

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY

OCTOBER 20, 2008

+ + + + +

The Regular Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- GREGORY N. JEFFRIES, Vice Chairman
- MICHAEL G. TURNBULL, FAIA, Commissioner (OAC)
- PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- DONNA HANOUSEK, Zoning Specialist
- ESTHER BUSHMAN, General Counsel
- JERRILY KRESS, Director

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Director  
JOEL LAWSON  
TRAVIS PARKER  
PAUL GOLDSTEIN  
MAXINE BROWN-ROBERTS  
KAREN THOMAS  
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

LORI MONROE, ESQ.  
JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular Public Meeting held on October 20, 2008.

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1 6:45 p.m.

2 CHAIRMAN HOOD: This meeting will  
3 please come to order. Good evening, Ladies  
4 and Gentlemen, this is the October 20, 2008  
5 Meeting of the Zoning Commission of the  
6 District of Columbia.

7 Joining me are Vice Chairman  
8 Jeffries, Commissioner Turnbull and  
9 Commissioner May. Office of Zoning Staff  
10 under the leadership of Mrs. Kress and Ms.  
11 Schellin the Secretary to the Zoning  
12 Commission. Also the Office of Attorney  
13 General and also the Office of Planning under  
14 the leadership of Ms. Steingasser.

15 And the Office of Attorney General,  
16 Mrs. Monroe and Mr. Rittig.

17 Copies of today's meeting Agenda  
18 are available to you and are located in the  
19 bin near the door. We do not take public  
20 testimony unless a Commissioner requests  
21 someone to come forward.

22 Please be advised that this

1 proceeding is being recorded by a court  
2 reporter and is also web cast live.  
3 Accordingly, I must ask you to refrain from  
4 any disruptive noise or actions in the hearing  
5 room. Please turn off all beepers and cell  
6 phones. Does the staff have any preliminary  
7 matters?

8 SECRETARY SCHELLIN: No sir.

9 CHAIRMAN HOOD: I have a few  
10 changes to the Agenda so again we want to  
11 apologize if we inconvenience anyone but we  
12 have certain things that we have to deal with  
13 and I'm going to ask Ms. Schellin as I do this  
14 and if I don't have it exactly right, could  
15 you help me to make sure keep it straight.

16 First of all the agenda that was at  
17 the door, do they have the revised agenda?  
18 Okay. First, under proposed action we have  
19 Zoning Commission Case No. 08-06-3. We will  
20 be doing that I believe November 10 at our  
21 regular monthly meeting on November 10.

22 What I would like to do in sequence

1 of trying to do things expeditiously is to  
2 move the agenda around. What I've planned to  
3 do is Roman numeral I, II and III in that  
4 order and then what we're going to do is Roman  
5 numeral V will become IV, Roman numeral VI  
6 will become V and Roman Numeral will become  
7 VI. I know that was very confusing because it  
8 was confusing when I said it.

9 In other words, Proposed Action  
10 will be the last thing the Commission deals  
11 with us as far as us taking actions before we  
12 go into our status report. Okay?

13 Ms. Schellin do we have any  
14 preliminary matters?

15 SECRETARY SCHELLIN: Just one more  
16 thing. I thought we were going to rearrange  
17 the order of the proposed actions. D was  
18 going to be A, C would be B and B would be C  
19 and A has been deferred.

20 CHAIRMAN HOOD: Exactly right. D  
21 is going to be No. 1, C is 2 and B is 3.  
22 Okay. Anything else?

1 SECRETARY SCHELLIN: No.

2 CHAIRMAN HOOD: Okay. First under  
3 Hearing Action the Office of Planning, Zoning  
4 Commission Case No. 03-12G/03-13G and maybe I  
5 shouldn't have used the case numbers. In  
6 other words, we have a request to set down a  
7 2<sup>nd</sup> stage PUD for property located in Squares  
8 769 and 882 and a Request for Modifications of  
9 Conditions Unrelated to Subject Property  
10 Conditions 5, 7, and 11 in Order 03-12/03-13  
11 and Condition 6 of Order 03-12D and 03-13-13D  
12 Office of Planning. Ms. Steingasser?

13 MS. STEINGASSER: Right. As the  
14 Commission may remember, this application was  
15 before the Commission at the September 8  
16 meeting at which point the Commission deferred  
17 taking action and requested the applicant  
18 clarify the full extent of the application,  
19 especially those issues which needed a hearing  
20 and those issues which did not.

21 The applicant has provided that  
22 information. The Office of Planning continues

1 to recommend a set down of the two items  
2 identified on the Agenda for Hearings which  
3 are the 2<sup>nd</sup> stage PUD for Squares 769 and 882  
4 and the modifications to conditions on  
5 unrelated properties conditions 5,7 and 11 of  
6 the Order, and we have no objection to the  
7 time extensions requested.

8 CHAIRMAN HOOD: Thank you Ms.  
9 Steingasser. Also we were given a letter from  
10 ANC 6D and apparently they are meeting tonight  
11 and they asked us on the request for the  
12 extension of time to start the community  
13 center, they asked that we postpone it for  
14 about a week. And in our conversation let's  
15 take that into consideration and I think  
16 they're meeting tonight from Roger Moffett.  
17 Okay. Let's open it up. Any questions from the  
18 Office of Planning?

19 And let me just say that Office of  
20 Planning still continues as Ms. Steingasser  
21 mentioned still recommends the Commission  
22 schedule a public hearing for the application.

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1 Mr. May?

2 COMMISSIONER MAY: Yes. I would  
3 be in favor of setting a public hearing for  
4 the issues that will require a hearing. As  
5 for the time extensions, I would be interested  
6 to know what ANC 6D has to say in Ward 16  
7 right. So that's basically my stand.

8 CHAIRMAN HOOD: Anyone else want  
9 to comment? Why don't we move like this  
10 colleagues. And I will tell you and I would  
11 hope Ms. Schellin if you can work with the  
12 applicant to make it as simplistic -- I'm not  
13 going to say my colleagues -- for me as  
14 possible. I will tell you that reading this  
15 they have different numbers, different  
16 alphabets behind the numbers and I know  
17 there's different actions taken by this  
18 commission separately.

19 If we put D in one pack of what  
20 we're being asked do; C in one area of what  
21 we're being asked to do and I know it sounds  
22 very trivial but it's very helpful because

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1 this commission has taken different actions on  
2 these cases.

3 So what I would recommend is that  
4 all in one night if we can come up with a date  
5 that we set this and I'll make a motion that  
6 we set down the 2<sup>nd</sup> stage PUD for property  
7 located in Square 769 and 882 and also take up  
8 the request for modification of conditions  
9 unrelated to subject property, conditions 5, 7  
10 and 11 of Order 03-12, 03-13 and condition 6  
11 of Order No. 3-12D and 3-13D.

12 And that we also, the same night,  
13 have a special public meeting on the time  
14 extensions of the three requests that we have  
15 as far as dealing with time extensions.

16 And also if we could bundle those  
17 things in the order so they'll be together on  
18 the actions that this commission has taken in  
19 the past. And I'll ask for a second?

20 COMMISSIONER MAY: Second.

21 CHAIRMAN HOOD: Moved and

22 seconded. Any further discussion? All those

1 in favor? Aye. I don't hear any opposition.  
2 Staff would you record the vote?

3 SECRETARY SCHELLIN: The staff  
4 records the vote 4-0-1 to set down Zoning  
5 Commission Case No. 03-12G and 03-13G as  
6 related to the 2<sup>nd</sup> stage PUD and the request  
7 for modifications and to have a special public  
8 meeting the same night of the hearing to take  
9 action on the time extensions.

10 [Vote]

11 Commissioner Hood moving,  
12 Commissioner May seconding, Commissioners  
13 Jeffries and Turnbull in favor, Commissioner  
14 Etherly not present, not voting and these  
15 cases are being set down as contested cases.

16 CHAIRMAN HOOD: Thank you. And do  
17 we have a date? No, we don't need a date on  
18 that.

19 SECRETARY SCHELLIN: We'll wait  
20 for the applicant to file their pre-hearing  
21 statement and then we'll schedule it.

22 CHAIRMAN HOOD: Also the vice

1 chair reminded me that we're not going to deal  
2 with Zoning Commission Case No. 07-35 and I  
3 don't want to hold the folks up who are here  
4 for the Sheridan redevelopment construction  
5 PUD and related map amendment in the new Ward  
6 8. And the reason being in the order  
7 typically the commission looks at phasing and  
8 then talks about a phasing time limit and I  
9 would ask Mr. Rittig if he may be able to help  
10 me with that.

11 But it's no phasing plan and that's  
12 what this commission needs before we move  
13 forward so Mr. Rittig, if you want to just--

14 MR. RITTIG: Yes. Let me just  
15 look at my document here. When I was  
16 reviewing the draft order that the applicant  
17 provided I saw the condition 8, and let me  
18 turn to it now, that suggested a condition  
19 that the HUD project may be developed in  
20 phases and it didn't indicate what those  
21 phases would be and I think the Commission  
22 would like to hear from the applicant what

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1 their proposal is for the phasing of the  
2 project.

3 CHAIRMAN HOOD: I think we'll just  
4 simply defer that to November 10<sup>th</sup> meeting.  
5 That's phasing with company time lines?

6 MR. RITTIG: That's correct yes.

7 CHAIRMAN HOOD: Thank you Vice  
8 Chairman Jeffries and Mr. Rittig. Okay. Let's  
9 go to final action.

10 COMMISSIONER TURNBULL: Excuse me,  
11 Mr. Chair. I just want to go on what we are  
12 looking for the applicant provide us. You  
13 talked about providing clear like A, B, C, D.  
14 There is a D here already. That number will  
15 probably change then in the sequence. I just  
16 want to be sure as to what they're looking for  
17 and how they're going to submit it to us.

18 CHAIRMAN HOOD: Well I would like  
19 for us maybe to leave that up to staff if  
20 that's okay.

21 COMMISSIONER TURNBULL: Okay. So  
22 Ms. Schellin will--

1                   CHAIRMAN HOOD:    Ms. Schellin will  
2 work all that out and she'll make sure that  
3 when we get whatever was D it will be in one  
4 package stapled or paper clipped or rubber  
5 band.

6                   COMMISSIONER TURNBULL:    Good.  
7 Thank you.

8                   VICE CHAIRMAN JEFFRIES:    You're  
9 referring back to the Hearing Action right?

10                  COMMISSIONER TURNBULL:    Yes.

11                  VICE CHAIRMAN JEFFRIES:    Okay. I  
12 just wanted to say that for the record.

13                  CHAIRMAN HOOD:    Thank you. Thank  
14 you vice chairman. Okay. Let's move to  
15 final action, I'm trying to work off of two  
16 agendas here, one I've marked up and one I  
17 have not. So let's move to final action,  
18 Zoning Commission No. 05-25A H Street  
19 Community Development Corporation is asking  
20 for a 2-year PUD time extension at 4<sup>th</sup> Street  
21 and Rhode Island Avenue, N.E. Ms. Schellin?

