So we should be looking at
19 three different buildings?

20 MR. PARKER: Four different buildings.

21 MR. PARSONS: Well, I'll let you know going
22 in. I'm thoroughly confused. Because I only have two
23 buildings.

24 MR. PARKER: Okay.

25 MR. PARSONS: In this book -- I think.

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1 Maybe there's a separate package?

2 MR. PARKER: That may be something that we
3 can address with the Applicant. I believe you should
4 have two books, one is the first planning development
5 with A, B and D and the other with C. The one with A,
6 B and D may not have new designs for D. It's a small
7 building. I don't believe we changed the design of
8 that. So the supplementary submission may not have
9 addressed the small building on Site D and, therefore,
10 may only have designs. There should be another packet
11 though with designs for Site C. So you should have at
12 least --

13 MR. PARSONS: What would that building be
14 called? We've got a north and a south. Atlantic
15 Plumbing --

16 MR. PARKER: Okay.

17 MR. PARSONS: What was the third one
18 called?

19 MS. MITTEN: Isn't A, B, D south and C is
20 north?

21 MR. PARKER: Correct. C is on Florida
22 Avenue.

23 MR. PARSONS: 945 Florida Avenue?

24 MR. PARKER: Correct.

25 MS. MITTEN: The south project is three

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1 parcels.

2 MR. PARKER: And the north project is one.

3 MR. PARSONS: Well, I'll see. I'll look
4 forward to the hearings.

5 MS. MITTEN: If you look on, just as a for
6 instance --

7 MR. PARSONS: Do you mean it bridges these
8 streets?

9 MS. MITTEN: No. If you look on Page 9
10 where it says a "for instance."

11 MR. PARSONS: Which Page 9?

12 MR. PARKER: The one --

13 MS. MITTEN: Oh, actually in the south
14 part.

15 MS. STEINGASSER: Commissioner Parsons?
16 The October 11th submittal is titled "Atlantic Plumbing
17 Site, 945 Florida Avenue, it has a yellow and red ring
18 on the part, that's Parcel C, the northern PUD. And
19 then you have an interim group of designs held only by
20 a clip and that's the southern portions, which is Sites
21 A, B and D.

22 MR. HILDEBRAND: Is that what have or is
23 the one that's included in the same binding more
24 accurate?

25 MS. STEINGASSER: That one's more accurate.

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1 I'm sorry, I didn't realize that one was also there.

2 MR. PARKER: Yeah, they should be all
3 together.

4 MR. PARSONS: I saw that, but I couldn't
5 find it here. So are we having three separate
6 hearings?

7 MR. PARKER: Hopefully --

8 MR. PARSONS: I hope so.

9 MR. PARKER: That's up to you. The
10 Applicant, I think, would like to consider it as one
11 project.

12 MS. MITTEN: We have a request to do one of
13 two things, either to consolidate it entirely or to
14 keep the cases separate, but have a single hearing.

15 MR. PARKER: And in terms of the amenities,
16 the amenities are interrelated. The main amenity is
17 only -- physically affects Site C, but we consider it
18 an amenity for all the projects because it is involved
19 dedication of right-of-way.

20 MR. PARSONS: I think we ought to have two
21 separate proceedings.

22 MS. MITTEN: In one?

23 MR. PARSONS: Yes.

24 MS. MITTEN: Okay. I think we can -- as
25 long as we can do it in a single night.

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1 MR. PARSONS: Yeah.

2 MS. MITTEN: We can? Okay.

3 MR. HOOD: Madame Chair, can I just ask a
4 clarifying question on these renderings. North and
5 south, I understand that. Two of them have south.
6 Which one, going forward, should I not look at? Should
7 I not be looking at this one that you all held up,
8 because we also have south in the book? So this one is
9 the one that I can discard?

10 MR. PARKER: Yes.

11 MR. HOOD: Okay, thank you.

12 MR. HOOD: Throw away the pink one, right?

13 MR. PARKER: Correct.

14 MR. PARSONS: I got that much.

15 MS. MITTEN: I just had a comment, which is
16 just by the time we get to the hearing, not all the
17 plans that we have show all the dimensions that are
18 required, so it's hard to tell whether they actually
19 asked for all the relief that they need, but, you know,
20 the loading areas area not shown in any kind of detail,
21 we don't have landscaping and grading plans -- well, I
22 guess we do have a circulation plan, but it's not fully
23 developed the way that it should be. It's more of a
24 site plan. So they just need to add detail as required
25 by the Regulations to some of the plans.

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1 MR. PARKER: Absolutely.

2 MS. MITTEN: Does anyone else have
3 questions or comments? Mr. Jeffries?

4 MR. JEFFRIES: I just, going back to the
5 architecture again, I just want to make certain, you
6 know, just given the size and scale of these buildings
7 that -- and then again some of the smaller 2-story row
8 houses that, you know, if there's sufficient
9 articulation at the ground level, just making certain
10 that these buildings are broken down sufficiently so
11 they just don't appear as massive. I'm just so struck
12 in that area with those very small row houses and so
13 forth, so I just -- you know, and perhaps these
14 elevations are joined. I can't make out, quite
15 frankly, the genesis of the design, but without an
16 architectural review panel, but I would -- I am
17 concerned about scale and treatment of the facades in
18 such a way that it's a little responsive to some of the
19 lower areas, even if it's not across the street from
20 it.

21 MR. PARKER: One change that you might
22 notice between the original submission and the one you
23 have in front of you now, that Site B on the south side
24 of B, that you were speaking about, was originally
25 proposed as a Map Amendment to CR and was going to be a

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1 much higher building.

2 MR. JEFFRIES: That's right, they dropped
3 the -- okay.

4 MR. PARKER: They have dropped that down to
5 C-2B. It is proposed at 90 feet and it does step down
6 both towards a --

7 MR. JEFFRIES: This one, yeah.

8 MR. PARKER: Both towards 8th and towards
9 the south, towards those townhouses that you're
10 speaking about.

11 MR. JEFFRIES: Okay. Okay. And the other
12 question, there are -- I think the Rhapsody -- oh,
13 what's the name -- right across from the car wash?

14 MR. PARKER: Okay.

15 MR. JEFFRIES: What's the -- do you know
16 the height on that?

17 MR. PARKER: I don't off the top of my
18 head.

19 MR. JEFFRIES: It just might be good, at
20 least for me to, and everyone knows I'm a fan of
21 volumetrics or axonometrics, that this -- you know, I'd
22 just like to -- and these are fairly massive buildings
23 that are going to be going in this area and I think
24 it's great because it absolutely is needed, but I'm
25 just interested in some of the shadows that are going

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1 to be created. I'd just like to know some of the
2 varying heights of buildings in and around so that I
3 can just get a better picture of the overall context.

4 MR. PARKER: I'm sure we can provide that.

5 MS. MITTEN: Mr. Parsons?

6 MR. PARSONS: I just wanted to stop a
7 minute and talk about what Mr. Jeffries just said about
8 us not being an architectural review panel. Indeed we
9 are when it comes to a PUD. People are bringing us
10 exemplary architecture. We simply have to judge
11 whether that is or isn't. There've been a few cases
12 where we have said that isn't exemplary. We're not
13 going forward with this. And I think there's talent on
14 the panel to do just that. I would agree, in other
15 aspects of what we do, that maybe we shouldn't be an
16 architectural review panel, but I think in PUDs, we're
17 it. You know, unless it's within the Fine Arts
18 Commission jurisdiction or the Historic Preservation
19 Review Board and so forth. So I don't think we should
20 hesitate. I didn't mean to correct you as much as I
21 have.

22 MR. JEFFRIES: No, I don't feel corrected.

23 I just wanted -- I do want to add on to your comment.

24 I think scale is important in making certain that
25 whatever these projects that are presented to us

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1 somehow reflect or respond to the general context. So
2 I would be very interesting in weighing in on that
3 aspect. To the extent that, you know, someone's using
4 a certain material and so forth and so on, I might pull
5 back, but I just wanted to make certain that there was
6 a clear understanding about, you know, what I was
7 looking for.

8 MR. JEFFRIES: Well, certainly urban design
9 is a major aspect of it, too. Good.

10 MS. MITTEN: All right. So just to be
11 clear as we go forward, as Mr. Parker pointed out, we
12 do have two separate PUDs. I think it will also help
13 Mr. Parsons and the rest of us to keep it straight if
14 we have two separate case numbers, and we'll treat them
15 separately and we'll take them up in the same evening,
16 but we will have a thorough discussion about PUD Number
17 1, which will be A, B, D, and when we're all done with
18 that, then we'll turn to the second one, and I think
19 that will help us all keep it clear.

20 So what I'd like to do is, just for the
21 moment, refer to them as PUD Number 1, which will be
22 Parcels A, B and D, and I would move that we set down
23 PUD Number 1 for public hearing.

24 MR. JEFFRIES: Second.

25 MS. MITTEN: Is there any further

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1 discussion?

2 (NO RESPONSE.)

3 MS. MITTEN: All those in favor, please say
4 "aye."

5 (AYES.)

6 MS. MITTEN: Mrs. Schellin, would you
7 record that vote?

8 MS. SCHELLIN: Yes. Staff will record the
9 vote five to zero to zero to approve the set down of
10 the first PUD in Case Number 05-17. Commissioner
11 Mitten moving, Commissioner Jeffries seconding,
12 Commissioners Hood, Hildebrand and Parsons in favor.

13 MS. MITTEN: Thank you.

14 MS. SCHELLIN: And I was just going to give
15 you a case number for the second portion if that helps.

16 MS. MITTEN: Oh, good. Okay.

17 MS. SCHELLIN: It's 05-32.

18 MS. MITTEN: 05-32 is PUD Number 1 -- oh,
19 PUD Number 2. Okay. Okay, so then PUD Number 2, which
20 now has a Case Number of 05-32, and involves Parcel C,
21 I would move that we set that case down for public
22 hearing.

23 MR. HILDEBRAND: I would second that.

24 MS. MITTEN: Okay, Mr. Hildebrand. Is
25 there any further discussion about that?

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1 (NO RESPONSE.)

2 MS. MITTEN: Then all those in favor,
3 please say "aye."

4 (AYES.)

5 MS. MITTEN: Mrs. Schellin, we have another
6 vote.

7 MS. SCHELLIN: The staff will record the
8 vote five to zero to zero to approve set down for Case
9 Number 05/32. Commissioner Mitten moving, Commissioner
10 Hildebrand seconding, Commissioners Hood, Jeffries and
11 Parsons in favor.

12 MS. MITTEN: Thank you.

13 All right. Next is Case Number 05-24 and
14 this is a consolidated PUD and related Map Amendment
15 for Eastgate Family Housing. Ms. Brown-Roberts?

16 MS. BROWN-ROBERTS: Good evening, Madam
17 Chairman and members of the Commission.

18 For the record, I'm Maxine Brown-Roberts.
19 The District of Columbia Housing Authority and the NR
20 Development Corporation, along with Hanson Development
21 Corporation, proposes a consolidated 10-unit amendment
22 for a 189-unit residential development to consist of a
23 mix of housing types, including single-family detached
24 dwellings, row houses and multi-family dwellings. New
25 streets and alleys, open space and recreational space

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1 will be provided within the new development. The
2 property was formerly developed with Eastgate Gardens,
3 a public housing complex, which was demolished in the
4 year 2002, and the site is now vacant.

5 In the original proposal for the
6 redevelopment, it included a community service center;
7 however, due to lack of funds, the Applicant is
8 reevaluating that proposal and will be addressed on a
9 separate application.

10 The development is being financed with a
11 combination of public and private funds and will
12 include rental and homeownership units which will be
13 sold or rented at both affordable and market rates.
14 The development will raise homeownership rates and
15 preserve affordable housing and serve a broad range of
16 income levels. The property is zoned R-5-A. The
17 Generalized Land Use Map recommends the subject site
18 for moderate density residential.

19 Additionally, the map calls -- identifies
20 the area as a development opportunity area. The R-5-A
21 zoning and the proposed project is not inconsistent
22 with these recommendations. The main amenity of the
23 proposed development is a provisional housing for the
24 residents of various economic backgrounds. The
25 Applicant also proposes the preservation of many

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1 existing trees, open areas, active recreational areas
2 and pedestrian access. The design of the development
3 is sensitive to the natural topography of the property
4 and preserves open spaces in areas where slopes are
5 steepest. Due to the site topography, storm water
6 management will be an important area to prevent run-off
7 into adjacent properties. The Office of Planning
8 recommends that the Applicant include environmentally
9 sensitive storm water management practices.

10 The Applicant has conducted a series of
11 cheroots and committee meetings in the Marshall Heights
12 neighborhood and community and has preliminary support
13 from ANC 7E. The Office of Planning believes that this
14 is an important residential development for the
15 District to undertake. The benefits of the proposed
16 development outweigh the flexibility requested to
17 reduce the side and rear yard requirements. Therefore,
18 the Office of Planning recommends that the Zoning
19 Commission set the proposed application down.

20 Thank you, Madam Chairman.

21 MS. MITTEN: Thank you, Ms. Brown-Roberts.

22 Are there any questions for Ms. Brown-Roberts? Mr.
23 Hood?

24 MR. HOOD: Thank you, Madam Chair.

25 Ms. Brown-Roberts, in your report, I think

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1 you mentioned a grant. On Page 4, it talks about a
2 grant homes units for rent at below 60 percent of the
3 AMI. When you say below 60 percent of the AMI, what do
4 you mean? Are we saying 50 percent, 40 percent? Maybe
5 I'm not understanding.

6 MS. BROWN-ROBERTS: I think that is
7 something that I'll have to get back to you on because
8 the Applicant did not specify. That was the
9 information they gave us, that it would be 60 percent.
10 They didn't specify how low below 60 percent.

11 MR. HOOD: Oh, okay. I'm thinking it will
12 go down to 20 percent of the AMI. Every time I've seen
13 them say that in the past, it seems that everybody goes
14 into shock, so I just wanted to know if you could
15 clarify that.

16 MS. BROWN-ROBERTS: Okay, we will. Thank
17 you.

18 MR. HOOD: Thank you.

19 MS. MITTEN: Does anyone else have any
20 questions?

21 I just had a couple of questions. There
22 are these -- on the site plans, there are these 5-foot
23 public access easements that go through the sites, and
24 I'm wondering what's that going to look like exactly?
25 Is that just going to be all grass and then people just

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1 know that there's an easement there or are people going
2 to be able to put a fence up so that you could possibly
3 just have that fence except for the easement?

