

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING
1180th MEETING SESSION (8th OF 2005)

+ + + + +

MONDAY

May 16, 2005

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 2001, pursuant to notice, at 6:00 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairman
KEVIN HILDEBRAND	Commissioner
GREGORY JEFFRIES	Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	Zoning Specialist
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OFFICE OF PLANNING STAFF PRESENT:

STEPHEN MORDFIN

OFFICE OF THE D.C. ATTORNEY GENERAL

JACOB RITTING, ESQ.

This transcript constitutes the minutes from the Special Public Meeting held on May 16, 2004

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AGENDA ITEM

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CALL TO ORDER:

Carol J. Mitten3

Case No. 05-13, a sua sponte -
JBG/Louisiana Avenue LLC.4

Consensus of Board.22

Case No. 04-25 is the Catholic University Map
Amendment only.23

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

6:08 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a Special Public Meeting of the Zoning Commission of the District of Columbia for Monday, May 16, 2005.

My name is Carol Mitten. And joining me this evening are Vice Chairman Anthony Hood and Commissioners Kevin Hildebrand and Greg Jeffries.

Copies of the meeting agenda are available to you, and they're in the wall bin by the door. We only have two items.

I'd like to remind folks that we don't take any public testimony at our meetings unless the Commission specifically requests someone to come forward.

Please be advised that this proceeding is being recorded by a court reporter and is also being webcast live. And therefore, we ask that you refrain from making any disruptive noises or actions in the hearing room during this special public meeting.

And I'd ask you now to turn off all beepers and cell phones.

Ms. Schellin, do we have any preliminary matters?

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1 MS. SCHELLIN: No, ma'am.

2 CHAIRPERSON MITTEN: All right. Then the
3 first for proposed action is Case No. 05-13, and this
4 is a sua sponte review that the Zoning Commission
5 voted to undertake regarding JBG/Louisiana Avenue LLC,
6 which was a BZA case. And I'll let Mr. Hildebrand
7 start.

8 COMMISSIONER HILDEBRAND: Thank you, Madam
9 Chairman.

10 You'll recall that 51 Louisiana Avenue is
11 a case that the applicant was requesting a variance
12 from the height limit to go from 110 feet using
13 transfer development rights to 130 feet for a proposed
14 addition to 51 Louisiana Avenue.

15 When we initiated the sua sponte review it
16 was to determine if the Board's decision was based on
17 a full and adequately supported record regarding the
18 security concerns of the Capitol. And to determine if
19 the variance tests had been adequately meet, and that
20 the ascertain that the compliance with the Zoning
21 regulation would render development of the property
22 economically and feasible did not seem to be supported
23 in the original order.

24 I think given the import of the latter
25 aspect of the review, I think we should perhaps

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1 address that first.

2 In reviewing the record there were several
3 things that caught my attention. In the applicant's
4 pre-hearing statement they asserted on page 15 that
5 this is not a situation where the applicant has sought
6 to manufacture unique conditions. To be certain, the
7 unique conditions of the property make it physically
8 impossible to design an addition that fully complies
9 with the Zoning regulations.

10 After reading the record I am not
11 convinced that this is correct. While there are
12 aspects of the existing site that must be dealt with,
13 it seems more accurate to state that the applicant's
14 program for the development makes it physically
15 impossible to design an addition that complies with
16 regulations.

17 For example, the applicant proposes a
18 parking garage with 443 spaces, even though only 301
19 are required by the regulations. That represents a
20 parking surplus of 47 percent. And yet the applicant
21 asserts that the cost of this surplus parking should
22 be considered as a practical difficulty that would
23 render the development of the property economically
24 infeasible without relief.

25 Wouldn't a variance to reduce the amount

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1 of parking required on the site be more appropriate
2 relief, given the testimony in the case and the
3 proximity of the project to two Metro stations?

4 Also, the architect of the applicant, Mr.
5 Ivan Harbor testified on transcript page 213 lines 17
6 through 21 that it would be technically acceptable to
7 bring the rectangular building up against the
8 triangular one and maybe consequently reduce its
9 height and build the same overall floor area. To me
10 that's the architect for the applicant was stating
11 that they could build the same building within the
12 zoning envelop, and yet there's been a design choice
13 to create a grand atrium space, a vibrant focal point
14 at the cost of useable FAR.

