

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

SPECIAL MEETING

+ + + + +

THURSDAY

JULY 25, 2013

+ + + + +

The Special Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
MARCIE COHEN, Vice Chair
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)
PETER G. MAY, Commissioner (NPS)
ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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SHARON S. SCHELLIN, Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Special meeting held on July 25, 2013.

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

6:34 p.m.

CHAIRMAN HOOD: Okay. We're ready to get started.

This meeting will please come to order.

Good evening ladies and gentlemen. This is July 25th, 2013, Public Meeting of the Zoning Commission of the District of Columbia. My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioners Miller, May and Turnbull.

We are also joined by the Office of Zoning Ms. Sharon Schellin, Office of the Attorney General staff, Mr. Ritting.

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

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

Please be advised that this

1 proceeding is being recorded by a Court Reporter
2 and it is also webcast live. Accordingly, we
3 must ask you to refrain from any disruptive noise
4 or actions in the hearing room. Please turn off
5 all beepers and cell phones.

6 Does the staff have any preliminary
7 matters?

8 MS. SCHELLIN: No, sir.

9 CHAIRMAN HOOD: If not, let us
10 proceed with the agenda.

11 Final Action. Zoning Commission
12 Case Number 10-26A. This is 3321 Georgia, LLC,
13 two-year PUD time extension at Square 3040.

14 Ms. Schellin.

15 MS. SCHELLIN: Yes, sir. As you
16 stated, it is a request for a two-year PUD time
17 extension. At Exhibit 5 we do have an ANC-1A
18 report in support of the request. At Exhibit 6
19 we have an OP report in support of the request.
20 We would ask the Commission to consider action
21 on this case this evening.

22 CHAIRMAN HOOD: Commissioners,

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1 let's open it up. We have the materials in front
2 of us. The OP report, the ANC report as Ms.
3 Schellin has already stated.

4 Any comments? Vice Chair?

5 VICE CHAIR COHEN: Thank you, Mr.
6 Chairman. Is there anybody representing the
7 Applicant tonight?

8 I just have a question with regard
9 to the GAP financing. The Applicant was turned
10 down by the Department of Housing and Community
11 Development. And my question is, where and when
12 -- I mean, when will the Applicant apply for the
13 GAP financing which is totally oversubscribed?

14 MR. FREEMAN: Good evening. For
15 the record, my name is Kyrus Freeman. I'm an
16 attorney with the law firm of Holland & Knight.

17 Included in our packet is a copy of
18 our resubmission and that application was made
19 in approximately May of 2013.

20 If you look at Tab 5 of our
21 application materials we resubmitted on May
22 30th, 2013.

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1 VICE CHAIR COHEN: And when is DHCD
2 going to make their review because they never
3 really told you why you weren't eligible under
4 the former round?

5 MR. FREEMAN: The determination
6 will hopefully be made sometime this year, but
7 that is subject to DHCD's comment.

8 VICE CHAIR COHEN: So, to your
9 knowledge, there are no issues that DHCD has with
10 the Applicant and the application?

11 MR. FREEMAN: To our knowledge, no,
12 ma'am.

13 VICE CHAIR COHEN: Okay. Thank
14 you.

15 CHAIRMAN HOOD: Okay. While we
16 have the Applicant's counsel at the table, any
17 other questions?

18 Okay. Thank you very much.

19 MR. FREEMAN: Thank you.

20 CHAIRMAN HOOD: We appreciate you
21 following the summer rule guidelines of the
22 Zoning Commission and all those who do not have

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1 on a tie. We have summer relaxed rules as you
2 can obviously tell.

3 Thank you.

4 Okay. Somebody like to make a
5 motion?

6 COMMISSIONER TURNBULL: Yes, Mr.
7 Chair, I would move that we approve Zoning
8 Commission Number 10-26A, 3321 Georgia, LLC,
9 two-year PUD time extension at Square 3040.

10 CHAIRMAN HOOD: It's been moved.
11 Second?

12 COMMISSIONER MILLER: Second.

13 CHAIRMAN HOOD: It's been moved and
14 properly seconded. Any further discussion?

15 Are you ready for the question? All
16 those in favor, aye?

17 (AYES)

18 CHAIRMAN HOOD: Not hearing any
19 opposition, Ms. Schellin, would you please
20 record the vote.

21 MS. SCHELLIN: Yes, staff records
22 the vote five to zero to zero to approve final

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1 action on Zoning Commission Case Number 10-26A.