4 MS. BROWN-ROBERTS: That is something that
5 we're still in discussion with the Applicant, as to how
6 exactly that is going to function, whether they're
7 going to allow people to put fences up. But that area
8 is generally to allow people to access their back
9 yards. But exactly what it's going to be, how it's
10 going to function, is something that we're still
11 working on.

12 MS. MITTEN: Okay. Because that could be
13 very unattractive, depending on how much -- how much
14 liberty people have to put up fences and so on.

15 MS. BROWN-ROBERTS: Yes, I think that is
16 something that they were talking about, something that
17 would go into homeownership papers.

18 MS. MITTEN: And then the other question
19 that I had was, and the Applicant makes reference in
20 their submission on Page 2 that DCHA joined the
21 community-based Eastgate Marshall Heights Neighborhood
22 Alliance to prepare the Master Plan for the PUD site
23 and the surrounding neighborhood. I'm wondering, since
24 that seems to be important in terms of establishing the
25 vision for the area, if we could get that Master Plan

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1 that was prepared?

2 MS. BROWN-ROBERTS: Okay, I will try and
3 get a copy.

4 MS. MITTEN: That's all I have.
5 Commissioner Hildebrand, do you have something?

6 MR. HILDEBRAND: Yeah, I was curious. On
7 the same line, about the 5-foot public easement that
8 runs for incredible lengths behind some of these
9 townhouse rows, there seems to be at least one area
10 where the proposed public alley could be extended
11 without too much difficulty to provide rear access to
12 some of these townhouses. Was that considered at all?

13 I'm looking particularly on --

14 MS. BROWN-ROBERTS: On the northern side?

15 MR. HILDEBRAND: -- Sheet LA-1, where the
16 topography is relatively flat. The rear yards are
17 fairly gracious, but the public alley stops after the
18 first home instead of perhaps connecting back to
19 provide proper rear yard access for the townhouses that
20 face the exterior street. Certainly there are other
21 areas where that's not a possibility, where the rear
22 yards are going into a steep grade and an alley
23 wouldn't function well, but it seems that you have an
24 opportunity there to provide slightly better access?

25 MS. BROWN-ROBERTS: Okay, we'll take a look

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1 at that.

2 MS. MITTEN: I'm glad you mentioned that
3 because that reminded me of something else that I had
4 pulled out. This is not an area of the Zoning
5 Regulations that I've really worked with a lot, so I
6 may be wrong, but there is a section in 2117.8 and it
7 has to do with access to required parking. One of the
8 provisions says -- this would be 2117.8(d) -- let me
9 just pause before I pull from this section, which is --
10 the reason that I'm concerned about it is there seems
11 to be -- this whole series of driveways, you know, all
12 these access points. So (d) reads, "A driveway that
13 provides access directly from a street to a row
14 dwelling or a flat shall be a minimum of 28 feet from
15 all adjacent driveways that provide access directly
16 from the street to a row dwelling or a flat, as
17 measured from the nearest edge of each such driveway
18 opening," which suggests that these need to be much
19 farther apart. Now there are provisions that would
20 allow, you know, joint driveways to sort of accommodate
21 that, but two units would have to share a driveway. I
22 don't know how this all fits together, but I was
23 concerned about the fact that there are just so many
24 driveways.

25 Anyone else? Mr. Parsons?

1 MR. PARSONS: I noticed you asked in your
2 report to provide the details of the urban tree park.
3 Do you see any hesitancy on their part to do that?

4 MS. BROWN-ROBERTS: Pardon me, -- pardon
5 me, can you repeat?

6 MR. PARSONS: Oh. The 3-acre urban tree
7 park, which they describe as a small piece of urban
8 wilderness. I think it's critical to the hearing that
9 that be brought forward. I don't think we ought to
10 hear it without that, frankly.

11 MS. BROWN-ROBERTS: Oh, okay. Yes, that is
12 something that we asked the Applicant to do, a more
13 detailed plan for because they were going to include
14 maybe some trails and benches and that sort of thing so
15 we wanted to see exactly how that was going to be
16 designed.

17 MR. PARSONS: So do you sense any hesitancy
18 that they will provide that?

19 MS. BROWN-ROBERTS: No, no. I just think
20 they haven't done it as yet.

21 MR. PARSONS: Okay, thank you.

22 MR. HOOD: Madam Chair, I have a question.
23 Ms. Brown-Roberts, there won't be any acquiring of
24 land with this Application, will there?

25 MS. BROWN-ROBERTS: Pardon me?

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1 MR. HOOD: There is not any acquiring of
2 land or taking any more housing or anything?

3 MS. BROWN-ROBERTS: Oh, no, the site is
4 completely cleared.

5 MR. HOOD: Okay, just making sure. Thank
6 you.

7 MS. MITTEN: Does anyone else have
8 anything?

9 (NO RESPONSE.)

10 MS. MITTEN: Okay, I just want to note for
11 the record that since this case, 05-24, replaces a
12 previous case, the Applicant actually has withdrawn the
13 previous case, 02-49.

14 MS. SCHELLIN: That's correct.

15 MS. MITTEN: So I just wanted to note that
16 for the record. And then what I would like to do is
17 vote on the set down and then if the case is set down,
18 then we'll take up the Request to Waive the Hearing
19 Fees that we received.

20 So, to the matter of setting the case down,
21 we have a recommendation from the Office of Planning to
22 set down Case Number 05-24 and I would so move.

23 MR. PARSONS: Second.

24 MS. MITTEN: Is there any discussion?

25 (NO RESPONSE.)

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1 MS. MITTEN: All those in favor, please say
2 "aye."

3 (AYES.)

4 MS. MITTEN: Mrs. Schellin, there are none
5 opposed.

6 MS. SCHELLIN: Staff will record the vote
7 five to zero to zero to approve set down for Case
8 Number 05-24. Commissioner Mitten moving, Commissioner
9 Parsons seconding, Commissioners Hildebrand, Hood and
10 Jeffries in favor.

11 MS. MITTEN: And then we have a letter in
12 the record dated October 4, 2005 from the Director of
13 the Department of Housing and Community Development
14 requesting the waiver of the hearing fees, and it meets
15 the requirements of Section 3042 of the Zoning
16 Regulations. I would move that we waive the hearing
17 fees in this case.

18 MR. HOOD: Second.

19 MS. MITTEN: Is there any discussion?

20 (NO RESPONSE.)

21 MS. MITTEN: All those in favor, please say
22 "aye."

23 (AYES.)

24 MS. MITTEN: Mrs. Schellin, there are none
25 opposed.

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1 MS. SCHELLIN: The staff will record the
2 vote five to zero to zero to waive the hearing fees in
3 Case Number 05-24. Commissioner Mitten moving,
4 Commissioner Hood seconding, Commissioners Hildebrand,
5 Jeffries and Parsons in favor.

6 MS. MITTEN: Thank you. Next up is Case
7 Number 04-21, which is the Request from the Sheridan
8 Kalorama Neighborhood Council to Amend the Diplomatic
9 Overlay where it is mapped. Mr. Jackson is with us
10 tonight. Welcome.

11 MR. JACKSON: Good evening, Madam Chair.

12 My name is Arthur Jackson, Development Use
13 Specialist for the District of Columbia Office of
14 Planning. I will present a brief summary in the
15 overall findings and conclusions in the Office of
16 Planning's Preliminary Report on this petition.
17 Sheridan Kalorama Neighborhood Council petitioned the
18 Zoning Commission to amend the Zoning Map to eliminate
19 Mixed Use Diplomatic, or D-Overlay Zones, districts on
20 Squares 2505, 2506, 2513, 2514, 2515, 2522, 2527 and
21 2533, are retaining the underlying base zone district.
22 The Council took this action out of concern about the
23 continuing loss of neighborhood housing starts to non-
24 residential chancery uses and how this pattern could be
25 irreparably changed the original character of the

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1 neighborhood. Chanceries of Foreign Missions may only
2 locate in the District in accordance with Section 206
3 of the Federal Foreign Missions Act of 1982.
4 Chanceries are either not allowed in a particular zone
5 district, allowed as a matter of right, or allowed
6 subject to foreign missions -- disapproval by the
7 Foreign Missions Board of Zoning Adjustment, or FMBZA.

8 After adoption of the Act, the Commission
9 established criteria for new mixed use diplomatic or D-
10 Overlay districts that will allow chancery uses on
11 other square where one-third or more of the land use is
12 existing at that time for either office, institutional,
13 or other non-residential land uses. The Mission
14 subsequently established a number of D-Overlays across
15 the District.

16 The Council has now refined and clarified
17 current land use classifications in the public record
18 for the purposes of revisiting the one-third/two-third
19 analysis of squares in their neighborhood. Based on
20 these refinements, the Council determined that the
21 current land use pattern of the referenced squares
22 merits removal of D-Overlay zone districts previously
23 established by the Commission. The Office of Planning
24 supports the efforts of the Sheridan Kalorama
25 Neighborhood Council to address the significant problem

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1 facing the neighborhood and shares the concern about
2 continuing concentration of non-residential chapter
3 uses along residential streets.

4 The Office of Planning also notes that this
5 proposal does not appear inconsistent with the
6 competency plan and supports more specifically with
7 preservation and housing goals. With that in mind, the
8 Office of Planning supports scheduling this petition
9 for public hearing, noting that there are a number of
10 procedural issues that need to be addressed pertaining
11 to such things as the ability to document the duration
12 of vacancy, apartment vacancies, the assumptions that
13 have been made about land use utilization on what's
14 been referred to as dual use lots, dividing lot acreage
15 by assuming -- and issues relating to consistency in a
16 general manner.

17 There are also issues related to the
18 timeliness of this proposal and implications of
19 reducing areas that are identified currently for
20 chancery uses. The Office of Planning continues to
21 pursue other strategies to encourage the selection of
22 future chancery sites in matter-of-right areas, in
23 areas where the establishment of chanceries and dual
24 uses would have less impact, and to identify other
25 District locations where chanceries might like to

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1 locate.

2 The Office of Planning will provide more
3 information about these strategies in the final report
4 on this petition. With that, that concludes the Office
5 of Planning's general recommendations on this proposal
6 and we are here to answer questions.

7 MS. MCCARTHY: Actually, I just wanted to make a
8 few general observations with regard to this in light
9 of the memo from the Office of the Attorney General
10 because it asks some questions and I'm not sure our
11 report is entirely clear in terms of our answer. The
12 Foreign Missions Act gives chanceries the right to
13 locate in areas outside of where they can locate as a
14 matter of fact -- I'm sorry, as a matter of right, by
15 virtue of going to the Foreign Mission's Board of
16 Zoning Adjustment and it mentions the criteria that
17 that should be in lower density areas, including but
18 not limited to any area zoned Mixed Use Diplomatic or
19 Special Purpose and based on existing uses including
20 office and institutional uses. What happened, and I
21 wouldn't say entirely as an historical accident, but it
22 just so happened that the Zoning Commission, at that
23 point in time, and the Office of Planning, at that
24 point in time, that the Diplomatic Overlay was being
25 promulgated, thought that the way to go was to look at

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1 squares that had at least one-third of its use in
2 institutional or commercial or other purposes and two-
3 thirds or less in residential purposes.

4 As it turns out, it's a pretty clunky way
5 to do public policy and it doesn't -- what it does is
6 leave people in a very high degree of uncertainty
7 because if the land uses change in their neighborhood,
8 and there is an introduction of an institutional use
9 which, depending on how you define it, could be a
10 community-based residential facility or a parish school
11 or something that was not very clearly defined as to
12 exactly what is institutional and what is not,
13 therefore, a square which normally had been just a low
14 density residential square, can all of a sudden become
15 a potential location for chanceries and the Diplomatic
16 Overlay was based on that two-thirds/one-third rule,
17 but now the squares that it's based on may not fit that
18 category anymore. So the short of it was the Office of
19 Planning, in terms of answering that question, would
20 prefer that we adopt a mapping of the Diplomatic
21 Overlay that, like our other overlays, makes sense
22 based on the uses of the areas that we're proposing
23 that overlay to be located. If, over time, the
24 characteristics of those neighborhoods change and we
25 need to revisit the diplomatic overlay boundaries, we

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1 could do that. We can come back to the Commission, as
2 we are coming back to the Commission now, to say that
3 we're not sure that the boundaries of the Diplomatic
4 Overlay, as they were promulgated, match the situation
5 that they purported to match at the time.

6 So I guess -- the Office of the Attorney
7 General is saying you need to make a decision whether
8 you can take squares out of the Diplomatic Overlay and
9 I think our position would be the Zoning Commission
10 promulgated this Overlay one time before, it can make
11 changes to this Overlay just like it can to any other
12 Overlay, and what we've proposed -- what we are
13 supporting in terms of Sheridan Kalorama is an Overlay
14 that seems to meet the requirements of the Foreign
15 Missions Act and is more straightforward in terms of a
16 way of making land use regulations than simply going by
17 the two-thirds/one-third rule that we did before.

18 MS. MITTEN: Let me though just start it
19 off by saying one of the things that I think the Office
20 of Planning has called out and what the Office of the
21 Attorney General has sensitized us to is that to focus
22 on this application, in order to focus on this
23 application, we need to step back and say how are we --
24 how are we deciding where to mount the Overlay or not?

25 So we clearly need to do that first. And then we

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1 should apply whatever we decide is an appropriate rule,
2 we should use it citywide. We shouldn't just because
3 someone happened to come to us here, because it was a
4 city-wide effort the first time, and so it should be a
5 city-wide effort this time, we need to think about why
6 we would map it in any particular location.

7 Then I'm not particularly wedded to the
8 one-third/two-thirds rule, but if that is what we
9 decide is going to be the decision, the driver for
10 where we decide to map it, then it strikes me that we
11 don't need to map it. We just need to make that rule,
12 codify that rule. And I know that there's something to
13 be said about certainty, but it strikes me that what
14 might be certain as of a given day that we map it,
15 becomes uncertainty or becomes unfair, unintended
16 consequence, which I guess is what some folks in
17 Sheridan Kalorama are suggesting that happened in this
18 case, which is things weren't -- the squares weren't
19 selected properly or uses have changed and so it's
20 appropriate to make the change. But I just think that
21 we -- you know, we can't constantly be chasing land
22 uses around, if that's how we're going to make this
23 decision.