15 The architect states on page 211 lines 15
16 through 17 "What is pushing us up is the desire to
17 create sensible volume within an overall perimeter
18 that we can say is this sort of vibrant focal point."

19 The architect goes on further regarding
20 the atrium on page 214 lines 4 through 8. "We have
21 got something that breathes easier and allows the
22 building to look forward to the future rather than
23 working with the unsbtly of just floor space, FAR and
24 that sort of statistic, I guess."

25 Those are aspects that concern me in

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1 reading the transcript.

2 I think another issue is the relative
3 impact of the private standstill agreement on the
4 property and enforceability and import on the Zoning
5 regulations. And I think it's something that we've
6 dealt with in looking at the impact of Monaco on other
7 properties that's a similar kind of idea. And it
8 seems to me that while the owner of the property may
9 have willingly accepted the mantle of that agreement,
10 they also would have negotiated the cost impact of
11 that into the purchase price of the property. So to
12 suddenly say that it's a practical difficulty seems to
13 me like it's almost double dipping.

14 CHAIRPERSON MITTEN: Anything else?

15 COMMISSIONER HILDEBRAND: No.

16 CHAIRPERSON MITTEN: Well, I think you've
17 captured a lot of the issues that were giving me
18 concern in your summation.

19 I agree with you that there hasn't been
20 the nexus created between the conditions that were
21 described as being problematic below grade between the
22 Tiber Creek and the Metro tunnel adjacency, and then
23 how that has been the problem as it exists that the
24 relief requested does not address the problem. In
25 fact, the design of the building exacerbates the

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1 problem.

2 So clearly that nexus has not been
3 created. And I think that there needs to be a
4 consideration given to the extent to which the
5 applicant is creating their own hardship by the
6 design.

7 And further, what you've described in
8 terms of this being program driven, I think that was
9 the interesting thing between comparing the written
10 pre-hearing submission and the testimony. I think it
11 became very clear in the testimony that this was being
12 driven by the desires of the occupant. And even the
13 fact that the buildings are connected --

14 COMMISSIONER HILDEBRAND: Right.

15 CHAIRPERSON MITTEN: -- is being driven by
16 the desires of the occupant.

17 And I also thought it was interesting that
18 there's a lot of discussion about lead, and in fact
19 the support of the ANC, they wanted -- I don't know if
20 it was a condition, but they were very desirous of the
21 building being recertified, which is the kind of thing
22 that you see in a PUD where you're saying we need some
23 design flexibility because we want to design a better
24 building, and here are some of the things that we're
25 offering in return.

1 COMMISSIONER HILDEBRAND: Right.

2 CHAIRPERSON MITTEN: I think it sounds
3 just like a PUD.

4 And also this notion of creating the
5 sensible volume, which I know that at least one of the
6 BZA members was swayed by. But I think there was a
7 lot of focus on the design and not on actually giving
8 serious consideration to each of the discreet steps of
9 the three prong test for the variance relief.

10 And finally on the point that you raised
11 about the standstill agreement. I think it's very
12 troubling when we have private agreements that are
13 being treated -- I mean, in this it's the property's
14 being treated as if there has been an historic
15 designation imposed.

16 COMMISSIONER HILDEBRAND: Right.

17 CHAIRPERSON MITTEN: When in fact there
18 has not.

19 So those are the things that cause me
20 concern that I think that the BZA just didn't hold the
21 applicant to the standard that's required.

22 And then I guess the other point that you
23 raised about economic infusibility which was lifted
24 right out of the pre-hearing statement and made its
25 way into the order. There isn't anything in the

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1 record that speaks to economic infusibility. It
2 doesn't speak to economics at all in any kind of
3 holistic way. And so to draw the conclusion that
4 without the relief, the project would be infeasible,
5 there is no evidence to support that.

6 COMMISSIONER HILDEBRAND: Yes.

7 CHAIRPERSON MITTEN: So anyone else want
8 to weigh in?

9 COMMISSIONER HILDEBRAND: Yes. I also
10 wanted to speak just for a moment on the security
11 aspect, too, because that was the primary driver when
12 I initially brought this to the Commission. And after
13 reviewing the record I think it's clear that the
14 record is incomplete without rebuttal testimony to
15 the applicant's security analysis. And I think for
16 that reason alone there should be substantial import
17 to send it back to the Board for additional hearing on
18 that subject matter alone.