2 Commissioner Turnbull moving,
3 Commissioner Miller seconding, Commissioners
4 Cohen, Hood and May in support.

5 CHAIRMAN HOOD: Okay. Let's go to
6 Zoning Commission Case Number 07-18D. This is
7 final action for Jemal's Up Against the Wall, PUD
8 modification at Square 347.

9 Ms. Schellin.

10 MS. SCHELLIN: Yes, sir. In this
11 case, we have nothing new that has come in since
12 proposed action was taken. We just ask that the
13 Commission would consider final action this
14 evening.

15 CHAIRMAN HOOD: Okay. Thank you.
16 Commissioners, in this case as I
17 remember I think we flushed a lot of the things
18 out. There was a lot of holding hands and a lot
19 of conflict in this case but I'll open it up for
20 any further discussion.

21 I don't hear any. I would move that
22 we approve Jemal's Up Against the Wall PUD

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1 modification at Square 347. Case No. 07-18D and
2 ask for a second.

3 COMMISSIONER MAY: Second.

4 CHAIRMAN HOOD: It's been moved and
5 properly seconded. Any further discussion?

6 Are you ready for the question? All
7 those in favor, aye.

8 (AYES)

9 CHAIRMAN HOOD: Not hearing any
10 opposition, Ms. Schellin, would you please
11 record the vote?

12 MS. SCHELLIN: Staff records the
13 vote five to zero to zero to approve final action
14 on Zoning Commission Case Number 07-18D.

15 Commissioner Hood moving,
16 Commissioner May seconding. Commissioners
17 Cohen, Miller and Turnbull in support.

18 CHAIRMAN HOOD: Okay.

19 Next, Zoning Commission Case No.
20 06-11J/06-12J. This is the George Washington
21 University Second Stage PUD and further
22 processing of campus plan at Square 77.

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Ms. Schellin.

MS. SCHELLIN: Yes, sir. In Exhibits 35 through 37 we have some post-hearing submissions in this case and we'd ask the Commission to consider final action on this case this evening.

CHAIRMAN HOOD: Okay. Commissioners, we have some submissions. It looks like at least in submission 37 in response to request by ANC-2A and the West End Citizens Association, the University has agreed to increase the minimum size of the ground floor retail component within the project from 600 square feet to a minimum of 1,000 square feet. And it goes on to talk about again trying to establish the retail component.

Anything else? I just can't recall if that's exactly what the community asked for but it looks like they obviously had to some degree a little more than what was proposed at first. And I may be incorrect, but I believe this letter states that they have moved in the

1 direction of what the ANC and I guess West End
2 had asked for to a certain point. I'm not sure
3 exactly what the correct square footage was for
4 the retail but it looks like according Exhibit
5 37, that that has been increased.

6 Any further questions or comments?
7 Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Mr. Chair,
9 I just have one comment that I have reviewed the
10 record and I will be voting on this.

11 CHAIRMAN HOOD: Okay. Thank you,
12 Mr. Turnbull.

13 Any other issues? We have a final
14 order before us. Somebody like to make a
15 motion?

16 COMMISSIONER MAY: I would move
17 approval of Zoning Commission Case Number
18 06-11J/0612J, GW Foggy Bottom Campus Plan, PUD
19 Square 77, site 77A, New Residence Hall.

20 CHAIRMAN HOOD: Okay. It's been
21 moved and properly seconded. Any further
22 discussion?

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1 Are you ready for the question? All
2 those in favor, aye.

3 (AYES)

4 CHAIRMAN HOOD: Not hearing any
5 opposition, Ms. Schellin, would you please
6 record the vote.

7 MS. SCHELLIN: Yes. Staff records
8 the vote five to zero to zero to approve final
9 action on Zoning Commission Number
10 06-11J/06-12J.

11 Commissioner May moving,
12 Commissioner Miller seconding, Commissioners
13 Cohen, Hood and Turnbull in support.

14 CHAIRMAN HOOD: Okay. I think last
15 on our agenda for tonight is Zoning Commission
16 Case Number 10-28, 901 Monroe Street, LLC, Order
17 on Remand from the D.C. Court of Appeals.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. We had
20 per the procedural order that was issued there
21 were two submissions, one made by the Applicant
22 in Exhibit 347 and one at Exhibit 348 by the

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1 parties of 200 Footers. And we'd ask the
2 Commission to consider proceeding this evening
3 as they choose to do so.

