

**GOVERNMENT
OF
THE DISTRICT OF COLUMBIA**

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

FEBRUARY 11, 2013

+ + + + +

**The Regular 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:

SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

**JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation**

JOEL LAWSON

MAXINE BROWN-ROBERTS

MATT JESICK

PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

**The transcript constitutes the
minutes from the Regular meeting held on
February 11, 2013.**

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

PRELIMINARY MATTERS

Ms. Sharon Schellin7

FINAL ACTIONS

Case No. 09-08B

DancePlace - 2nd-Stage PUD
at Square 3832.

Case No. 12-10

Office of Planning
Text Amendment re GAR 13

Case No. 12-08

Office of Planning
Text and Map Amendment
at St. Elizabeths 17

HEARING ACTIONS

Case No. 02-38D

Waterfront 1001 4th Street, LLC
2nd-Stage PUD at Square 542 85

Case No. 06-11J/12J

George Washington University
2nd-Stage PUD at Square 77. 95

OTHER BUSINESS

Vote on Officers.109

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

(6:38 p.m.)

CHAIRMAN HOOD: This meeting will please come to order. Good evening, ladies and gentlemen. This is the February 11th, 2013, public meeting of the Zoning Commission for the District of Columbia.

My name is Anthony Hood. I think what I'll do this evening is let everyone introduce themselves. Let me start to my left.

MR. BERGSTEIN: My name is Alan Bergstein. I'm with the Office of the Attorney General for the District of Columbia.

MS. SCHELLIN: Sharon Schellin with the Office of Zoning.

COMMISSIONER TURNBULL: Michael Turnbull representing the architect of the capital.

COMMISSIONER MILLER: Robert Miller, mayoral appointee.

VICE CHAIR COHEN: Marcie Cohen,

1 mayoral appointee.

2 COMMISSIONER MAY: Peter May
3 representing the National Parks Service.

4 MS. STEINGASSER: Jennifer
5 Steingasser, Office of Planning.

6 MR. LAWSON: Joel Lawson, Office
7 of Planning.

8 MS. BROWN-ROBERTS: Maxine Brown-
9 Roberts, the Office of Planning.

10 MR. JESICK: Matt Jesick, Office
11 of Planning.

12 MR. GOLDSTEIN: Paul Goldstein,
13 Office of Planning.

14 CHAIRMAN HOOD: Okay, thank you
15 everyone. Copies of today's meeting agenda
16 are available to you and are located in the
17 bin near the door. We do not take any public
18 testimony in our meetings unless the
19 Commission requests someone to please come
20 forward.

21 Please be advised that this
22 proceeding is being recorded by a court

1 reporter and is also webcast live.

2 Accordingly, we must ask you to refrain from
3 any disruptive noises or actions in the
4 hearing room. Please turn off all beepers and
5 cell phones.

6 Does the staff have any
7 preliminary matters?

8 MS. SCHELLIN: Yes, sir. We have
9 one item to add under Correspondence, with
10 regard to Case No. 10-23, and other than that
11 we have nothing further.

12 CHAIRMAN HOOD: I think, Ms.
13 Schellin, my colleagues on my -- I think we
14 can just take that up right now. I would
15 think that we probably can do this February 20
16 at 12 noon, unless there is some objections.
17 I think they're asking for a time frame?

18 MS. SCHELLIN: They are. It's a
19 request from ANC 3E, in this case asking for
20 additional time to respond in the procedural
21 order process. Their response was due today,
22 however, they meet on the 19th. They would

1 like more time to respond.

2 They meet on the 19th. This case
3 is scheduled for final action on February
4 25th, and in order to not delay that case our
5 package to the Commission goes out on the
6 20th.

7 And in order to meet that deadline
8 we would need to have their response, if
9 possible, by noon on the 20th, if the
10 Commission would accommodate their request and
11 in order to keep with that package deadline.

12 CHAIRMAN HOOD: Okay. Thank you,
13 Ms. Schellin. Any objections? So I guess
14 that we can just convey. I'm sure they're
15 probably at home watching us, so they'll know
16 that February 20th, 12 noon. Okay, thank you.

17 Okay, Ms. Schellin, anything else
18 preliminary?

19 MS. SCHELLIN: No, sir.

20 CHAIRMAN HOOD: Okay, let's go to
21 Final Action, our Zoning Commission Case No.
22 09-08B. This is the DancePlace - 2nd-Stage

1 PUD at Square 3832.

2 Ms. Schellin?

3 MS. SCHELLIN: Yes, sir. There
4 are a couple of exhibits that came in. The
5 Commission had asked for some signed letters
6 that had been submitted. Those are in, and
7 there's also a Draft Order. Those exhibits
8 are at Exhibits 27-30, and we'd ask the
9 Commission to consider final action on this
10 case.

11 CHAIRMAN HOOD: Okay,
12 Commissioners, any further comments? If not,
13 I'll entertain the motion. I think it's
14 pretty straightforward.

15 VICE CHAIR COHEN: Mr. Chairman, I
16 move to approve Zoning Case No. 09-08B,
17 DancePlace - 2nd-Stage Planned Unit
18 Development.

19 COMMISSIONER MILLER: I would
20 second that.

21 CHAIRMAN HOOD: Okay, it's been
22 moved and properly seconded. Any further

1 discussion? Commissioner Miller seconded.
2 Any further discussion? All those in favor?
3 (Chorus of ayes)

4 CHAIRMAN HOOD: Not hearing any
5 opposition of those present, Ms. Schellin,
6 would you record the vote?

7 MS. SCHELLIN: Yes, sir. We'll
8 record the vote, five to zero to zero, to
9 approve Final Action: Zoning Commission Case
10 No. 09-08B. Commissioner Cohen moving,
11 Commission Miller second, Commissioners Hood,
12 May and Turnbull in support.

13 CHAIRMAN HOOD: Okay, next, Zoning
14 Commission Case No. 12-09. This is NJA
15 Associates and St. Matthews Church - Capital
16 Gateway Overlay Review at Square 743N.

17 Ms. Schellin?

18 MS. SCHELLIN: Yes, sir. At
19 Exhibit 27 there's an additional filing from
20 the applicant. If you'll recall, at the
21 Commission's January 14th meeting the
22 Commission asked the applicant to provide an

1 additional response based on comments made at
2 that meeting, and you have that before you
3 this evening. We'd ask the Commission to
4 consider final action.

5 CHAIRMAN HOOD: Okay,
6 Commissioners, we have in front of us the
7 response, and actually the discussion that
8 took place between the ZA and the applicant
9 about the rec space that we talked about on
10 the rooftop. And they have submitted some
11 responses and some further drawings, I think,
12 with the adjustments. So any comments?

13 COMMISSIONER MAY: Mr. Chairman?

14 CHAIRMAN HOOD: Okay, Commissioner
15 May?

16 COMMISSIONER MAY: I looked over
17 what was in the additional submission and now
18 I can't seem to find what I received. But I
19 think that generally speaking what we received
20 -- here we go -- makes more sense to me.
21 There's a rationale and a justification based
22 on what constitutes accessory use.

1 And I think that what we have now
2 in the drawings, I think that what was listed
3 as accessory communal recreational space
4 initially has been reduced somewhat and it is
5 below the 20 percent threshold for what would
6 be considered accessory, the primary use of
7 that level.

8 And the Zoning Administrator, the
9 memo from the Zoning Administrator is
10 sufficient from my perspective. So I'm
11 satisfied.

12 CHAIRMAN HOOD: Okay, Commissioner
13 Turnbull?

14 COMMISSIONER TURNBULL: Yes, thank
15 you, Mr. Chair. I would concur also. I
16 think, although we had some concerns at the
17 hearing, I think that as Commissioner May has
18 stated, I think with the follow-up information
19 we have now, I think I'm ready to move ahead
20 on this.

21 CHAIRMAN HOOD: Okay, anybody
22 else? Any other comments? Anybody else?

1 Somebody like to make a motion?

2 **COMMISSIONER TURNBULL:** Mr. Chair,
3 I would move that we approve Zoning Case No.
4 12-09, NJA Associates and St. Matthews Church
5 - CG Overlay Review at Square 743N Street.

6 **COMMISSIONER MILLER:** I would
7 second that, Mr. Chairman.

8 **CHAIRMAN HOOD:** Okay, it's been
9 moved and properly seconded. Any further
10 discussion? All those in favor?

11 (Chorus of ayes)

12 **CHAIRMAN HOOD:** Not hearing any
13 opposition of those present, well, those of
14 any of us, Ms. Schellin, would you please
15 record the vote?

16 **MS. SCHELLIN:** Yes. Staff records
17 the vote five to zero to zero to approve Final
18 Action: Zoning Commission Case No. 12-09.
19 Commissioner Turnbull moving, Commissioner
20 Miller seconding, Commissioners Cohen, Hood
21 and May in support.

22 **CHAIRMAN HOOD:** Okay, let's go to

1 the next case under Final Action, Zoning
2 Commission Case No. 12-10. This is Office of
3 Planning - Text Amendment GAR.

4 Ms. Schellin?

5 MS. SCHELLIN: Yes, sir. In
6 addition to the NCPC report at Exhibit 14,
7 there have been many comments received to the
8 proposed rulemaking. At Exhibit 16 there's
9 also an OP request to defer action to allow
10 some additional comments to come in. So I'll
11 ask the Commission to consider action on this
12 case.

13 CHAIRMAN HOOD: Okay.
14 Commissioners, we have a request by the Office
15 of Planning. As Ms. Schellin has already
16 mentioned, we did have a number of
17 submissions.

18 But we have a request by the
19 Office of Planning for us to extend or, I
20 guess, extend the comment period, at least not
21 take up action until March the 11th, which
22 we're being advised that we will not be able

1 to take up action at our next meeting until
2 March the 25th. And I think we'll leave it
3 open for a second comment period, is that
4 correct, Mr. Bergstein?

5 MR. BERGSTEIN: Their request is
6 not for a formal comment period in the D.C.
7 Register, but for you simply not to take final
8 action today, to defer it until March 11th,
9 and that would allow the Office of Planning to
10 reach out to stakeholders and have
11 conversations and then come back to you with
12 any proposals that they think is appropriate.

13 There's a separate request for
14 formal extension of the comment period, but
15 OP's not requesting that. They're just
16 requesting to not take action today. Give
17 them until March 11th to come up with any
18 needed clarifications for you to consider.
19 And then most likely there would then be a new
20 Notice of Proposed Rulemaking and a new
21 comment period.

22 CHAIRMAN HOOD: So we need to wait

1 and see what happens, if we grant the
2 extension until March 11th, and see what
3 happens, whether or not we need to do an
4 extended comment period?

5 MR. BERGSTEIN: Well, again, if OP
6 comes in on March 11th and say, we want to
7 change what we proposed in X, Y and Z, then
8 what we would do is do a second Notice of
9 Proposed Rulemaking, incorporating those
10 changes and having a new 30-day period.

11 CHAIRMAN HOOD: Okay. And do we
12 need to take a vote to --

13 MR. BERGSTEIN: I think something
14 like that if it's just a deferral of your
15 consideration you can do it by consensus.

16 CHAIRMAN HOOD: Any objections to
17 the request by Office of Planning to March
18 11th? Any objections?

19 VICE CHAIR COHEN: No.

20 CHAIRMAN HOOD: Seeing no
21 objections, we will grant that until March the
22 11th.

1 MS. SCHELLIN: We just want to
2 clarify too that OP's report is asking that
3 you allow them to submit a final report to you
4 by March 1st, which would be ten days prior to
5 that meeting, so you would know what their
6 comments are.