22                  SECRETARY SCHELLIN:    You have

1 everything before you to consider this case  
2 for a 2-year time extension.

3 CHAIRMAN HOOD: We also have a  
4 letter from Anita Bonds from ANC 5C which is  
5 recommending they support the time extension,  
6 and I think there were three tests basically  
7 that we need to talk about and as I really  
8 reviewed some of the applicant's submittals  
9 even before I got to substantial changes and  
10 no hearing action, I think there's enough in  
11 the case in point to determine whether the PUD  
12 should be extended as whether there exists  
13 good cause, and the applicant shows a number  
14 of reasons for good cause: inability to obtain  
15 sufficient project financing is one; inability  
16 to secure all required governmental agencies  
17 approval for a Planned Unit Development; the  
18 existence of pending litigation, and then it  
19 goes on to tell us exactly why.

20 Constructions costs. I think from  
21 what the applicant was saying there was a  
22 grant at one time about construction costs and

1 it looks like construction costs went from \$35  
2 million dollars to \$56 million. And I think  
3 the applicant makes his case in the submittal  
4 and I could go on and on to talk about  
5 different things that they mention.

6 Another one is the applicant's  
7 initial lender, which is a well known banking  
8 institution has withdrawn. The applicant also  
9 worked extensively with another reputable  
10 lender to structure financing the project.  
11 However, after several months of working with  
12 the other lender, the lender underwent a major  
13 internal reorganization and in time they  
14 withdrew their proposal.

15 And then it goes on to talk about  
16 another local Housing Development Corporation  
17 to develop scenarios for funding for the  
18 project. However, the Housing Development  
19 Corporation has withdrawn from the project. It  
20 just seems like there's a lot of things  
21 because of the markets situation and it's  
22 caused this application to have to come and

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1 ask for an extension of time.

2 And unless someone else has  
3 anything else they want to add, I would move  
4 that we honor the request.

5 Now I'm trying to figure out was  
6 there a time limit?

7 VICE CHAIRMAN JEFFRIES: Two  
8 years.

9 CHAIRMAN HOOD: Two years but I  
10 mean two years from when? It's two years  
11 from expiration? Okay. Two years from the  
12 expiration that we extend the timing for the,  
13 hold on one second, Zoning Commission Case No.  
14 05-25A and I'll ask for a second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRMAN HOOD: Moved and properly  
17 second. Any further discussion? All those  
18 in favor? Aye? Any opposition? Hearing none  
19 so order staff to record the vote.

20 [Vote]

21 SECRETARY SCHELLIN: Just to  
22 confirm, the extension is till October 23,

1 2010 for the applicant's request. Staff  
2 records the vote 4-0-1 to approve the two year  
3 time extension in Zoning Commission Case No.  
4 05-25A Commission Hood moving, Commissioner  
5 Turnbull seconding, Commissioners Jeffries and  
6 May in support, Commissioner Etherly not  
7 present and not voting.

8 CHAIRMAN HOOD: Okay. Next on the  
9 final action Zoning Commission Case No. 08-05.  
10 This is Office of Planning text amendment to  
11 the DD Overlay. Ms. Schellin?

12 SECRETARY SCHELLIN: The notice of  
13 proposed rule making was published and any  
14 comments that were received are before you.

15 CHAIRMAN HOOD: Okay. Thank you.  
16 We also have from the National Capital  
17 Planning Commission which states that they  
18 find proposed text amendments remove the  
19 residential requirement, increase the floor  
20 area ratio of maximum height, maximum for  
21 planning and redevelopment in the DD overlay  
22 square would not be inconsistent with the

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1 comprehensive plan of the National Capital,  
2 nor would it adversely affect other identified  
3 federal interests, and we have that before us.

4 I would move approval of Zoning  
5 Commission Case No. 08-05 and ask for a  
6 second.

7 VICE CHAIRMAN JEFFRIES: Second.

8 CHAIRMAN HOOD: Okay. Any  
9 further discussion? All those in favor? Aye.  
10 Okay. No opposition. Staff would you record  
11 the vote?

12 [Vote]

13 SECRETARY SCHELLIN: Staff records  
14 the vote 4-0-1 to approve final action on  
15 Zoning Commission Case No. 08-05, Commissioner  
16 Hood moving, Commissioner Jeffries seconding,  
17 Commissioners May and Turnbull in favor,  
18 Commissioner Etherly not present not voting.

19 CHAIRMAN HOOD: Okay. Next is  
20 Zoning Commission Case No. 08-12. This is  
21 again an Office of Planning map amendment in  
22 Ward 8. Ms. Schellin?

1                   SECRETARY SCHELLIN:    Again, the  
2 notice of proposed rule making is before you.  
3 We have one response and that was from NCPC.

4                   CHAIRMAN HOOD:    Okay.  Again, Ms.  
5 Schelling did they say this is not  
6 inconsistent with the comprehensive plan for  
7 the National Capital Area nor would it  
8 adversely affect any other identified federal  
9 interest.

10                  I will move approval.  We passed  
11 this out and proposed, I would move approval  
12 of Zoning Commission Case No. 08-12 and ask  
13 for a second.

14                  COMMISSIONER TURNBULL:    Second.

15                  CHAIRMAN HOOD:    Moved and properly  
16 seconded.  Any further discussion?  All those  
17 in favor?  Aye.  Not hearing any opposition,  
18 Ms. Schellin would you record the vote?

19                  [Vote]

20                  SECRETARY SCHELLIN:    Yes.  Staff  
21 records the vote 4-0-1 to approval final  
22 action on Zoning Commission Case No. 08-12.

1 Commissioner Hood moving, Commissioner  
2 Turnbull seconding, Commissioner Jeffries and  
3 May in support, Commissioner Etherly not  
4 present and not voting.

5 CHAIRMAN HOOD: Okay. Next on the  
6 agenda we're going to E, Zoning Commission  
7 Case No. 08-02 the Hay Adams Holding LLC Map  
8 Amendment at 800 16<sup>th</sup> Street, N.W. Ms.  
9 Schellin?

10 SECRETARY SCHELLIN: There's just  
11 one document before you and that is a report  
12 from NCPC.

13 CHAIRMAN HOOD: And again it looks  
14 like Ms. Schellin again it mentions that it's  
15 not inconsistent with the comprehensive plan  
16 for the National Area nor would it adversely  
17 affect any or other identified federal  
18 interests. Okay.

19 The only issue that came up was  
20 about a covenant being recorded with the land  
21 limiting the height as legally permissible is  
22 what we were told. But I think does anyone

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1 move to require this to have a covenant? I am  
2 inclined not to and unless I hear someone we  
3 will move this without a covenant. Okay. All  
4 right.

5 I don't think I need to put that in  
6 the motion, I think the record will reflect  
7 that we have not required a covenant. But I  
8 would move Zoning Commission Case No. 08-02,  
9 the Hay Adams Hotel Holdings and ask for a  
10 second.

11 COMMISSIONER MAY: Second.

12 CHAIRMAN HOOD: Being moved and  
13 properly seconded. Any further discussion?  
14 All those in favor? Aye. Not hearing any  
15 opposition, Ms. Schellin would you record the  
16 vote?

17 [Vote]

18 SECRETARY SCHELLIN: Staff records  
19 the vote 4-0-1 to approval Final Action,  
20 Zoning Commission Case No. 08-02, Commissioner  
21 Hood moving, Commissioner May seconding,  
22 Commissioners Jeffries and Turnbull in

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1 support, Commissioner Etherly not present and  
2 not voting.

3 CHAIRMAN HOOD: Okay. The next  
4 case is Zoning Commission Case 07-31, Joseph  
5 Young et al, Map Amendment of Square 416. Ms.  
6 Schellin?

7 SECRETARY SCHELLIN: This is a Map  
8 Amendment from Joseph C. Young and others and  
9 there is also an NCPC report on this case.

10 CHAIRMAN HOOD: Thank you Ms.  
11 Schellin. And it also mentions that it has no  
12 adverse impacts and does not affect any other  
13 identified federal interests. The report  
14 stands for itself. Any other comments, any  
15 other further discussion? I will approval of  
16 Zoning Commission Case No. 07-31 and ask for a  
17 second.

18 VICE CHAIRMAN JEFFRIES: Second.

19 CHAIRMAN HOOD: Moved and properly  
20 seconded. Any further discussion? All those  
21 in favor? Aye. Ms. Schellin, hearing no  
22 opposition staff would you record the vote?

1 [Vote]

2 SECRETARY SCHELLIN: Staff records  
3 the vote 4-0-1 to approve Final Action Zoning  
4 Commission No. 07-31, Commissioner Hood  
5 moving, Commissioner Jeffries seconding,  
6 Commissioners May and Turnbull in support,  
7 Commissioner Etherly not present and not  
8 voting.

9 CHAIRMAN HOOD: Okay.  
10 Correspondence. We're going to go to  
11 Correspondence. That's one thing about it,  
12 when you take stuff out of order and you put  
13 it in order and then you get it all mixed up.

14 Okay. I don't know if we need to  
15 necessarily take any action. We have a letter  
16 from a Zoning Commission case 06-14 and also  
17 Zoning Commission Case No. 06-28, that's  
18 Douglas Development. A letter from Holland &  
19 Knight advising the applicant has withdrawn  
20 the case.

21 Ms. Schellin, do we take any action  
22 here?

1                   SECRETARY SCHELLIN:    No sir.  Just  
2                   to acknowledge.

3                   CHAIRMAN HOOD:    Okay.  So we have  
4                   acknowledged we are in receipt.

5                   Okay.  Let's move into Proposed  
6                   Action  and we'll start off with Zoning  
7                   Commission Case No. 05-38A.  This is Marina  
8                   View Trustees LLC - PUD at 1000 and 1100 6<sup>th</sup>  
9                   Street, S.W.  Ms. Schellin?

10                  SECRETARY SCHELLIN:   We have a few  
11                  documents that have come in on this case for  
12                  you to consider for proposed action this  
13                  evening.

14                  VICE  CHAIRMAN  JEFFRIES:   Mr.  
15                  Chair, I will not be participating in this  
16                  deliberation.

17                  CHAIRMAN HOOD:    Okay, Colleagues,  
18                  we have in front of us, I think there were  
19                  some questions, if I can recall the hearing,  
20                  there were some questions that we asked the  
21                  applicant to come back and one of them dealt  
22                  with the conversion from condominiums to

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1 rental and there was a question I think that  
2 was raised by the Office of Planning about the  
3 amenities as far as square footage which was  
4 supposed to be a discount provided to the  
5 residents of the Marina View who were going to  
6 remain. And I think the applicant has  
7 expounded on that to us.