4 CHAIRMAN HOOD: Okay. Thank you.

5 Commissioners, I'm going to try to
6 tee this up. We have a lot of cases before us
7 and I want to make sure -- wish Commissioner
8 Miller a good evening.

9 As we all know, this proceeding
10 concerns an application submitted by 901 Monroe
11 Street, LLC, for a Planned Unit Development and
12 related zoning map amendment in connection with
13 the development of property adjacent to the
14 Brookland/Catholic University of America
15 Metrorail Station in Northeast Washington, D.C.

16 By order effective June 8th, 2012,
17 the Zoning Commission for the District of
18 Columbia approved the application subject to
19 conditions in Zoning Commission Order 10-28.

20 Prior to this proceeding, in
21 addition to the Applicant, ANC-5B, the Brookland
22 Neighborhood Citizens Association and a group of

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1 residents residing within 200 feet which we have
2 given party status to in that particular case as
3 the 200 footers of the subject property which
4 we'll refer to as the 200 Footers.

5 The 200 Footers appealed the
6 Commission decision to the District of Columbia
7 Court of Appeals which is their right, by
8 decision dated May 16th, 2013, and the Court of
9 Appeals remanded the case back to the Commission
10 for additional findings of fact and conclusion
11 of law. And that case is noted in Guy Durant et
12 al vs. D.C. Zoning Commission 65-A.3B
13 11-61-2013.

14 The Court has asked us to address
15 three material contested issues that were not
16 adequately addressed in our order number 10-28.
17 And in light of the Commission's evaluation of
18 those issues, evaluate the project's
19 consistency with the Comprehensive Plan as a
20 whole.

21 The three issues: (1) resolve the
22 dispute regarding the Comprehensive Plan's

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1 future land use map's designation of the
2 property and determine whether the project is
3 consistent with the plan as a whole in light of
4 its resolution of that issue; (2) explain
5 whether the proposal is consistent with the
6 written plan policies discussed and a number of
7 the elements of the upper northeast elements of
8 the plan. And there are a number of citing which
9 I would like to go by one by one. And then make
10 findings regarding the generalized plan maps
11 designation -- generalized policy map, I'm
12 sorry. We have a lot of things to look at.
13 Generalized policy maps designation of the
14 property as a neighborhood conservation area and
15 determine whether developers of the application
16 are consistent with the plan in light of the
17 designation.

18 The court has also instructed the
19 Commission to make any other findings of fact and
20 conclusions of law in accordance with this
21 Office of Planning.

22 We considered the Court of Appeals

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1 decision and on June 11th asked the Applicant to
2 provide us with a proposed order that makes the
3 findings and conclusions required by the Court's
4 order. We ask that other parties to provide a
5 response that identifies any errors or omissions
6 in the order.

7 We received a draft order from the
8 Applicant and a submission from the 200 Footers
9 explaining its objections to the Applicant's
10 draft order and explaining its own position on
11 these issues.

12 We've considered both submissions
13 and we are ready to deliberate this evening on
14 these issues. I note that there is no dispute
15 that the existing record is sufficient and
16 complete of our deliberations.

17 That is a recap. So, what I would
18 like to do at this point is to start with the
19 first piece that was remanded. I propose that
20 we step through each of the three issues, discuss
21 each one and consider the project's relationship
22 especially with the Comprehensive Plan. This

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1 is no stranger to anybody on this Commission.
2 We've had to do this in the past to show our
3 reasoning and rationale and how we reconcile our
4 decisions dealing with the Comprehensive Plan.

5 So, let's go straight to what the
6 Commission -- what I'd like to do is read what
7 the Court of Appeals has pointed out as the
8 deficiency on future land use map.

9 The Court of Appeals pointed out
10 that the order was deficient because it never
11 addressed the issues raised by the 200 Footers
12 that only 37.5 percent of the project was
13 designated moderate density/mixed use. And
14 instead repeated the incorrect statement made in
15 an OP report that more than half of the site was
16 designated moderate density/mixed use.

17 As we know, in the Applicant's order
18 which we've already read claims that the exact
19 distribution cannot be determined because the
20 map is not parcel specific, but concedes that
21 more than half of the project site is designated
22 low density residential.

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1 I think for the standpoint of what
2 the 200 footers, they did not object to this
3 finding. I think everybody is in agreement with
4 that particular issue.