24 One thing I'd be interested in knowing as a
25 policy matter, is it seems like the one-third/two-

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1 thirds rule invited concentrations, which is what
2 people are objecting to, and so I wonder about using
3 the one-third/two-thirds rule as it has been applied in
4 the past because we're just going to have the same
5 situations recur.

6 MS. McCARTHY: Right. One of the real
7 weaknesses of the one-third/two-thirds rule was one-
8 third was a minimum, one-third institutional uses or
9 chancery uses in a neighborhood, but there was no
10 maximum. So once you had a foothold for chanceries to
11 locate, an entire square or a substantial portion of
12 the square could change from being residential to being
13 essentially the only office use that's permitted in
14 residential areas in the District other than our one
15 exception for historic buildings over 10,000 square
16 feet. So when we concurred with the boundaries that
17 were proposed by Sheridan Kalorama, it was on the basis
18 of the research we had done as to where chanceries
19 consider -- what chanceries consider to be acceptable
20 locations in the District, some proximity questions of,
21 you know, what they feel they need to be close to, but
22 also some sense to avoid totally changing the
23 residential character of different squares based on the
24 accident of what might happen to be there at one point
25 in time.

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1 MS. MITTEN: Does anyone else want to get
2 in on this? Mr. Parsons?

3 MR. PARSONS: Well, it's a long time since
4 1978. And lots of things have changed. That act was
5 pretty fresh then. So I certainly agree that there is
6 a need to revisit this, but the mistake that we -- that
7 you were just talking about is we decided there was a
8 threshold, if the square had one-third of institutional
9 uses, then it would be okay. We didn't say, and it
10 can't pass fifty percent because the circumstances
11 wouldn't allow it. I think the circumstances are
12 changed.

13 But I am a little troubled about counting
14 parks, churches, other things as residential uses. I
15 think we definitely need a text case before we proceed
16 here because we may end up not even using this device
17 when we're done. But to start using the old tool, but
18 changing it for a Sheridan Kalorama is really a
19 mistake. It means more work for you, but maybe if we
20 have a fresh look at this whole thing, we'll come to
21 some different conclusion, some other way.

22 What did you call it? I took it
23 personally. "Clunky?"

24 (LAUGHTER.)

25 MS. MCCARTHY: I'm sorry, Mr. Parsons, I

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1 should have remembered you were around then and I
2 forgot to check whether you were in the majority or
3 not. But I know that you've been part of the National
4 Capitol Planning deliberations, as have Mr. Jackson and
5 I, and there was a general feeling that two-thirds/one-
6 third is not a good basis to make decisions about the
7 locations of chancery uses, that we ought to have some
8 better way of doing it. We then looked in many
9 neighborhoods hoping to sort of do a trade with the
10 State Department and to come up with new locations to
11 compensate for what we knew they review as the loss of
12 certain squares in Sheridan Kalorama. And despite
13 examining any number of other locations, there were
14 reasons against each one that we had thought was
15 promising. But the whole exercise we shared in
16 Kalorama and the differences of opinion about well is a
17 private club residential or not, or is a park or, you
18 know, will people not want playgrounds now in Sheridan
19 Kalorama because that might be the tipping point for
20 them? It was -- that was the element in which I was
21 meaning "clunky," that it then becomes very difficult
22 to make those determinations. You know, or standing
23 outside say, well, let's see, is 50 percent of this
24 building used for the Ambassador's residence and 50
25 percent is an office use, or you know? Now what about

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1 the driveway or the garage, or how should we count
2 that? It got to be -- those kinds of determinations
3 got to be very difficult to do.

4 MS. MITTEN: I wanted to ask Mr. Bergstein
5 a question. Under the Foreign Missions Act, what is
6 the District's legal obligation to permit chanceries in
7 low density and moderate density residential zones?

8 MR. BERGSTEIN: I think it's to determine
9 what areas would be suitable for chancery use, with the
10 understanding that that use would be subject to the
11 disapproval of the BZA as constituted as the FFECA. So
12 it, I think, provides for a good faith investigation by
13 the District and the Zoning Commission decided that it
14 would be done as a Map Amendment rather than a case-by-
15 case determination by the BZA because that was another
16 option that was argued at the time, that every
17 applicant for a chancery within those zone districts
18 could come to the BZA and first make showing one that
19 they met the standard of the FMBZA and having done
20 that, the FMBZA would take it from there, et cetera.
21 Instead, the Zoning Commission decided to undertake an
22 investigation itself as a Map Amendment and that's
23 what it did. But there was a need to resolve and to go
24 forward with one or the other and the Zoning Commission
25 did that.

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1 MS. MITTEN: Well, the reason I asked this
2 is because Ms. McCarthy mentioned the fact that the
3 only other office use that we permit in residential
4 zones that are lower density are in very selected cases
5 which are for properties that are historic, that are
6 formerly residential, that are at least 10,000 square
7 feet. So I guess I'm just trying to question the
8 notion of why are offices for foreign governments
9 deemed appropriately located in residential zones in
10 the first place?

11 MR. BERGSTEIN: I guess because -- I think
12 what the FMA Act is saying is that if a residential
13 zone that's low density has these characteristics --
14 and I don't have it right in front of me, but it
15 includes offices and institutional, which includes
16 office for institutional uses, so it could also just be
17 institutional uses within a low density zone which
18 could be private schools, et cetera. So even if you
19 had a zone district that had no office within it at
20 all, just your right to non-profit, you would still
21 have residential zones that might have institutional
22 uses, and what those institutional uses can mean, what
23 that term means is up to you to define. It could be
24 any of the uses that are permitted by special exception
25 within resident zones, such as private schools, child

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1 development centers, churches as a matter-of-right, et
2 cetera. How you define "institutional use" then tells
3 you what are the residential zones that could be
4 appropriate to be included to be eligible for a
5 chancery to make an application to have that
6 application not disapproved.

7 MS. MITTEN: Go ahead.

8 MS. MCCARTHY: I think it seems like there
9 was a recognition that if you had a residential, a low
10 density residential neighborhood, an office use wasn't
11 appropriate there unless somehow you can taint it by
12 having an institutional or office use already in your
13 midst, which is kind of odd.

14 MS. MITTEN: It just makes it less
15 appropriate to have another one, you know.

16 MS. MCCARTHY: Right.

17 MS. MITTEN: I wonder if you -- if the
18 Office of Planning has done a study that shows the
19 total amount of area available for chanceries that
20 would -- so that would be all of the C zones and where
21 they go matter-of-right and then where they could go by
22 special exception like an R5-D, R5-E and SP, and as
23 well as a Diplomatic Overlay, and that's one number.
24 And then what subset of that is the Diplomatic Overlay?
25 Do you have any sense of proportion? How big a chunk

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1 is the Diplomatic Overlay?

2 MS. MCCARTHY: Oh, we have maps.

3 MR. JACKSON: We have thousands of maps.
4 But now we've done some calculations generally looking
5 at the matter-of-right areas, areas that are subject to
6 FMBZA which would include the Diplomatic Overlay, the
7 D-Overlay, and then the matter-of-right areas excluding
8 all Federal lands. So that would be on our -- we just
9 called Federal Government. So if you include matter-
10 of-right areas with Government, you have 14,600 square
11 acres citywide. If you remove the Government land, you
12 have 3,351 acres. If you look at FMBZA, there's 1,469
13 acres.

14 MS. MITTEN: And what does that include?
15 What does that represent, the 1, --

16 MR. JACKSON: That represents all the areas
17 that will be -- where a chancery could go subject to
18 FMBZA approval.

19 MS. MITTEN: So that would include our 5D
20 and our 5E and all that?

21 MR. JACKSON: Yes.

22 MS. MITTEN: Okay.

23 MR. JACKSON: I did not pull out the
24 numbers for -- I can get -- of course, we can get
25 numbers -- just what portion of the FMBZA area is the

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1 D-Overlays. But at the time we were doing this
2 research, we were looking just at the levels of
3 magnitude relative to this application, which only
4 involves 22 acres. So, all of the five squares that
5 are subject to this application are 22 acres, which led
6 to our reference to miniscule. But we can do the
7 additional work to get those numbers.

8 MS. MITTEN: Yeah, I'd be curious to know
9 citywide how much.

10 MR. JACKSON: Just for your information,
11 the District of Columbia is around 39,000 acres.

12 MS. MITTEN: We did think that a real
13 potential benefit of redrafting the Diplomatic Overlay
14 to include all areas that are -- maybe to do it as
15 Diplomatic Overlay A or B, or Diplomatic Overlay with a
16 slightly different color, but it's got to be very
17 confusing for Foreign Missions who come in now and say
18 where can I locate, and they get, "Well, this is the
19 map where you can be as a matter-of-right." "This is
20 the map where you can be that's high density, that you
21 can go subject to the disapproval of the FMBZA."
22 "These are the squares that are two-thirds/one-third
23 that aren't included in the Diplomatic Overlay, but are
24 other areas where you can go and these are those that
25 are in the Diplomatic Overlay." So one of the things

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1 that we have tried to do is to approach -- a whole set
2 of things outside of zoning that are management and
3 marketing, doing a better job of trying to interest
4 Foreign Missions in locating in places that are not
5 problematic for neighborhoods. And we thought one
6 thing that would help in terms of the drafting of the
7 Diplomatic Overlay is if at the end of this, we just
8 have a map we can hand people that says, "This is where
9 you can locate." "As a matter of fate, this is where
10 you can locate with special permission." And just have
11 it be clear and maybe, hopefully, that will help people
12 steer people in the direction of where we would like
13 them to locate.

14 MR. HILDEBRAND: I just have a question.
15 What drives these Foreign Missions to seek stand-alone
16 properties? Is it security concerns? They don't want
17 to be in an office building where they don't have
18 control over other tenants or -- it seems like that,
19 for some reason, an inordinate number are opting to go
20 for residential districts as opposed to commercial. Or
21 is that a trend that you've studied?

22 MS. MCCARTHY: No, we have studied that
23 trend because Australia is located in an office
24 building by 16th Street. Until they built their new
25 chancery, the Swedes were located in an office suite in

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1 Watergate. But it seems from the conversations that
2 we've had with the State Department and actually we're
3 trying to get a focus group together of Foreign
4 Missions personnel to ask them some of these questions
5 more directly. But it appears that a lot of it is
6 motivated by a sense of identify. I will have my
7 separate building. This is the -- you know, the
8 chancery of my country and not just being in an office
9 building. But we want to probe further to see how much
10 of that is being encouraged.

11 MR. HILDEBRAND: That's very interesting.
12 Thank you.

13 MS. MITTEN: So I think where we are,
14 unless I hear differently from my colleagues, is that
15 we are going to need some text to look at first, and I
16 think on Page 8 of the Office of Planning Report, you
17 have hit most of the issues that we're going to need to
18 confront, which is what exactly -- first of all, are we
19 going to continue to use the one-third/two-thirds and
20 then, if we are, should we be approaching it as that
21 would be a threshold issue that the BZA would take up
22 and that would be embedded in the zones themselves and
23 we wouldn't have a separate overlay? Or would we have
24 a completely different way of mapping the Diplomatic
25 Overlay or would we do what was done 18 years ago, and

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1 well, we'll just look at it periodically and map it for
2 whatever makes sense at that point in time? If we're
3 going to use the one-third/two-thirds, are we going to
4 have a cap of some number so that it doesn't -- the
5 squares don't become completely institutionalized?
6 Then we need to get at, if we're going to focus on
7 institutional -- are we going to focus on the word
8 "institutional" or are we going to focus on the word
9 "residential" as use, and then define that? It strikes
10 me that we should focus on the word "institutional" if
11 that's what is in the Foreign Missions Act, but maybe
12 we should focus on both. I don't know. And that would
13 get at the four use-related issues that the Application
14 raised.

15 And then dealing with things like, you
16 know, if you have multiple uses on the same parcel that
17 can be characterized different ways and all the things
18 that you've touched on. Is there anything else that
19 folks would like the Office of Planning to come back
20 with in a text -- in a proposed text for us to
21 consider?

22 (NO RESPONSE.)

23 MS. MITTEN: Okay. Then I would suggest
24 that pending receiving that from you, that we need to
25 defer action on the Map Amendment that's before us and

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1 wait until we can take up the text amendment.

2 MR. HOOD: Madam Chair, in all of that, are
3 we moving to the text amendment? Maybe the text
4 amendment may do away with this case. Is that the
5 fashion which we are trying to do?

6 MS. MITTEN: Well, I guess I wouldn't want
7 to -- I wouldn't want to judge that at this point
8 either way. It's just that this case, which is great
9 that it brought this to our attention, we're just not
10 ready to take it up because we have some groundwork to
11 do with the text amendment.

12 MR. HOOD: So I guess we'll -- well, let me
13 rephrase my question. Will the text amendment possibly
14 do away with the case in front of us?

15 MS. MITTEN: I suppose it's possible.

16 MR. HOOD: I say that for a reason.
17 Hopefully, OP will bring something back to where we can
18 deal with a map notice as opposed to different squares.
19 I was actually throwing a hint out.

20 Thank you.

21 MS. MITTEN: Okay. Thank you.

22 Next is Case Number 05-25 and this is a
23 Request from the H Street Community Development
24 Corporation for a consolidated PUD at 4th and Rhode
25 Island, Northeast.

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1 MR. HOOD: Madam Chair, I contemplated
2 over this. I have a rapport with both Mr. Bill Barrow
3 and Mr. Eric Jones. We do a lot of community work
4 together. I think it's for the best interests, and so
5 there's no perception that I'd be -- I don't want to
6 say "recuse" myself, that I not participate in this
7 case.

8 MS. MITTEN: Okay. Thank you, Mr. Hood.

9 MR. HOOD: Let me ask this. Do I need to
10 leave a dais, Mr. Bergstein?

11 MR. BERGSTEIN: No, you do not.

12 MR. HOOD: I'm sure I won't be influenced.
13 I'm usually not anyway.

14 MR. BERGSTEIN: Unless you want to.

15 MS. MITTEN: We'll try and resist your
16 forceful personality, Mr. Hood.

17 Mrs. Thomas?

18 MS. THOMAS: Sorry. Good evening, Madam
19 Chair and members of the Commission. I'm Karen Thomas
20 with the Office of Planning. OP is recommending that
21 H Street's CDC PUD proposal to develop their vacant
22 property at 4th Street, Northeast, with a mixed-use
23 residential building of 170 units and 3,000 square
24 feet of ground-floor retail.