8 Also, the applicant has reserved an  
9 additional \$71,500 in contingency funds to  
10 guarantee the renovation of the park, and I  
11 take this as the completion of the park. I'm  
12 not sure, I don't know if that was my  
13 colleague Commissioner May or the Office of  
14 Planning who raised the concern but I remember  
15 that that was an issue and this cover letter  
16 dated October 14, 2008 it talks about those  
17 issues.

18 One of the other things that I saw  
19 in this submission, and I'll just take it  
20 straight from the submission, the bottom of  
21 page 2 in the last paragraph it says,  
22 "nevertheless, the applicant is still offering

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1 the 19 tenants who expressed interest in the  
2 condominium purchase program an opportunity to  
3 return to Marina View in the event the  
4 applicant establishes condominiums in the  
5 future. Those individuals will be able to  
6 return within three years of the date of the  
7 first sale of the condominium unit and  
8 purchase a condominium unit for 20 percent  
9 discount from the market rate."

10 I don't know, I just think about  
11 follow through you know, whenever this happens  
12 it may be 20 years from now, my mind really  
13 ran rapid when I read that. I guess how do we  
14 ensure that this happens? Some things I guess  
15 are not out of our control and hopefully those  
16 tenants will stay abreast of what exactly  
17 transpires and takes place.

18 Anyway, with that, let me just open  
19 it up for any conversation or comments and if  
20 not I'll entertain a motion. Commissioner  
21 May?

22 COMMISSIONER MAY: I just wanted

1 to comment that the way I'm reading what was  
2 submitted, at least with regard to the park, I  
3 see a commitment to spend another \$71,500  
4 dollars potentially or at least setting aside  
5 contingency funds to guarantee that the  
6 renovation of the park will be completed and I  
7 think that that's a reasonable contingency to  
8 be able to do it and I'm now more confident  
9 that the renovation of the park will be  
10 completed.

11 And with that I would move approval  
12 of Zoning Case No, 05-38A PUD modification  
13 request for Marina View, 1110 6<sup>th</sup> Street, S.W.  
14 and ask for a second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRMAN HOOD: Okay. It's been  
17 moved and properly seconded. Any further  
18 discussion. All those in favor? Aye. Staff  
19 will you record the vote?

20 [Vote]

21 SECRETARY SCHELLIN: Staff records  
22 the vote 3-0-2 to approve proposed action in

1 Zoning Commission Case 05-38A, Commission May  
2 moving, Commissioner Turnbull seconding,  
3 Commissioner Hood in support. Commissioner  
4 Jeffries not voting having not participated  
5 and Commissioner Etherly not present and not  
6 voting.

7 CHAIRMAN HOOD: Okay. The next  
8 case is Zoning Commission Case 08-09. This is  
9 ANC 4C - Text and Map Amendments to expand the  
10 16<sup>th</sup> Street Heights Overlay District. Ms.  
11 Schellin?

12 SECRETARY SCHELLIN: I think that  
13 there were a couple of exhibits that came in  
14 after the record closed. Yes, Exhibits 55  
15 through 59 and I just need to know how the  
16 Commission wants to proceed with those  
17 documents.

18 CHAIRMAN HOOD: Do we need to open  
19 the record to accept them?

20 SECRETARY SCHELLIN: If you want  
21 to accept them yes.

22 CHAIRMAN HOOD: Okay. Would you

1 call those exhibits out again?

2 SECRETARY SCHELLIN: 55 through  
3 59.

4 CHAIRMAN HOOD: Okay. What I  
5 would do is move that we open up the record to  
6 accept 55, 56, 57, 57, and 58 and 59, I don't  
7 have that in front of me. But anyway I will  
8 move that we open the record to accept all  
9 those as mentioned and ask for a second.

10 COMMISSIONER TURNBALL: Second.

11 CHAIRMAN HOOD: Moved and properly  
12 seconded for discussion. All those in favor?  
13 Aye. And hearing no opposition, Ms. Schellin  
14 would you record the vote?

15 [Vote]

16 SECRETARY SCHELLIN: Yes. Staff  
17 records the vote 4-0-1 to reopen the record to  
18 accept Exhibits 55 through 59, Commissioner  
19 Hood moving, Commissioner Turnbull seconding,  
20 Commissioners Jeffries and May in support.  
21 Commissioner Etherly not present and not  
22 voting.

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1                   CHAIRMAN HOOD:    I'm sorry, Mr.  
2 Schellin. I do have 59 it was behind 58. I  
3 guess I should have looked there first. Okay.

4                   Also let me just for the record I  
5 think I had to leave early that night but let  
6 me just say I have reviewed the remainder of  
7 the time, Ms. Schellin, and thank you for  
8 carrying on with the hearing and getting out  
9 at about ten or so, ten minutes to ten.

10                  But anyway I have reviewed the  
11 remainder of the record in which I had to  
12 leave so what I'd like to do at this point is  
13 let one of my colleagues start off the  
14 conversation.

15                  I will say this though, again this  
16 was a request by the ANC to expand overlay  
17 district and we have some material facts or  
18 some findings that were done previously for  
19 the previous overlay and whether or not it  
20 should be expanded. And those same findings,  
21 at least in the Office of Planning's report,  
22 said that some of those development pressure

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1 that happened in this particular area, I know  
2 there were some comments about it including  
3 other areas and taking a comprehensive look at  
4 that.

5 And I think colleagues said if we  
6 want that to happen this is the time for us to  
7 at least mention it to the Office of Planning.  
8 It may not be the time that we can deal with  
9 it in this case, we have to deal with the  
10 merits that are in front of us. But I mean  
11 on down the road we may ask the Office of  
12 Planning to look at some more of that  
13 comprehensively but with that let me open it  
14 up for discussion.

15 COMMISSIONER MAY: Mr. Chairman,  
16 as I understand it what we are supposed to do  
17 when looking at expanding the overlay is to  
18 look at the findings that supported the  
19 initial establishment of the overlay and there  
20 were several conditions there that we were  
21 supposed to look at.

22 And I think the one that's the

1 source of significant debate and discussion is  
2 the issue of exactly how much of this  
3 conversion to non-residential use has been  
4 occurring within that area. And we had a wide  
5 range of testimony on this subject and you can  
6 look at it one way and say while there has not  
7 been this surge of conversions in the recent  
8 past. Even if you look at what has been  
9 presented in testimony by the opposition, it  
10 indicates that something in the neighborhood  
11 of 10 percent of the properties have been  
12 converted to non-residential use.

13           Granted, not all recently. Only a  
14 couple of them are within that time period  
15 from when the overlay was first enacted, but  
16 it does indicate based on the initial reading  
17 of the overlay that when you get into that 10  
18 percent range that's kind of the tipping  
19 point, and it's the area which there is good  
20 reason to be concerned about what's happening  
21 to the neighborhood because that was the  
22 original basis of it. It was that over a

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1 period over years, one in ten houses in the  
2 neighborhood had been converted to non-  
3 residential use and I think we're in that same  
4 kind of frequency at this point for the area  
5 that's been identified for the expansion.

6 So I'm comfortable with the idea  
7 that the overlay zone would be appropriately  
8 expanded as its been proposed here.

9 I am concerned about the notion  
10 that this expansion is being done specifically  
11 to stop one project in particular, and while  
12 we don't know the particulars of that property  
13 and that case, it seems to me that the  
14 processes for getting a special exception to  
15 allow certain uses I think still can be used  
16 to address those cases that are appropriate.  
17 And I think that that's probably the best way  
18 to go.

19 I do understand that there may be  
20 complications even with that and there may be  
21 some changes in the regulations that should be  
22 considered, with particular regard to the

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1 parking constraints, because the way the  
2 parking regulations are written it does make  
3 it almost impossible for certain properties I  
4 think to provide the necessary parking. Even  
5 if they have the land to do it, you can't lay  
6 out your site in such a way as to meet those  
7 parking requirements and I think that's a  
8 conflict that ought to be addressed in the  
9 overlay wording.

10 And I think it would be appropriate  
11 to suggest that the office of Planning take a  
12 look at both what's the right language to  
13 correct that issue potentially to make it  
14 easier or possible in some circumstances to  
15 get a special exception, and then also to look  
16 at the boundaries of the overlay one more time  
17 to see if the area that's between the overlay  
18 and Rock Creek Park, that wedge of land should  
19 also be considered for inclusion in the  
20 overlay. That's my suggestion.

21 CHAIRMAN HOOD: Very well. Very  
22 well put. Commissioner Turnbull?

1                   COMMISSIONER TURNBULL: Thank you  
2 Mr. Chair. I agree with Commissioner May in  
3 most respects. I think I agree in spirit with  
4 the concept that an overlay is needed for this  
5 area.

6                   My own feeling on this is that in  
7 this particular case it doesn't meet the true  
8 test of what the original language for the  
9 existing overlay says.

10                  I think, and there's conflicting  
11 evidence in what was presented to us, but only  
12 two properties in the last ten years may have  
13 been converted to non-residential use. So  
14 although that may bring you to the tipping  
15 point it doesn't speak to the true nature of  
16 what the existing language said, and there was  
17 this dramatic change and that the overlay was  
18 created to halt this dramatic change.

19                  I think this sounds like this area  
20 has been fairly stable if you look at some of  
21 the documents that we've received. So I'm not  
22 saying you don't need an overlay, I'm just

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1 saying that the spirit in which we're trying  
2 to do it may be a little bit more of a force  
3 fit.

4 And I also feel that the overlay is  
5 not comprehensive. We also talked about  
6 extending the overlay over to Rock Creek Park.  
7 It seemed that it's not quite as inclusive as  
8 what it should be, so my own feeling is if  
9 you're going to do an overlay I think you need  
10 to redo the language and I think you need to  
11 redo the zone that it would include  
12 properties.

13 So I guess I'm just a little bit  
14 tentative on going ahead and saying, yes, this  
15 meets the test and it should go ahead and do  
16 it. I have a feeling at some point, yes, it  
17 needs an overlay but from how the other  
18 overlay was first initiated it was because of  
19 this rapid change that was happening. That's  
20 not happening in this area even though if you  
21 say well two added to what's already there may  
22 put you at a 10 percent, there hasn't been the

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1 rapid transition as was experienced previously  
2 for the initial introduction of this overlay.  
3 So I'm a little bit reluctant to jump into it  
4 myself,

5 COMMISSIONER MAY: Mr. Chairman,  
6 can I speak to a couple of points there?

7 CHAIRMAN HOOD: Sure. I will just  
8 say this and this is obviously going to be a  
9 discussion Mr. Turnbull. This is probably the  
10 first time that I totally disagree with you  
11 which you know there's always a first time for  
12 everything. But we'll come back. And we  
13 actually, Mr. Turnbull, need to discuss that.  
14 I understand your points but we need to talk  
15 it through. But let me go back to Mr. May.

16 VICE CHAIRMAN JEFFRIES: The  
17 first point I'd make is that the way the  
18 findings read from the initial overlay refers  
19 to the fact that over a period of years,  
20 approximately one in 10 houses in the  
21 neighborhood has been converted.