5 But the way I see it and our
6 evaluations, at least my evaluation of the
7 future land use map, first of all it is next to
8 the Metro and I think in the design which we have
9 not done on this site but all over the city when
10 we take these things into consideration, there
11 were no adverse impacts to neighboring
12 properties when I looked at the design and the
13 step down of the way the project was designed by
14 the architect. And especially with the
15 proximity of the Metro, this is no stranger to
16 the city in the way that this city has moved and
17 the policies around building more density around
18 Metro stations. And I think at the hearing I
19 specifically kept asking about the views to the
20 Metro and I think, again, the record is complete.
21 But I've teed it up. I've responded to the
22 future land use map issue and I'll just open it

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1 up for comment from any of my colleagues.

2 Commissioner May.

3 COMMISSIONER MAY: Yes. I agree
4 with the Chairman the map is not zoning map.
5 It's not specific to the exact area that should
6 be zoned a particular way and, you know, we have
7 to consider the entirety of the Comprehensive
8 Plan when making decisions about where the
9 zoning lines are drawn. And I think that given
10 all of the other aspects of the plan that support
11 -- I'm sorry, aspects of the Comprehensive Plan
12 that support this particular development, I
13 think that what was done with this project is
14 consistent with the future land use map.

15 CHAIRMAN HOOD: Any other comments?

16 Vice Chair.

17 VICE CHAIR COHEN: Thank you, Mr.
18 Chairman.

19 I concur with my colleague,
20 Commissioner May, that the future land use map
21 does not follow parcel boundaries and its
22 categories do not specify allowable uses or

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1 dimensional standards. This map is really
2 interpreted very broadly. And I understand
3 that, again, the Applicant architect walked us
4 through the site and told us how he attempted to
5 make this property as compatible as possible
6 with the adjacent properties.

7 So, I believe that the project is
8 near transit zone and, again, requires some
9 density.

10 CHAIRMAN HOOD: Okay. Thank you.
11 Any other comments?

12 So, let me just -- I'm sorry,
13 Commissioner Turnbull.

14 COMMISSIONER TURNBULL: Thank you,
15 Mr. Chair.

16 I would agree with all of my
17 colleagues' comments so far. The future land
18 use is a general guide. It's not a zoning map.
19 It's certainly not meant to be scaled and
20 assigned exact quantities.

21 And, again, I would agree that the
22 Applicant when they presented their case, we

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1 went through several iterations. I don't know
2 how many nights up here and several iterations
3 and I think they went through a great deal of
4 mitigation to make this building as much of a
5 cohesive and integral part of the neighborhood.

6 CHAIRMAN HOOD: Okay. Thank you.
7 Commissioner May.

8 COMMISSIONER MAY: Yes. I wanted
9 to emphasize that point and one other which is
10 how the project changed from when it was first
11 presented to us. In fact, I think, I'm quoted
12 in the 200 Footers' letter citing how my
13 discomfort with the project as it was originally
14 presented and its consistency with the
15 Comprehensive Plan. And as I recall, we didn't
16 actually set it down at that moment and it was
17 set down at a later date after it had been
18 modified. And it continued to be modified even
19 after it was set down. So, I think that there
20 was a significant effort to make this project fit
21 well with the neighborhood and be consistent
22 with the Comprehensive Plan overall.

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Second thing is that I want to emphasize that this is not the first time where what appears in the Comprehensive Plan is not exactly what gets zoned, that we have done this on occasion before and it's also something that we do with great care and concern about, you know, adhering with the Comprehensive Plan. It's not something that we undertake lightly. So, the fact that the map is not very specific about where the lines are drawn doesn't mean that we just go at it willy-nilly. We take great care to make sure that what we are doing is consistent with the entirety of the plan.

CHAIRMAN HOOD: Okay. So, the question I would ask, Commission, on this particular finding is do we agree with the Office of Planning and the Applicant that because of the proximity to the Metro opposing the density of the PUD is not inconsistent with the Comprehensive Plan -- approving the density is not inconsistent with the Comprehensive Plan or do we agree with the 200 footers and their

1 finding that says that approving a moderate
2 density/mixed use project is inappropriate
3 because it extends more intensive land uses into
4 areas designated on the map for low density
5 residential?

6 Do we agree with the Office of
7 Planning and the Applicant and our own findings
8 after the hearing or do we agree with what the
9 200 footers have submitted?