25 OP believes that a major amenity is the

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1 minimum of 20 percent of residential floor area,
2 comprising of a mix of 1- and 2-bedroom units that are
3 being proposed as affordable units for families and
4 individuals with annual income of at least 60 percent,
5 but not more than 80 percent of the area medium income
6 and that all of the apartments will comply with the
7 Fair Housing Accessibility Requirements. One hundred
8 twenty-eight below-grade parking spaces will be
9 provided. The lot is zoned C-3 and the Applicant is
10 asking for relief from the recreation space and court
11 requirements and believes that he can support this as
12 proposed. We are generally supportive of the design
13 by Planning and the land utilization of the site for
14 the proposed building.

15 But we would recommend that the Applicant
16 pursue lead certification for the building or apply
17 some elements of green design, as well as provision of
18 a flex-car space on site to provide a low-cost
19 transportation option for residents and the
20 neighborhood.

21 The Applicant is also being asked to
22 obtain the first source agreement memorandum and any
23 other necessary agreements relating to the
24 affordability of the units before the scheduled public
25 hearing. We believe that the proposed development

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1 conforms to the generalized land use map and
2 compliments the plan objectives for the area and the
3 project supports the District's policy that affordable
4 housing units are made available on new and existing
5 multi-family development projects.

6 Overall, the proposed development will be
7 an asset to the community, particularly for moderate-
8 income residents in rental markets. A more detailed
9 review based on other agency comments will be
10 submitted prior to public hearing. Therefore, we
11 recommend set down as proposed.

12 Thank you.

13 MS. MITTEN: Thank you. Are there any
14 questions for Ms. Thomas?

15 (NO RESPONSE.)

16 MS. MITTEN: I just had one question, one
17 comment. The proposal is to have a neighborhood
18 serving retail and the Applicant doesn't really
19 articulate what they mean by that. So, you know, a
20 list of potential uses would be helpful. And then in
21 the ANC's Resolution, which is not meant to -- I mean,
22 it's probably intended to influence us, but we're
23 meant to ignore these things at set down, but one of
24 the things that they do call out is that the Applicant
25 apparently has suggested that local small and

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1 disadvantaged business enterprises will be offered the
2 opportunity to rent space at below-market rents. So
3 if that is meant to be an amenity of the project, then
4 that's going to have to be specified as well.

5 And then, as was the case in a previous
6 submission, not in this case, but in another case, not
7 all the dimensions are shown on the plans. So they
8 still need to provide some additional detail.

9 MR. HILDEBRAND: And there may be a need
10 for some additional relief, too, as the Application
11 moves forward. If you've looked at the rooftop
12 structures and setbacks on houses and things, I think
13 some of the steer towers come directly to the base of
14 the building.

15 MS. MITTEN: Does anyone else have
16 questions? Mr. Parsons?

17 MR. PARSONS: This is a detail, but are
18 you -- you're suggesting in your report that the
19 Applicant include a flex-car space?

20 MS. THOMAS: Yes.

21 MR. PARSONS: Is that one space?

22 MS. THOMAS: Well, yeah. I asked for one
23 space, but it could be at least one space, at least.

24 MR. PARSONS: Well, would that be
25 something that you'd suggest that we would put in our

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1 Order requiring that? Because it's different than a
2 bicycle, if you know what I mean. It's something that
3 appears to be working in Washington, but for us to
4 require that, I find that difficult. Is Flex-car the
5 -- is that like "Kleenex?" Is that the name of a
6 company that others are copying?

7 MS. THOMAS: Yes, Fed Ex. You have flex-
8 car, you have zip-car. I think we're using the term
9 "flex-car" like "FedEx" now.

10 MR. PARSONS: Okay.

11 MS. THOMAS: But it's an amenity. It's
12 being considered as an environmental, as something of
13 an environmental amenity these days because it reduces
14 -- I can find out the exact percentage -- of car -- of
15 having a car. Car usage -- by how much percent in
16 metro areas across the country right now, particularly
17 in urban areas, Chicago, Seattle.

18 MS. MITTEN: I think the way we've
19 specified it in other cases where it's been proffered
20 is that it's a space for a car-sharing program,
21 without branding it, but it would still have to be --
22 it would have to be proffered by the Applicant.

23 MR. PARSONS: Correct. I had a little
24 problem with a garage door recently. We had a problem
25 with a garage door recently.

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1 MS. THOMAS: Oh, I see.

2 MR. PARSONS: So we've got another garage
3 door. It says, "Almond colored ventilated door." So
4 I wanted to spend a little time on that in the hearing
5 to make sure it's not something we could see through
6 and fluorescent lights bleeding out onto the street.
7 Because the word "ventilated" caught my eye. That's
8 on Sheet Number 4 showing elevations.

9 MS. THOMAS: Yes.

10 MS. MITTEN: Anyone else?

11 (NO RESPONSE.)

12 MS. MITTEN: All right. We have a
13 recommendation from the Office of Planning to set down
14 Case Number 05-25 for hearing, and I would so move.

15 MR. HILDEBRAND: Second.

16 MS. MITTEN: Thank you, Mr. Hildebrand.

17 Is there any further discussion,
18 questions, comments?

19 (NO RESPONSE.)

20 MS. MITTEN: All those in favor, please
21 say "aye."

22 (AYES.)

23 MS. MITTEN: Those opposed, please say
24 "no."

25 (NO RESPONSE.)

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1 MS. MITTEN: Mrs. Schellin, would you
2 record the vote?

3 MS. SCHELLIN: Yes. Staff will record the
4 vote three to zero to two to set down Case Number
5 05-25. Commissioner Mitten moving, Commissioner
6 Hildebrand seconding, Commissioner Parsons in favor,
7 Commissioner Hood not voting, having abstained, and
8 Commissioner Jeffries not voting.

9 MS. MITTEN: Thank you.

10 Next is Case Number 05-19, which is an
11 Application from the Neighborhood Development Company
12 LLC for a consolidated PUD and Map Amendment at 4100
13 Georgia Avenue. Ms. Brown-Roberts is back for this
14 one. Go ahead.

15 MS. BROWN-ROBERTS: Madam Chairman, we did
16 not submit a written statement or recommendation for
17 this Application because we believe that we still had
18 some items that were not to our satisfaction, so we
19 did not -- we did not submit a report for this case.

20 MS. MITTEN: Actually, you guys -- what
21 you did was you submitted a report for last month's
22 hearing --

23 MR. PARTICIPANT: Yes, that's correct.

24 MS. MITTEN: -- and then there were some
25 revisions made and I didn't know -- I guess you

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1 presented your report last month --

2 MR. PARTICIPANT: The last time, Yes, we
3 did.

4 MS. MITTEN: Okay, so there's nothing new
5 since we met last?

6 MR. PARTICIPANT: Yes, that's correct.

7 MS. MITTEN: Okay. So what happened the
8 last time was several of the Commissioners didn't
9 receive the materials until shortly before the meeting
10 and so that's why we brought it back, and there were
11 some comments that were made, even at that point, that
12 the Applicant had responded to. So we do have some
13 revised drawings in the record now. So the issue
14 before us is to set down the case with the revised
15 drawings, so I would invite any questions from the
16 Commission to Ms. Brown-Roberts, or comments.

17 Mr. Hood?

18 MR. HOOD: I would move that we set down
19 Zoning Commission Case 05-19 with the revised
20 drawings.

21 MR. PARSONS: I'll second that.

22 MS. MITTEN: Okay, I'm not quite ready to
23 go to a vote. Mr. Parsons, did you want to say
24 anything?

25 MR. PARSONS: Well, the answer to my

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1 question about spot zoning, I'm not sure the Office of
2 Planning agrees with what this says, but essentially
3 what's it's saying is they are the pioneers, they are
4 ahead of the curve, they are going to go through this
5 process to get C-3A, but everybody's going to come
6 behind them and get C-3A for free because we're going
7 to do it for them. I guess that's what I'm seeing
8 here. But I find it curious that we don't have a case
9 before us to take a look at this whole area as being
10 up zoned to C-3A. But I'm not going to stand in the
11 way of this Application.

12 MS. MITTEN: Okay. I'm not opposed to
13 setting the case down, but I -- the revised drawings
14 are still -- I have a lot of concerns about the design
15 and am hoping that some of my more articulate
16 colleagues on the subject will weigh and either
17 convince me that I'm wrong or help me express what I'm
18 trying to express, which we can explore now or we can
19 wait until the hearing.

20 MR. PARSONS: Well, I certainly am having
21 difficulty getting used to this new architecture. Not
22 this particular case, but a lot of cases that are
23 coming before us of multiple colored somewhat
24 industrial-looking buildings to be used for residents.
25 They don't look to me like a pleasant place to live,

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1 they really don't.

2 MS. MITTEN: Why don't you live across
3 from them?

4 MR. PARSONS: I'm not 22 years old anymore
5 either. And maybe this appeals to -- in other
6 communities, but it's very difficult for me to grasp
7 as opposed to the prior case, which is more
8 traditional with two different colors of brick. I'd
9 better stop.

10 MS. MITTEN: I'm not 22 years old either
11 anymore, but I think -- there's something very
12 distracting about it. It doesn't -- I don't know.
13 Mr. Jeffries, you're good at this.

14 MR. JEFFRIES: Oh, great. Part of the
15 problem, I think, is CAD renderings somehow don't
16 really tend to give some of the depth as relates to
17 really conveying what these buildings look like.
18 They're just very flat. They don't do well in terms
19 of the shadows and so forth. So some of that, I
20 think, is just the technique, but hopefully -- I would
21 agree with you, Madam Chair, that the design does
22 leave somewhat -- leaves a little bit to be desired.
23 You know, again, here we are looking at what looks to
24 be a very figural building that's in a context and
25 doesn't seem to be fully reflective of that. So, you

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1 know, I will be supportive of the set down, but I,
2 too, think that there needs to be a lot more work
3 here, and particularly at this ground floor level.
4 You know, it's -- this is an affordable housing
5 project, but it doesn't necessarily have to look like
6 one. And I just hope that the Applicant will spend a
7 little bit more time, you know, really articulating
8 and really being more reflective of the general area.
9 So that's my comment.

10 MS. MITTEN: Thank you.

11 MR. PARSONS: Let's talk about the Taylor
12 Street elevation because it looks to me as though it
13 was designed as retail and ripped up. It just ain't
14 right. It really is not right.

15 MS. MITTEN: yeah.

16 MR. PARSONS: That's my particular
17 comment.

18 MR. JEFFRIES: The fenestration just seems
19 to be off, I mean, just how the windows are placed.
20 They all seem to sort of float in space. It's just
21 not -- it just looks as if it could be in a field
22 rather than context. When you look at some of the
23 architecture around, windows are closer together.
24 There's more, you know, a standard feel. These are
25 just floating about. So, you know, I think in terms

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1 of window treatment, and how they're placed, is a bit
2 of a problem. So, again, I mean I think our
3 commentary should, hopefully, move the Applicant to
4 really, you know, think about urban design as they
5 design this building, and make certain that it's in
6 the context.

7 MS. MITTEN: Okay. Anyone else?

8 MR. HOOD: The only thing I would add, I
9 know my colleagues see this a lot more than I do, but
10 we're starting to see more and more cases of this
11 nature. I'm not saying whether it's right or wrong.
12 The only two cents I would put in is that if this is
13 the way architecture and everything is going, then
14 maybe we might need to stop resisting change. That
15 might not be the right comment, but for right now, I
16 want to make sure if things are going to change, I
17 want us to change with it and not stifle any progress.
18 Thank you.

19 MS. MITTEN: I hear what you're saying,
20 but I guess I also -- it's not meant to be, although
21 I'm sure the architects might object to this, but this
22 piece of property, this piece of architecture is going
23 to be here for a long time. So we shouldn't be -- you
24 know, people try things and experiment, but it has to
25 be something that's going to be enduring as a

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1 statement and I'm not getting what that statement
2 might be at the moment.

3 MR. HOOD: I agree with you, Madam Chair.
4 I'm just saying -- you know, I was probably not in
5 that number that you mentioned of colleagues who are
6 versed in this, but I'm just saying we're seeing more
7 and more of this. I'm just wondering if this is a
8 trend or is this where things are going. I, too, like
9 the contemporary aspect, where you have two different
10 colored bricks. But all my comments, all I'm saying
11 is if this is the way this movement is going, then
12 maybe we need to twist -- not you guys, maybe myself
13 -- we need to twist the way we think and adapt and
14 move with it. That's just a premier statement, it's
15 just a general statement.

16 MS. MITTEN: Okay.

17 MR. JEFFRIES: I appreciate your comments,
18 Vice Chair. I do think that this Commission has seen
19 some extraordinary architecture in its PUDs. You
20 know, I particularly liked the Children's Museum PUD
21 and some of the architecture there. I know one of our
22 colleagues didn't particularly like the height. But I
23 do think that given sort of what the PUD is all about
24 that we can demand and really set the stage and show
25 leadership in terms of the types of architecture that

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1 we're seeing. And again, I'm not really speaking more
2 on subjective types of things, but really again,
3 really speaking to the neighborhoods in which these
4 buildings show up. And Madam Chair is correct.
5 Architecture is enduring. It stays around for a long
6 time and you don't want it to be catalytic in a way
7 that allows for someone down the street to start to do
8 that same kind of thing. I mean I think we need to be
9 very mindful about the physical layout of this City
10 and really demand that the architects spend some time
11 as it relates to the PUD because there is
12 consideration here. I just think that we need to make
13 certain that they are more thoughtful as they do these
14 designs and come before us.

15 Mr. Ciochetto: Thank you.

16 All right. Anyone else?

17 (NO RESPONSE.)

18 MS. MITTEN: Then we have a Motion and a
19 Second to set down Case Number 05-19. All those in
20 favor, please say "aye."

21 (AYES.)

22 MS. MITTEN: All those opposed, please say
23 "no."

24 (NO RESPONSE.)