22 It doesn't say what that period of

1 years is. It simply states that one in 10 at  
2 this point have been converted. And that  
3 period of years could have been five years, it  
4 could have been 25 years, the point is at this  
5 point it's 10 percent. And in fact there's  
6 nothing that really indicates that it had been  
7 a rush of conversions that prompted the  
8 overlay. It's just that at that point they  
9 were out about 10 percent, at least again  
10 that's how I'm reading the regulations.

11 In fact, what I see there is that  
12 based on the first overlay, on the first  
13 overlay there was not this rush and, in fact,  
14 there's a statement that the conversion of  
15 houses had been a serious planning enforcement  
16 problem for more than 10 years so it implies  
17 that this has been going on for some  
18 significant period of time.

19 So I'm not convinced that the  
20 situation now is that dissimilar from the way  
21 it was before. I think they just reached a  
22 point where they realized oh my gosh, 10

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1 percent of these properties have been  
2 converted to non-residential use. It's  
3 starting to change the character of the  
4 neighborhood and we're in a similar condition  
5 right now.

6 Okay. So what's the difficulty of  
7 actually giving absolute numbers for absolute  
8 time frames so we can make a determination in  
9 terms of--

10 COMMISSIONER MAY: Well, I don't  
11 have any difficult with it because again even  
12 if we accept the opposition's numbers for  
13 this. They say 13 out of 143 properties are  
14 non-residential. I mean that's almost 10  
15 percent right now.

16 VICE CHAIRMAN JEFFRIES: But we  
17 don't know over what period.

18 COMMISSIONER MAY: Well, what they  
19 did say is that two of those 13 were converted  
20 in the last 14 years. That's a slow period of  
21 time but the point is that they're still at  
22 about that 10 percent threshold which was

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1 enough to prompt the overlay before.

2 CHAIRMAN HOOD: Let me do this.  
3 Let me go back to Mr. Turnbull and I want to  
4 come back to you because I said I disagreed  
5 with you and maybe it's because I didn't  
6 understand you, because I looked at these  
7 three findings and when I looked at these  
8 three findings, as my colleagues said, the way  
9 I looked this to extend it is let's look at  
10 what the Zoning Commission did when they first  
11 adopted 1551.4 and those three findings.

12 And maybe I just didn't understand  
13 because I think 2 and 3 are clear from my  
14 standpoint. I think the issue that you said,  
15 Mr. Turnbull, is basically over the first one.  
16 Am I correct?

17 COMMISSIONER TURNBULL: Well, it's  
18 Part A but it's also I think the neighborhood  
19 boundaries are not that well established. I  
20 mean we even looked at map ourselves that  
21 night and said, gee, why aren't you going  
22 further over to Rock Creek Park. It didn't

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1 make sense to leave out a section.

2 I don't think it's as well thought  
3 out and as comprehensive. I think it's a very  
4 quickly run overlay that needs to be more  
5 thought out and in my own personal feeling in  
6 looking at this and looking at what the  
7 language says it seems like, and Commissioner  
8 May may say oh it could be over 50 years, I  
9 don't think you're going to implement an  
10 overlay of change if you've only had two  
11 changes to business use in 10, 15 years that  
12 it merits an overlay.

13 CHAIRMAN HOOD: But let me--

14 COMMISSIONER TURNBULL: But if you  
15 do then I think the language needs to be  
16 addressed differently than what the language  
17 is here. I don't think you can shoehorn it  
18 under this. If you want to do it, go ahead  
19 and do it. I will be voting against it.

20 CHAIRMAN HOOD: Okay. But let me  
21 ask this question. Let me deal with Mr.  
22 Turnbull for a second.

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1                   Now Mr. Turnbull, I understand your  
2                   issue about not being well thought out but  
3                   that was the plan that was brought to us as we  
4                   all know. And if we did it to include another  
5                   area, some more area, another comprehensive  
6                   look if you will, then we would have to re-  
7                   advertise which I think that may be something  
8                   we can do.

9                   I'm just trying to give you a  
10                  comfort level but I think I heard where you're  
11                  coming from. But I'm just trying to say that  
12                  if we would deal with this tonight as opposed  
13                  to delaying or waiting, then there will be a  
14                  point in time that we can go back to the  
15                  Office of Planning and ask them to look at the  
16                  rest of the area which we would like to see a  
17                  a commission comprehensively.

18                  COMMISSIONER TURNBULL: Right. I  
19                  would like to see that area included too.

20                  CHAIRMAN HOOD: But would that  
21                  stop you from--

22                  COMMISSIONER TURNBULL: No, I will

1 still be voting against this.

2 CHAIRMAN HOOD: Okay.

3 VICE CHAIRMAN JEFFRIES: Because  
4 it didn't-- based on what you've said  
5 Commissioner Turnbull I mean expanding the  
6 area doesn't really address your issue and  
7 that is you don't see perhaps that there's  
8 been any significant changes in non-  
9 residential use.

10 COMMISSIONER TURNBULL: Right.

11 VICE CHAIRMAN JEFFRIES: You know  
12 from one period to the next. I guess what I'm  
13 trying to get to the bottom of, because  
14 basically if I understand you correctly, if we  
15 look at the initial overlay and why it was  
16 created, the determination was based on the  
17 fact that you reached this tipping point and  
18 you saw one in every 10 houses in a particular  
19 neighborhood being converted to a non-  
20 residential use. And so this overlay was  
21 created. Okay.

22 And then the neighbors came forward

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1 and said okay, we're seeing even further  
2 conversion in some of these adjacent areas to  
3 the existing overlay.

4 And so your point, Commissioner  
5 Turnbull, is that when you look at what has  
6 occurred it doesn't seem like there's been  
7 much movement.

8 COMMISSIONER TURNBULL: That's  
9 correct.

10 VICE CHAIRMAN JEFFRIES: And I  
11 guess what I'm saying is, is there any way  
12 that we can figure out, I mean we can speak  
13 about this in absolutes, I mean time frames  
14 and what has occurred because unless it's in  
15 the file and I have not deduced it, but again  
16 I'm trying to get absolute numbers tied to  
17 absolute time frames because I would agree  
18 with Commissioner Turnbull that you know that  
19 if it doesn't look as if there is any movement  
20 towards, or significant movement towards homes  
21 that are in adjacent neighborhoods that are  
22 converting, if it doesn't seem that there's a

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1 lot of movement, then that does beg the  
2 question then why are we doing it?

3 But again I'm trying to get some  
4 questions answered. I'm not coming to any  
5 conclusions. I just want to make certain I'm  
6 clear of that. Unless someone has those  
7 answers.

8 CHAIRMAN HOOD: Well, I can say  
9 this. I can't give you any absolutes but when  
10 I looked at the Office of Planning report and  
11 it starts speaking as though pressures,  
12 development pressures would start migrating  
13 into that particular area then over a period  
14 that initially would happen.

15 But again I'm not giving you  
16 absolutes. I'm not testifying. I'm just  
17 going by the testimony.

18 And I don't want us to get mixed up  
19 with, and I'm sure we're not but I want to  
20 caution us, we don't have a specific project  
21 in front of us and I've said that I don't know  
22 a thousand times and I've read the transcript

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1 and I'm sure you mentioned it a lot when I  
2 left. So that to me is out of the discussion.

3 But I'm just trying to figure out  
4 because the way I read this coming down, and I  
5 know you haven't necessarily put your position  
6 there, it appears to me that we may split if  
7 we call for a vote. And we want to be fair to  
8 all parties when we don't have the fifth  
9 person.

10 But let me ask you this Vice  
11 Chairman. When you say absolutes, are you  
12 going to go back out to maybe the ANC who  
13 petitioned us or the Office of Planning?

14 VICE CHAIRMAN JEFFRIES: Maybe if  
15 the Office of Planning could help me out. I  
16 mean if I get answers to my questions here I  
17 might be fine but I just want to be clear  
18 because what Commissioner Turnbull has stated,  
19 I mean I understand it conceptually, I  
20 understand what he's saying, but I'm left with  
21 not really understanding sort of the point of  
22 departure from the first overlay where we saw

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1 one in 10, we saw the conversions and what I  
2 was trying to deduce is if you look at the  
3 areas where the petitioner is looking to  
4 expand, what has been the rate of conversion  
5 in those neighborhoods?

6 And if it's just sort of a pressure  
7 then how is that demonstrated or evidenced?

8 CHAIRMAN HOOD: Ms. Steingasser  
9 could you help us? Thank you.

10 MS. STEINGASSER: I can try. The  
11 two properties that have converted since 1994  
12 have pushed the area, the geographically bound  
13 area that's proposed from the ANC, from 8.5  
14 percent to 9.93 percent in non-residential  
15 uses.

16 So there has been a movement in the  
17 last 14 years to hit that 10 percent  
18 threshold. So I think the neighborhood's  
19 position is we've now hit that tipping point,  
20 let's move proactively rather than reactively  
21 so that the overlay is in place at this  
22 tipping point and not wait till it becomes 10,

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1 15, 20 percent where it's more of a reactive.

2 VICE CHAIRMAN JEFFRIES: Okay. So  
3 you're effectively merging the overall area I  
4 mean the existing overlay and then what is  
5 being expanded into one overlay that  
6 represents really what was set forth in  
7 1551.4.

8 I guess I was sort of bifurcating  
9 things and saying that you know in the current  
10 overlay we saw a tipping point moving towards  
11 the 10 percent and I guess I was trying to  
12 deduce whether if in this area that's going to  
13 be expanded, if you just separate that out and  
14 look at sort of what has been the change in  
15 terms of conversion to non-residential uses,  
16 what that looks like. You're merging both of  
17 these areas together.

18 MS. STEINGASSER: Well, the two  
19 properties that converted are in Square 2714  
20 and that is in the proposed overlay area.

21 VICE CHAIRMAN JEFFRIES: Okay.

22 MS. STEINGASSER: Movement is in

1 the newly proposed area.

2 VICE CHAIRMAN JEFFRIES: So in the  
3 area that we're looking to expand it, what has  
4 been the movement there?

5 MS. STEINGASSER: That I believe  
6 is the, let me double check my squares, but  
7 that is the movement from the 8.5 percent to  
8 the 10 percent. And that's documented by the  
9 application from Holland & Knight where they  
10 list out every square and they went through  
11 and provided all the properties within that  
12 square, it's in Tab C.

13 And they do it by square. The pre-  
14 1994 use, the post-1994 use. They were not  
15 looking at land area, we're just looking at  
16 record property, property boundaries not land  
17 area.

18 VICE CHAIRMAN JEFFRIES: It's at  
19 Tab C?

20 MS. STEINGASSER: Tab C, yes. It  
21 was what was provided at the hearing September  
22 15<sup>th</sup>. Tab C goes through each square and what

1 they're calling the de minimus increase is the  
2 threshold that brings it from an 8.5 percent  
3 to a 10 percent.