10 COMMISSIONER MAY: I agree with our
11 original findings --

12 CHAIRMAN HOOD: Okay.

13 COMMISSIONER MAY: -- and the
14 Applicant and Office of Planning.

15 VICE CHAIR COHEN: Mr. Chairman, I
16 concur with that.

17 CHAIRMAN HOOD: Do we need to vote
18 on each one or do we need to vote?

19 MR. RITTING: Well, I mean, you're
20 explaining your rationale for your ultimate
21 decision about whether this project is
22 consistent or inconsistent with the

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1 Comprehensive Plan in light of the issues that
2 are mentioned by the Court. So, I think it would
3 be appropriate to do a vote at the end after --

4 CHAIRMAN HOOD: Okay.

5 MR. RITTING: -- after you've
6 considered all of them together.

7 CHAIRMAN HOOD: Okay. All right.
8 Thank you.

9 Let's go next to the relationship of
10 the project to the land use and upper northeast
11 elements. The first of four, is the land use
12 2.1.6. And it talks about tent house, it talks
13 about discourage the replacement of quality
14 homes and good physical conditions with new
15 homes that are substantially larger, taller or
16 bulkier in the prevailing building stock.

17 Let me open it up. Any comments on
18 this particular element?

19 VICE CHAIR COHEN: Mr. Chairman,
20 thank you.

21 Again, I think that our role is to
22 evaluate and balance certain aspects of a

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1 project, a PUD, in particular, and we are tearing
2 down four homes but I believe that balance, the
3 benefits of the PUD, the additional housing
4 units, and greater density around the Metrorail
5 station, the under-grounding of the utilities,
6 the funding of business improvements in the area
7 outweigh the amount of residences that are being
8 torn down.

9 CHAIRMAN HOOD: Okay. Any other
10 comments?

11 I would agree with the Vice Chair's
12 comments. I don't see any reason to elaborate
13 on them again, but I would agree with her
14 comments on this particular element.

15 Any other conversation?

16 Okay. Do we all concur or agree or
17 disagree? Okay. All right.

18 Let's move next. Let's go to the
19 next one, discourage the zoning of areas
20 currently developed with the single family
21 homes, duplexes or rowhouses for multi-family
22 apartments where such action would likely result

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1 in the demolition of housing in good condition
2 and its replacement with structures that are
3 potentially out of character with the existing
4 neighborhood.

5 I would say that as we expounded and
6 again with the development, I think this
7 particular project is not out of character with
8 the surrounding neighborhood as the way that
9 neighborhood is evolving -- and our assessment,
10 I think we came to the right conclusion and I
11 would be willing to sustain our findings on that
12 particular issue.

13 Let me open it up. Any comments?

14 COMMISSIONER MAY: Mr. Chairman,
15 this is sort of a fine point on this. I mean,
16 I certainly believe that on balance with what we
17 did is not inconsistent with this particular
18 policy. But I do want to discuss what this
19 policy actually says which is that it
20 discourages the zoning of areas currently
21 developed in a particular way. So, it's really
22 speaking to how properties are zoned and our

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1 mapping process as opposed to what happened here
2 which was a mapping in conjunction with the
3 Planned Unit Development.

4 And the reason that I think that's
5 an important point is that discouraging the
6 zoning of areas that are currently developed
7 that way implies that we would, you know, apply
8 a map change over a broad area that would likely
9 result in other houses being developed. I mean,
10 other single family homes being redeveloped in
11 a way that's inconsistent with the character of
12 the neighborhood.

13 And, in fact, by doing this as part
14 of a PUD, the PUD process is explicitly intended
15 to make the project fit with the neighborhood.
16 So, this was a zoning of a property to a higher
17 density zone. But it was not a case where we
18 would likely wind up with a project that was
19 potentially out of character with the existing
20 neighborhood because I think we took great pains
21 to make sure that it was consistent with the
22 neighborhood.

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1 So, I know it's not exactly what the
2 Applicant was arguing in their case, you know.
3 I agree with what they had to say in their finding
4 as well and with our prior findings, but I think
5 there's a subtle difference here.

6 CHAIRMAN HOOD: Thank you for that
7 note.

8 Commissioner Turnbull.

9 COMMISSIONER TURNBULL: Thank you,
10 Mr. Chair.

11 I would agree with Commissioner May.
12 I think when you have a Planned Unit Development
13 you raise the bar on an Applicant in how he's
14 going to approach that site. And I think that's
15 what happened here. And, again, it gets back to
16 the number of iterations we had, the discussions
17 and how this whole project was approached to
18 mitigate any issues to create character that
19 would blend in with the neighborhood. And I
20 agree that we approached the right way.

