GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

ZONING COMMISSION

PUBLIC MEETING

Monday,
December 8, 2008

The regular Public Meeting of the District of Columbia Zoning Commission 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, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

JERRILY KRESS Director
SHARON S. SCHELLIN Secretary
DONNA HANOUSEK Zoning Specialist
ESTHER BUSHMAN General Counsel
OFFICE OF THE ATTORNEY GENERAL PRESENT:

    JACOB RITTING, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

    MATT JESICK
    JOEL LAWSON
    TRAVIS PARKER
    JENNIFER STEINGASSER

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CHAIRMAN HOOD: Okay. We're going to go ahead and get started. This meeting will, please, come to order. Good evening ladies and gentlemen. This is the December 8, 2008 Public Meeting of the Zoning Commission.

My name is Anthony Hood. Joining me are Vice Chairman Jeffries, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, our secretary, and the Office of Planning staff and also from the Office of Attorney General.

Copies of today's meeting agenda are available to you and are located in the bin near the door. We do not take any public testimony at our meetings, unless the Commission requests someone to come forward.

Please, be advised that this proceeding is being recorded by a Court Reporter and is also webcast live.
Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room. Please, turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. What I would like to do, at this time, is to switch our agenda. There's not a lot on the agenda, but I still want to try to switch it around. We're going to do final action first. After final action, we will do proposed action. And when we come up under proposed action, we will be doing B first and A second. I think there will be more discussion with A.

Okay. Final action. Let's begin first with the case that all of us participated on and that's B, Zoning Commission Case No. 08-22. This is the Office of Planning Ward 7 Map Amendment. Ms. Schellin?
MS. SCHELLIN: The staff has nothing to add to this one, other than I think that we did receive a report from NCPC and they had no issues with it.

CHAIRMAN HOOD: Okay. Colleagues, this is up for final action. This is Zoning Commission Case No. 08-22. I would move approval. And you have heard the comments from Ms. Schellin about NCPC not having any adverse affect on any other identified fellow interests, so they had no issues with it.

I would move approval and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: Moved and properly seconded. Any further discussion? Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?
MS. SCHELLIN: Yes. Staff records the vote 4-0-1 to approve final action in Zoning Commission Case No. 08-22. Commissioner Hood moving, Commissioner Turnbull seconding, Commissioners Jeffries and May in support. Third Mayoral Appointee seat vacant, not voting.

CHAIRMAN HOOD: Okay. Our next one for final action is Zoning Commission Case No. 05-24B. This is a PUD modification for Eastgate Family Housing. Ms. Schellin?

MS. SCHELLIN: This one also we did receive an NCPC report and there were no issues with this one either.

CHAIRMAN HOOD: Thank you very much. Colleagues, you have heard the report from the Zoning Secretary, Ms. Schellin. I would move approval of Zoning Commission Case No. 05-24B and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: Moved and properly seconded. Any further discussion?
All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Ms. Schellin, if you could record the vote?

MS. SCHELLIN: Staff records the vote 3-0-2 to approve final action on Zoning Commission Case No. 05-24B. Commissioner Hood moving, Commissioner May seconding, Commissioner Turnbull in favor, Commissioner Jeffries not having participated, not voting. Third Mayoral Appointee seat vacant, not voting.

CHAIRMAN HOOD: Okay. Our final action in the final action is Zoning Commission Case No. 05-38A, Marina View Trustees, LLC, PUD modification at 1000 & 1100 6th Street, S.W. Ms. Schellin?

MS. SCHELLIN: Once again, we have NCPC's report and they do not have any issues with this case.

CHAIRMAN HOOD: Okay. Thank you.

We have heard the report from Ms. Schellin.
I would move approval of Zoning Commission Case No. 05-38A and ask for a second.

COMMISSIONER MAY:  Second.

CHAIRMAN HOOD:  Moved and properly seconded. Any further discussion?

All those in favor?

ALL:  Aye.