7 So we just want to make sure that
8 the record be open for OP only to submit a new
9 report by March 1st, in time for that March
10 11th meeting.

11 CHAIRMAN HOOD: So we will grant
12 the submission for March the 1st, which
13 probably would dictate whether or not we have
14 to have another comment period.

15 MS. SCHELLIN: Exactly.

16 CHAIRMAN HOOD: Okay, I
17 understand.

18 MS. SCHELLIN: Based on once they
19 reach out to some other people. And then if
20 so, then if a new proposed rulemaking is
21 advertised, then that would allow others to
22 come in at that time.

1 CHAIRMAN HOOD: Okay. All right.
2 And I want to make sure the Office of Planning
3 reaches out to all the parties. Well, not
4 parties, but all the stakeholders who are
5 responding. I believe that's the intent.

6 MS. SCHELLIN: Yes.

7 CHAIRMAN HOOD: Okay. All right,
8 anything else? Are we all in agreeance on
9 that? Okay. All right, thank you.

10 Okay, let's go to Zoning
11 Commission Case No. 12-08. This is Office of
12 Planning - Text and Map Amendments at St.
13 Elizabeths. First, I think we have to waive
14 the report. We need to waive the Office of
15 Planning report. Any objections?

16 VICE CHAIR COHEN: No.

17 CHAIRMAN HOOD: Okay, Ms.
18 Schellin?

19 MS. SCHELLIN: That was the only
20 thing I have is that there was an additional
21 report from OP, and just to waive the late
22 filing.

1 COMMISSIONER TURNBULL: And Mr.
2 Chair, I did read the transcript from the last
3 meeting, so I'm ready to participate.

4 CHAIRMAN HOOD: Okay. All right.
5 Mr. Turnbull will be participating. That was
6 one of the things, one of the reasons that we
7 wanted you to, I guess you probably saw that
8 in the transcript.

9 COMMISSIONER TURNBULL: It was
10 mentioned several times, actually. Thank you.

11 CHAIRMAN HOOD: It was? I wonder
12 who mentioned it. But anyway, okay, let's
13 open up for discussion. I am actually not
14 going to start off, but I do have some
15 comments. But I'll do as I normally do, I
16 will yield to my colleagues.

17 Commissioner May?

18 COMMISSIONER MAY: Mr. Chairman, I
19 appreciate the fact that we had a little bit
20 more time to consider this, and to allow the
21 Office of Planning time to review what was
22 submitted in the council member's letter, and

1 also to address questions that were raised by
2 members of this Commission when we last took
3 this matter up.

4 And frankly, well, I was
5 comfortable with where we were at the last
6 meeting. And since those questions were
7 raised, and they did raise some serious
8 questions as a result of both the letter and
9 the comments of this Commission, I'm actually,
10 the Office of Planning's report confirmed
11 where I thought we were. That we've gone
12 through a good process and we were at a good
13 place.

14 And I can see some room, possibly,
15 to tweak some of the inclusionary zoning
16 requirements, but I don't think a major re-do
17 on either the question of inclusionary zoning
18 or FAR is necessary at this point. I'm fairly
19 convinced we've struck the right balance. Of
20 course I'm willing to be persuaded by anyone
21 here.

22 CHAIRMAN HOOD: Vice Chair?

1 VICE CHAIR COHEN: Thank you, Mr.
2 Chairman. At the last meeting I was
3 suggesting that we increase the amount of
4 affordable housing to 20 percent.

5 I've since reviewed a number of
6 issues, including those that our attorney
7 provided us, and that would result in a great
8 deal of complications. However, I still think
9 that this could be a lost opportunity if we do
10 not set deeper affordability issues.

11 It was stated by an attachment
12 from DMPED that Ward 8 is flooded with
13 affordable housing. And I think that this
14 particular project will, in time, actually
15 reduce the number of affordable housing. I
16 think the term of art that's used is
17 "gentrification."

18 So my concern still remains with
19 people who actually live in that ward that
20 could not or may not be able to afford moving
21 to the new property. I mean it's a huge
22 property, and we don't have that amount of

1 land in other wards. We do have it in Ward 8.
2 We might have some in Wards 6 and 4. But in
3 general, I think that people who have lived in
4 a neighborhood and may want to remain there
5 should have the opportunity to do so.

6 So my suggestion would be for this
7 Commission to consider leaving the IZ
8 requirements in place, but instead of having
9 the IZ minimums reach 80 percent of median
10 income, that we actually reduce it to all of
11 it being 50 percent of median income.

12 The other thing I actually want to
13 state is that I think one of the most
14 successful projects of mixed income in the
15 community happens to be in Ward 6, and that's
16 the Capper/Carrollsborg project.

17 There are one-third of those
18 units, and I know that they are not restricted
19 for, you know, ever, one-third is public
20 housing residents, one-third is low income
21 housing tax credit rents, and one-third is
22 market. They've had no trouble selling the

1 market rate units. They've had no trouble in
2 attracting and having a sustainable community
3 with public housing residents there. It truly
4 is a mixed income.

5 And I think that that's the goal
6 that St. Elizabeth should have had in the
7 first place. Be that as it may, life is full
8 of compromises, so my suggestion is to
9 compromise on the IZ and allow for a 50
10 percent median income.

11 CHAIRMAN HOOD: Okay, any other
12 comments? Commissioner Miller?

13 COMMISSIONER MILLER: This is just
14 a question for the Vice Chair. How did you
15 arrive at the 50 percent AMI? In the IZ
16 program, isn't the split between 80 percent
17 AMI and 60 percent?

18 VICE CHAIR COHEN: Yes, I'm
19 suggesting that we override the split and just
20 make it 50 percent. Because right now, today,
21 as opposed to who knows what's going to happen
22 five years from now, there may be, the price

1 of housing may be comparable to what you're
2 getting in Ward 8.

3 COMMISSIONER MILLER: Well, I had
4 shared your concerns at the last meeting and
5 at the hearing regarding the amount and debt
6 of affordable housing that the zoning case
7 would provide.

8 However, I think some of the
9 information that DMPED had provided on what
10 the market rate is in that area shows that the
11 IZ, the maximum that you would be allowed
12 under IZ would be greater than the market,
13 much greater than the market rate. So in
14 terms of what the IZ is calling affordable,
15 the market is actually below that.

16 And that will change, as you said,
17 over time, but I no longer have as deep a
18 concern that the amount had to be increased,
19 of IZ set-aside units had to be increased to
20 a higher percentage, and I'm not sure that I
21 share your view that all of it should be at
22 the 50 percent AMI level without seeing more

1 data. But that's just my comments at this
2 point on the affordability.

3 And that will be 2,000 residential
4 units here as part of the 4.2 million square
5 feet of new mixed-use development, and that's
6 a lot of housing and a lot of development, and
7 it's a great opportunity to revitalize this
8 neighborhood, and on behalf of the residents
9 there and the businesses there and for the
10 District as a whole, and the region.

11 VICE CHAIR COHEN: Commissioner, I
12 can't argue with you with regard to what the
13 state of affairs are today, having to do with
14 purchase prices. But again, none of us have
15 crystal balls.

16 We could just assume that in the
17 future with this type of development, with
18 these many jobs, and the jobs are not just
19 going to be, you know, a high paying jobs.
20 There are going to be workers who are probably
21 making a minimum wage, and wages do not keep
22 pace with rents.

1 So I am concerned about the
2 future. And that's why I thought if we
3 retained the IZ we should make it into a
4 deeper subsidy. And considering that, you
5 know, there will be time, and over time,
6 changes to the neighborhood.

7 The example that DMPED gave about
8 Sheridan Station, I just want to clarify that
9 part of it had to do with the sales prices
10 within the neighborhood and the problems with
11 foreclosures and vacancy. That was a new
12 project and you don't want to leave vacant
13 land empty, because people had already made a
14 commitment to purchase.

15 So it would have affected more
16 negatively had we not gone rental than leaving
17 it vacant. I know that the community prefers
18 home ownership.

19 So again, I just want to say that
20 I am concerned that people in the District
21 cannot afford the housing that is available,
22 and it is getting worse over time. We have

1 60,000 people on a District of Columbia
2 Housing Authority waiting list. I just read
3 in the paper this week of a disturbing number
4 of 600 children that are homeless. I mean my
5 God, what we have to do is think ahead and try
6 to anticipate consequences that we deliberate
7 here.

8 And that is why, I think,
9 affordability needs to be enacted by the
10 Zoning Commission, since a tool of
11 affordability is zoning, and I really am
12 arguing strongly to keep the IZ simple, but at
13 a very affordable income level.

14 CHAIRMAN HOOD: Okay, any other
15 comments? Mr. Turnbull?

16 COMMISSIONER TURNBULL: Thank you,
17 Mr. Chair. You know, I've struggled with
18 this. I obviously want to get as much
19 affordable housing as we can. I think we've
20 done that on any number of the PUDs, and I
21 think we've pushed for whatever we can get in
22 other areas.

1 I was just going back through a
2 lot of the information with the ANC letters,
3 the OP reports. We've had like four or five
4 OP reports on this coming back.

5 And I went back to Council Member
6 Barry's letter, and the council member really
7 doesn't get into affordable housing as much as
8 he talks about density and development and
9 trying to make this a successful part of the
10 community. And he's really more talking about
11 getting this thing to work, that this is the
12 key aspect.

13 And I appreciate the Vice Chair's
14 comments, but I guess I'm more in the camp of
15 Commissioner Miller and his analysis. And
16 looking back through the discussions by DMPED
17 and what they're talking about, I'm just, I
18 guess I'm reluctant to go too far to impact
19 the development of this project.

20 I'm struggling. I'm ready to hear
21 more arguments that we should, if any there
22 is, but right now I think Commissioner Miller

1 put it very succinctly, some of the issues.

2 But I'm open to hear anything else.

3 CHAIRMAN HOOD: Okay. I kind of
4 align myself with the Vice Chair when it comes
5 to affordability, which is going to take me to
6 my point. A lot of cases that we discuss, not
7 necessarily in this part of the city, we
8 really give due diligence.

9 And I'm not saying we're not doing
10 it here, but we really try to make it work.
11 And I think we need to do the same thing here,
12 as the Vice Chair said. And my major issue is
13 looking at what the council member said as
14 well as listening to what the community's
15 saying.

16 And one thing that, in reviewing
17 the transcript again today, because for me,
18 and I'm sure all of us up here, we want to do
19 this right. I don't know how much more we
20 have in that part of the city where we're
21 going to have a major mixed-use project, and
22 I think some of the tools that we use in other

1 areas we need to use over here. And that's
2 another point that I'm going to make to the
3 Office of Planning, depending upon how we move
4 on this.

5 But I think there are tools out
6 there that we need to use that we use all over
7 the city that I would like to see used over in
8 Ward 8, especially the design review. Because
9 one of the Commissioners said this, and I'll
10 mention Ms. Cuthbert who's been in the
11 trenches a long time. She says, we don't do
12 zoning, we have to see it.

13 And when I thought about seeing
14 stuff I thought about the Capital Gateway.
15 I'm not a fan of the Capital Gateway, that
16 whole system, but it works. And the more
17 we've done here on this Commission, we've seen
18 it work. When we first did it I was not a
19 fan. I had to grow into it like everybody
20 else.