4 VICE CHAIRMAN JEFFRIES: Okay.  
5 These square in Tab C, these are square in the  
6 new--

7 MS. STEINGASSER: In the new  
8 proposed area.

9 VICE CHAIRMAN JEFFRIES: Okay.  
10 And in that new proposed area this represents  
11 about 8 percent of conversion? Roughly?

12 MS. STEINGASSER: Within this area  
13 with the two new conversions it represents  
14 9.93 percent non-residential uses. And those  
15 two conversions, while they are only two out  
16 of a 141, bring it up to 9.9 percent.

17 VICE CHAIRMAN JEFFRIES: Okay. I  
18 see.

19 MS. STEINGASSER: So the increase,  
20 the threshold gap is happening within the  
21 proposed area not the total.

22 VICE CHAIRMAN JEFFRIES: I see.

1 Okay. So Commissioner Turnbull, were you  
2 following us here?

3 COMMISSIONER TURNBULL: I don't  
4 have that particular document with me but I'm  
5 still saying two properties in 14 years.

6 COMMISSIONER MAY: But why is the  
7 rate such a critical thing because there's  
8 nothing in the original language that talks  
9 about--

10 COMMISSIONER TURNBULL: Why are  
11 you so willing to jam down this down the  
12 throat of people.

13 COMMISSIONER MAY: Why are you  
14 going to jam it down anybody's throat? No,  
15 I'm looking at the conditions that were  
16 specified in the original overlay--

17 COMMISSIONER TURNBULL: And I  
18 don't think they meet that.

19 COMMISSIONER MAY: And let me  
20 explain why I think they do.

21 COMMISSIONER TURNBULL: Okay.

22 COMMISSIONER MAY: Which is that

1 what they were reacting to was the fact that  
2 the conversion to non-residential use over a  
3 period of some years had reached a threshold  
4 of 10 percent. And that was the cause for  
5 concern.

6 Doesn't say how long it took to get  
7 there, doesn't talk about how many properties  
8 have been converted in the last 10 or 14  
9 years, it just talks about the fact that it's  
10 at about 10 percent. And what's happened in  
11 this--

12 COMMISSIONER TURNBULL: 9.3 or  
13 something, 9.3 I think she said.

14 COMMISSIONER MAY: I'm talking  
15 about the original order. The original order  
16 talks about one in 10 properties over a period  
17 of years have been converted so there were  
18 roughly 10 percent of the properties in the  
19 original overlay was enough to cause the  
20 establishment of the overlay.

21 And what we have here is a case  
22 where we're approaching--

1 COMMISSIONER TURNBULL: Here?

2 When you say here you're--

3 COMMISSIONER MAY: Here in the  
4 proposed case the expansion of the area, that  
5 expanded area is approaching 10 percent. In  
6 fact if you look at that residential  
7 institutional uses that's another five  
8 properties in there and that pushes it above  
9 and beyond. And there's a difference between  
10 residential institutional uses and just R-1B  
11 residential uses.

12 But that aside, it's that 9.93,  
13 it's very close to the 10 percent that was the  
14 threshold amount to establish the initial  
15 overlay.

16 COMMISSIONER TURNBULL: I can read  
17 that. I understand that. I just don't feel  
18 that the impetus is there yet that would  
19 significantly want to add this area that is  
20 not even as comprehensive as it could be.

21 And I think that if you're going to  
22 do that, I think the language needs to be

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1 changed to address the conditions today. And  
2 I don't think that it really meets the spirit  
3 of the old language. I don't think we have  
4 had executive branch and council members  
5 identifying and coming to us and saying we  
6 have a problem here and we need to do  
7 something about it.

8 COMMISSIONER MAY: Well I think  
9 the Executive Branch did. The Office of  
10 Planning says that they support this proposal.

11 CHAIRMAN HOOD: Also Council  
12 Member in Ward 4, if you remember Ms. Muriel  
13 Bowser, I definitely know her name now, I just  
14 didn't know whether to say Honorable first or  
15 Council first, but she testified at the  
16 hearing as you may recall.

17 COMMISSIONER TURNBULL: Well I  
18 still don't think the neighborhood boundaries  
19 are well established and encompass the areas  
20 that we're talking about.

21 CHAIRMAN HOOD: Let me--

22 COMMISSIONER TURNBULL: But if the

1 three of you feel that's fine then I would so  
2 go ahead and vote.

3 CHAIRMAN HOOD: But I don't know  
4 what that is yet Mr. Turnbull so what I'm  
5 trying to do is figure out what can we do  
6 maybe go back and ask the Office of Planning  
7 to do something. But let me hear from Vice  
8 Chairman Jeffries.

9 VICE CHAIRMAN JEFFRIES: Okay. So  
10 my understanding if I look at Tab C of the  
11 Holland & Knight letter dated September 15,  
12 2008, square 2708, 2707, 2710, 2711, 2712,  
13 2713, 2714, 2715, and 2716 all represent the  
14 squares that are in the proposed expansion  
15 area.

16 And within this area initially you  
17 had about 8 percent of the residential uses  
18 that had been converted to non-residential  
19 uses. And then at some point there's been two  
20 additional homes that have been converted  
21 within these squares in the last 14 years or  
22 whatever and that has pushed the percentage of

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1 sort of non-residential use from 8 to about 9  
2 percent. Is that correct?

3 MS. STEINGASSER: Yes. From 8.5  
4 to 9.9 percent.

5 VICE CHAIRMAN JEFFRIES: And that  
6 is close to the tipping point as it relates to  
7 the three findings from 1551.4 approximately  
8 one in every 10 houses in the neighborhood has  
9 been converted to a non-residential use, a  
10 much higher ratio than has been identified.

11 So effectively you know you can get  
12 another two or three houses in these square  
13 that I've stated that could push this to 10  
14 percent and at that point you'd be there.

15 You're just obviously trying to  
16 preempt that and be proactive before we move  
17 to that point correct?

18 MS. STEINGASSER: Well OP is not  
19 the applicant.

20 VICE CHAIRMAN JEFFRIES: Yes, but  
21 I just want to make certain I understand just  
22 the gist of it.

1 MS. STEINGASSER: Yes. It's my  
2 understanding that the neighborhood and the  
3 ANC felt that once they hit 9.93 percent that  
4 they had the 10 percent and that over the  
5 period of 14 years that they were at that  
6 threshold and rather wait to feel more  
7 pressure, that they went ahead and filed the  
8 overlay.

9 VICE CHAIRMAN JEFFRIES: Okay.  
10 Okay, that's fine. Thank you. Oh I'm  
11 prepared to move forward.

12 COMMISSIONER MAY: Yes. I would  
13 like to make a motion to approve Zoning Case  
14 08-09 map and text amendments to expand the  
15 16<sup>th</sup> Street Heights Overlay District and I'm  
16 going to ask for a second.

17 VICE CHAIRMAN JEFFRIES: Second.

18 CHAIRMAN HOOD: All right. It's  
19 been moved and properly seconded. Any  
20 further discussion? All those in favor? Aye.  
21 Any opposition? So staff would you record  
22 the vote?

1 [Vote]

2 SECRETARY SCHELLIN: Staff records  
3 the vote 3-1-1 to approve proposed action in  
4 Zoning Case Commission No. 08-09, Commissioner  
5 May moving, Commissioner Jeffries seconding,  
6 Commissioner Hood in support. Commissioner  
7 Turnbull opposed, Commissioner Etherly not  
8 present, not voting.

9 CHAIRMAN HOOD: Ms. Steingasser,  
10 taking in context what Mr. Turnbull mentioned  
11 about going to the park, do you think maybe at  
12 some point the Office of Planning, I know  
13 you're not the petitioner but maybe we can  
14 look at that so we can get that comprehensive  
15 review in which he spoke about.

16 MS. STEINGASSER: At the end of  
17 the comprehensive zoning review we'll be  
18 looking at the land use itself and how the new  
19 zoning regs apply to these land areas, and the  
20 overlay areas are one of the primary focuses  
21 so we will be looking at those areas.

22 CHAIRMAN HOOD: Okay. Mr.

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1 Turnbull, is that--

2 COMMISSIONER TURNBULL: Sure.

3 CHAIRMAN HOOD: Okay. Thank you  
4 very much. Okay. Again we're going to do  
5 the loading; Ms. Schellin when did we say we  
6 were going to do the loading?

7 SECRETARY SCHELLIN: November 10<sup>th</sup>.

8 CHAIRMAN HOOD: November 10<sup>th</sup> okay.  
9 Next we have Zoning Commission Case No. 08-  
10 06-4 and that is Arts and Culture. Ms.  
11 Schellin?

12 SECRETARY SCHELLIN: I think you  
13 have before you a worksheet to go through the  
14 different options to give OP some guidance in  
15 writing language.

16 CHAIRMAN HOOD: Okay. And we're  
17 going to do this a little differently. We're  
18 going to try it differently this time. I'm  
19 not going to read all of them. Does everyone  
20 have the worksheet? Even those in the  
21 audience? Okay. So everybody has the  
22 worksheet. Okay. We're getting better.

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1                   COMMISSIONER MAY:    Mr. Chairman,  
2                   may I just add I was not present for the  
3                   hearing but I have reviewed the record and am  
4                   prepared to participate.

5                   CHAIRMAN HOOD:    Okay.   Good.

6                   SECRETARY SCHELLIN:    You weren't  
7                   here?

8                   COMMISSIONER MAY:    Not for Arts  
9                   and Culture no.

10                  CHAIRMAN HOOD:    Do we need to--

11                  SECRETARY SCHELLIN:    No, we're  
12                  straight.  Mr. May wasn't here for Arts and  
13                  Culture and Mr. Turnbull and Mr. Jeffries were  
14                  not here for loading.  So Mr. May was just  
15                  advising that he read the record.

16                  CHAIRMAN HOOD:    Okay.   And  
17                  everybody's going to read the record for  
18                  loading so we can all--

19                  SECRETARY SCHELLIN:    Yes.

20                  CHAIRMAN HOOD:    Okay.   All right.  
21                  Let me make sure I'm clear.  All of the  
22                  options ones, and this is probably to the

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1 Office of Planning, all of the options ones  
2 are Office of Planning's recommendations. Am  
3 I correct Mr. Parker?

4 MR. PARKER: I believe so. Give  
5 us a chance to go through. I think there may  
6 be one exception to that rule.

7 CHAIRMAN HOOD: Okay. Because I  
8 was going to handle it in that fashion and  
9 hopefully that's exactly how it is. And I  
10 will say that we've had some submittals to  
11 Conservancy, Committee of 100, the Studio  
12 Theater.

13 MR. PARKER: The answer to your  
14 question was yes, option one.

15 CHAIRMAN HOOD: Okay. Option one  
16 is all-- Okay. Ms. Massie ANC 3C-09. Ms.  
17 Faith Wheeler, ANC 4B-02 and I think that's  
18 all I have in this case. But basically what  
19 we're doing there is very general and not  
20 specific. I don't want anyone to think that  
21 we have not reviewed the submittals that have  
22 been taken, there was one or two that might

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1 have been loading.