CHAIRMAN HOOD:  Ms. Schellin, if you would record the vote?

MS. SCHELLIN:  Staff records the vote 3-0-2 to approve final action in Zoning Commission Case No. 05-38A. Commissioner Hood moving, Commissioner Turnbull seconding, Commissioner May in favor, Commissioner Jeffries not having participated, not voting. Third Mayoral Appointee seat vacant, not voting.

CHAIRMAN HOOD:  Okay. Moving right along, let's go to proposed action. And again, as I stated earlier, we're going to take B, Zoning Commission Case No. 08-14, first. Ms. Schellin?
MS. SCHELLIN: This case is before the Commission for proposed action. There were some additional documents that the Commission requested and I believe that they provided those and we also had the material sample board that was available.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. And we all participated on this.

MS. SCHELLIN: Excuse me, Chairman Hood, we were just handed a report from DDOT, so I pass this out to you.

CHAIRMAN HOOD: Okay. Well, according to the applicant, I'm sure there are no issues, because the applicant said that there were no issues from DDOT and I think they concur.

Do we have anyone present from DDOT? Okay. Let me go to, first, one of the issues while my colleagues continue to read our letter from Ms. Ricks. I want to thank her for getting that to us very timely. We
were just about to do that, so she's right on time.

So anyway, there were some issues early on about the Fire and Emergency Medical Services Department. We have a letter from the Office of Planning, Ms. Steingasser, stating -- dealing with the design, but actually Mr. Palmer says "The D.C. Fire and EMS Department has reviewed the above request, based on the site plan submitted, and the D.C. Fire and EMS Department has no objections to this request, as long as construction is in compliance with the International Fire Code."

And I'm sure that is applicable in other venues. So and it says -- it also has a number if we have any questions. So that satisfies that.

Can someone speak a little more? I have actually read the first part of this DDOT letter. Can someone talk a little more?

COMMISSIONER JEFFRIES: Well, first of all, the last paragraph before the
summary of recommendation of what we just received from DDOT dated December 8th talks about this whole business of parking and the number of parking spaces that are part of this application.

And we did have somewhat of a vigorous discussion around whether this proposal was over-parked. And I noted in my review of the traffic impact assessment that, in fact, it seems that there really is not -- seems to be a shortage of parking, based on the numbers that I saw here. And it appears that DDOT is making a similar claim.

It is saying here that it shows an excess of on-street parking in an area, at a maximum of 64 percent occupied. And this does not support the assumption that there is a parking shortage or a need to exceed the minimum parking requirements by 141 spaces, which translates to 157 percent over what is matter-of-right.

So but I also noted in the traffic
impact assessment that there were a number of other developments that were listed that indicated they had very similar parking ratios and yet, they -- in those instances, I'm trying to find the page, I think it was -- just a minute.

Yeah, in Appendix D, it says -- Table 5, D/1, it says trip generation rate comparison for multi-family apartment developments. It seems to be indicating that even though these multi-family apartment dwellings have, you know, nearly 1:1 parking, it's not generating more trips.

Now, you know, that's separate and distinct from, you know, shortage of parking spaces. But, you know, I was, you know, hoping that we could have some sort of discussion here around, you know, this whole notion of this development being over-parked.

I mean, given that it is between two metro stations and that, you know, it's well-trafficked, you know, well-traveled by
buses and it's on a bus route and so forth, whether this was an appropriate number. So I just wondered, you know, if we could sort of talk about that aspect.

I know there is other things we want to talk about here as well, but --

CHAIRMAN HOOD: Okay. Well, I think you're referring -- I think you also mentioned this earlier on as you stated. It says "Therefore, DDOT urges the developer to reduce the number of parking spaces, so the amount is close to the minimum parking requirements of 90 spaces."

And I guess, from my standpoint, and I'm going to ask any of my colleagues this question, but I need to know if we were to do that, would that be a design change?

COMMISSIONER JEFFRIES: It would take off --

CHAIRMAN HOOD: And we would probably need it revised.