21 And I think to just see a pilot of
22 a building on how it might look is different

1 than seeing the actual design. And we allow
2 and afford other communities in this city that
3 opportunity, and I think we need to allow that
4 here.

5 So one of the things I'm going to
6 ask, if my colleagues would agree with me, is
7 that the Office of Planning look like it did
8 before. Do we do a design review or what?
9 Now I'm not saying I agree with all the
10 provisions of the increased density for the
11 most part, which the council member's asking
12 for, but I think that option needs to be
13 there, just like I said previously.

14 Let's allow it and then work our
15 way back, instead of not allowing it and then
16 have a potential developer come in and ask for
17 it. Let's push the envelope like we do in
18 other areas, like we did at 9-0, well, I don't
19 want to get into other areas because we've
20 done quite a few. This group up here, we've
21 done quite a few of pushing the envelope, and
22 I think we need to serve this area the same

1 area we've served other areas in this city.

2 I agree with the Vice Chair about
3 the affordability issue. We need to do
4 whatever we can to try to make sure that
5 affordability is affordable. Because I can
6 tell you, we talk about affordable all the
7 time but it's not affordable. Affordable to
8 who?

9 So we need to do all we can. And
10 the tools that we have here and the tools that
11 Zoning has -- yes, I know the frame plan, the
12 framework plan was done in 2008. The master
13 plan was done after. I understand all that.

14 But the reality of it is, this is
15 a major opportunity and I don't want to see
16 this being a missed opportunity, so I think we
17 need to maybe revisit this FAR issue. We need
18 to revisit the affordability issue.

19 And for me, I know that DMPED's
20 been working on it for years and that we want
21 to get it done, but for me, I want us to do it
22 as right as possible from this standpoint. I

1 know everybody's in a rush. I realize it's
2 something that needs to be done February 14th,
3 and today's what, the 11th or the 12th. I
4 know when it gets to us it's always a rush.

5 But you know what, we have to live
6 with the consequences too. We live in the
7 city too, and there's a lot of projects I ride
8 by now and I say, good gracious, did I do
9 that? So I guess somebody else obviously rode
10 by some of them too.

11 But I really think that we need to
12 do due diligence and, you know, that's just
13 where I am, Mr. Turnbull. I know you said you
14 wanted to hear other comments. That's where
15 I am.

16 COMMISSIONER TURNBULL: Well, no,
17 I agree with your notion of a design review
18 for the different parcels as they come up. I
19 think, like you say, we've done things like
20 that in other areas of the city and the
21 Capital Gateway, and that's fine. I guess I
22 just want to, I'd like to hear why the 50/50?

1 Why 60/40? I mean what drives 50/50, I guess?

2 VICE CHAIR COHEN: All right. Let
3 me go into it a little bit further. We're
4 talking about redeveloping another public
5 housing project called Barry Farm which is not
6 too distant from St. Es. And there's going to
7 be, you know, the need for one-for-one
8 replacement.

9 Well, the one-for-one replacement
10 may not necessarily be accommodated on the
11 site of Barry Farm. Because you have to, and
12 the usual rule of thumb for mixed income is
13 one-third market, one-third low income housing
14 tax credits, and one-third public housing.
15 And so it's not just valuing the land
16 properly, it's also cross subsidies and a
17 chunk of change for gap financing. So you
18 could also have Barry Farm replacement housing
19 on St. Es, and that is within the District of
20 Columbia Housing Authority's guidelines.
21 Again, DMPED talked about Matthews Memorial
22 and Sheridan Terrace. That adds 361 units of

1 housing, some of which is 60 percent of area
2 median income and some of it is moderate
3 income that's 60 to 80 percent. And Matthews
4 Memorial is the same.

5 What I'm concerned about is people
6 in public housing make \$8,000 annually.
7 That's the average income. People in that
8 neighborhood cannot afford what is available
9 there, and certainly even if they're given a
10 voucher, the voucher doesn't allow them to
11 move to every neighborhood, number one,
12 because of fair market rents that are not
13 within some of the higher rents in our city,
14 and number two, there are a lot of landlords
15 that refuse, even though it's against the law,
16 to rent to people.

17 I am looking for an opportunity
18 for people who already live in the
19 neighborhood who may end up being displaced
20 because of the wonderful development that will
21 take place in St. Es.

22 I have no doubt that this project

1 will take off and be successful. But I also
2 care about the people who already live in Ward
3 8 to remain there, and also care about people
4 who will be working at St. Es. They're not
5 all going to be making median income, which is
6 \$107,000. Eighty percent is \$85,000, roughly.

7 So what I'm looking at is people
8 who are making 50 percent of median income,
9 which is about \$56,000. That is my concern.
10 And there are many people who are living in
11 that neighborhood who will be working in that
12 neighborhood who will be making that type of
13 income.

14 And again, I really do believe
15 that some of the development that takes place
16 in this city has unintended consequences that
17 displace people, and we're going to lose these
18 people who are valuable citizens. They stuck
19 it out all those years. They may have to be
20 forced to relocate to Prince George's County
21 which refuses to be Ward 9.

22 I don't know if that was giving

1 you any additional ammunition or comfort, but
2 I just suggest to you that with the type of
3 need that we have and the type of tools that
4 we're using, we're not addressing the need.

5 We are addressing some
6 affordability, especially people who are
7 arriving into the city, and they're displacing
8 people who are in the units, that a newly
9 arrived employee's probably making, in some
10 cases, \$60,000 as a brand-new employee.

11 But I'm concerned about people who
12 are already living here. Not that you aren't
13 concerned, but this has been my life.

14 CHAIRMAN HOOD: Okay. Let me ask
15 this in this way. Do we have, those are two
16 issues that at least two of us, I know, have
17 issues with the FAR and affordability. Are
18 there any other outstanding issues that need
19 to be brought up at this point?

20 Commissioner Miller, anything
21 different, or in the same subject line?

22 COMMISSIONER MILLER: It was in

1 the same subject line. I wanted to comment on
2 the issue you brought up about the design
3 review. I think that the public will see the
4 proposed designs when each of these projects
5 is going to have to go through a historic
6 preservation review process of some sort,
7 which will have a public hearing element, and
8 there will be a design review at that level.

9 And it was important to have a
10 design review in Capital Gateway, as I
11 understand, because it was a matter of right
12 and it was going to go forward and it wasn't
13 going to be any historic preservation issues
14 in, you know, the area that is not designated
15 historic district and is mostly vacant land.

16 So I don't share the concern about
17 the need for this Commission to have design
18 review, because there's another body that's
19 much more expert at that that will be
20 reviewing every single one of the buildings
21 that goes up on this national historic
22 landmark.

1 If I could just elaborate on the
2 comment further on the affordability. I think
3 to correct what I, I think what you're
4 proposing, just to clarify it, what you're
5 proposing, Madam Vice Chair, is that the
6 proposal only provides for IZ to apply, and
7 that's eight percent or whatever of the units.

8 VICE CHAIR COHEN: Eight to ten
9 percent.

10 COMMISSIONER MILLER: Eight to ten
11 percent. But it allocates that all of them
12 are moderate income as defined by IZ. You
13 want to allocate all of them as low income as
14 defined by IZ, and to correct what I said
15 earlier, it is at 50 percent AMI in the IZ
16 regs. That's is my corrected understanding.

17 VICE CHAIR COHEN: That's correct.
18 And actually I should also suggest, and I
19 don't know if it's appropriate at this time.
20 I think we need to revisit the issue of the
21 long-term affordability requirement on not
22 rental but on housing ownership. Because that

1 does squelch the ability to market those
2 units.

3 And especially in light of the
4 fact that today, should we undertake
5 development, and it so happens that the cost
6 of the housing is market rate in that
7 neighborhood, we need to adjust for the long-
8 term affordability issues because that does
9 inhibit sales. But I'm not sure if that needs
10 to be done today or in the future.

11 COMMISSIONER MILLER: Well, if I
12 just could clarify my previous comments. I
13 have a greater degree of comfort level with
14 supporting the direction that you're going in
15 terms of 100 percent of the IZ units being at
16 the low income level rather than the moderate
17 income --

18 VICE CHAIR COHEN: Right. You
19 understood me.

20 COMMISSIONER MILLER: Yes. I
21 would say that I don't support the comments
22 regarding that this should be a site where we

1 provide the most heavily subsidized units of
2 public housing. Ward 8 has plenty of public
3 housing. They do not want more public
4 housing. I know the need is great, but they
5 do not want that.

6 VICE CHAIR COHEN: But the Housing
7 Authority has a requirement for one-for-one
8 replacement.

9 COMMISSIONER MILLER: And they are
10 doing that on the new community sites. This
11 has not been designated as a new community.
12 It is not a public housing site. I just want
13 to have that clarified for the record as well.

14 VICE CHAIR COHEN: There was talk
15 about it ages ago and maybe it's no longer
16 relevant, just as long as there's one-for-one
17 replacement.

18 CHAIRMAN HOOD: Okay, here's where
19 I -- Commissioner May?

20 COMMISSIONER MAY: Yes, if I
21 could. Yes, with all this discussion I don't
22 think my initial inclination to keep with

1 what's been recommended by the Office of
2 Planning at this point has been swayed. I
3 mean, I guess I can understand the desire to
4 increase affordability. I'm not sure. I mean
5 just to clarify, you are proposing that all of
6 the IZ units be designated at 50 percent AMI?

7 VICE CHAIR COHEN: Yes, I am.

8 COMMISSIONER MAY: Yes, as opposed
9 to some sort of mixture of 50 and 80 percent?

10 VICE CHAIR COHEN: Yes.

11 COMMISSIONER MAY: Okay. Yes, I'm
12 certainly not in favor of that. I think that
13 having, you know, I could be persuaded that
14 there might be a 50/50 split between low and
15 moderate income, but I certainly can't see
16 going for 100 percent of the 50 percent AMI.

17 With regard to the potential of
18 doing some sort of design review, I can't tell
19 you how thrilled I am at the thought the
20 chairman is now on board with doing design
21 reviews. Under the Capital Gateway --

22 CHAIRMAN HOOD: I've sat through a

1 number of them.

2 (Crosstalk)

3 CHAIRMAN HOOD: -- me to like
4 them.

5 COMMISSIONER MAY: And I really
6 appreciate that. I'm glad you're finding your
7 inner architect.

8 In any case, I tend to agree with
9 Commissioner Miller that the historic
10 preservation review ought to be able to
11 address design considerations when it comes to
12 development on this site.

13 And there are some key differences
14 between this and what was happening, or what
15 could be happening in the Capital Gateway
16 area, because that was really kind of wide
17 open. And here there's so much historic
18 context, and there's a real neighborhood
19 around it where there really wasn't at Capital
20 Gateway except in one direction, toward the
21 west. Here, I think it's a different
22 situation and for many reasons.

1 I don't know if anybody remembers
2 this, but at one point when we were discussing
3 this, and it may have been just in the
4 hearings, but I was wondering whether it made
5 sense to retain some ability to do PUDs on
6 blocks within this new zone, and that was shot
7 down fairly effectively.

8 And to me that's the same sort of
9 evaluation that the Chairman is actually
10 suggesting at a certain level, that there
11 might be design review or that there might
12 actually be additional FAR in place and, you
13 know, boom, you put those two things together
14 and you've got PUDs.

15 CHAIRMAN HOOD: Let me just say
16 this. On that note, I didn't necessarily say
17 it had to be design review of PUDs. But I can
18 tell you, as someone who has reviewed the
19 hearing quite a bit, and I can stand to be
20 corrected, I don't think you were shot down
21 over your PUD came from me.