19 So with that in mind, does anyone else
20 have further comment on that?

21 VICE CHAIRMAN HOOD: I just want to make
22 sure, and that was one of the things I've been
23 grappling with, the security issue.

24 I believe there was a mix up about
25 whether--coming in from the BZA and they had another

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1 meeting, I think, at the same time. I just want to
2 make sure that we afford or accord the ANCs and
3 community groups this same opportunity when that
4 happens to them. I just think we're going down a --
5 if that's one of the reasons we're remanding it back,
6 then any neighborhood group or applicant or whoever
7 can come in and say "Look, I missed the window, so now
8 I can come down, let's see if this can work for me,
9 too." That's the only thing that gives me pause.

10 Well, I agree with you.

11 COMMISSIONER HILDEBRAND: Right.

12 VICE CHAIRMAN HOOD: But I want to make
13 sure that we're across the board when those ANC and
14 those neighborhood groups come down here and say the
15 same thing. And I just want to make sure that we're
16 not opening up a Pandora's Box.

17 That's all. I just wanted to put that on
18 the record.

19 COMMISSIONER HILDEBRAND: Certainly.

20 VICE CHAIRMAN HOOD: So that when I bring
21 it back up, we'll all remember.

22 COMMISSIONER HILDEBRAND: I certainly do
23 appreciate that comment. And I think that this is
24 such a unique condition where the applicant
25 concurrently meeting with the Sergeant at Arms while

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1 the hearing was taking place. I think that was the
2 only basis for my real objection.

3 So I would make a motion that we -- oh,
4 sorry.

5 COMMISSIONER JEFFRIES: I've had some
6 concerns after reading the record here about a lot of
7 what you state, Commissioner Hildebrand. I'm sort of
8 torn here and I have some ambivalence because, you
9 know, as I look over sort of the kind of relief that's
10 being requested, additional 20 feet, I just don't
11 think it has sort of the magnitude of problem as
12 relates to the existing area. And I'm just sort of
13 torn here as it relates to -- and the shape of the
14 site is relatively odd. And while Chairwoman Mitten
15 commented about the whole discussion around sort of
16 the underground, the Metro station and the existing
17 sewer; that whole discussion not really making the
18 case, it does represent some level of encumbrance on
19 the applicant.

20 So I'm not quite there as it relates to
21 making the case to definitely sort of reverse this
22 case. I would probably like to hear some more of
23 record. It would probably give me a lot more comfort
24 if we moved down the road of, perhaps, remanding it
25 back to the BZA and just getting some additional

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1 information on the record.

2 COMMISSIONER HILDEBRAND: I actually agree
3 with you.

4 COMMISSIONER JEFFRIES: Yes. Yes.

5 COMMISSIONER HILDEBRAND: Very much so.

6 As to the unique configuration and size of
7 the site, I think that was an interesting aspect that
8 I noticed as well. And I think if it wasn't for the
9 fact that the site wasn't entirely square, an entire
10 block, and that the proposed development that was
11 resulting from this site was rectangular or
12 triangular; I mean pure geometric shapes, it didn't
13 seem to bear the same weight. Or the impact of the
14 site shape at that scale didn't seem to bear the same
15 weight to me if it would have, perhaps, on a smaller
16 lot that was in a block that was multiple parcels on
17 the same square. And that's just my opinion.

18 CHAIRPERSON MITTEN: Could I just weigh in
19 on this? Because this is a very important point and
20 I think it's one that's lost sight of from time-to-
21 time. And if you read what the test is supposed to be,
22 it's "where by reason of exceptional narrowness" so
23 and so forth "strict application results in a peculiar
24 and exceptional practical difficulty." By reason of
25 this thing, not once you establish that there's a

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1 unique condition that the door is open for whatever
2 someone wants to ask for, just on this issue that
3 we've chosen to focus on for conversation right now,
4 which is the odd shape.

5 Unless someone proves that that odd shape
6 gives rise to the peculiar or exceptional practical
7 difficulty, then the odd shape is irrelevant, even
8 though it may be unique.

9 COMMISSIONER JEFFRIES: Yes. But what I
10 would say is that in terms of designing an office
11 building, that requires a core and a certain level of
12 circulation that in fact super imposing a floor plan,
13 a typical office floor plan could onto such an unusual
14 shaped site could bring about hardship to that
15 particular developer.