21 CHAIRMAN HOOD: Okay. Any other
22 comments?

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1 So, do we all agree with that
2 conversation? Okay. Let's move on to the next
3 2.3.1 Land Use, 2.3.1, Managing non-residential
4 uses in a residential area. Maintain zoning
5 regulations and development review procedures
6 that prevent encroachment of inappropriate
7 commercial uses in retail area and limit the
8 scale and extent of non-residential uses that
9 are generally compatible with residential uses
10 with present to potential or conflicts when they
11 are excessively concentrated or out of scale
12 with the neighborhood.

13 And let me open it up and think about
14 my comment son that one because I think we went
15 through the necessary precautions but I want to
16 make sure that we answer the Court's remand
17 specifically on this particular issue.

18 I think that the project was not
19 inappropriately commercial uses into
20 residential areas and not excessively
21 concentrated or out of scale with the
22 neighborhood. Kind of what we talked about in

1 our element.

2 I think if you look at the area and
3 I think we took careful review of this and I
4 thought our findings and our outcome was
5 sufficient with, again, located to the Metro and
6 also what's evolving. And I think we took the
7 necessary precautionary measures due to the
8 development and the style and the architecture
9 of this particular project and how it was done
10 with the stepdown and being real conservative
11 with the homes that also share that parcel.

12 Let me open it up for any other
13 comments.

14 VICE CHAIR COHEN: Mr. Chairman, I
15 would just like to add that, you know, our city
16 is evolving into a very diverse and mix of uses
17 and I think that it really provides a greater
18 opportunity for neighbors to be able to have the
19 mix of uses. It's much more convenient. It's
20 something that is occurring especially in our
21 transit area. So, I concur with what you
22 previously stated.

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1 CHAIRMAN HOOD: Any other comments?

2 Commissioner May.

3 COMMISSIONER MAY: Yes. Again, I
4 want to make a finer point on this specific
5 policy which states that we should maintain
6 zoning regulations and develop review
7 procedures that prevent encroachment and limit
8 the scale, etcetera. But the point here is that
9 it maintains zoning regulations and develop
10 review procedures.

11 Well, this was a PUD. It was not a
12 zoning regulation and we were not talking about
13 the process of review procedure. And here the
14 policy is encouraging us to write zoning
15 regulations a particular way and to have
16 development review procedures that insure these
17 protections as opposed to actually acting to
18 insure these protections. So, I think that in
19 some ways this particular policy is completely
20 off point.

21 That having been said, I believe
22 that what was done actually did prevent the

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1 encroachment of inappropriate commercial uses
2 in residential areas because I think the
3 commercial use is appropriately located within
4 the project and does not offer the opportunity
5 for more of that to start creeping into the
6 neighborhood and that the scale is quite limited
7 on the nonresidential uses and are compatible
8 with the residential uses. So, I think that we
9 are -- if you just want to go to the meat of this,
10 we are keeping with the spirit and the intent of
11 this policy as well.

12 CHAIRMAN HOOD: Okay.

13 Mr. Turnbull.

14 COMMISSIONER TURNBULL: Thank you,
15 Mr. Chair.

16 I would just echo the comments that
17 have been made already and as part of our Planned
18 Unit Development process I think the iterations
19 we have for changes we definitely focused on
20 neighborhood-oriented, neighborhood-focused
21 retail that would fit in with the neighborhood.
22 I think that was a very important aspect in

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1 developing of this project.

2 I think we did it the right way.

3 CHAIRMAN HOOD: Okay. Let's go to
4 the next element. The Upper Northeast Area
5 Element 1.1.1, protect and enhance to stable
6 neighborhoods of the Northeast such as North
7 Michigan Park, University Heights, Woodridge,
8 Brookland, Queen's Chapel, South/Central,
9 Lamond-Riggs and Arboretum. The residential
10 character of these areas shall be conserved and
11 places of historic significant, gateways, parks
12 and special places shall be enhanced.

13 I think we took especially on this
14 throughout the process -- I think we required
15 also that our policies must be balanced with
16 other competing land use policies. I think,
17 again, we struck that balance. I think the
18 record is sufficient in striking that balance
19 and especially keeping with 1.1.1 as it reads.
20 And I would sustain where we were and uphold our
21 findings.

22 Let me open it up for any comments.

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1 COMMISSIONER MAY: I would just add
2 I agree completely. You hit the nail on the
3 heard.