22 COMMISSIONER MAY: No, no. I'm

1 not saying it did.

2 CHAIRMAN HOOD: But I'm just
3 saying. Even now that I've been through the
4 process -- no, I need to say this. I've been
5 through the process, I'm seeing what's going
6 on here. That may be something that I'm, you
7 know, you said it was shot down but I'd like -
8 -

9 COMMISSIONER MAY: Well, I mean
10 shot down, it was more, you know, the Office
11 of Planning, I think, argued, made reasonable
12 arguments against it and there wasn't any
13 sympathy for my position on the rest of the
14 Commission, so it never went that far.

15 CHAIRMAN HOOD: Well, that's
16 because I needed more --

17 COMMISSIONER MAY: More time to
18 think about it?

19 (Crosstalk)

20 CHAIRMAN HOOD: -- than I've got
21 here, I can tell you this, I can go right
22 along with you.

1 COMMISSIONER MAY: Okay.

2 CHAIRMAN HOOD: And I'm going to
3 let you finish your comments, but I wanted to
4 just say something. I said a tool. I didn't
5 say it had to be a design review. I just said
6 a tool.

7 COMMISSIONER MAY: And what you're
8 hoping to accomplish with the tool is greater
9 oversight and public conversation about what
10 actually is developed there exclusively, or
11 are you also looking at that as a means of
12 greater density, in response to the council
13 members?

14 CHAIRMAN HOOD: Well, that would
15 depend. I'm not saying that I agree with
16 everything in this letter. That would depend.
17 Because if you remember, some, but what got me
18 to that point was the testimony of
19 Commissioner Cuthbert.

20 COMMISSIONER MAY: Right.

21 CHAIRMAN HOOD: And what she said
22 was, and I think this goes in certain

1 neighborhoods and mine is included, are not
2 zoning experts. We have to see it to
3 understand. And that's what she basically
4 said in her testimony. I didn't say it. Just
5 review the transcript. She said it. And I
6 think that's kind of where we are.

7 COMMISSIONER MAY: No, I
8 understand. I was there. I was there, and I
9 think we've actually heard that comment from
10 Commissioner Cuthbert in the past, since she
11 certainly has been here on many occasions.

12 And I don't disagree that, you
13 know, that certainly some ANC's have become
14 quite sophisticated in how they handle large
15 development projects.

16 I would actually argue that the
17 ANC, in this circumstance, is more
18 sophisticated than they might give themselves
19 credit for. I think they're actually quite
20 capable in voicing their interests on these
21 important zoning issues.

22 Certainly it has come up in the

1 past with all of the PUDs that have already
2 been mentioned tonight, plus the prior St.
3 Elizabeth's PUDs that happened in two
4 circumstances.

5 In any case, I'm not convinced of
6 the need to go that route. Certainly, if it's
7 the will of the Commission that we try to
8 introduce some new tools, I could be convinced
9 of that. But frankly, as I said at the very
10 beginning, I'm comfortable with what's been
11 proposed at this point and would be prepared
12 to move it forward.

13 VICE CHAIR COHEN: I'm sorry, I'm
14 going to get off your point, Chairman, because
15 I just went and received, I got some
16 information that may convince my colleagues
17 differently.

18 Okay, 58 percent of all households
19 in D.C. are renters. 46,753 or 32 percent of
20 renter households are extremely low income.
21 I'm not even talking about low income,
22 extremely. 27,952 is the shortage of units

1 affordable and available for low income
2 renters. \$28.96 is the housing wage, which is
3 the amount a renter household needs to earn
4 per hour to afford a two-bedroom unit at the
5 2010 HUD-determined fair market rent.

6 Is there a need for affordable
7 housing? You all agree with me all the time,
8 yes. Is there a need for diving deeper into
9 the affordability? I think these key facts
10 say yes.

11 CHAIRMAN HOOD: I'm already with
12 her, anybody else? Mr. Turnbull?

13 COMMISSIONER TURNBULL: Well, I
14 guess I'm not, I mean, Commissioner Miller had
15 mentioned, and there's some testimony and
16 there's some letters to talk about, Ward 8
17 being oversaturated with this, and I don't
18 know if the neighborhood really wants to keep
19 adding that.

20 But if, and I think as we talked
21 about before, I think Commissioner May was
22 alluding to it, that we would look if there's

1 some halfway measure at achieving some 50
2 percent, but not 100 percent of 50 percent
3 AMI.

4 I think if we could compromise on
5 some element of that, then I think there are
6 those on this Commission that might go along
7 with that. But I think to have it at 100
8 percent for 50 percent AMI, I can't buy into
9 that right now.

10 VICE CHAIR COHEN: We're only
11 talking about eight to ten percent of the
12 units, and at one time I was talking about
13 much more, a 20 percent. In addition, I'm
14 afraid that Ward 8 may eventually be fearful
15 that they're losing their low income units and
16 being priced out of the market.

17 So I'm not insensitive to Ward 8,
18 I'm just very sensitive to the people who have
19 no place to go, and we don't have as many
20 large parcels and opportunities like we have
21 at St. Es. So I'm sticking to my guns, guys.

22 CHAIRMAN HOOD: Okay. Let me ask

1 this. What if we, and I know, you know,
2 everyone starts frowning up, because one thing
3 about things around here, nothing's a done
4 deal.

5 What if we ask Office of Planning
6 at least from my, about the FAR? Would my
7 colleagues agree? If the Office of Planning,
8 I would like for them to go back and have a
9 conversation with the council member of Ward
10 8, and also a conversation with the chair of
11 8, ANC 8C, again. Just one more time. And I
12 know they're probably going to say they've
13 done it 300 times. The deputy mayor's office
14 went out there.

15 But for me, the way I feel, it
16 would give me a comfort level. Because one
17 thing I do not want to do is all the work, and
18 the need that I know that this needs, I want
19 this to be right, but I would like not to have
20 to vote against it. I'm letting you know up
21 front. I would like not to have to vote
22 against it. That's just where I am.

1 No, let me just finish. I'd like
2 for more time for them to go and have a
3 conversation, maybe Ms. Steingasser to have a
4 conversation with the council member as well
5 as Ms. Cuthbert, and also about this FAR
6 issue. Then the comments are brought back
7 about what was done in the framework and what
8 was done in the master plan.

9 And I don't know what input they
10 had for me to get this letter, and even at the
11 hearing people said they wanted to be
12 involved. I don't know were they involved or
13 were not involved, all I can go by is what
14 people tell us or what I've been told.

15 And then also to my Vice Chair's
16 point, and I'm not sure, I think I will let
17 you speak on that because I don't know. Do
18 you need the Office of Planning to do
19 something else? Are we where we are, or do
20 you want more time to think about that and try
21 to --

22 VICE CHAIR COHEN: No, my only

1 comment, because I didn't have a chance to
2 really talk about, speak towards your
3 concerns, Chairman, is that Councilman Barry
4 is looking for greater density. And that does
5 not match what I heard from the ANC's.

6 And the other thing I heard from
7 the ANC was not so much they didn't feel like
8 they understood what was going on, they were
9 emphatic about not having such great density,
10 which is what Councilman Barry wants, close to
11 the transit because that was too close to
12 their neighborhood.

13 So again, I think that OP is
14 responding more towards the community than to
15 the councilman, because overall, as I said,
16 his densities are so much greater than what I
17 heard the ANC wanted.

18 I think the ANC felt that they
19 were not heard from only because they felt
20 that, it stuck in their mind that somebody
21 said in the meetings, this is a done deal.
22 And certainly since we've had the first public

1 hearing this isn't a done deal. We have
2 discussed it a great deal.

3 So I think if we can get some
4 closure on what is abutting their
5 neighborhood, because the more I look at the
6 charts that were provided by OP the more I
7 realize, well, the density is really where the
8 ravine is, taking advantage of the ravine, and
9 Councilman Member Barry wants higher density.

10 And the one concern that I had
11 were the parcels that were the concern of the
12 ANC, which is -- I'm sorry, people, I'm a
13 little -- those parcels along Alabama, was it
14 Alabama? And Dogwood. And I think we've
15 taken that into consideration, if you look at
16 the table.

17 CHAIRMAN HOOD: But Vice Chair, my
18 point, and you just made my point for me.

19 VICE CHAIR COHEN: Oh, okay.

20 CHAIRMAN HOOD: Commissioner
21 Absalom Jordan said he wanted 40 feet. The
22 proposal here, and I'm talking about STE 18,

1 he says 90 feet. You know, that's my point.
2 The ANC's saying 40 feet. Councilman Barry is
3 well above 90 feet. And I'm not saying, you
4 know, and at least what's being proposed in
5 the zoning proposal is 90 feet, he's above 90
6 feet. But if we want to talk over to the ANC
7 they're saying 40 feet.

8 So for me, I just want to have
9 that discussion. I don't want to see, I don't
10 want this to be a missed opportunity. That's
11 all I'm saying. I know there are going to be
12 differences. Nobody's going to always agree.
13 But I don't see us that far apart through this
14 whole process.

15 So to say that the Office of
16 Planning is necessarily, and listens to me,
17 they may have thought they were fine and happy
18 to lead them, I don't know. I just ask them
19 to go back one more time, talk to the
20 councilman. And I'm specifically saying Ms.
21 Cuthbert because her ANC is the one that's, I
22 believe, most effective. She did most of the

1 presentation.

2 So that's just where I am. If I
3 can get my colleagues to agree to that, if
4 not, then we'll just have to do what we have
5 to do.

6 Commissioner Miller?

7 COMMISSIONER MILLER: Let me try
8 this suggestion of a way to go forward that
9 might accommodate several concerns including
10 yours and the Vice Chair's. As I understand
11 it, if we make a change to the affordability
12 level as it's being proposed by the Vice
13 Chair, that would require a re-publication of
14 the --

15 VICE CHAIR COHEN: Yes.

16 COMMISSIONER MILLER: -- Notice of
17 Final Rulemaking. Is that correct, Mr.
18 General Counsel?

19 MR. BERGSTEIN: You know, if that
20 was the only change you made I would be
21 willing to take a risk at going final and ask
22 your authority to do proposed if ODAI

1 disagreed with that. In other words, if the
2 only thing you were tweaking was changing the
3 level of affordability from a 100 percent
4 moderate to 100 percent low, I think that's a
5 relatively discreet change to make.

6 If you started getting to control
7 periods, if you started getting to density,
8 I'd be more concerned. But if that was the
9 only change you were going to make, I was
10 thinking to myself that what I would do is ask
11 you for permission to try to do it as final
12 and if we had to do proposed we would do that.

13 COMMISSIONER MILLER: Well, let
14 me, I was hoping you might say the opposite so
15 that I could accommodate Mr. Chairman's
16 concerns that we would have the time to
17 explore that. But let me try this if I can,
18 and rule me out of order if I can't.

19 But I would move approval of
20 Zoning Commission Case 12-08, Office of
21 Planning - Text and Map Amendments at St.
22 Elizabeths, with the amendment to the

1 affordability level as proposed by the Vice
2 Chair, although I'd be more comfortable going
3 with, I might be more comfortable going with
4 the split suggested by Commissioner Turnbull,
5 the 50/50, half at 50 percent AMI and half at
6 80 percent.