16 COMMISSIONER HILDEBRAND: Right.

17 CHAIRPERSON MITTEN: I understand.

18 COMMISSIONER JEFFRIES: So I'm just
19 sensitive as it relates to that.

20 I mean, there are certain shapes that just
21 don't lend themselves to office design of a sort and
22 you might need some additional height in order to
23 accommodate a particular tenant. So that's where I'm
24 at.

25 CHAIRPERSON MITTEN: I think what's been

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1 missing throughout this particular case, I don't know
2 if I want to call it like a chain or the thread. You
3 know, we have this laundry list of things that make
4 this site unique, but we don't then have the thread
5 that gets us to the exceptional practical difficulty.
6 And then to the relief that's being requested. And I
7 think that's what we need to get in this case.

8 COMMISSIONER HILDEBRAND: Yes.

9 CHAIRPERSON MITTEN: So you were saying,
10 Mr. Hildebrand. I'm sorry.

11 COMMISSIONER HILDEBRAND: Madam Chairman,
12 thank you. I was going to move that we remand this
13 case back to the BZA for an additional hearing to
14 explore -- unfortunately, I didn't write a list of all
15 these items as we went through them. But to basically
16 explore the things we've been discussing here on the
17 dias.

18 I think one was the aspect that the
19 current site is undevelopable under the current Zoning
20 regulations. That that is, in fact, infeasible.

21 That there is a nexus between the
22 difficulties that the applicant has purported and the
23 relief that is given by the BZA, i.e., would another
24 relief be more appropriate such as a parking relief
25 for the difficulties that the applicant has claimed

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1 exist under the site.

2 Madam Chair, were there other things that
3 you would like to suggest?

4 CHAIRPERSON MITTEN: I think we also want
5 them to address the degree to which they should rely
6 on the standstill agreement as sort of fixing the
7 historic status of the property.

8 And I guess this is just more of a
9 clarifying point, but I would like the BZA to attempt
10 to divorce themselves from the programmatic desires of
11 this applicant and have this be a more neutral
12 presentation about what is possible. Not what do they
13 want, but what can you do. Because that's what should
14 drive a variance case is what is possible, not what
15 would you like.

16 So I don't know how to capture all that.
17 But I think what would happen is we would draft an
18 order and then --

19 COMMISSIONER JEFFRIES: Can you expound on
20 that just a minute? I just want to be perfectly
21 clear.

22 You want a development program that is
23 almost generic in nature that does not actually target
24 a particular tenant type? I guess I'm not clear.
25 Could you just help me out here?

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1 CHAIRPERSON MITTEN: A lot of what has
2 been described in the record about why the building
3 needs to be a certain way; why it needs to be
4 connected, why there needs to be this amount of
5 parking, why the building needs to go up because
6 typically for a law firm you have the back of the
7 house space that's on the first basement level. And
8 because they're trying to cram more parking in there,
9 that's pushing those support functions up into the
10 building. You know, those things are very specific to
11 the proposed user.

12 You know, they don't have to look at a
13 design, but they have to analyze, but they have to
14 analyze what's being requested not in light of this
15 specific user. But, for instance, why couldn't one
16 just build a separate building on the footprint of the
17 parking garage?

18 COMMISSIONER JEFFRIES: Okay. And I guess
19 so basically you want the applicant to really address
20 the whole notion of an office user versus some other
21 user because --

22 CHAIRPERSON MITTEN: Right.

23 COMMISSIONER JEFFRIES: Because,
24 obviously, I mean there's financial institutions that
25 have back office space that can really make the same

1 case that a law firm could make. So you want to make
2 certain that there's really a very generic view, I
3 mean some delineation between office versus some other
4 user --

5 CHAIRPERSON MITTEN: Right.

6 COMMISSIONER JEFFRIES: -- that creates
7 hardship for the particular applicant in doing the
8 development at this site?

9 CHAIRPERSON MITTEN: Yes.

10 COMMISSIONER JEFFRIES: Okay.

11 CHAIRPERSON MITTEN: And there's things in
12 the record here that just simply -- and I'm not sure
13 I'm going to be able to find them. But there were
14 things in the record about parking in particular that
15 said that if they couldn't provide the amount of
16 parking at a certain ratio, that the building was not
17 marketable or something along those lines. Well,
18 that's just simply not true. We have historic
19 buildings in the city that have lower than typical
20 parking ratios and they get among the highest rents in
21 the city. So making those assertions is just simply
22 not helpful and shouldn't be just blanketedly without
23 challenge accepted by the BZA.