25 MS. MITTEN: Mrs. Schellin?

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1 MS. SCHELLIN: The staff will record the
2 vote five to zero to zero to set down Case Number 05-
3 19. Commissioner Hood moving, Commissioner Parsons
4 seconding, Commissioners Hildebrand, Jeffries and
5 Mitten in favor.

6 MR. HILDEBRAND: Ms. Schellin, I just
7 wanted to -- for the record, I did not vote on that
8 case. I was not able to participate.

9 MS. SCHELLIN: I'm sorry. Then we'll
10 record the vote four to zero to one. Commissioner
11 Hood moving, Commissioner Parsons seconding,
12 Commissioners Jeffries and Mitten in favor,
13 Commissioner Hildebrand not voting.

14 MS. MITTEN: I hope you join us on the
15 cases.

16 All right. What I'd like to do now is --
17 because I think we can maybe dispatch with a few
18 things quickly and get through the end of the Agenda
19 and hold Mt. Vernon for a few moments. So what I'd
20 like to do is take up the Salvation Army case, do the
21 final actions, which I think won't take long, and then
22 come back to Mt. Vernon, if everyone agrees with that.

23 Okay, so what we'll do now is we'll take
24 up Case Number 04-35, which is the Salvation Army and,
25 if you recall from our last public meeting, we had

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1 asked the Salvation Army to -- we were very supportive
2 of the program that the Applicant was proposing, but
3 we were struggling with the design. We have had some
4 modifications proposed by the Applicant in their
5 submission of October 11, 2005. I would ask if any
6 members of the Commission would care to comment?

7 MR. HILDEBRAND: Madam Chair, I do think
8 that the architect has come a ways with the
9 modification of the fenestration in a way that
10 simplifies the building a bit. I think you can see it
11 clearly in the chapel projection where various
12 different window sizes have been reduced to a series
13 of lineal square openings, the clearstory element has
14 been simplified by the elimination of the approximate
15 stained glass patterning. I still remain concerned
16 about the articulation at the streetscape. I'm
17 concerned particularly when you look at the larger
18 scale elevation of what the retail street will look
19 like that it isn't engaging. There aren't the sort of
20 the finesse moves that activate the streetscape, I
21 guess, is what I'm still looking for. While I think
22 there's been an improvement, I think that there could
23 still be some enlivening of this element to really
24 engage the avenue.

25 MS. MITTEN: Are there any others? Mr.

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1 Parsons?

2 MR. PARSONS: I need to better understand.
3 Are you looking at the streetlights along Martin
4 Luther King, Jr. Avenue?

5 MR. HILDEBRAND: Yes.

6 MR. PARSONS: So, do you mean more display
7 windows for the retail, or what do you mean by
8 "engaging?"

9 MR. HILDEBRAND: Well, I think an
10 introduction of elements that would give it more
11 scale. Right now we have a transition between like a
12 split-face block base to a brick with no indication of
13 a change in elevation plane that might give you a
14 shadow line, that might begin to develop a sense of
15 scale at the streetscape level. I think it's on the
16 way there. I think, with a little flexibility
17 perhaps, in the language, perhaps the Applicant could
18 continue to refine that as they move forward.

19 MR. PARSONS: So looking at the before and
20 after, the base course of split stone is a new idea?

21 MR. HILDEBRAND: Right, that's the only --

22 MR. PARSONS: To try to respond to your
23 previous comment about engaging, but lack of shadow --
24 so it's purely architectural, your comments? It's not
25 more street front or glass?

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1 MR. HILDEBRAND: No. It will come out in
2 the detailing.

3 MR. PARSONS: Well I'm delighted to see
4 the sign no longer appears. That's no surprise to
5 anyone. There's a panel halfway down that is square,
6 down in the tower.

7 MR. HILDEBRAND: That's before. Do you
8 see that before?

9 MR. PARSONS: So I'm stating for the
10 record my observation that the sign is gone, I think.

11 MR. HILDEBRAND: I think the sign has
12 become a precast bas-relief element that's now part of
13 the tower. So the 4-square grid that you see, I
14 believe, is intended to be an art piece that's on the
15 façade.

16 MR. PARSONS: Oh, my goodness, I didn't
17 notice that it still says "Salvation Army."

18 MR. HILDEBRAND: I think the intent is
19 that it would be a subtle thing that is not multi-
20 colored, it's just --

21 MR. PARSONS: -- self-illuminated or
22 anything like that? Okay.

23 MS. MITTEN: Is there anyone else? Mr.
24 Jeffries?

25 MR. JEFFRIES: I'm going to, regrettably,

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1 will be opposing this. I can't sign on to this as it
2 relates to the scale. Once again, it's an urban
3 design issue. I just don't think it's appropriate for
4 the area. I think that the Applicant has spent a
5 considerable amount of time trying to respond. I think
6 it's -- it came from over accessorized to, you know,
7 fairly bland, but I just -- you know, when we talk
8 about extraordinary architecture, I just don't think
9 we're here. So I'm going to oppose this one.

10 MR. HOOD: Madam Chair, I wanted to take
11 into consideration what you just stated earlier on
12 architecture being a signature for a particular
13 neighborhood. I wonder if we were to allow the
14 Applicant more time to submit more comments, to do
15 this, so hopefully, we all can get onboard because he
16 stated numerous times that the programs which they
17 have to offer are so vital. So I would just hate to
18 see this fail. I don't know, maybe we can give them
19 another month. I don't know, maybe they might not want
20 to change it. And just see how the outcome of the
21 vote is. If it would give them a little more time to
22 maybe kind of scale back and, as Commissioner Jeffries
23 stated, the signature of that neighborhood, as you
24 state, architecture will be there for a long time.
25 I've learned that. So I think that that would afford

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1 them the opportunity because I hate to see this go
2 down with all those services they can provide us and
3 maybe we might want to extend that time.

4 MS. MITTEN: I would like to put it to a
5 vote tonight rather than -- and depending on what
6 happens, we could -- I would just like to see what
7 happens.

8 I think one of the reasons why -- I mean I
9 share Commissioner Jeffries' concerns. I really,
10 really do. One of the reasons why I can accept this
11 is because this is a unique building in the sense that
12 there is not going to be another Salvation Army
13 building or a building of this kind with this mix of
14 uses in it. What I'm troubled by is a building that I
15 think looks anomalous like an apartment building, then
16 I'm worried about that setting a trend for other
17 apartment buildings. I don't know that this -- I know
18 that this is supposed to be establishing a -- to be a
19 catalyst. I don't know if it's going to be a design
20 catalyst, but I think it will -- I think it's intended
21 to be unique and it will be unique and so I'm more
22 willing to accept a unique use in an unusual building
23 than I would be to accept a traditional use in an
24 unusual building whose -- the design of which
25 disturbed me. But I would like to build in some

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1 flexibility to accommodate the concerns that Mr.
2 Hildebrand mentioned, to give the applicant some
3 leeway to improve that further, if that were possible.

4 So let me just see what happens here. I
5 would move approval of Case Number 04-35 with the
6 revised design.

7 MR. PARSONS: I'll second that.

8 MS. MITTEN: Okay. Is there any further
9 discussion?

10 MR. HILDEBRAND: I would also like to add,
11 Madam Chair, that it is a very unique and sculptural
12 building on this corner lot. It's an interesting
13 selection of materials that the architect has chosen.
14 The split-face block, I tend to associate more with
15 industrial buildings and not a signature architectural
16 building on a major street front. So I don't know if
17 that's driven by an economy concern, that a more
18 finished material might be too costly, or seen as too
19 costly by The Salvation Army, but I think that could
20 also help to elevate this building if it more -- if
21 that material was reconsidered as the project moves
22 forward.

23 MR. PARSONS: Do you mean to go to
24 something like granite?

25 MR. HILDEBRAND: Granite or limestone or

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1 pre-cast panels that give you a bigger scale than 8 by
2 16, which is what this split-face block typically is.
3 It's a cinder block with a decorative face.

4 MR. PARSONS: Right.

5 MS. MITTEN: So we could build in
6 flexibility for them to improve the quality of the
7 material also?

8 MR. HILDEBRAND: Yes.

9 MS. MITTEN: All right. Is there any
10 further discussion?

11 (NO RESPONSE.)

12 MS. MITTEN: All those in favor, please
13 say "aye."

14 (AYES.)

15 MS. MITTEN: Those opposed, please say
16 "no."

17 (NO.)

18 MS. MITTEN: Mrs. Schellin?

19 MS. SCHELLIN: The staff will record the
20 vote four to one to zero to approve Case Number 04-35
21 for proposed action. Commissioner Mitten moving,
22 Commissioner Parsons seconding, Commissioners
23 Hildebrand and Hood in favor, Commissioner Jeffries
24 opposed.

25 MS. MITTEN: Thank you.

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1 Next we have, for Final Action, we have
2 Case Number 00-36CP, which is a remand from the Court
3 of Appeals from the Campus Plan for American
4 University. Maybe, Mr. Bergstein, can you just say a
5 few words about how this is before us?

6 MR. BERGSTEIN: The Court of Appeals
7 reviewed the Commission's Action to Approve the
8 American University Campus Plan and essentially
9 sustained the Commission's Actions, but asked -- but
10 remanded it for the Commission to articulate with
11 greater precision why it did not find persuasive the
12 ANC's recommendations concerning implementation of the
13 parking policy, I think, specifically for the use of
14 tax. So we have prepared an Order that we think would
15 satisfy the Court of Appeals in terms of the standard
16 that they set, to give great weight to the ANC, and we
17 provided you that draft.

18 MS. MITTEN: Thank you. Reading it again,
19 it sounds even better. I mean the choices that we
20 made, I very much agree with now, just in terms of
21 giving the University flexibility and not trying to
22 dictate the manner in which they would attempt to
23 control off-campus parking.

24 With that, I would move that we approve
25 the Order on Remand in Case Number 00-36CP.

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1 MR. PARSONS: Second.

2 MS. MITTEN: Is there any discussion?

3 (NO RESPONSE.)

4 MS. MITTEN: All those in favor, please
5 say "aye."

6 (AYES.)

7 MS. MITTEN: Mrs. Schellin, it's
8 unanimous.

9 MS. SCHELLIN: The staff will record the
10 vote five to zero to zero to approve the Order for
11 Remand in Case Number 00-36CP. Commissioner Mitten
12 moving, Commissioner Parsons seconding, Commissioner
13 Hildebrand, Hood and Jeffries in favor.

14 MS. MITTEN: Thank you.

15 Then the next case, which is Case Number
16 05-08, Mr. Hood is going to handle that case because
17 I'm recused. This is the Capitol Gateway Overlay Text
18 Amendment. If you're ready?

19 MR. HOOD: You know, I seem to have a
20 problem finding the Order. Hold on a second. Okay,
21 thank you.

22 MR. JEFFRIES: Vice Chair, while you're
23 looking for the Order --

24 MR. HOOD: I found it.

25 MR. JEFFRIES: Oh, you found it. But

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1 before we start, I would just like to just make a
2 disclosure that a firm that I have interest in is
3 currently doing work in what is considered the
4 Baseball District. We are assisting AWC with
5 negotiations with WMATA and WASA in terms of
6 potentially conveying those properties to AWC for
7 large scale -- that consulting engagement has nothing
8 to do with the actual footprint of the baseball
9 stadium, but I wanted to put that out there for fellow
10 Commissioners and they can decide on whether I should
11 sit for this one or not.

12 MR. HOOD: Okay, Colleagues, you heard Mr.
13 Jeffries. I, in turn, think that that, as he said,
14 has no bearing on this. I think he would be able to
15 make an impartial decision. Are there any comments or
16 any problems with Mr. Jeffries participating?

17 (NO RESPONSE.)

18 MR. HOOD: Okay. Thank you. We'll move
19 forward.

20 Again, final actions on the Commission
21 Case Number 05-08, the Capitol Gateway Overlay Text
22 Amendment. Ms. Schellin?

23 MS. SCHELLIN: Staff has nothing further
24 to provide, other than to advise that you have a copy
25 of the proposed Order in front of you.

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1 MR. HOOD: Okay, Colleagues, this is our
2 proposed action, so what I would do before we open it
3 for discussion, I'll just move approval of Zoning
4 Commission Case 05-08, Capitol Gateway Overlay Text
5 Amendment. I would ask for a second?

6 MR. HILDEBRAND: Second, with discussion.

7 Mr. Vice Chair, would you accept a
8 friendly amendment to your Motion?

9 MR. HOOD: Sure.

10 MR. HILDEBRAND: I would like to move that
11 the text in Section 1606.19 be modified slightly to
12 accommodate some of the recommendations from the
13 National Capital Planning Commission. I think they
14 are relatively minor, but I'll read through them if
15 you have just a moment.

16 MR. JEFFRIES: Excuse me, Commissioner,
17 just one second. I --

18 MR. HOOD: The paper started running
19 together. I don't know what I did with mine either.

20 MR. HILDEBRAND: Okay, are you ready?

21 MR. JEFFRIES: Page 7?

22 MR. HILDEBRAND: Yes, 1606.19. "The
23 National Capital Planning Commission made several
24 recommendations that reflect the relationship between
25 the proposed ballpark site and the Federal interest.

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1 In fact, the Capitol Gateway Overlay area is not only
2 the gateway for the Capital City, but it is also the
3 gateway for the House of Representatives side of the
4 Capitol Complex. As such, any Applicant in proposing
5 a design for the new ballpark should consider
6 potential impacts to the Capitol Complex and take
7 steps to mitigate them during the design process.
8 NCPC Recommendations B, D, and H identify three areas
9 of potential concern which are lighting, signage and
10 security. These recommendations can be incorporated
11 into the proposed text with minor modifications to
12 1606.19."

13 The first modification identifies the
14 Capitol Complex along with the immediate neighborhood
15 as an area potentially impacted by the development.
16 The revised text for the beginning of 1606.19 would
17 read, "An Applicant requesting approval under this
18 section must prove that the proposed building or
19 structure, including the sitting, architectural
20 design, site plan, landscaping, sidewalk treatment and
21 operation will minimize potential impacts to the
22 neighborhood and to the Capitol Complex by: ..." and
23 then that is followed by the issues that the Office of
24 Planning identified as A through J.