7 But for purposes of this motion,
8 let me, if I could move approval of the final
9 rulemaking as proposed by the Office of
10 Planning, and what's in front of us with the
11 change to the affordability level that the
12 Vice Chair has proposed, to make it all low
13 instead of making it all, as the IZ has said,
14 as all moderate, and ask for a second.

15 VICE CHAIR COHEN: Second.

16 CHAIRMAN HOOD: Okay, it's been
17 moved and properly seconded. Now, and have
18 discussion. And what I was trying to put on
19 the table before the motion was put on the
20 table, I was going to ask if the Office of
21 Planning would look at some of the ideas that
22 I had asked, but since there's a motion on the

1 table obviously that's been discounted.

2 COMMISSIONER MILLER: No, my hope
3 was that they would look at that.

4 CHAIRMAN HOOD: It's too late now.
5 There's a motion on the table. So there's
6 been a motion that's been moved and properly
7 seconded. Any further discussion?

8 COMMISSIONER MAY: Mr. Chairman?

9 CHAIRMAN HOOD: Yes.

10 COMMISSIONER MAY: So what I would
11 like to know, I mean I would hate to see us go
12 through and approve something with this change
13 without knowing or without hearing from the
14 Office of Planning about how problematic it
15 might be if it were approved like this.

16 I mean if they're going to take
17 this and turn around and submit a new case to
18 get it revised, I'm not sure that it would be
19 worth voting in favor. So I would like to
20 hear from the Office of Planning, if you would
21 be willing to do so.

22 CHAIRMAN HOOD: Okay, what we're

1 going to have to do then, because we have a
2 motion on the table and it's been seconded,
3 we're going to have to take that motion off
4 the table, because discussion, the problems
5 that we see, the discussion is among us.

6 COMMISSIONER MILLER: I withdraw
7 the motion.

8 CHAIRMAN HOOD: Okay, so the
9 motion's been withdrawn. Okay, Commissioner
10 May, do you want to ask your questions of
11 Office of Planning?

12 COMMISSIONER MAY: Yes, I would
13 just like to know the impact, or the reaction
14 to changing the affordability requirement to
15 100 percent of the IZ units at 50 percent of
16 AMI.

17 MS. STEINGASSER: I'm going to
18 request that Mr. Ethan Warsh of the deputy
19 mayor's office come forward and address that.
20 He has been part of the St. Elizabeth's
21 planning project, and he is more equipped to
22 answer that question than the Office of

1 Planning.

2 CHAIRMAN HOOD: Okay. Also before
3 Mr. Warsh comes forward, if we're going to
4 have him come forward is, Ms. Steingasser,
5 also you've heard my concern. I know you all
6 have responded to it. And when I talk about
7 another tool, not necessarily it has to be a
8 Capital Gateway. Do you think that's
9 something we can look into or go down that
10 road?

11 MS. STEINGASSER: Well, I think
12 the Historic Preservation office would serve
13 in that design capacity role that provides
14 public input for the neighborhood. As part of
15 the planning process, we also established some
16 design criteria that's incorporated into the
17 master plan and that was done in consultation
18 with the community.

19 So perhaps we could get some, we
20 can get copies of that for the Commission so
21 that you feel a little bit more comfortable
22 that there is a process that the community

1 will be engaged in as the projects come
2 forward one by one.

3 CHAIRMAN HOOD: And through that
4 process, HPRB, they'll deal with height and
5 density and all that, right?

6 MS. STEINGASSER: Yes, sir.
7 They'll look at the compatibility. And they
8 were heavily involved, the Historic
9 Preservation staff was involved in the
10 establishment of those design criterias so
11 that the neighborhood would have a sense of
12 what would be coming to a site this large.
13 And it was taken to the Historic Preservation
14 Review Board for their concurrence with the
15 general concepts. So they will be looking at
16 height. They won't be looking necessarily at
17 FAR and use, but they will be looking at
18 height and design and context.

19 CHAIRMAN HOOD: Okay.
20 Commissioner May, you wanted to hear from Mr.
21 Warsh?

22 COMMISSIONER MAY: I would like to

1 hear from somebody. If it's Mr. Warsh, that's
2 fine.

3 CHAIRMAN HOOD: Okay.

4 COMMISSIONER MAY: I would just
5 like to know --

6 CHAIRMAN HOOD: It's been
7 recommended then, Mr. Warsh. Okay.

8 (Off the record comments)

9 MR. WARSH: Good evening. So my
10 understanding is the question is, what would
11 the effects of the deeper level of
12 affordability requirement be on the
13 development? I guess the concern would be
14 two-fold.

15 The initial concern would be that
16 it would obviously jeopardize the financial
17 feasibility of any of the projects, especially
18 in the early stages of the development. Right
19 now, land value there is very tenuous, and
20 obviously all of our investments to date have
21 been with the intention of adding as much land
22 value such that this development opportunity

1 would be attractive to development partners.
2 So especially in the earlier phases there
3 would be a concern about what that would do to
4 land value.

5 And then the next concern would be
6 really about the type of community that we're
7 wanting to create and obviously wanting to
8 follow a trend of creating mixed income
9 communities, and so having one where you have
10 sort of the very low end of the spectrum and
11 then the market end of the spectrum
12 represented would leave out the 80 percent AMI
13 level of affordability and not create,
14 necessarily, the rainbow of different
15 household types that we're looking to have
16 present at the site.

17 But I would like to reiterate that
18 there's, you know, with your initial concern
19 about the 20 percent, your initial request,
20 obviously this is far less startling to us in
21 terms of the finance, from a financial
22 perspective, than the 20 percent suggestion.

1 But I will say that, you know, as
2 Commissioner Miller as pointed out, in the
3 past, DMPED has required through its
4 solicitation LDA process that deeper levels of
5 affordability or higher percentages of the
6 development be represented at affordable
7 levels, and that's still definitely possible
8 throughout the course of this development.

9 So I think that the book is not
10 necessarily closed on the ways we address
11 affordability at St. Elizabeths. My office
12 sees it as an opportunity to address the
13 affordable housing goals throughout, you know,
14 the city, because obviously it is a large
15 piece of land that we do control and can have
16 some say in that.

17 So I can't make any promises or,
18 you know, look into the future, but I would
19 not be shocked if precedent was any suggestion
20 for how we did move forward far into the
21 future, that some of the future projects would
22 have the higher levels of affordability or the

1 greater percentage of affordability that you
2 were suggesting be applied to the whole site.

3 CHAIRMAN HOOD: Do you have a
4 follow-up?

5 VICE CHAIR COHEN: Yes. I think
6 you're a nice guy, but I don't think you're
7 going to be here as long as some of the people
8 who live in Ward 8 have been here, and I don't
9 think a lot of our mixed income projects are
10 mixed. Yes, they have 80 percent, but what
11 about the other people who can't quite make
12 that, as I said, the ones who have to pay \$28
13 to afford the average two-bedroom?

14 I think we've been doing a
15 fantastic job on getting two bedrooms built
16 for 80 percent of median. There are people in
17 the surrounding communities that are people
18 who have worked in this city that have turned
19 their back on affordability. And that is why
20 I don't quite want to accept a gentleman's
21 agreement on this.

22 We're in a crisis, and we have got

1 to find ways of addressing that band of income
2 that is not being met. And if you can't do it
3 at St. E's, I don't know where else you can do
4 it.

5 CHAIRMAN HOOD: Commissioner May?

6 COMMISSIONER MAY: Okay, I have a
7 question for you, actually two questions for
8 you, maybe just one. Clearly what was
9 proposed to us in terms of the language,
10 somebody made a decision at some point to seek
11 all moderate income for IZ, and I'm wondering
12 if you can share any of the thinking that went
13 into that decision?

14 I mean do you actually debate
15 doing the low income-moderate income split, or
16 low income only? I mean how did you wind up
17 with what's been proposed here?

18 MR. WARSH: So just, I have not
19 looked at this specific line where the
20 affordability, and I'm not an expert on IZ.
21 So is the proposal then to have it all at 80
22 percent, is that what you're suggesting?

1 COMMISSIONER MAY: The current
2 proposal is all 80 percent of AMI.

3 MR. WARSH: Yes, I think what had
4 gone into it was that essentially we wanted
5 to, there was a lot of concern during the
6 planning process moving towards the first
7 phase of development that there would be some
8 financial hardship for a developer to come on,
9 and I did think that we were, you know,
10 leaving that discussion open for further
11 levels of affordability, et cetera, for down
12 the line.

13 So we wanted to create some
14 assurance that there would be affordability on
15 the site, because we understand that this body
16 did want that level of assurance, and there
17 are others, you know, important stakeholders
18 in the project who do want that level of
19 assurance, but we were again not closing the
20 book on either deeper levels of affordability
21 in the future or a greater percentage of
22 affordable housing on certain parcels.

1 COMMISSIONER MAY: Okay, so you
2 were essentially trying to set a minimum. Now
3 maybe the Office of Planning, I know you've
4 been shuffling papers and whispering. Do you
5 have anything to add on this topic about how
6 the decision was made to set the level here?
7 Is it just sort of taking the default or is
8 it, was there a more thoughtful consideration
9 of higher levels of affordability?

10 MS. STEINGASSER: I think the only
11 thing I'd add is that it was just set to
12 follow the standard inclusionary zoning. So
13 whether it's stick-built or higher would
14 establish that level.

15 VICE CHAIR COHEN: One final
16 comment. Again, inclusionary zoning is
17 working, but it's not reaching a band of
18 income that is in greater need.

19 COMMISSIONER MAY: Mr. Chairman, I
20 think my question was answered. I'm not
21 hearing a resounding statement that if we were
22 to opt for a higher level of affordability

1 that it would be a problem.

2 But I think allowing some
3 flexibility actually would be smart, and
4 doing, you know, I don't know how complicated
5 this is in terms of where we are in this stage
6 of the rulemaking, but I could easily support
7 a change to the IZ requirements to call for 50
8 percent at 80 percent of AMI and 50 percent at
9 50 percent of AMI or something like that. I
10 know that wasn't what was moved before but it
11 might have been moved.

12 CHAIRMAN HOOD: Let me ask you, so
13 Mr. Bergstein, and think you might have
14 answered this earlier. Does that call for a
15 a readvertisement of any sort?

16 MR. BERGSTEIN: Again if, for
17 example, you just went to the 50/50 split, all
18 that would require would be technically just
19 taking the reference from St. E out of 2603.4
20 and moving it to 2603.3. And I'd be willing
21 to argue with ODAI that that would not require
22 readvertisement.

1 Again, I'd like the option, if
2 they say you need a proposed rulemaking, to go
3 ahead and do it. But that type of change is
4 merely reflecting a choice. There's two
5 choices in OZ, either all 80 percent or a
6 moderate 50 percent low.

7 You were proffered Option 1.
8 You're basically saying let's go with Option
9 2. I'd be willing to argue that that is not
10 a substantial alteration of the proposed text.
11 So I'd be willing to take that shot.

12 CHAIRMAN HOOD: Okay. Vice Chair,
13 you have something you want to add?

14 VICE CHAIR COHEN: Yes. What
15 about my Option 3?

16 MR. BERGSTEIN: It's a little bit
17 greater, but I would still be willing to take
18 the shot. And the worst thing that could
19 happen is ODAI tells us we're wrong and we
20 lose a couple of weeks. Well, we'd lose more
21 than a couple of weeks. Well, yes, we would
22 lose a couple of weeks. In other words, if

1 you tell me right now to do a proposed
2 rulemaking I could do it.