24 So I think the standstill agreement was
25 the only thing I would add to you, Hr. Hildebrand.

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1 COMMISSIONER HILDEBRAND: Okay.

2 CHAIRPERSON MITTEN: And I would second
3 your motion.

4 COMMISSIONER JEFFRIES: Will someone be
5 able to walk through exactly what it is that we're
6 asking for, because I would hope that in terms of what
7 we're asking them to look for, just the top two or
8 three and it's fairly narrow in terms of -- I mean,
9 now we're not giving them a long list and there's
10 going to be clarity as to what they need to do.
11 Because my hope is that this can be moved fairly
12 quickly through the BZA.

13 CHAIRPERSON MITTEN: Let me try and
14 restate the motion then. And, as I said, you know
15 we'll have an order that we can all review so that we
16 can tighten it up to the extent that we're not being
17 as articulate as we might right here.

18 That this case would be remanded to the
19 BZA for an additional hearing and through that hearing
20 the BZA would glean more information and establish
21 with that information, if it's supportive, what is the
22 basis for the assertion that it would be economically
23 infeasible to develop the site without the requested
24 relief.

25 To explore the relationship between the

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1 below ground conditions and the relief being sought in
2 terms of height, and why in fact parking relief would
3 not be more appropriate.

4 Address their reliance on the standstill
5 agreement as being accepted almost like a de facto
6 designation of the property as being historic.

7 And then I just added on almost like a
8 side consideration that because its pervasive in the
9 record, that this is very much being driven by Jones
10 Day's program that we advise them that they try and
11 free their minds of the program driven desires and
12 look at this more generically as an office building
13 site.

14 Is that a fair summation?

15 COMMISSIONER HILDEBRAND: Yes.

16 COMMISSIONER JEFFRIES: But I would
17 imagine that the applicant can cover that lost point
18 in a -- I mean basically saying that sort of walk us
19 through sort of why this would really apply to any
20 office user if they wanted to go there. I mean, it's
21 no need to rewrite anything, but really just talk
22 about their intent?

23 CHAIRPERSON MITTEN: Well, maybe they can
24 dispose of it in a paragraph. But it was very clear
25 throughout the record that the design is very much

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1 being driven by Jones Day.

2 COMMISSIONER JEFFRIES:

3 CHAIRPERSON MITTEN: Okay. Is there any
4 further discussion.

5 MR. RITTING: Perhaps at this point I just
6 wanted to remind you that Rule 3128.3 requires that
7 the Commission not reverse or modify any decision, or
8 order without affording the parties to the case an
9 opportunity to present memoranda to the Commission.

10 CHAIRPERSON MITTEN: Okay.

11 MR. RITTING: And perhaps that might be a
12 vehicle to bring some clarity to the discussion that
13 you've had.

14 CHAIRPERSON MITTEN: Okay. So we can't
15 bring this to a vote you're saying?

16 MR. RITTING: Well, you can signal a
17 proposed action, as you already have. But you can't
18 take final action.

19 CHAIRPERSON MITTEN: Okay. Okay.

20 MR. RITTING: Until you've afforded that
21 opportunity.

22 CHAIRPERSON MITTEN: Okay. So well how do
23 we do that given that -- what do you want to do? I
24 don't know. What should I do?

25 COMMISSIONER HILDEBRAND: Well, could we

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1 do it just as a consensus? We've come to a consensus.

2 CHAIRPERSON MITTEN: Okay. Okay. Would
3 you withdraw your motion first?

4 COMMISSIONER HILDEBRAND: Yes. Then I
5 will withdraw my motion.

6 CHAIRPERSON MITTEN: Okay. So --

7 MR. RITTING: Perhaps you could state the
8 consensus of the Board.

9 CHAIRPERSON MITTEN: Okay.

10 MR. RITTING: And maybe that might be
11 another way to try to reorder and restate the
12 direction that you'd like to take.

13 CHAIRPERSON MITTEN: Okay. Well, I concur
14 with Mr. Hildebrand's recommendation that we remand
15 this for an additional hearing before the Board. And
16 would be looking for others, too.