25 The second modification expands the text

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1 of Item B to include both interior and exterior
2 lighting as potential concerns. The revised text
3 would read: "Item B. Minimizing light spill from the
4 stadium lighting, both interior and exterior, into
5 adjacent residential neighborhoods and minimizing
6 adverse affects upon the nighttime's views of the
7 Capitol from surrounding points."

8 The third modification addresses the
9 potential for signage to impact the Capitol Building
10 by adding the following at the end of proposed Item J,
11 a simple clause that says: "... or vistas to the
12 Capitol." I think the Office of Planning had gone
13 through a very elaborate statement and use statement
14 about the potential impacts of signage, particularly
15 illuminated signs on drivers or neighborhoods, and
16 also on the architectural character of the ballpark
17 itself. I just would recommend that we include the
18 potential vistas to the Capitol as a concern as well.

19 The last modification incorporate a new
20 Item K as recommended by NCPC to address the security
21 concerns of the U.S. Capitol Police. The new Item K
22 would read: "Assuring that the security concerns of
23 the AOC and the Capitol Police Board be given due
24 consideration during the ballpark design process,
25 particularly as they relate to the height of the

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1 proposed ballpark."

2 Those are the only four modifications I
3 would request for the NCPC review.

4 MR. HOOD: Let me just say, Mr.
5 Hildebrand, that's quite a bit. Why didn't we deal
6 with that at the proposed -- I know you can do it at
7 any time, but I'm just curious why we didn't deal with
8 that amount of concern at the proposed --

9 MR. HILDEBRAND: These issues were fully
10 addressed by NCPC during their review, which occurred
11 after the statute.

12 MR. HOOD: Some issues I heard, I think,
13 they are actually -- and you can help me with it, I
14 think H digs in quite a bit. H is covered as far as
15 the -- I think you're talking about vistas to the
16 Capitol Dome. I think what's in the proposed Order
17 covers that. As far as the lighting, I think J would
18 be sufficient, at least the way I'm reading it, it
19 would cover that concern. I think there are two
20 others.

21 MR. HILDEBRAND: Yes, my primary concerns
22 are to include the Capitol Complex in the opening
23 statement of 1606.9 so that, in addition to the
24 immediate neighborhood, the Capitol Complex is
25 considered during the design process.

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1 MR. HOOD: That's 1606.19 or 1606.9?

2 MR. HILDEBRAND: Point 19.

3 MR. HOOD: Point 19. Are there any other
4 comments to this? That's quite a bit.

5 MR. JEFFRIES: You know, wow, friendly
6 amendments. You know, I would concur with Vice Chair
7 that perhaps much of what you've just read into the
8 record could be covered in some areas. It's just a
9 lot to sort of consume as you were reviewing it. You
10 know, Vice Chair, I would -- obviously, with that
11 level of amendment, I just feel again we -- it's going
12 to be difficult -- I really do, I believe, would like
13 to sort of absorb all that you've added, but I feel
14 like I can't do it right now because I feel we're at
15 the eleventh hour. I mean perhaps --

16 MR. HILDEBRAND: Actually, I think the
17 Text Amendments I proposed are actually quite simple.
18 One is the concept of including the Capitol Complex as
19 identified by NCPC as an issue of concern when it
20 comes to the design of the stadium and I think that
21 can be simply added to the introduction of 1606.19 as
22 a very minor change. The other was the recommendation
23 that the Capitol Police Board be brought in to the
24 design process early to mitigate any potential delays
25 once a final design solution is arrived at to avoid

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1 construction delays or start-up delays for the city
2 and I think that was an excellent suggestion and one
3 that we should definitely pursue.

4 MR. HOOD: You know, I really think
5 though, and this is where I part with you
6 considerably, I really think your opening comment
7 which is 1606.19 stating that you want -- forgive me
8 for not citing it verbatim, but what you said is
9 1606.19 what you want to be in that opening paragraph,
10 I really think is addressed in H and I think that
11 that's sufficient.

12 MR. HILDEBRAND: Well, I think what H gets
13 to though is not preservation of the vistas of the
14 Capitol, it's promoting vistas from the ballpark to
15 the Capitol. It's addressing concerns of the stadium
16 developer, not the City.

17 MR. PARSONS: Let me jump in here. I
18 sense the best way to do this is to vote on the
19 Amendment and not put you in a position of accepting
20 this as an Amendment. And he made it -- at least he's
21 attempting to make this as a Motion anyway.

22 I think the trouble I have with this is
23 what is the Capitol Complex? That's a new term to me.
24 I assume that means the Senate Office Buildings all
25 the way to Union Station. What is it you're saying to

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1 us here? I mean we've been focusing on the Capitol
2 Dome as a significant element in this landscape that
3 this shouldn't intrude on, but now it's become the
4 Capitol Complex, so I'm struggling with that.

5 MR. HILDEBRAND: I think the intent is
6 that the Capitol Complex is the House and Senate
7 Office Buildings predominantly.

8 MR. PARSONS: How could it possibly impact
9 the Senate Office Buildings?

10 MR. HILDEBRAND: And I use that term as a
11 catchall. In the introduction, I said clearly it's
12 the gateway to the House of Representatives side of
13 the Capitol Complex.

14 MR. PARSONS: So you're really concerned
15 about the impact on the Rayburn and Longworth
16 Buildings?

17 MR. HILDEBRAND: Potentially, Yes.

18 MR. PARSONS: What are those, visual or?

19 MR. HILDEBRAND: Predominantly -- well, I
20 think the idea of lighting, which we have talked
21 about, the impact of the stadium lighting on the
22 skyline as a whole and how it relates to the Capitol
23 lighting as a lit monumental element in the core.

24 MR. PARSONS: I think that all of us agree
25 with that.

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1 MR. HILDEBRAND: Yeah, that's the concern
2 that I am addressing. But I do not want to get hung
3 up on the Capitol Complex. If it's simply the Capitol
4 Building, that's fine with me. The Capitol Complex is
5 just the term we use to talk about the Capitol and the
6 House and Senate Office Buildings in total.

7 MR. JEFFRIES: So you'd be willing to
8 change that will minimize potential neighborhood and
9 Capitol impacts, impacts on the Capitol?

10 MR. HILDEBRAND: And impacts on the
11 Capitol.

12 MR. JEFFRIES: Okay. What are potential
13 -- just the universe of potential impacts on the
14 Capitol?

15 MR. HILDEBRAND: Signage issues. We're
16 creating this new major American avenue of South
17 Capitol Street. Depending upon the signage is
18 articulated on the stadium, it could affect the visual
19 approach to the Capitol.

20 MR. JEFFRIES: It could affect the visual
21 approach to the Capitol. So if you're walking along
22 or driving along, there might be signage that could
23 impinge upon your sort of perception of the Capitol?
24 I'm just --

25 MR. PARSONS: I think you're talking about

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1 -- well, I don't want to put words in your mouth, but
2 we talked about it during the hearing of an obnoxious
3 scoreboard that the Capitol Dome is somehow visually
4 perched on top of. As you see, as you come in on the
5 South Capitol Street Bridge, where it says "Nationals"
6 and the Capitol Dome --

7 MR. HOOD: But I think we addressed that.

8 MR. HILDEBRAND: But it could even be a
9 large advertising sign of some kind.

10 MR. HOOD: But it's already addressed in J
11 the way I read it, unless I'm missing something. I
12 think it's already addressed.

13 MR. PARSONS: Except for the word
14 "Capitol" is not there.

15 MR. HOOD: But it still talks about the
16 surrounding areas. It says "Showing the signs on
17 exterior building when you turn on the ballpark ..."
18 and you can read it. You can read it for us.

19 MR. HILDEBRAND: Sure. No, no, I
20 understand.

21 MR. HOOD: I just believe it's already
22 addressed.

23 MR. PARSONS: Well, I would support his
24 Amendment J, to say "vistas to the Capitol."

25 MR. HILDEBRAND: Yes.

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1 MR. PARSONS: At the end of it.

2 MR. PARSONS: Let's go back to B.
3 "Minimizing light spill, particularly into adjacent
4 residential areas." You wanted to add "interior and
5 exterior"?

6 MR. HILDEBRAND: Yes.

7 MR. PARSONS: What does that do for you?

8 MR. HILDEBRAND: Well, I think it --

9 MR. PARSONS: You think without the
10 modifier, it means only interior or only exterior?

11 MR. HILDEBRAND: No, I just think it's a
12 clarifier. It just clarifies further that it's not
13 only -- that it's all lighting that needs to be a
14 concern. If you feel that that's redundant, I
15 certainly would back away from that as well.

16 MR. PARSONS: I think it is.

17 MR. HOOD: Okay, so what are we agreeing
18 on? I've gotten lost myself.

19 MR. JEFFRIES: I have one other comment
20 and that is what you seem to be saying in terms of
21 sort of introduction of another group that will have
22 review powers over the design. What's the name of
23 this, the Capitol Police?

24 MR. HILDEBRAND: The Capitol Police Board.

25 MR. JEFFRIES: So could you just -- when

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1 would that review occur?

2 MR. HILDEBRAND: I think it would -- it is
3 a mechanism to ensure that the development team
4 engages the Capitol Police Board during the design
5 process before the design is finalized so that the
6 Police Board has an opportunity to identify any
7 potential security concerns prior to them becoming set
8 in stone.

9 MR. JEFFRIES: So then, Commissioner
10 Hildebrand, what's your role here?

11 MR. HILDEBRAND: I don't represent the
12 Police Board here.

13 MR. JEFFRIES: Well, you don't, but I mean
14 some of those issues and concerns, you know, I think
15 could be covered by our Federal appointments here and
16 I know Federal is large, but I am gravely concerned
17 about one additional layer of review that, quite
18 frankly, could really slow down the overall design and
19 build of the stadium. I'm hoping that there's some
20 other way we can get around this.

21 MR. HILDEBRAND: Well, I don't even think
22 it's a review per se. I think it's an ongoing thing.
23 It's a discussion that occurs at milestones along the
24 project that gives the Police Board an opportunity to
25 have input and then the developer to give due

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1 consideration to. I think the wording I chose was
2 directly recommended by NCPC. I did not create that
3 myself.

4 MR. JEFFRIES: But you're presenting it
5 this evening?

6 MR. HILDEBRAND: Yes. Well, in response,
7 I think because the Office of Planning recommended no
8 changes based on the NCPC text.

9 MR. JEFFRIES: Okay.

10 MR. HOOD: Here's where I am. Now the
11 last part about the Capitol Police Board, I think
12 you're just concerned -- your concern has been raised
13 to make sure they're engaged. I believe we've
14 experienced once before -- and I may be quoting this
15 slightly incorrectly, but they have a way of engaging
16 themselves whether we do it here or not. So, to me,
17 that will happen regardless, at least from my
18 experience, the way I see things happen. Regardless
19 of what the Zoning Commission does, if the Capitol
20 Police want to engage themselves, they will be
21 engaged. So we can either do it now or we can do it
22 later on that issue. But the other ones, Commissioner
23 Hildebrand, I think is provided for in the text which
24 was advertised. You're talking about disturbing the
25 views for the distance to the Capitol and looking

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1 back, and a driver coming in -- I think it's here in
2 the language. And I think it's pretty well covered.
3 The only one I would probably agree with is the issue
4 raised -- I think at the end of J, we said "to the
5 Capitol," including "to the Capitol." I would agree
6 with that. Everything else, I think is inclusive and
7 as far as the Capitol Police are concerned, if they
8 want to inject themselves, they will do that anyway.
9 And they have done it in the past.

10 MR. PARSONS: I think what this is trying
11 to avoid is what happened in the past.

12 MR. HILDEBRAND: Right, that's exactly
13 what we're trying to do.

14 MR. PARSONS: To be shut out of the
15 process, even though in this case, the architect of
16 the Capitol sits on this panel, right? It wouldn't
17 make any sense for any Applicant to come forward with
18 the architect of the Capitol sitting here, saying
19 well, we didn't think it was worth talking to your
20 people. It's different than the prior BZA case, I
21 think, that we're talking about. It would just be
22 common sense to touch that base. So whether we put it
23 in our Order to let people know that they should is
24 the question.

25 MR. HILDEBRAND: Right, and the only ting

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1 I --

2 MR. PARSONS: What I have a problem with,
3 Mr. Hildebrand, is why there seems to be two concerns
4 here, the Capitol Police Board and the architect of
5 the Capitol.

6 MR. HILDEBRAND: Yes.

7 MR. PARSONS: Do we have two organizations
8 that they're going to have to touch base with?

9 MR. HILDEBRAND: And that's -- and I
10 actually struggled with that very idea when I was
11 drafting my statement tonight because -- and I
12 ultimately chose to go with the language that the NCPC
13 proposed as opposed to eliminating the AOC. I would
14 have no objection to eliminating AOC from that
15 statement.

16 MR. PARSONS: Because the architect of the
17 Capitol is on the Police Board.

18 MR. HILDEBRAND: He's on the Police Board,
19 exactly.

20 MR. PARSONS: I have trouble sending a
21 signal to an Applicant that they've got to go to two
22 places to get consideration. Now what are the
23 security concerns? If they're 130-foot office
24 buildings going up South Capitol Street, which the
25 current zoning provides, and 120-foot high stadium

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1 behind them, there aren't many concerns here, I
2 assume?

3 MR. HILDEBRAND: Unless there are --

4 MR. PARSONS: Unless they have to do with
5 the traffic?

6 MR. HILDEBRAND: Unless there are new --
7 down avenues and streets that are not blocked by those
8 buildings that you just discussed, because you're
9 talking about a 4-block unit here. You're not talking
10 about a single block entity. So there may be -- I'm
11 certainly not a security person so I cannot answer
12 your question specifically, but I would imagine that
13 that could be a possibility.

14 MR. PARSONS: Okay, now I understand.
15 Thank you.

16 MR. HOOD: What I would like to do is to
17 use the Vice Chair's prerogative. I would like to go
18 into Executive Session for about five minutes. Thank
19 you.

20 (Whereupon, the above-entitled matter went
21 off the record at 8:39 p.m. and resumed at 8:47 p.m.)