3 Also the other thing by the way is
4 you don't need to do 30 days. For good cause
5 you could do less than 30 days. We could do
6 a 14-day rulemaking and be able to come back
7 here March 11th. So, you know, if you want to
8 be conservative about it, you come back March
9 11th. Otherwise you could either allow me to
10 go forward with a final rulemaking to ODAI,
11 but if they come back and say we need a
12 proposed, then we're going to have to do a
13 proposed. So, you know, that will cause a
14 little bit more delay than just saying go
15 ahead and do a proposed rulemaking.

16 But to answer your question, I
17 would be comfortable, if that's the only
18 change you're making, in arguing that going
19 from all moderate to all low is not a
20 substantial alteration of the rule, because
21 this rule is many, many things and this is
22 just one part of it.

1 CHAIRMAN HOOD: Okay. Any other
2 questions or comments?

3 Ms. Steingasser, I do have one
4 other request. Obviously the vote is not
5 going to allow me time to have those
6 discussions, but I would like for the Office
7 of Planning still to reach out to Ms. Cuthbert
8 as well as Councilman Barry, and continue
9 those discussions.

10 But I don't necessarily agree with
11 letting HP, this Commission has never agreed
12 with HPRB in letting them take over whatever
13 we, I think is in our jurisdiction. While I
14 know they have review and oversight over
15 certain things also, but we've always handled
16 our own business. But in the case of what
17 I've heard tonight, I don't have the votes to
18 move the way I think we should move to allow
19 more time, and we've kind of finalized some of
20 this discussion.

21 But if you all could do that, you
22 all could give me, because I really don't want

1 to vote against it with all the work, I was
2 just trying to push the envelope a little
3 more. That's kind of where I was. So if you
4 all could do that for me, commit to that, I
5 would greatly appreciate it. Ms. Cuthbert and
6 Mr. Barry, those are the only two I ask.

7 MS. STEINGASSER: Yes, sir.
8 They'll be contacted.

9 CHAIRMAN HOOD: Because nothing
10 around here's a done deal, okay? All right.
11 Okay, so --

12 COMMISSIONER MILLER: Would it be
13 appropriate to resubmit my previous motion,
14 Mr. Chairman?

15 CHAIRMAN HOOD: Go right ahead.

16 COMMISSIONER MILLER: And it was
17 to move approval of Zoning Commission Case 12-
18 08 Office of Planning - Text and Map
19 Amendments at St. Elizabeths, with the
20 suggested change to the affordability
21 recommended by our Vice Chair.

22 VICE CHAIR COHEN: I'll second

1 that.

2 COMMISSIONER MAY: Can we restate
3 exactly what that is then? That's 100 percent
4 of IZ at 50 percent of AMI?

5 COMMISSIONER MILLER: That's
6 correct.

7 CHAIRMAN HOOD: Okay. It's been
8 moved and properly seconded. Any further
9 discussion?

10 COMMISSIONER MILLER: Just one
11 thing, Mr. Chairman, and I'm sorry to delay
12 this. I don't know if this will give you any
13 increased comfort level, but it just bears
14 repeating for the public at least and the
15 community, the ward that surrounds this St.
16 Elizabeth site, that every disposition, every
17 parcel that's disposed of not only will go
18 through the Historic Preservation Review
19 design review process, which will have public
20 input, but it will also go through the land
21 disposition process at the Council of the
22 District of Columbia where there will be a

1 public hearing and where people could say, no,
2 that's not the right amount of whatever, or
3 not the right design. So there will be
4 opportunities for public input going forward.

5 CHAIRMAN HOOD: Okay. Further
6 discussion? Commissioner May?

7 COMMISSIONER MAY: Yes, I'm not in
8 favor of changing the affordability
9 requirement in this manner. I would much
10 rather see the 50/50 split between moderate
11 and low income. And I mean, I guess, from a
12 parliamentary point of view I could offer this
13 as a friendly amendment if you would consider
14 it.

15 (Off microphone comments)

16 COMMISSIONER MAY: No.

17 CHAIRMAN HOOD: You want to make a
18 friendly amendment to that? Give us your
19 friendly amendment and let's, I mean
20 Commissioner Miller --

21 COMMISSIONER MAY: I'm not exactly
22 sure how to phrase the friendly amendment, but

1 I would suggest that the affordability
2 requirement be modified to be 50 percent low
3 and 50 percent moderate.

4 So as Mr. Bergstein stated, moving
5 the STE from the one clause that makes it 100
6 percent moderate to the one that splits it.
7 So not very clearly stated, but that's what I
8 would, I would like to see that.

9 COMMISSIONER MILLER: I don't want
10 to risk losing my seconder of the motion.

11 VICE CHAIR COHEN: I view this as
12 an unfriendly, but then, and so I would like
13 to vote on what was proposed and seconded.

14 COMMISSIONER MAY: Can I offer a
15 counter motion, moving approval with that? I
16 mean this is the unfriendly version of the
17 motion. I'm not sure exactly how Robert's
18 rules go, but I think there's an opportunity
19 to make a second motion.

20 CHAIRMAN HOOD: But here's the
21 thing. Since there's a motion on the table
22 we're going to have to carry that motion out,

1 and then if you want to make another motion
2 then we'll do that. Because we need to carry
3 the motion that's on the table out.

4 The friendly amendment would have
5 made it a lot easier because Rob would have
6 accepted it, the seconder of the motion would
7 accept it and we could have moved right on.
8 And then they might have even accepted what I
9 was trying to do and we could have moved right
10 on. But it looks like you're ready to be with
11 me.

12 COMMISSIONER MAY: I think,
13 frankly, that changing it so significantly
14 here actually is not going to be well received
15 by the community. I think that a substantial
16 voice in the community is going to speak up
17 and say, you know what, we want affordability
18 but we don't want to have, you know, all of
19 the IZ units be low income units. That we
20 want to have some of those moderate income
21 people there too. And that's what I really am
22 most concerned about.

1 VICE CHAIR COHEN: Mr. Chairman,
2 and I just want to assure my colleague, I am
3 concerned about that too. But again, we're
4 talking about a very small percentage of units
5 in a very large community. We're not talking
6 about large numbers, and it depends upon how
7 you explain it as well.

8 I mean in a gentrifying
9 neighborhood, which this may become, this may
10 be more than welcome. I think we can't feed
11 on people's fears. We have to do what's right
12 for the entire city as well as the Ward, and
13 I don't think this impacts the Ward as greatly
14 as people would fear.

15 COMMISSIONER TURNBULL: Mr. Chair,
16 could I answer her comment?

17 CHAIRMAN HOOD: Yes, because it's
18 open for discussion.

19 COMMISSIONER TURNBULL: I mean I
20 think I mentioned earlier, the 50 percent at
21 50 percent and the 50 at 80 percent is a more
22 easy way to slide in and get some of the

1 things that we want. And I think, and as
2 Commissioner May said, I think the
3 neighborhood would be more receptive to that.

4 And I still think 50 at 80 and 50
5 at 50 makes more sense. I just think it's
6 less of an impact on the whole project. I
7 think it achieves, I think, at least some of
8 the issues of what the Vice Chair wants, and
9 gives us the affordability.

10 COMMISSIONER MAY: Mr. Chairman, I
11 would just like to add, I think, like you, I
12 don't want to vote against this, but with the
13 motion that's on the table right now I will
14 vote against it for the sake of trying to see
15 a better motion come forth later.

16 CHAIRMAN HOOD: Okay, so let's
17 keep going just how we're going then. No, I
18 don't want to -- okay.

19 VICE CHAIR COHEN: Well --

20 (Off microphone comments)

21 COMMISSIONER TURNBULL: This is
22 sort of like, it reminds me of the sequester

1 going on, you know, the whole dialogue thing.

2 VICE CHAIR COHEN: Well, I know
3 who's the Democrat on this particular --

4 CHAIRMAN HOOD: We actually have a
5 motion on the table. It's been moved and it
6 was seconded. Let me ask this in this
7 discussion, do we want to take the motion off
8 the table?

9 VICE CHAIR COHEN: No.

10 CHAIRMAN HOOD: Okay, it's been
11 moved and properly seconded. All those in
12 favor?

13 VICE CHAIR COHEN: Aye.

14 COMMISSIONER MILLER: Aye.

15 CHAIRMAN HOOD: In opposition?

16 (Chorus of opposition)

17 CHAIRMAN HOOD: Opposed. And that
18 motion opposed.

19 COMMISSIONER MAY: Mr. Chairman,
20 I would like to move approval of Zoning --

21 MS. SCHELLIN: The motion fails.

22 COMMISSIONER MAY: Sorry, you want

1 to record it? You've got to record it, don't
2 you?

3 MS. SCHELLIN: Yes.

4 COMMISSIONER MAY: Okay.

5 MS. SCHELLIN: The motion was
6 moved by Commissioner Miller and seconded by
7 Commissioner Cohen, opposed by Commissioners
8 Hood, May and Turnbull. Therefore, the motion
9 fails.

10 CHAIRMAN HOOD: And this goes back
11 to any changes, if we're going to make some
12 this is where, well, at least where I was,
13 Vice Chair, to send it back to the
14 neighborhood.

15 And, you know, people have
16 approved what we had in front of us for the
17 most part, and we're making a change. Okay,
18 that's why I was trying to go down the line
19 before the motion was made to let's make sure
20 people are aware exactly of what we were
21 doing. That's where I was.

22 COMMISSIONER MAY: Mr. Chairman, I

1 would like to make a motion that we approve
2 Zoning Commission Case No. 12-08 with the
3 modification that the IZ requirement be
4 modified to be 50 percent low income and 50
5 percent moderate income.

6 COMMISSIONER MILLER: I would
7 second that.

8 CHAIRMAN HOOD: Okay, and it's
9 been moved and properly seconded. Any further
10 discussion? All those in favor?

11 (Chorus of ayes)

12 CHAIRMAN HOOD: Any opposition?

13 VICE CHAIR COHEN: Aye.

14 CHAIRMAN HOOD: Okay. Ms.
15 Schellin, would you record the vote? We are
16 four in support and one in opposition.

17 MS. SCHELLIN: Yes, sir. Staff
18 records the vote four to one to zero to Final
19 Action: Zoning Commission Case No. 12-08.
20 Commissioner May moving, Commissioner Miller
21 seconding, Commissioners Hood and Turnbull in
22 support. Commissioner Cohen opposed. And

1 that's for 50 percent low and 50 percent
2 moderate income.

3 CHAIRMAN HOOD: Mr. Bergstein, is
4 there any way that I can be recorded as vote
5 in support with concerns? Does that work?
6 How does that work? Anyway, that's all right.
7 It's on the record.

8 MS. SCHELLIN: Can we find out, is
9 this also allowing OAG, just in case ODAI has
10 an issue with the final rulemaking, does that
11 give ODAI permission to then publish a second
12 proposed rulemaking, just in case?

13 CHAIRMAN HOOD: Do we have a
14 general consensus on that?

15 MR. BERGSTEIN: And the other
16 thing, if you're okay with that, well, if we
17 reached a --

18 CHAIRMAN HOOD: Yes, do we have a
19 general consensus on that?

20 MS. SCHELLIN: Yes.

21 CHAIRMAN HOOD: Okay, yes, we do.

22 MR. BERGSTEIN: My second question

1 is, would you like that second Notice of
 2 Proposed Rulemaking to be for less than a 30-
 3 day period? Again, I think I could certainly
 4 argue a good faith reason for doing less than
 5 30 days given the importance of this project
 6 and the relatively minor degree of this
 7 change. So I think I could do a 14-day
 8 rulemaking period if that's what you care to
 9 do. So I just want to open that to you as an
 10 alternative, as an option.