17 COMMISSIONER HILDEBRAND: I would concur
18 also.

19 CHAIRPERSON MITTEN: Commissioner
20 Jeffries, you're the last one?

21 COMMISSIONER JEFFRIES: Yes, I will
22 concur.

23 CHAIRPERSON MITTEN: Okay. So then we
24 need to have a briefing schedule. I don't know if we
25 have a sense of how long that would take. But perhaps

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1 we could work that out, and then while the Commission
2 goes forward with the second case for proposed action,
3 then we can come back and announce what the briefing
4 schedule is going to be? Okay.

5 And I'm going to turn it over to
6 Commissioner Hood, inasmuch as I didn't sit on the
7 Catholic University case.

8 VICE CHAIRMAN HOOD: Okay. The next item
9 on our special public meeting is Zoning Commission
10 Case No. 04-25 is the Catholic University Map
11 Amendment only.

12 Ms. Schellin?

13 MS. SCHELLIN: I don't have anything
14 additional for you. We're just ready for proposed
15 action.

16 VICE CHAIRMAN HOOD: Okay. Okay. Thank
17 you.

18 MS. SCHELLIN: Thank you.

19 VICE CHAIRMAN HOOD: And again,
20 Commissioners, we're using the Map Amendment only for
21 the process. If it's zoned from unzoned to R-5-A,
22 which is being requested by the applicant, I just have
23 two things that I wanted to put on the record and I'm
24 not sure if this is the time or maybe I should put it
25 on at the further processing. But let me just mention

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1 that I think that what I have in front of me, the
2 proposed order, is that testimony in opposition I
3 think we need to add a little more. There was a
4 little more explained by the Michigan Parks Citizens
5 Association. They talked about the use of materials
6 that were going to be in the yard. I want to say yard
7 because I don't have it right here in front of me. I
8 guess it was recycling center or whatever it was
9 called. I think we need to expand a little bit more
10 when they say it's a testimony in opposition.

11 Even to the point, and this may go into
12 the final of the further processing order, but even to
13 the point that the materials that are going to be used
14 in the recycling center I think should be at least
15 named. Not specifically but in general.

16 And that's all I have to add. Anything
17 else?

18 COMMISSIONER HILDEBRAND: My recollection
19 of the discussion was that this was envisioned as a
20 yard to store mulch and landscaping products as
21 opposed to a recycling center that would otherwise be
22 used to recycle computers or dormitory furniture or
23 other items from the campus. I'm not sure that I
24 understood that correctly, but that was the impression
25 I've been left with from the hearing.

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1 VICE CHAIRMAN HOOD: Anything else?

2 I would agree, and I'm hoping that staff
3 would work with the applicant to make sure that those
4 things are done before final action.

5 So with that, I would move the Map
6 Amendment for Zoning Commission Case No. 04-25 of
7 Catholic University of America, and ask for a second.

8 COMMISSIONER HILDEBRAND: Second.

9 VICE CHAIRMAN HOOD: It's moved and
10 seconded. Any discussion? All those in favor?

11 ALL: Aye.

12 VICE CHAIRMAN HOOD: Any opposition? So
13 ordered.

14 Ms. Schellin, would you record the vote
15 and the proxy?

16 MS. SCHELLIN: Yes. We have an absentee
17 ballot from Mr. Parsons approving the case also. So
18 staff will record the vote four to zero to one to
19 approve Case No. 04-25. Commissioner Hood moving,
20 Commissioner Hildebrand seconding, Commissioner
21 Jeffries in favor and Commissioner Parsons in favor by
22 absentee ballot. Commissioner Mitten not voting, not
23 having participated.

24 CHAIRPERSON MITTEN: Thank you.

25 Do we have a schedule for the briefing?

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1 MS. SCHELLIN: Yes, ma'am. The
2 applicant's attorney has represented that he could
3 provide a brief by June 7th.

4 CHAIRPERSON MITTEN: Okay.

5 MS. SCHELLIN: Which would allow us time
6 to put it on the June 13th agenda.

7 CHAIRPERSON MITTEN: Okay. That sounds
8 good.

9 MS. SCHELLIN: Okay.

10 CHAIRPERSON MITTEN: And if there's
11 nothing further for the special public meeting?

12 MS. SCHELLIN: Nothing further.

13 CHAIRPERSON MITTEN: Okay. Then the
14 Special Public Meeting is adjourned. And we'll take a
15 three minute break and then we'll convene the regular
16 hearing.

17 Thank you.

18 (Whereupon, at 6:39 p.m. the Special
19 Public Meeting was adjourned.)
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