COMMISSIONER JEFFRIES: -- one
level of, let me see if there is a section in
terms of the latest thing we got. Is there a
section of the latest ones?

CHAIRMAN HOOD: And, Vice
Chairman, I do know that it's near two Metro
Stations and that was so noted in the report,
in the applicant's study.

COMMISSIONER JEFFRIES: Um-hum.

CHAIRMAN HOOD: Assessment.

COMMISSIONER JEFFRIES: Um-hum.

CHAIRMAN HOOD: We're hearing the
same fact that you already echoed now by DDOT.

COMMISSIONER JEFFRIES: Right. I
mean, you know, we have dealt with this. When
the former Chair Mitten was here, you know, we
continued to talk about this whole notion of
these TODs and when we were going to really
start to clamp down on these projects and make
certain that they were not going to be able to
park in them.

I'm sort of conflicted here. I
mean, you know, given the proximity to the
convention center, you know, I mean, I'm sort of open to these numbers. But, you know, I'm also concerned that we are just, you know, sending the wrong message out to these developments.

CHAIRMAN HOOD: And, Vice Chair, you reminded me that I don't think I necessarily agree with you --

COMMISSIONER JEFFRIES: Right.

CHAIRMAN HOOD: -- to being with. But, you know, I'm more open. Maybe remind me of that, I would have --

COMMISSIONER JEFFRIES: All right.

CHAIRMAN HOOD: But let's hear what our other colleagues -- and plus it's coming in from DDOT, at this point.

COMMISSIONER JEFFRIES: Um-hum.

CHAIRMAN HOOD: It gives me more of a comfort level, one, you were talking about previously, I don't know if it came in from DDOT for us to reduce the parking. So that didn't give me a comfort level and I knew
where the parkers were going to go when they
needed to park and that was in the community.

So I don't necessarily say I
disagree with you and the Chairperson, but I
think the appropriate site and maybe this is
it.

COMMISSIONER JEFFRIES: Yeah. I
mean, you know, the one thing about this
project, I mean, they have come back with
eight stories. They have taken some of the
density off of 7th Street, which I don't
particularly care for and they put it, you
know, to the west of the development, closer
to the R-4, which I don't particularly care
for.

You know, so I mean, reducing the
overall envelope here and then yet, you know,
we are getting, you know, more parking.
Again, you know, I would like to hear from my
colleagues on this matter.

COMMISSIONER TURNBULL: I'm always
surprised on some of these reports that we get
that the applicant's consultant doesn't go
into stating the case more clearly why they
need it and give examples and actually show
the real reasons for it.

Here you get -- you look on page
12, it describes the existing parking
situation.

COMMISSIONER JEFFRIES: Yeah.

COMMISSIONER TURBULL: And it
doesn't really say that that's a hinderance to
them or not. It simply says here is what it
is and it looks like there is quite a bit.

COMMISSIONER JEFFRIES: Yeah.

COMMISSIONER TURBULL: So if they
want to make the case for more parking, I
think they really need to say that either from
examination or from studies that they consider
so many of these are being used by outside.
I don't know how you do that, but, I mean,
there is no clear case here that says in their
report that -- I mean, it's a report that says
here is what's there.
COMMISSIONER JEFFRIES: Right.

COMMISSIONER TURNBULL: It doesn't really make a case for going over the number.

COMMISSIONER JEFFRIES: Right.

COMMISSIONER TURNBULL: Although like you say, with the convention center being nearby, maybe that is a driving force that needs to be considered that is not adequately -- it is not adequately described here.

COMMISSIONER JEFFRIES: Yeah.

Commissioner Padro brought that up and, you know, seemed to give some anecdotal evidence. But, I mean, you know, it's just a situation where -- I mean, well, let's hear from Commissioner May.

COMMISSIONER MAY: It's not clear to me the total number of spaces that are actually required. I mean, can you actually remove an entire floor of parking and still meet the requirement?