11 CHAIRMAN HOOD: Anyone have a
 12 preference whether it's 30 or 14? Let's go
 13 with the smaller number 14.

14 MR. BERGSTEIN: And if you'd
 15 like, Mr. Chairman, I could put a footnote
 16 next to your vote saying that the Chair wishes
 17 to, his concern, and would --

18 CHAIRMAN HOOD: With concerns,
 19 yes.

20 MR. BERGSTEIN: I'm sorry?

21 CHAIRMAN HOOD: Yes. I appreciate
 22 that.

1 MR. BERGSTEIN: All right.

2 CHAIRMAN HOOD: But I'm going on
3 what Ms. Steingasser promised me she would do.
4 That's what I'm doing. Okay. All right,
5 thank you, everybody, for getting through
6 that. Let's go to Hearing Actions, Zoning
7 Commission Case No. 02-38D, Waterfront 1001
8 4th Street, LLC - 2nd-Stage PUD at Square 542.

9 Mr. Jesick?

10 MR. JESICK: Thank you, Mr.
11 Chairman and members of the Commission.
12 Forest City and Vornado/Charles E. Smith have
13 submitted a second stage Planned Unit
14 Development application for the northwest
15 parcel at the Waterfront Station development.

16 Now just to recap for everyone,
17 Waterfront Station will eventually be an
18 eight-building project. Two office buildings
19 have been constructed and are occupied by
20 various district agencies, including the
21 Office of Planning.

22 The two remaining office towers on

1 the site from the former development are
2 currently under renovation for apartments, and
3 their occupancy is expected sometime this
4 year. And 4th Street has been reconnected
5 from M Street to I Street, and the new Safeway
6 grocery store is a hub of activity for the
7 neighborhood.

8 Now as part of the first stage
9 PUD, which encompassed the entire project
10 site, the Commission approved either
11 residential or office development from the
12 northwest parcel, and this applicant has
13 chosen to pursue a residential project.

14 The Office of Planning is
15 generally supportive of the design. It would
16 be consistent with the first stage PUD with a
17 height of 114 feet, approximately 365 units,
18 and 4,000 square feet of retail space on the
19 ground floor.

20 The retail would face 4th Street.
21 A residential lobby and associated spaces
22 would be at the corner of 4th and a private

1 drive that the applicant would construct north
2 of the building. Townhouse-like residential
3 units would face the private drive with
4 external entrances and patios, and loading and
5 parking would be accessed on the west side of
6 the building.

7 So again, the Office of Planning
8 is supportive of the design, but we have asked
9 the applicant to reexamine certain topics and
10 those are summarized on Page 8 of our report.
11 I do want to thank the applicant for already
12 getting back to us with some additional
13 information.

14 But one topic I wanted to
15 highlight for the Commission is the existing
16 tree canopy north of the building. There is
17 an existing pedestrian walkway that connects
18 4th Street and Makemie Place, and the walkway
19 is covered by a mature tree canopy.

20 And the plans show that a number
21 of trees would be removed as part of
22 construction of the building and the private

1 drive, and also the limits of construction
2 disturbance would actually encompass all of
3 the trees on the south side of the walkway.

4 And we've asked the applicant to
5 look at ways to preserve the trees that are
6 there to make sure that construction
7 activities do not impact trees, and to commit
8 to replace any trees that are destroyed during
9 construction or as a result of construction
10 activities. The walkway is, we feel, an
11 amenity for the neighborhood as are the trees
12 themselves.

13 And certainly the comprehensive
14 plan encourages the retention of the
15 district's tree canopy and the enhancement of
16 the tree canopy where possible, so we'd like
17 to see as many trees preserved as feasible.

18 Now the community benefits for
19 this project were established for the entire
20 Waterfront Station development during the
21 first stage PUD approval, and they include
22 items like redevelopment of an under-utilized

1 site, reconnection of 4th Street, and
2 affordable housing. And some of the project
3 benefits have been implemented and some will
4 continue to be implemented in this project and
5 in future phases of development.

6 And the Commission found during
7 the first stage PUD that the amenities were
8 commensurate with the amount of flexibility
9 sought through the PUD, and OP continues to
10 support the benefit package during this second
11 stage application. Overall, OP supports the
12 project.

13 It is not inconsistent with the
14 first stage approval, with the comprehensive
15 plan or the zoning regulations, so we
16 recommend that it be set down for a public
17 hearing. I'd be happy to take any questions.

18 CHAIRMAN HOOD: Okay, thank you,
19 Mr. Jesick. Colleagues, we have the
20 recommendation of Office of Planning. Any
21 questions?

22 Vice Chair?

1 VICE CHAIR COHEN: Thank you, Mr.
2 Chairman. Just one of the things that I would
3 like elaborated at the public hearing is, to
4 me, the roof, looking at it from the south
5 courtyard elevation it looks awfully heavy to
6 me.

7 I don't know if it's the materials
8 that are being used. And I don't think that,
9 but it's just looks like your eye goes
10 straight up to the roof and it's awfully heavy
11 looking. So I'd like more information on
12 that.

13 CHAIRMAN HOOD: Okay, anyone else?
14 Commissioner May?

15 COMMISSIONER MAY: Yes. I don't
16 have any questions but I have some comments.
17 You know, I appreciate getting that recap of
18 the OP comments at the end, but missing from
19 that is one of the questions that you raised
20 which had to do with roof setbacks.

21 I didn't see that in that recap,
22 and I looked over it a couple times but maybe

1 I missed it. But in any case, I am concerned
2 about roof setbacks.

3 I'm also concerned about the
4 "community room" on the roof which, you know,
5 we just went through a fairly painful
6 discussion on another project that was under
7 the Capital Gateway review, where there was a
8 large amenity space on the roof that was, I
9 think, they called it an accessory, a space
10 accessory to rooftop recreational uses, and it
11 looks like this is the same kind of thing, but
12 it does not meet that same standard that I
13 think was applied in that case, and I believe
14 that it should. So I would like to see that
15 addressed.

16 I am particularly concerned that
17 you have, you know, there somehow is,
18 magically enough, room for a large rooftop
19 community room, and yet they need relief to
20 the setback requirements on the courtyard side
21 of the building.

22 And so I mean, I personally am not

1 in favor of a lot of extra habitable space,
2 even if it is accessory on the rooftop, when
3 the rooftop setbacks are not being used. You
4 know, the large room, the community room
5 benefits the residents there, but not meeting
6 setbacks has a negative effect on the
7 surrounding community. So I don't, you know,
8 even when it's a courtyard. So I'm not in
9 favor of that.

10 I'm also not keen on the multiple
11 height of structures. If that can be tamed a
12 bit I would appreciate it. That's about it.

13 CHAIRMAN HOOD: Okay, any other
14 comments? Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Yes, thank
16 you, Mr. Chair. I would echo Commissioner
17 May's comment about the sort of table of
18 comments. I think that's very helpful. In
19 fact, that might be something to emulate on
20 further projects.

21 I mean, I know you've put comments
22 before in there on a lot of times, but I think

1 a nice little table like that really makes it,
2 and the rationale for doing it, I think it
3 makes a lot of sense. And I think you're to
4 be commended on the way that reads.

5 But I guess I would echo the
6 concerns of my colleagues on the roof. Maybe
7 we need some more sections through there, we
8 need some look. I think Commissioner May's
9 comments about the setbacks and the Vice
10 Chair's comments are all good. So I think the
11 applicant needs to look at the roof and get
12 back to us on that.

13 You've already asked them for some
14 material, looking at the materials. I think
15 that was one of my concerns on this, and other
16 than that I think you've captured everything
17 that I saw, so thank you.

18 CHAIRMAN HOOD: Any other
19 comments? Mr. Miller?

20 COMMISSIONER MILLER: I just would
21 associate myself with Commissioner Turnbull's
22 comments and others regarding the roof, and

1 also about the helpfulness of the OP table
2 that's in the report at the end.

3 I would encourage the applicant to
4 pay close attention to those OP comments, and
5 emphasize, since I don't think it's been
6 emphasized yet by anybody, is their comments
7 about the trees. The tree replacement, the
8 tree protection program, and ways to examine,
9 ways to add balconies to the south side of the
10 building.

11 And other than the balcony
12 comment, I think it's a very attractive facade
13 and will help revitalize, continue to
14 revitalize that neighborhood.

15 CHAIRMAN HOOD: Okay. I won't be
16 redundant, but I will say "roof," along with
17 everyone else. Okay, anything else,
18 Commissioners?

19 Okay, I would move that we set
20 down Zoning Commission Case No. 02-38D and ask
21 for a second.

22 VICE CHAIR COHEN: Second.

1 CHAIRMAN HOOD: It's moved and
2 properly seconded. Any further discussion?
3 All those in favor?

4 (Chorus of ayes)

5 CHAIRMAN HOOD: Not hearing any
6 opposition, Ms. Schellin, will you please
7 record the vote?

8 MS. SCHELLIN: The staff records
9 the vote five to zero to zero to set down
10 Zoning Commission Case No. 02-38D as the
11 contested case. Commissioner Hood moving,
12 Commissioner Cohen seconding, Commissioners
13 May, Miller and Turnbull in support.

14 CHAIRMAN HOOD: Okay. Next, let's
15 go to Zoning Commission Case 06-11J/12J,
16 George Washington University - 2nd-Stage PUD
17 at Square 77.

18 Mr. Goldstein?

19 MR. GOLDSTEIN: Good evening, Mr.
20 Chairman and members of the Commission. For
21 the record, my name's Paul Goldstein with the
22 Office of Planning.

The application before you is made by the George Washington University. The University seeks approval for a second stage PUD and further processing for Site 77A, which is a development site that was previously identified in the campus plan for new residential and campus life uses.

The proposal would consolidate multiple lots and some of a public alley to construct a 12-story in-filled residence hall. The addition would incorporate portions of three existing residence halls into a larger 257,000 square foot facility.

The residence hall would span mid-block from I to H Streets, and the site is located in a square that is entirely occupied by University uses. It would contain about 894 undergraduate student beds, which presents a net gain of 326 on campus beds.

The project also provides 1,600 square feet of ground floor retail space fronting on I Street, and makes a

1 retail/student life space and relocated mail
2 service operations in the building's basement
3 levels.

4 The site would have no onsite
5 parking. Front-in, front-out ground level
6 loading would access the east side of the site
7 from the existing curb cut along I Street.
8 The proposed PUD generally meets the
9 requirements of the C-3-C Zone and the more
10 specific development limitations imposed on
11 Site 77A pursuant to the campus plan.

12 The applicant has identified a few
13 areas for flexibility relating to
14 nonconforming open courts, roof structure and
15 loading requirements, the last one
16 specifically to not provide a 55-foot loading
17 berth.

18 OP also will continue to work with
19 the applicant on the proposed roof structure
20 design and roof plan and in articulating a
21 loading management plan, among other minor
22 items identified in the report.

1 Public benefits and amenities
2 proposed for the Foggy Bottom campus as a
3 whole were initially identified and approved
4 as part of the campus plan and first stage
5 PUD. These generally include such commitments
6 as to sustainability, improve streetscape,
7 historic preservation, and the discontinuation
8 of certain off-campus sites for undergraduate
9 housing, among others.