2           Anyway, any comments that we need  
3 to interject as we try to go through this  
4 exercise right quickly to be able to do that.

5           VICE CHAIRMAN JEFFRIES:    Yes, I  
6 just have a question for the Office of  
7 Planning. So from our hearing were there any  
8 changes that you made to your original  
9 proposal?

10           MR. JESICK:    We haven't made any  
11 changes today. We were going to wait for the  
12 Zoning Commission guidance from this meeting  
13 and then as we move forward and write specific  
14 language we would incorporate public comments  
15 and Zoning Commission input.

16           VICE CHAIRMAN JEFFRIES:    Oh okay.  
17 Because for parking we had so many comments  
18 during the hearing that there were some  
19 changes that came from that that made it here,  
20 but you didn't do it that for this one?

21           MR. PARKER:    At the end of the  
22 hearing there were no issues to address.

1                   VICE CHAIRMAN JEFFRIES:    Right.  
2                   Okay.

3                   MR. PARKER:       We're not asked to  
4                   report it.

5                   VICE CHAIRMAN JEFFRIES:    Okay.

6                   CHAIRMAN HOOD:     Okay.  And again  
7                   referring to some of the submittals if my  
8                   colleagues choose to do so interject and let's  
9                   move with that so we can give the proper  
10                  guidance.  And again we'll have another bite  
11                  of the apple so we can institute a lot of  
12                  these issues once we get the text.  Okay.  For  
13                  No. 1, Arts Districts, we have option one and  
14                  option two.

15                  VICE CHAIRMAN JEFFRIES:    Option  
16                  One.

17                  CHAIRMAN HOOD:     Anyone else out  
18                  there?  Everybody in agreement with Option  
19                  One?

20                  COMMISSIONER MAY:    I agree with  
21                  Option One and I would say that when we are  
22                  ready to choose an Option we should read

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1 exactly what that Option says. I know we  
2 talked about what gets read and what doesn't  
3 get read but I think that--

4 CHAIRMAN HOOD: Let me go back and  
5 do it like I did last week. Oh boy.

6 Okay. No. 1 Arts Districts.  
7 Option One. Create template set of provisions  
8 that would apply to existing and future Arts  
9 Districts. Based on the remainder of the work  
10 in the Zoning Review, these provisions could  
11 be applied as a stand-alone district, as part  
12 of individual commercial districts, or as an  
13 overlay.

14 Option two says retain existing systems  
15 of individual ad hoc Arts overlays.

16 COMMISSIONER MAY: I agree with  
17 Option One but I think it's going to be a beck  
18 of a task but we get to review it. We don't  
19 have to write it.

20 CHAIRMAN HOOD: That's right.  
21 And I think because some of the submittals  
22 were against the template style. But anyway

1 so we're going to go with Option One.

2 COMMISSIONER MAY: Yes. I thought  
3 that the opposition had a lot to do with the  
4 establishment of Arts Districts rather than  
5 Arts overlays. Did I misunderstand that? As  
6 opposed to the template concept?

7 CHAIRMAN HOOD: I'm looking at the  
8 letter dated September 18, 2008 from Takoma  
9 Theatre Conservancy. And everyone did a good  
10 job with this putting it in order. And again  
11 the committee is very consistent. I don't  
12 want to get too much into that because we can  
13 get into specifics when we get there but  
14 they're very consistent about the governmental  
15 agencies working in collaboration.

16 Again, I see that again here for  
17 this. I'm sure that we'll probably see that  
18 on each and every one of them.

19 MR. PARKER: But Commissioner May  
20 your question was you thought there was an  
21 issue with a stand-alone district as opposed  
22 to commercial districts?

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1                   COMMISSIONER MAY:     And overlay  
2     with an existing zone.   And I mean that shows  
3     up in the Takoma Theatre Conservancy, the  
4     Committee of 100 had that issue.   And I don't  
5     know if was a misunderstanding that but what's  
6     before us in terms of the recommendation would  
7     allow for Arts Districts and Arts Overlays  
8     right?

9                   MR. PARKER:     It sounds like  
10    they're looking for flexibility.

11                  COMMISSIONER MAY:    It would allow  
12    either or, a decision not to be made tonight.

13                  MR. PARKER:     Right.

14                  COMMISSIONER MAY:    And was that  
15    clear the night of the hearing?

16                  MR. PARKER:     No, the night of the  
17    hearing we were recommending stand-alone Arts  
18    Districts period and we're willing to leave  
19    that option open until--

20                  COMMISSIONER MAY:    Okay.   So now  
21    I'm less confused.

22                  CHAIRMAN HOOD:    Yes, well we're

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1 hearing that. I think we're going to move a  
2 little faster.

3 VICE CHAIRMAN JEFFRIES: You're  
4 less confused.

5 COMMISSIONER MAY: I'm less  
6 confused.

7 CHAIRMAN HOOD: So Option One?  
8 Mr. Turnbull? Are we all in agreement?

9 COMMISSIONER TURNBULL: Yes.

10 CHAIRMAN HOOD: Okay. No. 2, Arts  
11 Uses. Option One. Unify and simplify a list  
12 of Arts uses, including grouping Arts uses by  
13 type. That is Office of Planning. And the  
14 next one is do not change basically existing  
15 separate lists of Arts uses.

16 COMMISSIONER MAY: I agree with  
17 Option One.

18 CHAIRMAN HOOD: Option One. No.  
19 3, Arts Requirement. NOTE: additional density  
20 resulting from requirement is addressed is in  
21 issue NO. 6. So we'll go to that when we get  
22 there but Option One which is require 0.5 FAR

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1 of Arts use in new construction in Arts  
2 Districts.

3 Option Two. Require whatever the  
4 FAR of Arts uses in new construction in Arts  
5 Districts. I think they're asking us to fill  
6 that in.

7 And Option three. Do not require  
8 Arts use in Arts Districts.

9 COMMISSIONER MAY: So we want to  
10 be hard and fast. I guess we really have to  
11 be if we're calling something an Arts District  
12 then we clearly need to promote Arts Uses in  
13 Arts Districts.

14 Is there any way or provision that  
15 you know let's say someone might want to put a  
16 swanky nice restaurant in an Arts District, do  
17 we allow it?

18 CHAIRMAN HOOD: Yes, they can do  
19 that.

20 COMMISSIONER MAY: In that  
21 building they'd have to have 0.5 FAR devoted  
22 to Arts use in some manner.

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1                   VICE CHAIRMAN JEFFRIES:    Which  
2                   could look like what?

3                   MR. JESICK:     We had some draft  
4                   lists in our report of various Arts uses and  
5                   included in that list of what could count  
6                   towards the requirements were things like  
7                   restaurants, lounges, etc. We did hear public  
8                   testimony and I think some sentiment from the  
9                   Commission not to count those uses as Arts  
10                  uses although they are presently.

11                  But if someone wanted to do a  
12                  restaurant, even if we eliminated those from  
13                  the Arts lists you know, that could easily  
14                  fall into the above and beyond the 0.5 FAR or  
15                  they could do some sort of combined lot  
16                  development to remove their Arts requirement  
17                  to another building that wants to accept more  
18                  than the 0.5 FAR.

19                  VICE CHAIRMAN JEFFRIES:    So if I  
20                  were looking to build a restaurant in an Arts  
21                  District you can do a combined lot transaction  
22                  or you can do, what's the first thing you

1 said?

2 MR. JESICK: Well you could  
3 provide an Arts use say on the 2<sup>nd</sup> floor and  
4 have your restaurant on the ground floor so  
5 you'd still be meeting your 0.5 FAR  
6 requirement but then you can do whatever you  
7 would like with the rest of your building.

8 VICE CHAIRMAN JEFFRIES: Are you  
9 familiar with the Busboys and Poets at 5<sup>th</sup> and  
10 K?

11 MR. JESICK: Hmm-hmm.

12 VICE CHAIRMAN JEFFRIES: I mean  
13 obviously it's a restaurant but it sort of  
14 looks somewhat like a hybrid of sorts. You  
15 might not look at that as an Arts use but you  
16 know there's lots of art around, lots of funky  
17 things and so forth.

18 I guess I just sort of pause a  
19 little bit here because I certainly would not  
20 want to present or deter restaurant uses in  
21 these Arts Districts and so forth, and if  
22 someone is simply just not in a position to

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1 create arts space but they're looking at sort  
2 of complementary uses such as a restaurant,  
3 you know, we want to definitely sort of  
4 promote that.

5 MR. JESICK: Well, I think the way  
6 we have the proposals drafted in our report, a  
7 restaurant would count towards the Arts  
8 requirements.

9 VICE CHAIRMAN JEFFRIES: Oh so it  
10 would count?

11 MR. JESICK: But like I said we'd  
12 have to have public testimonies that might  
13 suggest that we wouldn't want to count  
14 restaurants. So we would have to weigh, you  
15 know, which direction we want to take the Arts  
16 Districts.

17 MR. PARKER: Both the working  
18 group and the testimony we heard at the public  
19 hearing were that when you allow restaurants  
20 to count as Arts you get restaurants.

21 VICE CHAIRMAN JEFFRIES: Right.

22 MR. PARKER: And you don't get

1 Arts.

2 VICE CHAIRMAN JEFFRIES: Right.

3 Right.

4 MR. PARKER: And so the suggestion  
5 was to not allow them to count but they can  
6 either put Arts in the building or participate  
7 in a CLD and meet at offsite somewhere else.

8 COMMISSIONER TURNBULL: Well is  
9 your recommendation Option One or by Option  
10 Two where you leave it blank? Are you looking  
11 at a range of are you looking at some flexible  
12 number? What's the point of No. 2?

13 MR. PARKER: Option Two is the way  
14 it's done now where every time we come in and  
15 create an overlay we negotiate a list of uses  
16 and the community makes up a list of uses and  
17 brings them in and say these are the ones we  
18 want.

19 COMMISSIONER TURNBULL: So  
20 you're recommending Option One?

21 MR. PARKER: One of the overall  
22 themes of what we're recommending, I'm sorry,

1 I'm on No. 3.

2 COMMISSIONER TURNBULL: We are on  
3 No. 3.

4 MR. PARKER: Forgive me.

5 MR. JESICK: Our recommendation  
6 was 0.5.

7 MR. PARKER: Right.

8 MR. JESICK: At the public hearing  
9 I think maybe Commissioner Jeffries had  
10 expressed, I don't know if concern is the  
11 right word but was questioning whether that  
12 was the right number or if another number was  
13 correct. So we just wanted to present either  
14 option tonight.