4 CHAIRMAN HOOD: Anyone else?
5 Okay.

6 Let's go to the next --

7 VICE CHAIR COHEN: Actually, I
8 would just like to make an observation is that,
9 again, there is an evolution of cities and
10 having, you know, worked in cities throughout
11 the country and internationally, again, we're
12 balancing liveable cities and the conservation
13 of a neighborhood does not necessarily mean that
14 everything that is build in greater density is
15 destabilizing the neighborhood. If anything,
16 it could be adding value to existing properties
17 as I have even witnessed in my own neighborhood
18 and surrounding neighborhoods that are going
19 through some changes. I think again the PUD
20 process allows us to do this balancing and to at
21 least attempt to make each neighborhood much
22 more liveable. And when I say liveable, it

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1 involves a number of other things including
2 environmental, park land, retail accessibility.
3 So, I just wanted to add that observation.

4 CHAIRMAN HOOD: Let's move on to
5 Land Use 1.3.1. Again, there were two
6 provisions of the Comp Plan that were not
7 completely cited and addressed in the Commission
8 Order 10-28. Again, that was Land Use 1.3.1,
9 stations areas as neighborhood centers and upper
10 northeast element 2.6.1, Brookland Catholic
11 University of America Metro Station.

12 I will start off with 1.3.1. Again,
13 as we've done, not just over here in Brookland
14 but around the city and I think the policies and
15 everything that's been directed as far as the
16 zoning standpoint is more intensity around Metro
17 stations. And I think that's exactly what we've
18 done. I think we have been consistent in our
19 findings, not just here in Brookland, but
20 throughout the city.

21 The future land use map expresses
22 the design and intensity of mixed uses around

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1 each station and the area elements provided by
2 more detailed direction for each station area.
3 And, again, I don't see where we have parted from
4 our ways in the many cases we have done here in
5 this city.

6 Let me open it up for any comments.
7 Are we in agreement with that or somebody want
8 to add something or take something away?

9 COMMISSIONER MAY: No, I think it
10 would be -- is the part that was not fully
11 included and the policy should not be
12 interpreted to outweigh other land use policies
13 which call for neighborhood conservation.

14 I mean, that's the statement that's
15 true in both directions. And I think, you know,
16 we have to look at the Comprehensive Plan in its
17 totality and no single policy outweighs another
18 and should all be considered in balance and
19 that's what we did in this case.

20 CHAIRMAN HOOD: Okay. And, again,
21 as we head into another area which is one of the
22 findings of fact 6 in the original order 30610

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1 under the 1.3.1 is already stated. The unique
2 characteristics of the area surrounding the
3 Brookland Catholic University Metro Station
4 and its specific features of the project and the
5 totality in arriving at this decision regarding
6 the project. Again, what we have done, not just
7 here in Brookland, but around the city, the
8 policy says to build intensity around Metro
9 stations. And here is right across the street
10 so I don't see where we've deviated any from our
11 normal policies and procedures and from a zoning
12 standpoint.

13 Anyone else?

14 Vice Chair.

15 VICE CHAIR COHEN: Yes. And, Mr.
16 Chairman, I think, again, the design of the
17 building, you know, they're taking into account
18 it is integrated by taking into consideration
19 the materials as well as the rhythm of the
20 different buildings in the neighborhood. So, I
21 believe that there is again consistency in the
22 design throughout the neighborhood.

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1 CHAIRMAN HOOD: Okay. Are we in
2 agreement? Mr. Turnbull.

3 COMMISSIONER TURNBULL: I'm in
4 agreement with all of your comments.

5 CHAIRMAN HOOD: Okay. Let's move
6 to the next one. Upper Northeast Element 2.6.1,
7 Brookland Catholic University Metro Station
8 Area. It talks about encouraging moderate
9 density mixed use development on a vacant and
10 unrealized property in the vicinity of the
11 Brookland Catholic University Metro Station
12 including the parking lot each of the station.
13 Special care should be taken to protect the
14 existing low-scale residential uses along the
15 east of 10th Street, retain a number of bus bays
16 at the station and develop strategies to deal
17 with the overflow parking and cut-through
18 traffic in the station's vicinity.

19 Let me open it up, again, 2.6.1,
20 again. The project design features the
21 setbacks with respect to the project. The way
22 it was developed, again, I think it's no more

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1 than what we've already done on this Commission
2 in other areas that I'll open it up to anymore
3 comments or issues or subtractions to what I've
4 already said.

5 And, again, it just goes along with
6 what's evolving there and the character of the
7 neighborhood.

8 Okay. Anything else on that issue?

9 Okay. Let's go to the
10 Neighborhood Conservation Area, designation of
11 the generalized policy map.

12 Let me open it up. I don't want to
13 put my view out there. We all voted on this.
14 Let me open to anyone who would like to comment
15 on that policy map.