22 MR. HOOD: Okay, let's continue.

23 MR. HILDEBRAND: Mr. Vice Chair, if I
24 could modify my Amendment, please?

25 MR. HOOD: With pleasure.

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1 MR. HILDEBRAND: What I would recommend is
2 that we modify the introduction of 1606.19 to include
3 the United States Capitol along with the neighborhoods
4 as areas of potential impact. In addition, I would
5 propose, in lieu of the Item K that I had suggested
6 before, that we include a referral to the U.S. Capitol
7 Police as part of the Agency referrals so that they
8 have an opportunity to address any security concerns
9 at that time.

10 MR. HOOD: Okay. Thank you, Commissioner
11 Hildebrand. I would accept that friendly amendment as
12 stated. Who seconded it?

13 MR. JEFFRIES: I seconded.

14 MR. HOOD: Will the person who -- Mr.
15 Jeffries, will you accept the friendly amendment,
16 second it? I accepted.

17 MR. JEFFRIES: Will Commissioner
18 Hildebrand have to read what was actually - oh, okay.
19 Okay, I'm sorry. I'll accept it.

20 MR. HOOD: All right. It's been moved and
21 properly seconded. The Amendment proposed by
22 Commissioner Hildebrand in Zoning Commission Case 05-
23 08. All those in favor? Is there any more
24 discussion?

25 (NO RESPONSE.)

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1 MR. HOOD: All those in favor?

2 (AYES.)

3 MR. HOOD: Is there any opposition?

4 (NO RESPONSE.)

5 MR. HOOD: So ordered. The staff will
6 record the vote.

7 MS. SCHELLIN: The staff will record the
8 vote four to zero to one to approved final action in
9 Case Number 05-08 as amended. Commissioner Hood
10 moving, Commissioner Jeffries seconding, Commissioners
11 Hildebrand and Parsons in favor, Commissioner Mitten
12 not voting, having recused herself.

13 MS. MITTEN: Thank you, Mr. Hood.

14 Now we'll go back to where we skipped
15 over, which is Case Number 04-18, which is the Mt.
16 Vernon Triangle District Text Amendment and Mapping.

17 The first thing I want to start with is we
18 have a letter that was submitted to the record by John
19 Epting on October 4, 2005, and unless I hear a Motion
20 to Reopen the Record to accept that, that letter will
21 not be accepted because the record was closed. Does
22 anyone care to make such a motion?

23 (NO RESPONSE.)

24 MS. MITTEN: All right. Then what I'd
25 like to do is move through -- I think everybody has a

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1 copy of the Public Hearing Notice and then we also
2 have the August 15th report by the Office of Planning
3 that shows some of their recommended revisions and
4 then we can add any of our own that we want as we go
5 along, and I'll just take us through the sections.
6 If there are no -- if no one has any issues or if
7 there are no issues that I have picked up from folks
8 that participated in the case, then we'll just move
9 through it. Does that sound like a good plan?

10 Okay. Well then let's start first with
11 1720, which is the boundaries of the District and we
12 have all right recommendation in 1720.2 from the
13 Office of Planning, because there was some areas of
14 confusion, I think, to amend that to just apply the
15 MVT District to whole squares, is basically what that
16 is accomplishing. Is there any objection to accepting
17 that?

18 MR. PARSONS: It also limits the --
19 eliminates the 72-foot rights-of-way on the other
20 side.

21 MS. MITTEN: Right.

22 MR. PARSONS: I agree with it.

23 MS. MITTEN: Okay. Does anyone have any
24 problems with that?

25 (NO RESPONSE.)

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1 MS. MITTEN: Now this might be a point at
2 which we would talk about, in terms of boundaries,
3 whether we would include the Wax Museum site or not
4 and what the Office of Planning has proposed in their
5 last report here is that, as they did in one section
6 that -- I don't recall off the top of my head, but
7 that they had accommodated the Wax Museum site
8 already, but they recommended deleting the Wax Museum
9 from the design requirements but not the use
10 requirements of the overlay. Is there a general
11 consensus about that, and then that will be woven into
12 the discussion as well? Do we have a consensus?

13 MR. PARSONS: Agreed.

14 MS. MITTEN: Okay.

15 MR. PARSONS: I did not see where they
16 made a change to the text to accommodate that.

17 MS. MITTEN: I think we'll do that -- I
18 think it happens as we go along.

19 MR. PARSONS: Okay.

20 MS. MITTEN: Okay, 1721, the Office of
21 Planning didn't recommend any changes here, but there
22 had been concerns raised in the hearing that the
23 review of all applications, regardless of the scope,
24 is too burdensome. So what 1721.1 says is that an
25 applicant for a building permit -- that would be for

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1 anything that would require a building permit -- or a
2 Certificate of Occupancy, all of those would be
3 referred to the Office of Planning and then that would
4 give them basically 75 days -- a 75-day waiting period
5 during which OP would do their review and the Zoning
6 Administrator would be unable to move forward. So
7 that's the -- the concern is that regardless of what
8 that application was for, that that would bog things
9 down unnecessarily, which I'm sympathetic to. I don't
10 know exactly how to address it because I think the
11 things that are -- I think what's most complicated
12 that would require the Office of Planning's input over
13 and above what the Zoning Administrator is capable of
14 doing, you know, where they would seek that sort of
15 additional advice, would be when someone's building a
16 new building. That would be my sense.

17 Mr. Bergstein, can you -- I just want to
18 see if I can get a quick suggestion. If we wanted to
19 distinguish new construction or major renovation from
20 like minor alteration or interior work, do we -- are
21 you aware of language that we've used in the past?

22 MR. BERGSTEIN: Well one thing you could
23 consider using is the threshold provision that
24 subjects a property to DD itself, which is new
25 construction or construction that would result in the

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1 value of the building, if it's equal to 100 percent of
2 its assessed value, that's what gets you into DD in
3 the first place.

4 MS. MITTEN: Okay.

5 MR. BERGSTEIN: The question is do you
6 want to adopt that as a building permit that would
7 have -- that we could lay back to that initial DD
8 provision.

9 MS. MITTEN: Okay. Then that would be my
10 suggestion, that we would limit the applicability of
11 1721 to that same sort of trigger mechanism that
12 exists in the DD overall. Do we have consensus about
13 that?

14 MR. BERGSTEIN: But would you also
15 continue for every C of O?

16 MS. MITTEN: No. I'm suggesting that we
17 use the same trigger mechanism as the DD for a
18 building permit and I've just got to believe that the
19 ZA is smart enough to figure out what's in the list
20 and what's not in the list of permitted uses.

21 Okay. Next would be Section 1722, the
22 street wall design requirement. I just have to ask,
23 is the Wax Museum Square 515?

24 MR. COCHRAN: Yes, Madam Chair.

25 MS. MITTEN: Okay. So here's one where

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1 the Wax Museum site is -- I mean the permitted window
2 of opportunity. So do we have a consensus to accept
3 the proposed language from the Office of Planning for
4 1722.1?

5 (NO RESPONSE.)

6 MS. MITTEN: Does anybody have a concern?

7 MR. JEFFRIES: No.

8 MS. MITTEN: Okay. Okay, and the August
9 15th report by the Office of Planning does elaborate on
10 their commitment in 1722.5 to have the 14-foot floor-
11 to-ceiling height, for a depth of 36 feet, so I just
12 wanted to call that out, but they're not proposing any
13 change. So 1722, aside from the one Office of
14 Planning change will remain as it was.

15 The principal intersection area is defined
16 in 1723 and, again, there's an exception for the Wax
17 Museum site. Is there any objection to the exception?

18 MR. JEFFRIES: No.

19 MS. MITTEN: Okay. The 1724 deals with
20 building height within the principal intersection
21 area. Okay no changes are being proposed in 1735.
22 The minimum ground-floor height in the principal
23 intersection area, and there's one change being
24 proposed in 1725.1, which would exclude buildings in
25 Square 516 that existed.

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1 MR. JEFFRIES: Is that being struck?

2 MS. MITTEN: Yeah. Mr. Cochran, could you
3 explain that one to us? I don't remember that. I
4 don't remember the discussion on that. This is the
5 1725.1, the exclusion of "removing the exception for
6 existing buildings in Square 516."

7 MR. COCHRAN: We had added in other
8 sections -- one of the changes proposed by OP was to
9 basically exempt certain buildings that were
10 designated "historic" and that existed on the
11 effective date. That's why we knocked this out,
12 because it was covered in another section with that
13 exemption.

14 MS. MITTEN: Okay, thank you.

15 MR. HILDEBRAND: So we'll get to that at
16 some point as we go through.

17 MR. COCHRAN: Yes.

18 MS. MITTEN: Okay. Is there any problem
19 with the amended language for 1725.1?

20 (NO RESPONSE.)

21 MS. MITTEN: Okay. Then 1726, the
22 recommendation is to reduce the required service area
23 of the street wall from 75 percent glass to 65 percent
24 glass, and it's basically to address the concern about
25 excessive cost. Is there any concern about that?

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1 MR. JEFFRIES: No.

2 MS. MITTEN: Okay. And there's another
3 place where buildings in Square 516 that's being
4 deleted, but I guess it will get picked up again
5 later. 1727, the miscellaneous provisions for the
6 principal intersection area. I think those are some
7 clarifying -- and a clarifying amendment here in
8 1727.2. 1728 has to do with reducing the required
9 side yard and rear yard in an instance where somebody
10 contributes land, dedicate land for a public alley.
11 Are there any concerns there? None were raised in the
12 hearing. The ground floor parking and loading
13 provisions. The only thing that's being changed here
14 is -- that's being suggested by the Office of Planning
15 is that the amount of roof surface that has to be
16 covered by a -- I'll just for shorthand say, a green
17 roof, is reduced from 75 percent to 65 percent. I
18 just had a general comment on this section, which is,
19 you know, when you get to C, there's a series of
20 things that have to happen in order to invoke the
21 exclusion of the floor area of the court and among
22 those things is that the recreation space requirement
23 -- this won't count towards the recreation/space
24 requirement and so, and it has to be -- space that
25 would otherwise count, has to be accessible the same

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1 way, but then it won't count towards the recreation
2 space requirement. We've had a lot of cases that
3 people aren't even able to meet their required
4 percentages and then it just strikes me that this
5 whole section is a whole lot of work for what you get
6 out of it. So I don't know, I just -- I wasn't moved
7 by all of these contortions. I don't know, if I could
8 get somebody to get on board with deleting 1729, I
9 would advocate for it, but if I can't get any
10 enthusiasm, I'll move on.

11 (NO RESPONSE.)

12 MS. MITTEN: I'll let you guys be with
13 that for a little while, since I sense that you're not
14 immediately opposed. But I'll move on.

15 Okay, 1730 deals with the driveways on the
16 preferred street frontages. So what we have are some
17 amendments that deal primarily with the concern, I
18 think, of the property owner in Square 516 where, if
19 you remember, it was a very long block and half of the
20 frontage in the block is not in the area that's
21 supposed to be targeted for the pedestrian-oriented
22 uses so they were saying having what was originally
23 proposed, having, I think, a single driveway was
24 onerous. I'm going to ask Mr. Cochran to just tell us
25 how these proposed changes would accommodate the

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1 concern of the property owners for 516 as opposed to
2 what they had suggested.

3 MR. JEFFRIES: And Mr. Cochran, before you
4 do that, can you just describe that? Was it along K
5 Street or was that Sandy Wilkes?

6 MR. COCHRAN: That's correct.

7 MR. JEFFRIES: Okay.

8 MR. COCHRAN: Previously we had suggested
9 that the driveway would be permitted only as a special
10 exception. We've gone back and looked at the length
11 of the block face and decided that maybe it does make
12 sense to have it in there without having to go through
13 a special exception process to get it. Applicant
14 would still have to go through DDOT because it would
15 be a new use, but wouldn't have to come to BZA.

16 MS. MITTEN: So let me just make sure I'm
17 remembering all of this right. Is it correct that
18 they have an existing driveway on the western part of
19 the square from K and then the new B would -- the new
20 1730.3(b) would let them have one more --

21 MR. COCHRAN: No.

22 MS. MITTEN: No.

23 MR. COCHRAN: On the western part of the
24 square, for one thing, unless something has changed
25 very recently, if I might, can I just say either MVP

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1 or Wilkes. It doesn't always though.

2 MS. MITTEN: Where is that?

3 MR. COCHRAN: To the west of the alley.
4 They own only to the east of the alley, the last time
5 I knew about it.

6 MS. MITTEN: Oh, okay.

7 MR. JEFFRIES: Can you speak right into --

8 MR. COCHRAN: I'm sorry. MVP, the Wilkes
9 Development, did not own west of the alley.

10 MS. MITTEN: Okay.

11 MR. COCHRAN: They own only east of the
12 alley. They would, under the previous provisions that
13 we would recommend, either have access as a matter-of-
14 right from the alley or they would come to you, come
15 to BZA rather, and ask for a special exception. They
16 were concerned about the special exception process.
17 They asked for OP to reconsider as allowance a matter-
18 of-right. We looked again at the length of the block
19 and said okay, it does make sense.

20 MS. MITTEN: Okay. That's right because
21 before, there was no alley or there was no driveway
22 permitted. They were in the 1730.2?

23 MR. COCHRAN: Correct.

24 MS. MITTEN: Okay. I've got it.

25 So then these changes in 1730.2 and 1730.3

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1 would accommodate that. Is there any problem with
2 that?

3 (NO RESPONSE.)

4 MS. MITTEN: Okay. Then 1731 deals with
5 driveways on other street frontages. And then there
6 was some concern that the separations that were being
7 proposed were in conflict with DDOT requirements and
8 then 1731 -- the amendment language of 1731.5 would
9 accommodate that.

10 1732, these are the permitted ground floor
11 uses, makes a few language -- simplifies and makes a
12 few language changes. And 1732.1. And then proposes
13 a series of uses in 1732.2 and 1732.3. I think in the
14 1732.3, there was a concern raised by one of the folks
15 that testified, or maybe a few of them, about the fact
16 that there were certain office uses that were being
17 suggested, but -- like an architect, for instance,
18 but not a landscape -- no, a landscape architect is Q.
19 I was going to say not an attorney, but an attorney
20 was -- I don't know, there was a series of
21 professional office uses that were not being
22 permitted, so the Office of Planning has suggested at
23 the end of the list in 1732.3 that general office use
24 would also be permitted, subject to the restrictions
25 of 1733.2, which if you remember, was the -- so there

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1 wouldn't be too much of it. It would be restriction
2 on general office and financial institutions. So is
3 everyone okay with including the general office use
4 and the permitted uses in the secondary use area?