15 COMMISSIONER MAY: I don't have a  
16 lot of anguish about the recommendation. I  
17 mean once we get a better look at what this  
18 means in terms of what a District is, because  
19 this is for Arts Districts, and then we look  
20 at what the Arts uses would be, you know,  
21 we'll have another shot at this and we'll be  
22 able to determine well you know is this

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1 something they really have to require or is  
2 there some other way to address it, what  
3 flexibility we would grant, is 0.5 the right  
4 number? Or should it be higher or lower?

5 Those sorts of things.

6 VICE CHAIRMAN JEFFRIES: But we  
7 looked at on an overlay basis. I mean we  
8 looked at a particular area. Well I guess you  
9 know I see the tension here, I mean there's  
10 certainly areas in Arts overlays that just  
11 have galleries and so forth and not enough  
12 restaurants and I just think there's a certain  
13 appropriate balance and I would just hate for-  
14 -

15 And I understand what the Office of  
16 Planning is trying to do so I mean I can go  
17 forward as long as there's some flexibility  
18 down the road.

19 CHAIRMAN HOOD: So Mr. Turnbull,  
20 are we all in agreement on 5 the Office of  
21 Planning's recommendation? Okay.

22 Let me ask this though, I remember

1 the conversation as you said, Mr. Jesick,  
2 about bars, nightclubs, cocktail lounges and  
3 you even mentioned about bookstores. What  
4 was the PAUL list again? I can't remember. I  
5 remember asking that question once before.

6 MR. JESICK: That was just an  
7 acronym that we came up with. It stands for  
8 Preferred Arts Use Lists. We'll probably  
9 tinker with that name to come up with  
10 something.

11 CHAIRMAN HOOD: Oh okay. So it's  
12 not a standard out there like the  
13 transportation handbook?

14 MR. JESICK: What we did was we  
15 combined existing use lists that are the  
16 zoning regs.

17 VICE CHAIRMAN JEFFRIES: I just  
18 hope that that list, and I think we talked  
19 about it, is somewhat broad and allows for  
20 some level of flexibility in terms of what  
21 constitutes Arts uses.

22 I mean I don't have it in front of

1 me right here but--

2 MR. JESICK: It was our thought  
3 that it didn't feel pretty broad.

4 VICE CHAIRMAN JEFFRIES: Okay.

5 MR. JESICK: And we sort of left a  
6 catch all at the end, "a use determined by the  
7 Zoning Administrator to be an Arts use," could  
8 also count.

9 VICE CHAIRMAN JEFFRIES: Okay.

10 CHAIRMAN HOOD: Okay. Let's go to  
11 No. 4. Non-Arts Uses. Option One is the  
12 Office of Planning's recommendation. We only  
13 have two options here and Option Two, allow  
14 other non-Arts uses to count toward Arts  
15 requirements.

16 COMMISSIONER MAY: I think Option  
17 One makes sense. We've got to get that  
18 definition worked up or that list of Arts uses  
19 but that's the key.

20 CHAIRMAN HOOD: Okay. Let's go  
21 to No. 5. Combined Lot Development/Transfer  
22 of Development Rights. Option One and Option

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1 Two, well basically not do anything.

2 VICE CHAIRMAN JEFFRIES: That's  
3 what we were just sort of talking about Option  
4 One because it combined lot development, and I  
5 would be in agreement.

6 CHAIRMAN HOOD: Okay. I'll kind  
7 of look for your-- if you have a problem  
8 whether we need to stop. Okay. Bonus Density  
9 for Preferred Arts Uses. We have Option One,  
10 we have Option Two and we have Option Three.

11 COMMISSIONER MAY: A one to one  
12 density bonus. There was significant  
13 discussion of this at the hearing right? And  
14 was it the Studio Theater where they have the  
15 3 to 1 and that's what made that project  
16 viable?

17 VICE CHAIRMAN JEFFRIES: Well also  
18 I think it was No. 5, because they were able  
19 to use those CLDs you know.

20 COMMISSIONER MAY: They had a 3 to  
21 1 ratio right?

22 VICE CHAIRMAN JEFFRIES: Yes it

1 was 3 to 1.

2 CHAIRMAN HOOD: Okay. So what  
3 number are we on? Oh No. 6. Option one. Mr.  
4 Turnbull?

5 COMMISSIONER TURNBULL: Yes.

6 CHAIRMAN HOOD: Okay.

7 COMMISSIONER MAY: Well hold on.  
8 I mean there was some contrary testimony.  
9 What was the existing system from the Uptown  
10 Arts Overlay?

11 MR. PARKER: Do you want us to  
12 read out the uses? Basically it separated  
13 out uses by their general size and you got 3  
14 to 1 for theater space that's very high and 2  
15 to 1 for other things and Option One I believe  
16 is intended to, and I'll let Matt correct me,  
17 I believe Option One is intended to replicate  
18 that system by just saying you use an FAR  
19 equivalent. So for every 10 feet of height  
20 you get a 1 to 1.

21 MR. JESICK: It tended to be  
22 simpler.

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1                   COMMISSIONER MAY: And the idea was  
2 the same, have the same effect as what made  
3 the Studio Theater possible. Got it.

4                   MR. JESICK:     Yes. For theater  
5 volume. The other thing I would add to what  
6 Mr. Parker said is that some of the Uptown  
7 bonuses may not apply to all areas. For  
8 example, you would get a 2 to 1 bonus for  
9 things like a drugstore or a dry cleaner or  
10 laundry. So those are uses we might not want  
11 to necessarily--

12                  COMMISSIONER MAY: Yes. Okay. I  
13 wasn't necessarily advertising for the uptown  
14 arts overlay as the model. I just didn't know  
15 what it was.

16                  VICE CHAIRMAN JEFFRIES: But that  
17 Studio Theater discussion I thought was  
18 generally around No. 5.

19                  COMMISSIONER MAY: Well also  
20 talked significantly about the 3 to 1 ratio.  
21 So that's fine. I'm content with Option One  
22 now.

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1                   CHAIRMAN HOOD:    Okay.  Thank you.  
2   Let's go to No. 7.  I didn't mean it like  
3   that, I was glad of his consent.

4                   Design and Use Requirements.  Option  
5   One.  I'm not going to read it because I'm  
6   going to read it to myself.  We have Option One  
7   and Two.

8                   VICE CHAIRMAN JEFFRIES:    So Design  
9   and Use Requirements.  Option One.  Create  
10   design    requirement and use frontage  
11   requirements that would apply to designated  
12   "primary streets" within Arts Districts, with  
13   the ability to tailor the design requirements  
14   based on the specific circumstances of each  
15   Arts District.

16                  CHAIRMAN HOOD:    I would go with  
17   Option One.

18                  COMMISSIONER MAY:    I can't wait  
19   to   sink my teeth into those design  
20   requirements.

21                  CHAIRMAN HOOD:    Okay.  Ceiling  
22   height.  Option One.  Require 14' ground floor

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1 ceiling height for all commercial structures  
2 in Arts Districts.

3 Option Two. Require 14' ground  
4 floor ceiling height for commercial structures  
5 on primary streets in Arts Districts.

6 Option Three. Do not require 14'  
7 ground floor ceiling heights.

8 VICE CHAIRMAN JEFFRIES: The 14'  
9 foot ground floor ceiling heights are somewhat  
10 standard so it's not a problem with them being  
11 in the Arts District. I mean we certainly  
12 want that. You want high floor to ceiling for  
13 art work and things of that sort. Light and  
14 all that.

15 CHAIRMAN HOOD: Okay. Option One.

16 No. 9 Arts Exhibitions Areas.  
17 Option One is to limit the amount that  
18 building lobby exhibition areas count towards  
19 Arts requirements to 5 percent.

20 Is somebody trying to give me a  
21 hint now that my time is up?

22 VICE CHAIRMAN JEFFRIES: Can I ask

1 a question? I mean why 5 percent? I mean  
2 we've seen some pretty fancy you know office  
3 lobbies. I mean is that 5 percent of floor  
4 area?

5 MR. JESICK: It would be 5  
6 percent of the total art requirement.

7 VICE CHAIRMAN JEFFRIES: Oh.  
8 Okay.

9 COMMISSIONER TURNBULL: That  
10 doesn't mean that you can't have a more  
11 artistic lobby. It just means that only 5  
12 percent counts.

13 VICE CHAIRMAN JEFFRIES: Right.  
14 Rights.

15 COMMISSIONER MAY: I have no  
16 problem with that.

17 CHAIRMAN HOOD: Everybody's okay  
18 with it? Okay.

19 Arts Uses in Residential Zones.  
20 Option One. Let me read these. Permit stand-  
21 alone arts uses in existing building (such as  
22 former schools) in residential districts as a

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1 special exception.

2 Option Two. Permit stand-alone  
3 arts uses in existing buildings (such as  
4 former schools) in residential districts as a  
5 matter of right.

6 Option Three. Only permit stand-  
7 alone arts uses in existing building through a  
8 variance.

9 VICE CHAIRMAN JEFFRIES: I'm for  
10 Option One. I mean in residential zones I  
11 don't think the standard needs to be based on  
12 a variance but I do think there needs to be  
13 some level of review in a residential zone for  
14 an arts use because you don't know what it's  
15 going to look like. Whether it's going to be  
16 compatible with the residential zone.

17 COMMISSIONER MAY: Yes. And I  
18 think we have to be very careful about what  
19 the requirements are for the special  
20 exception, what criteria you have to meet in  
21 order to do it and there is some experience  
22 already in the city with this happening in old

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1 school buildings or other buildings. So we  
2 ought to be able to get good information on  
3 what works well and what doesn't work well.

4 CHAIRMAN HOOD: Okay. Number 11.  
5 Arts Home Occupations.

6 Option One. OP's recommendation  
7 that artists studios (and related art uses  
8 that can meet home occupation standards) as  
9 home occupations.

10 And then Option Two. Do not now  
11 allow artists studio as home occupations.

12 COMMISSIONER MAY: I think the  
13 concern that I have here is that not all arts  
14 uses make good neighbors in terms of the  
15 materials that are used and the work that goes  
16 on. And I would just want to make sure that  
17 there's some sort of control over that.

18 VICE CHAIRMAN JEFFRIES: But isn't  
19 that under home occupation standards? Would  
20 that be--

21 COMMISSIONER MAY: I don't know.  
22 That's what I mean, I don't know.

1                   VICE CHAIRMAN JEFFRIES:    It would  
2                   be like if someone was, I mean I like extruded  
3                   metal. I mean if someone's doing art work in  
4                   metal I mean that can be a very noisy thing so  
5                   I agree with you.

6                   COMMISSIONER TURNBULL:   And you  
7                   also have to worry about fumes.

8                   VICE CHAIRMAN JEFFRIES:    Sure.  
9                   That's what I'm saying you wouldn't be able  
10                  to-- do you know the home occupation  
11                  standards?

12                  MR. JESICK:    Yes. The home  
13                  occupation regulations do have guidelines for  
14                  things like noise and what all the  
15                  characteristics are.