10 Consistent with these themes, the proposal
11 calls for a LEED Silver, building streetscape
12 improvements along H and I Street, the
13 preservation of portions of the facades of the
14 existing residence halls, and the creation of
15 new on-campus undergraduate housing to offset
16 anticipated off-campus housing options.

17 In consideration of the overall
18 campus plan and PUD, the Commission previously
19 determined that the campus plan, including the
20 proposed uses of the development site, was not
21 inconsistent with the comprehensive plan. The
22 comp plan future land use map designates the

1 subject site for institutional uses, so the
2 current request to construct a residence hall
3 is not inconsistent with the future land use
4 envisioned for the site.

5 The project also is not
6 inconsistent with several policies and actions
7 found in the land use, housing, and education
8 elements, among others. OP recommends that
9 the Zoning Commission set down the proposal
10 for a public hearing, and we'll take any
11 questions that you have at this time. Thank
12 you.

13 CHAIRMAN HOOD: Okay, thank you,
14 Mr. Jesick. Office of Planning is
15 recommending that we set this down for a
16 public hearing. Let's open up for discussion.
17 Mr. Turnbull?

18 COMMISSIONER TURNBULL: Oh, thank
19 you, Mr. Chair. Thank you, Mr. Goldstein, for
20 your report. I would agree. I think just
21 looking at that loading dock, definitely need
22 a loading management. I mean there's like

1 eight berths or something all kind of around,
2 and I just can't imagine how things are moving
3 out, so we're definitely going to need a
4 loading management plan on that.

5 And I have some concerns about the
6 roof, as I think you did. It's a rather large
7 penthouse. It stretches the whole, I mean I
8 know it's got a lot of dorms in it, but it's
9 just there.

10 And my other concern is the east
11 and west facades. Just, I think, articulating
12 them, I'm not sure if I'm totally
13 enthusiastic. The east facade especially is
14 just a very blank-looking, cream-colored brick
15 building.

16 But I mean I'm not opposed to not
17 having plain facades, I just, I think I need
18 a little bit more information from what this
19 really looks like, maybe some close-ups of the
20 wall. I don't know if there's any
21 articulation, if they plan to do any brick
22 pattern or change that might help, but I'd

1 like to see something on that. And oh, some
2 of the perspectives that we have right now are
3 very sketchy.

4 And I understand this is just for
5 set down, but as you know we typically, we get
6 some perspectives that are, you know, more
7 realistic and that really tell us what these
8 look like in 3-D. They're from street level
9 looking on. So if we could get some better
10 perspectives that would tell us what this
11 building is going to look like from the street
12 level that would be great. Thank you.

13 But the only other comment is I
14 think it's a very innovative use of trying to
15 fit this in. So I think the University needs
16 to be commended on trying to make use of every
17 little space that they have.

18 And, you know, as I said when we
19 passed the 20-year PUD, you know, going up
20 rather than out. So I think they're
21 fulfilling that and I think it's a good job,
22 but I'd just like to see a little bit more

1 tweaking so we understand it more fully.

2 CHAIRMAN HOOD: Okay, Vice Chair?

3 VICE CHAIR COHEN: Thank you, Mr.
4 Chairman. I actually concur with my colleague
5 Commissioner Turnbull about the roof. I would
6 like to see more information on the color
7 palette. Right now the drawing looks slightly
8 odd to me, in the new color that they chose.

9 And also the entryway, the canopy
10 to the new part of the building, I'd like a
11 little bit more of a design guidance on that.

12 COMMISSIONER MAY: Mr. Chairman,
13 if I may?

14 CHAIRMAN HOOD: Yes.

15 COMMISSIONER MAY: So I agree with
16 everything that's been said so far. You're
17 hitting on some of the points that I'm
18 concerned about.

19 I do have a question for the
20 Office of Planning, 894 beds. That's a lot of
21 beds, isn't it? I mean how does that compare
22 to other buildings that they have on campus?

1 Do they have others that are in that size
2 range?

3 MR. GOLDSTEIN: I don't have that
4 information handy, but it's certainly
5 something I can find out.

6 COMMISSIONER MAY: I'm just
7 curious. It just seems really, really huge.
8 Maybe I'm off but, and that's just a point of
9 curiosity. It doesn't have any real bearing
10 on the case.

11 Going back to the comments that
12 were previously made, again I agree with the
13 roof setback concern on the elevator. It
14 seems to me that that ought to be able to be
15 designed away and they ought to be able to fix
16 that and get the full setback for that
17 elevator by just rearranging it.

18 And I want to comment in
19 particular about a couple of things. One is
20 the need for better drawings. I mean what we
21 have here is, I think, minimally acceptable to
22 be able to set it down for a hearing, but it's

1 not what we need to be able to evaluate this
2 for any kind of decision making. So I think
3 it's very important for them to develop much
4 better drawings. And it's not just adding
5 some perspectives, I think it's even the ones
6 that we have are not appropriately descriptive
7 of the design.

8 The second thing is that I
9 actually think they need to do a complete
10 reexamination of the choices of color. Now
11 some of this may go to the drawings that they
12 have submitted where they have not accurately
13 rendered the existing colors or the proposed
14 colors, but I think the idea of taking two
15 relatively dark brick buildings and then
16 putting a very light colored addition behind
17 it doesn't make any sense.

18 And it took me awhile just sort of
19 looking at it to realize no, I think that
20 facade needs, actually that new facade between
21 the two needs to be darker and it needs to be
22 a contrasting color to the brick facades.

1 Again, maybe it can't be that much darker
2 because the existing brick buildings are a lot
3 darker than they're showing here, but it just
4 seems to me that what we're seeing is just not
5 right. And so I think some significant study
6 of color is worthwhile.

7 And I don't mean, you know,
8 finding five different shades of buff for the
9 brick. It's got to be more substantial than
10 that.

11 And I have another question for
12 the Office of Planning. Do we have any sense
13 of community feedback at this point on this
14 project?

15 MR. GOLDSTEIN: I haven't received
16 any at this point. I would hope that moving
17 students on campus from off campus would be
18 kind of, at least one element that would be
19 well received, but I don't know the full range
20 of what reactions there might be.

21 COMMISSIONER MAY: Well, as you
22 know that's always a concern for second stages

1 in this particular PUD. Thanks.

2 CHAIRMAN HOOD: Okay, any other
3 comments? Somebody like to make a motion?

4 COMMISSIONER TURNBULL: Well, Mr.
5 Chair, I just wanted to go back. I forgot one
6 item, and maybe Mr. Goldstein can -- there's
7 retail shown below grade, and it's supposed to
8 be like continuing for I Street?

9 MR. GOLDSTEIN: I'm sorry, I
10 didn't hear that last bit of your question.

11 COMMISSIONER TURNBULL: It's
12 supposed to be, I think, part of the whole I
13 Street retail? I'm just wondering. You can
14 see it on section, but when I see it on plan
15 I don't understand how you access it.

16 Again, maybe we need a better plan
17 that shows how this really works. But I
18 wanted to know a little bit more about what
19 retail is it? Is it retail for the public,
20 students, both?

21 MR. GOLDSTEIN: I think that's a
22 very good point. I think my report actually

1 even made that point too that we wanted
2 additional detail on the public access as well
3 as what type of retail is anticipated.

4 COMMISSIONER TURNBULL: You're
5 right.

6 MR. GOLDSTEIN: And so I
7 completely agree with your point and --

8 COMMISSIONER TURNBULL: You're
9 right. Your last sentence in that retail
10 paragraph does talk about providing more
11 information.

12 MR. GOLDSTEIN: I think maybe a
13 table of comments, apparently, might have been
14 helpful. I'm just getting that sense, yes.

15 COMMISSIONER TURNBULL: Mr.
16 Goldstein, you do a fine job. Thank you.

17 COMMISSIONER MILLER: Mr.
18 Chairman, I move to set down for hearing
19 Zoning Commission Case No. 06-11J/12J, George
20 Washington University - 2nd-Stage PUD at
21 Square 77, and just associate myself with the
22 comments that my fellow Commissioners and

1 sister Commissioner, and the Office of
2 Planning comments as well.

3 VICE CHAIR COHEN: I will second,
4 and thank you for acknowledging that I am,
5 well, I could be a fellow too in a certain
6 sense.

7 CHAIRMAN HOOD: That was the
8 longest second I've heard since I've been
9 here. It's been moved and properly seconded.
10 Unfortunately, this time by Mr. Turnbull, I've
11 been told, but we'll --

12 COMMISSIONER TURNBULL: You took
13 too long. I'm sorry, Vice Chair.

14 CHAIRMAN HOOD: Any further
15 discussion? All those in favor?

16 (Chorus of ayes)

17 CHAIRMAN HOOD: Not hearing any
18 opposition, Ms. Schellin, will you please
19 record the vote?

20 MS. SCHELLIN: Yes, staff records
21 the vote five to zero to zero to set down
22 Zoning Commission Case No. 06-11J/06-12J as a

1 contested case. Commissioner Miller moving,
2 Commissioner Turnbull seconding, Commissioners
3 Cohen, Hood and May in support of set down.

4 CHAIRMAN HOOD: At first I thought
5 we were getting ready to skip the hearing
6 because Commissioner Miller's here to prove
7 the case, so I was going to say there's a
8 first time for everything around here.

9 Okay, let's go to other business.
10 We have the vote of officers. Commissioners,
11 what is your pleasure?

12 VICE CHAIR COHEN: Mr. Chairman, I
13 recommend that you remain Chairman.

14 CHAIRMAN HOOD: Okay, any --

15 COMMISSIONER MILLER: I'll second
16 that.

17 CHAIRMAN HOOD: Okay, it's been
18 moved and properly seconded. Further
19 discussion? All those in favor?

20 (Chorus of ayes)

21 CHAIRMAN HOOD: Any opposition?
22 So ordered. Okay, vote on Vice Chair? I

1 would recommend that Vice Chair Cohen remains
2 Vice Chair through this zoning period.

3 COMMISSIONER MILLER: I would
4 second that.

5 CHAIRMAN HOOD: It's been moved
6 and properly seconded. Any further
7 discussion? All those in favor?

8 (Chorus of ayes)

9 CHAIRMAN HOOD: Any opposition?
10 Certainly there's none. Ms. Schellin, would
11 you record the vote?

12 MS. SCHELLIN: Yes. I will record
13 the first vote to retain Commissioner Hood as
14 Chairman. Commissioner Cohen moving,
15 Commissioner Miller seconding. The vote was
16 five to zero to zero, none opposed.

17 And the second vote to retain
18 Commissioner Cohen as Vice Chairman,
19 Commissioner Hood moving, Commissioner Miller
20 seconding. The vote five to zero to zero,
21 none opposed.

22 CHAIRMAN HOOD: Do we need any

1 other officers like Treasurer or Secretary,
2 anything of that nature?

3 MS. SCHELLIN: Not unless we start
4 collecting money for something.

5 CHAIRMAN HOOD: No, that's okay.
6 No, that's all right. Okay, so do we have
7 anything else?

8 MS. SCHELLIN: No, sir.

9 CHAIRMAN HOOD: Office of
10 Planning, to report or anything? Okay.

11 Okay, so with that, thank you
12 everyone for your participation in this
13 meeting tonight, and this meeting is
14 adjourned.

15 (Whereupon, the foregoing matter
16 went off the record at 8:20 p.m.)

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In the matter of: Regular Meeting

Before: DCZC

Date: 02-11-13

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