5 (NO RESPONSE.)

6 MS. MITTEN: Okay. I think we're adding
7 some flexibility to 1732.4 to add basically
8 restaurants and drinking establishments. Cabarets was
9 already there. Okay, that's it for 1732, but then
10 there was also concern, which I share, that 1732.5 and
11 subsequent sections, which is the phase-in of these
12 uses, that it's complicated and, you know, requires
13 some additional work on the part of the Zoning
14 Administrator. I would just as soon -- and people
15 were talking about how it would be problematic to do
16 some of the phasing-in if you had made commitments to
17 people for the interim uses, to -- I mean I would be
18 just as happy eliminating the phase-in and saying
19 these are the use restrictions. We've heard an awful
20 lot about what's happening already that's transforming
21 the neighborhood. There's a general understanding
22 that the amount of new residential that's gone into the
23 general area, not the immediate area, and I don't know
24 that there's going to be a problem for folks in the
25 short-term to deal with these uses, you know, the use

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1 restrictions.

2 MR. JEFFRIES: I'm sorry. I'm just
3 curious if the Office of Planning, Mr. Cochran, if you
4 could comment, just in terms of this 3.5 million
5 square feet, is there an example of this anywhere in
6 the District in terms of this approach towards a
7 trigger that you can recall?

8 MR. COCHRAN: No, I'm not familiar with
9 anything like this. We developed this in response --
10 we developed this as a way of trying to respond to
11 some of the task force members who were developers'
12 concern about there not being a market for the
13 required retail uses.

14 MS. MITTEN: I think the only --

15 MR. COCHRAN: Our August 15th report states
16 fairly simply that we did try to respond and that the
17 response was deemed too complicated by the people that
18 asked us to respond to it.

19 MS. MITTEN: I think -- don't we have like
20 a phase-in provision in the Capitol Gateway Overlay
21 along like M Street and places where we wanted retail?
22 No? Okay, never mind.

23 MR. BERGSTEIN: I think you're talking
24 about the ability to have non-preferred uses for a
25 limited period of time.

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1 MS. MITTEN: Yes.

2 MR. BERGSTEIN: And for good cause, I
3 think that's a part of the review that we would
4 request that ability to have it because you couldn't
5 use it for anything else, but it still had to be
6 designed to accommodate the permanent uses. But that
7 would be part of the design review by the Capitol
8 Gateway. You would still need permission to do that.

9 MS. MITTEN: So we built in something
10 where if you wanted to have an interim use, that you
11 would have to make your case for why -- you'd have to
12 have good cause as to why you couldn't put the use in,
13 the preferred use?

14 MR. BERGSTEIN: That's right.

15 MS. MITTEN: Okay.

16 MR. HILDEBRAND: It just wasn't a blanket
17 kind of use.

18 MS. MITTEN: So we can either take it out
19 wholesale, which would mean that for folks who
20 couldn't meet the -- who couldn't market the space to
21 the preferred use, then it would be a variance test if
22 they wanted to have some other use, or we could have a
23 similar -- I'm not just recalling how the Capitol
24 Gateway Overlay works entirely. I think it's a
25 special exception review, isn't it, Mr. Bergstein, or

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1 is it prescribed as to what the standards are?

2 MR. BERGSTEIN: I believe it has to do
3 with M Street.

4 MS. MITTEN: Right.

5 MR. BERGSTEIN: I just don't have the text
6 in front of me, but I thought that it was -- it was
7 either a part of the design review, but there was a
8 standard that needed to be met so it would have had to
9 come to the Zoning Commission. It was a good cause
10 standard or something like that. I just don't
11 remember.

12 MS. MITTEN: Okay. So we could either
13 have it -- just take the phasing out and either you
14 can get the uses in or come -- or go to BZA for a
15 variance or we can build in some kind of mechanism as
16 we did in Capitol Gateway?

17 MR. PARSONS: Why don't we look at that
18 before we take final action?

19 MS. MITTEN: Okay, that's a good idea. So
20 for now, what I'll suggest is that we eliminate
21 1732.5, 6 and 7, and then we can look at if we want to
22 build in a mechanism similar to Capitol Gateway, we
23 can do that on final action. Good idea.

24 MR. HILDEBRAND: And by doing that, you
25 would maintain the interim use provisions that are

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1 elsewhere in the text, if you build in a mechanism to
2 allow interim uses. Otherwise, they become
3 unnecessary.

4 MS. MITTEN: True. Good point.

5 Okay, and then 1733. We have in 1733.2(a)
6 where general office use is now being incorporated
7 into the 30 percent limitation that formerly applied
8 just to financial institutions, and I just wanted to
9 suggest a little technical clarification. When we
10 list financial institutions in the use list, which is
11 at 1732.3(g), it says, "Bank loan office or financial
12 institution." So I think we should say the same
13 because it suggests that financial institution is
14 different than a bank or a loan office. And then in
15 1733.2(b), it makes reference to "net leasable area"
16 and I don't believe that "net leasable area" is a
17 defined term in the Zoning Ordinance. So we have to
18 define that term. Mr. Cochran, if you had -- in
19 suggesting the use of the term "net leasable area,"
20 you obviously had some definition in mind. Is that
21 something that you could -- we need to define that.

22 MR. COCHRAN: It was 30 percent in a 50
23 percent, if I -- I missed the early part of your
24 question. I apologize, but we were talking about --

25 MS. MITTEN: No, that's not what I'm

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1 asking.

2 MR. COCHRAN: Okay.

3 Mr. Ciochetto: 1733.2(b) uses the phrase
4 "the net leasable area" occupied by the preferred
5 uses. And we -- "net leasable area" is not a defined
6 term in the Zoning Ordinance.

7 MR. COCHRAN: I had been wanting to take
8 out the lobbies and those areas. That's what I meant.
9 If I used the wrong term, I apologize.

10 MS. MITTEN: No, I'm not. I'm just saying
11 we need to define it. So maybe again between now and
12 final action, you could just suggest a definition that
13 we could adopt. Okay?

14 And then 1733.2(c) allows basically the
15 use of public space, an unenclosed sidewalk café to
16 count towards, up to 1,000 square feet, to count
17 towards this requirement. I would advocate that we
18 delete that because it's not permanent. It's subject
19 to the weather. You know, we're trying to get -- and
20 it's in public space. So I would advocate for -- now
21 that I'm on a roll for taking things how, how about
22 that 1720 matter?

23 (LAUGHTER.)

24 MR. COCHRAN: I knew you were coming back
25 to that.

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1 MR. BERGSTEIN: Although, Madam Chair, one
2 thing I was going to remind you in terms of 1729 is
3 that there is a set-down to eliminate the recreational
4 space requirement that's referred to there. I don't
5 know if that plays into what you want to do there, but
6 it would, in fact, ultimately none of these buildings
7 would be subject to a residential requirement if you
8 took final action on that.

9 MS. MITTEN: Right. Right. Which then
10 would leave you with all of these provisions and the
11 court surface would have to be 65 percent covered by a
12 green roof. I mean, I'll settle for taking out C if
13 that's as good as it gets, and I don't want to have a
14 long discussion about it, but --

15 MR. PARSONS: That's as good as it gets
16 over here.

17 MS. MITTEN: How about on this side?

18 MR. PARSONS: I'm not speaking for Mr.
19 Jeffries. He's right here.

20 MR. HILDEBRAND: Actually I support the
21 idea of covering these loading spaces and delivery
22 spaces with something that's more attractive for the
23 residents above. So if that's the purpose of 1729,
24 I'm in favor of that.

25 MR. COCHRAN: That's one of the two

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1 purposes.

2 MS. MITTEN: What is the second?

3 MR. COCHRAN: To allow for certain parking
4 and loading areas to not count towards FAR. The
5 purpose is to get the green roofs and the way you get
6 that is by getting something back.

7 MS. MCCARTHY: The environmental benefits
8 of a green roof in terms of reducing storm water run-
9 off and impervious surface and it then provides a much
10 more attractive unit for the units that are on the
11 interior because they're looking down on a green roof
12 and not on a loading dock or parked cars. So since
13 that was a positive, we were trying to incent that by
14 not having that roof make it count as FAR.

15 MS. MITTEN: Okay, C is out. Okay, 1729?

16 MR. HOOD: C is out?

17 MS. MITTEN: 1729.1(c) is out. That was
18 the easy one.

19 MR. HOOD: Was that the environmental
20 roof?

21 MS. MITTEN: No, that was the recreation.

22 MR. HOOD: Oh, Yes.

23 MS. MITTEN: Okay.

24 MS. STEINGASSER: Madam Chair?

25 MS. MITTEN: Yes?

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1 MS. STEINGASSER: We would like
2 clarification on something, if that's all right?

3 MS. MITTEN: Is it clarification?

4 MR. COCHRAN: It is. It is indeed.

5 MS. MITTEN: Or is it advocacy?

6 MS. STEINGASSER: It is purely
7 clarification.

8 MR. COCHRAN: I'm asking myself a question
9 about what might perhaps be one of my own typos.
10 1722.2, "Each building on a lot that fronts on a
11 pedestrian street, except for the" and then that
12 phrase doesn't continue. If it continued, it would
13 logically say, "except for a building in the PIA."

14 MS. MITTEN: Where? I'm sorry.

15 MR. COCHRAN: 1722.2.

16 MS. MITTEN: Okay.

17 MR. COCHRAN: The first line.

18 MS. MITTEN: Oh, yes, yes, yes.

19 MR. COCHRAN: I am not certain whether --
20 whether the language is sufficient where you define
21 later on that in the PIA, the surface area has a
22 special requirement or whether you need to go ahead
23 and say something in 1722. If you're -- I'd be more
24 than happy to work that out with the Office of the
25 Attorney General after you decide whatever you decide.

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1 I just wanted to point that out to you, that there's
2 an incomplete phrase in there.

3 MS. MITTEN: But you said if it was going
4 to be complete, it would say "except for the PIA?"
5 Yes?

6 MR. COCHRAN: "Except for a building in
7 the PIA." Excuse me. Just take the phrase, "except
8 for the" out of there, because it's "except for
9 decorative or architectural accent, et cetera," it's
10 down at the bottom.

11 MS. MITTEN: Okay. Okay. Now the one
12 thing that I'm a little bit, now worried about, is --
13 oh, I see, okay. That is what -- that just snuck in
14 there. Okay, that's fine. Because the rest of it
15 reads the same way as the public hearing announcement.

16 Okay. So I don't think we had any areas
17 where we lacked consensus as we went through. So I
18 would move approval of Case Number 04-18, as we made
19 the series of running amendments by consensus.

20 MR. BERGSTEIN: Madam Chair, there's an
21 additional Map Amendment for Square --

22 MS. MITTEN: you are so right.

23 MR. BERGSTEIN: -- 483 --

24 MS. MITTEN: You are so right.

25 MR. BERGSTEIN: -- that appears in A, so I

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1 would at least like you to indicate that your approval
2 includes that Map Amendment.

3 MS. MITTEN: Thank you for mentioning
4 that. I had it up top in my notes and then I skipped
5 over it, which is why I didn't go back. Okay, so the
6 issue that Mr. Bergstein is referring to is the
7 rezoning of Square 483, which if you remember, is
8 zoned currently C-3-C and we had set down two
9 different potential zone categories, DDC-2-C and DDC-
10 3-C, and unlike most of the other land in the area,
11 this is zoned for high density commercial and it sort
12 of stands out that way, which is how it got a C-3-C
13 zoning in the first place. While I don't think that
14 DDC-2-C would necessarily be inconsistent with that,
15 I'm perfectly satisfied to go with the Office of
16 Planning recommendation that it be rezoned to DDC-3-C
17 and that would incorporate that into the Motion that I
18 made.

19 MR. JEFFRIES: I think what you are
20 referring to, the square, is that the square that is
21 to the west of the blasting (*9:25:27 phonetic) zone?

22 MR. COCHRAN: That's correct.

23 MR. JEFFRIES: Okay, that's Steward
24 (*9:25:32 phonetic)?

25 MS. DEASON: Guy Steward's (*9:25:30

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1 phonetic), right.

2 MR. COCHRAN: Okay.

3 MS. MITTEN: Would you like to second my
4 Motion then?

5 MR. JEFFRIES: I will second your Motion.

6 MS. MITTEN: Thanks. Okay, is there any
7 further discussion?

8 (NO RESPONSE.)

9 MS. MITTEN: All those in favor, please
10 say "aye."

11 (AYES.)

12 MS. MITTEN: Those opposed, please say
13 "no."

14 (NO RESPONSE.)

15 MS. MITTEN: Ms. Schellin?

16 MS. SCHELLIN: Staff will record the vote
17 five to zero to zero to approve Zoning Commission Case
18 Number 04-18. Commissioner Mitten moving,
19 Commissioner Jeffries seconding, Commissioners
20 Hildebrand, Hood and Parsons in favor.

21 MS. MITTEN: Thank you. Unless the Office
22 of Planning has something that they would like to call
23 out for us, we would just like to take home your paper
24 copy of your status report and put that under our
25 pillow tonight.

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1 MS. STEINGASSER: Enjoy your reading.

2 MS. MITTEN: Okay. Is there anything else
3 before we --

4 MS. SCHELLIN: Correspondence.

5 MS. MITTEN: Yes, we did receive two
6 pieces of correspondence that I don't seem to have in
7 front of me at the moment. Tell me what they related
8 to again?

9 MS. SCHELLIN: The residential recreation
10 area. They basically wanted to speed this up. I
11 think that was the main --

12 MS. MITTEN: Say that again.

13 MR. BERGSTEIN: The letters requested that
14 you take some action quickly on what was your set-down
15 decision, and it was somewhat unclear to me what was
16 being said because, in fact, you did set-down a case
17 to repeal those provisions. My office is preparing a
18 public hearing notice -- of course, you can't take any
19 action until you have the hearing, so I can say we're
20 working on it as quickly as we can.

21 MS. MITTEN: Okay. Well, thank you.

22 Okay, if we don't have any other business,
23 then I guess we're adjourned. Thank you.

24 (Whereupon, the above-entitled matter was
25 concluded at 9:27 p.m.)

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