16                  COMMISSIONER MAY:   And what part  
17                  of the Municipal Regs are they in?

18                  MR. JESICK:    They're in--

19                  COMMISSIONER MAY:    They're in the  
20                  Zoning Regs?

21                  MR. JESICK:    Yes, they're in the  
22                  Zoning Regs.

1                   COMMISSIONER MAY:    They're in the  
2                   Zoning Regs.   Okay.    I mean there's nothing  
3                   else in any of the other in DCMR and  
4                   elsewhere?

5                   MR. JESICK:       There are more  
6                   specific noise regulations in 20 DCMR Chapter  
7                   27.

8                   COMMISSIONER MAY:    I think for  
9                   this discussion it would be helpful to know  
10                  what those other regulations are because we  
11                  don't want to obviously create something  
12                  that's a conflict but we also want to know  
13                  where there's already protection.    So yes.  
14                  Anywhere else where we have things that would  
15                  affect home occupation.

16                  CHAIRMAN HOOD:     So we're doing  
17                  Option One?

18                  VICE CHAIRMAN JEFFRIES:    Yes.  
19                  Option One.   I mean I love metalwork but  
20                  there's no way I want--

21                  CHAIRMAN HOOD:     Okay.    But it's  
22                  good to know that we have another bite and

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1 some of the things already exist and they were  
2 under different uses. Okay. Artists Live-  
3 Work Space. Option One. Allow artist/live  
4 work space (i.e. multiple artists apartments  
5 sharing communal workspace) in residential  
6 zones at the same density as other residential  
7 units (i.e. a zone allowing two units would  
8 allow two artist apartments).

9 COMMISSIONER MAY: So this is  
10 like--

11 CHAIRMAN HOOD: And Option Two.

12 COMMISSIONER MAY: So this is  
13 like artist live/work co-housing sort of?

14 MR. JESICK: Yes. The idea was to  
15 just expand the number of housing options for  
16 artists. It would be a regular live-work now  
17 but in some cases, for a variety of reasons,  
18 artists may want to have communal work space  
19 with individual residences in the same  
20 building.

21 VICE CHAIRMAN JEFFRIES: Has the  
22 artist live/work space been somewhat

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1       successful? I mean I know the Madder Building  
2       has it. Does the Madder Building have it?  
3       How successful has that been? I know we were  
4       looking at it for the old Wax Museum site  
5       which is now City Vista, but how successful  
6       has that been?

7                   MR. JESICK: I think there are a  
8       few scattered units here and there. The  
9       project you mentioned and there's also some  
10      studios up in Brookland by Dance Place on 8<sup>th</sup>  
11      Street I think it is. I think there are a  
12      few projects here and there that have  
13      incorporated artists' studios but I would say  
14      it's not very widepread.

15                   VICE CHAIRMAN JEFFRIES: Do you  
16      think in terms of what we're putting in place  
17      will promote, do you think this will promote  
18      more of them?

19                   MR. JESICK: We're hoping so.

20                   VICE CHAIRMAN JEFFRIES: Because  
21      the problem I always thought was an economic  
22      one.

1                   MR. JESICK:    It is largely  
2                   economic and I think like we spoke about at  
3                   the public hearing, the zoning would be one  
4                   component of any arts program, there would  
5                   also have to be other financial incentives  
6                   probably from various public sources, but that  
7                   would be something that we wouldn't cover  
8                   here.

9                   VICE CHAIRMAN JEFFRIES:    Okay.  
10                  Mr. Chair, I'm supportive.

11                  COMMISSIONER MAY:    I agree. I had  
12                  one follow up question. I know that live/work  
13                  space is very successful in some other cities  
14                  and I'm wondering how that's different from  
15                  what we permit? Is it because it goes far  
16                  beyond just the promoting artists live/work  
17                  space? Is it just live/work space in general?

18                  MR. JESICK:    I think some other  
19                  cities have taken some bigger strides in terms  
20                  of their artist programs.

21                  VICE CHAIRMAN JEFFRIES:    It's  
22                  subsidized. In Chicago I know that they

1 subsidize some of it but specifically for  
2 artists.

3 But they have that like in San  
4 Francisco, live/work space is big but it's  
5 certainly not, the extent to which it happens  
6 is not all subsidized. Or maybe I just have  
7 an exaggerated impression about how common it  
8 is.

9 MS. STEINGASSER: I think some of  
10 it, Mr. May, has to do with the availability  
11 of arts compatible spaces that people can live  
12 in as opposed to residential spaces that are  
13 converted for art. So San Francisco you've  
14 got a large industrial area that was able to  
15 evolve and have these uses come in.

16 VICE CHAIRMAN JEFFRIES: Yes,  
17 that's how it is in Chicago as well. I mean  
18 it's just the warehouse district and so forth  
19 I mean is able to absorb it. And have the  
20 space that's conducive. They can have the  
21 mezzanine and they can have the commercial  
22 part of the unit.

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1 CHAIRMAN HOOD: Okay. So we're  
2 all in agreement in Option One? Mr. Turnbull?

3 COMMISSIONER TURNBULL: Yes.

4 CHAIRMAN HOOD: Okay. All right.  
5 So I think that concludes that exercise.  
6 Anything else?

7 Okay. What we'll do is go to the  
8 Office of Planning I think for the status  
9 report. Ms. Steingasser?

10 MS. STEINGASSER: I don't have  
11 anything special to draw your attention to  
12 this evening.

13 CHAIRMAN HOOD: Okay. Ms.  
14 Steinglasser, let me just ask. I was very  
15 interested when I was riding down South Dakota  
16 Avenue and I saw all the Office of Planning  
17 staff like in the middle of a dangerous area.  
18 Mr. Lawson, I happened to notice all these  
19 people and I said okay that's where they are  
20 when I can't reach them at the office. But  
21 anyway what type of exercise was that on a  
22 Friday afternoon maybe about 1:30 or quarter

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1 to two?

2 COMMISSIONER MAY: And was there  
3 drinking involved in it?

4 CHAIRMAN HOOD: I'm just curious.  
5 What kind of exercise was that?

6 MR. LAWSON: I have no idea how to  
7 respond to that. Actually, from time to time  
8 the Office of Planning or the Development  
9 Review Division does do site visits so that we  
10 get a better sense of the lay of the land of  
11 the areas that are expected to undergo  
12 significant development pressure over the next  
13 number of years.

14 We've done a couple. We did one at  
15 the ballpark area. I guess that was at least  
16 a year ago now. And we found it very helpful  
17 for people to understand. One day we did a  
18 shorter visit out to St. Elizabeths. Many of  
19 our staff had not been out there and it was  
20 very helpful to walk through St. Elizabeths  
21 and get a sense of what was going on there.

22 And this one was really to get a

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1 sense of this particular area for which there  
2 are a number of proposals that could be coming  
3 forward or will be coming forward over the  
4 next little while, as well as some fairly  
5 major infrastructure changes that D-DOT is  
6 planning so we wanted to make sure that we had  
7 a good understanding of what was going on in  
8 this area. We found it very, very helpful.  
9 And we went out with our Ward planner Debby  
10 Crane who was unbelievably informative of what  
11 was going on.

12 CHAIRMAN HOOD: Well, I saw you  
13 all definitely standing right there. It was  
14 very noticeable. So that's good, it's good to  
15 know you're doing that.

16 Let me just ask this Ms.  
17 Steingasser about the re-use of schools and I  
18 don't know if this is on here, I haven't  
19 really looked at this report thoroughly. Are  
20 we still on target for a case in point Bernie  
21 Backus being a proposal, I think we mentioned  
22 DMV. Are we still on target with that?

1 MS. STEINGASSER: Yes. Yes we are,  
2 yes sir.

3 CHAIRMAN HOOD: Okay. All right.  
4 And I have one other question and this is just  
5 trying to help me get informed about  
6 transportation issues. I don't frequent  
7 Georgetown much but I went over last week and  
8 I'll tell you the traffic was just horrific.

9 And I often wonder do we know what  
10 the story is why Georgetown did not have the  
11 Metro? And I thought about that as I was  
12 walking from Foggy Bottom into Georgetown.

13 MS. STEINGASSER: I don't know the  
14 history and I wasn't living in Washington at  
15 that time but we can get that.

16 CHAIRMAN HOOD: I sure would like  
17 to know the history because as I got to where  
18 I was going my feet was hurting.

19 VICE CHAIRMAN JEFFRIES: I have a  
20 couple of books on Metro. I can bring them  
21 in.

22 CHAIRMAN HOOD: I really would

1 like to know honestly.

2 VICE CHAIRMAN JEFFRIES: I think  
3 there's a chapter on the Georgetown--

4 CHAIRMAN HOOD: You can certainly  
5 make a leap in terms of why you don't see a  
6 Metro in Georgetown.

7 COMMISSIONER TURNBULL: I thought  
8 Georgetown didn't want the Metro.

9 COMMISSIONER MAY: There are a lot  
10 of legends about it. And Ms. Hartman might be  
11 able to tell us what it was.

12 CHAIRMAN HOOD: I really think  
13 that what I saw Friday was -- well anyway.

14 COMMISSIONER MAY: I think it all  
15 had to do with the astounding success of the  
16 new Georgetown Waterfront Park which opened on  
17 October 4<sup>th</sup>.

18 CHAIRMAN HOOD: October 4<sup>h</sup> of this  
19 year?

20 COMMISSIONER MAY: This year yes.  
21 Just a couple of weeks ago. It's a new  
22 national park, Georgetown Waterfront Park.

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1                   CHAIRMAN HOOD:   Well we don't have  
2 anything in front of us but I really would  
3 like to be enlightened on that. That pre-dated  
4 me even having an interest.

5                   That's all I have. I know it  
6 didn't have too much to do with the status.

7                   SECRETARY SCHELLIN:   Chairman  
8 Hood, if I could just make one announcement  
9 because I think there are a couple of Task  
10 Force members, just to announce that the  
11 November 6<sup>th</sup> Special Public Meeting to deal  
12 with height is going to be continued. Call me  
13 tomorrow afternoon and I will probably have a  
14 date after I've talked with Mr. Parker but I  
15 did want to let people know that are here that  
16 have shown up for all the others, November 6<sup>th</sup>  
17 is off.

18                  VICE CHAIRMAN JEFFRIES:   Are you  
19 telling me that we have to talk about height  
20 again? We never finished that?

21                  SECRETARY SCHELLIN:   We never  
22 talked about it.

1 VICE CHAIRMAN JEFFRIES: Oh my  
2 God.

3 CHAIRMAN HOOD: Okay. With that,  
4 Ms. Schellin, do we have anything else?

5 SECRETARY SCHELLIN: No.

6 CHAIRMAN HOOD: Okay. With that I  
7 want to thank everyone for their participation  
8 and also my colleagues for their hard work.  
9 This is meeting is adjourned.

10 (Whereupon, the above-entitled  
11 matter went off the record at 8:13 p.m.)

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