16 COMMISSIONER TURNBULL: Thank you,
17 Mr. Chair.

18 The GPM is again not a zoning map.
19 It is a guide. It is something you look at in
20 context with all of the written policies and
21 everything else that we look at in a Planned Unit
22 Development. And I think we were totally

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1 consistent with this project as we have with all
2 of the projects when we looked at how this
3 project was developing. And, again, I think I
4 would sustain that what we had -- what we voted
5 on this one was correct and we looked at it
6 properly.

7 CHAIRMAN HOOD: Okay. I would
8 agree in totality with your comments.

9 Any other comments, Commissioners?

10 COMMISSIONER MAY: I feel like
11 we're repeating ourselves over and over again
12 but I agree, you know, we've taken the general
13 guidance of the map and we looked at the
14 particular circumstances of this neighborhood
15 and I think we were very careful to make sure that
16 what we did was consistent with the existing
17 context and we were respectful of the
18 neighborhood conservation area. So, I believe
19 we've been consistent with this policy.

20 CHAIRMAN HOOD: Okay.

21 Vice Chair.

22 VICE CHAIR COHEN: Mr. Chairman,

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1 again, I believe that we really contemplated
2 this project and how the Applicant made changes
3 and that we have balanced elements of this plan
4 regarding, you know, having a transit site
5 nearby. Economic development in the
6 neighborhood, open space with the park, making
7 the neighborhood more attractive by the
8 under-grounding of utilities and more secure by
9 having cameras and so for conservation I believe
10 that again the architect did a very good job in
11 looking to the single family homes for his
12 vocabulary in designing the larger building.

13 CHAIRMAN HOOD: Okay. Any other
14 comments?

15 I don't think we missed any points.
16 I'll ask Mr. Ritting and my colleagues. Have we
17 missed anything that the Court of Appeals has
18 asked us to look at? If we have, I would like
19 for us to address it. I want to make sure we
20 fully satisfy the requirement and make sure that
21 we satisfy some of the additional questions they
22 asked us to respond to.

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Mr. Ritting.

MR. RITTING: I believe you've addressed each of the issues that was listed in the Court's Order.

CHAIRMAN HOOD: Okay. Commissioners, do you think we left anything out? Anything else we want to add? Okay.

I want to thank everyone for their participation and these additional responses asked by the Court of Appeals. Hopefully, this satisfies their inquiry. And, again, we'll be here to answer any additional questions they may have.

So, what I would like to do is to vote on our discussion. Not necessarily on the order, but let's vote on our discussion and the remand.

I would move that we approve our discussion of the points that were remanded back to the Zoning Commission by the D.C. Court of Appeals and actually thank them for having us to clarify some things that we did not and ask for

1 a second.

2 VICE CHAIR COHEN: Second.

3 CHAIRMAN HOOD: It's been moved and
4 properly seconded. Any further discussion?

5 All those in favor?

6 (AYES)

7 CHAIRMAN HOOD: Any opposition?
8 Not hearing nay, Ms. Schellin, would you record
9 the vote.

10 MS. SCHELLIN: Yes. Staff records
11 the vote four to zero to one voting on the
12 discussion held this evening on the remand on
13 Case Number 10-28.

14 Commissioner Hood moving,
15 Commissioner Cohen seconding, Commissioners May
16 and Turnbull in support and Commissioner Miller
17 not present, not voting.

18 COMMISSIONER MAY: Mr. Chairman, as
19 I understand it, our discussion will be captured
20 in the order that we issue as a result of this?

21 CHAIRMAN HOOD: Yes. Was that
22 motion sufficient?

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1 MR. RITTING: As I understand it,
2 the next step is that the design commission staff
3 including myself will prepare an order that
4 captures the issues that you've discussed and
5 we'll have appropriate findings of fact and
6 conclusions of law that will address the issues
7 that were remanded to the Commission. It's my
8 intention that I'll then make that draft order
9 available to the Commissioners and circulate it
10 for your review and to make sure that I've
11 accurately captured your positions.

12 CHAIRMAN HOOD: Okay. I want to
13 thank everyone who participated in this case
14 thus far and, Ms. Schellin, do we have anything
15 else?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: And this Special
18 Public Meeting is adjourned.

19 (Whereupon, the above matter was
20 concluded at 7:18 p.m.)

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