COMMISSIONER TURNBULL: I don't think you can. I got a little confused by the
DDOT report.

CHAIRMAN HOOD: We can get OP to give us a little assistance.

COMMISSIONER JEFFRIES: Yeah, I don't have a section here.

CHAIRMAN HOOD: Was it Mr. Jesick? Is this your case?

MR. JESICK: Yes.

CHAIRMAN HOOD: How many parking spaces were proposed at the outset?

MR. JESICK: You mean with the original submission?

CHAIRMAN HOOD: Right. What we vote on tonight, the submission tonight.

MR. JESICK: Oh, the submission tonight? Proposing 230 spaces.

CHAIRMAN HOOD: 230.

COMMISSIONER JEFFRIES: For 272 residential units?

MR. JESICK: I think it's a little higher than that, 285 units.

COMMISSIONER JEFFRIES: Oh, okay.
MR. JESICK: The ratio is about .7, if I recall.

COMMISSIONER JEFFRIES: 72, yeah.

COMMISSIONER MAY: And DDOT refers to a minimum parking requirement of 90 spaces. I mean, I'm not sure how they got to that. Isn't it 1 per 2 units and then 1 per 300 square feet of retail? And then there is the 25 percent discount for being close to Metro. Are they close enough to Metro to qualify for the 25 percent reduction?

MR. JESICK: I don't think they are close enough for that.

COMMISSIONER MAY: So where do they come up with 90? I mean --

COMMISSIONER JEFFRIES: That's the matter-of-right number, right?

CHAIRMAN HOOD: You want us to -- in their letter, they want us to go down to 90 spaces minimum.

COMMISSIONER JEFFRIES: Yeah.

CHAIRMAN HOOD: Closest to it.
They are saying go closer to the minimum parking requirement of 90 spaces as opposed to the 272.

COMMISSIONER JEFFRIES: But if they took a floor off, what would that leave them in terms of parking? Does anyone know that?

COMMISSIONER MAY: That's about 120 spaces on the lowest level, I think, which would put them at 110, which would not be the required.

COMMISSIONER JEFFRIES: Where do you see, Commissioner May, where do you see 110?

COMMISSIONER MAY: It was --

COMMISSIONER JEFFRIES: Oh, I see it. I see it. Well, no, I don't see it. I thought I saw it.

COMMISSIONER MAY: It was in the plans for that showed the parking by levels. A.12 in the set from October 13.

COMMISSIONER JEFFRIES: Oh, um-
COMMISSIONER MAY: There was 108 on Level 1 and 123 on Level 2. So if you took off 123, you would be down to 107 spaces. And I don't see why DDOT thinks that it's 90 spaces required.

COMMISSIONER JEFFRIES: Well, wait.

COMMISSIONER MAY: It's 1 per 2 units is already 140.

COMMISSIONER JEFFRIES: Well, where are they getting the 90? Office of Planning, do you know? I thought it was matter-of-right.

MR. JESICK: Just looking at the front cover of the latest set of plans, it's probably on the other sets as well, in the C-2-C District, it's 1 per 4 units for residential and 1 for 750 square feet of retail over 3,000 square feet. That comes out to about 87, according to this calculation.

COMMISSIONER MAY: Oh, yes, okay,
I see 87. Got it. So and it would be rezoned
to C-2-C. That was the confusing thing about
that chart.

CHAIRMAN HOOD: And how many
parking spaces is suggested or proposed at
this time? How many parking spaces do we
have?

MR. JESICK: Currently, they are
proposing 230.

CHAIRMAN HOOD: 200?

MR. JESICK: 230.

CHAIRMAN HOOD: 30.

COMMISSIONER TURNBULL: But you
have to account for the residential aspect
also.

CHAIRMAN HOOD: I just don't know
if I --

COMMISSIONER TURNBULL: It does.

CHAIRMAN HOOD: -- have this
statement. This is almost the last paragraph.
Now, that we have had time to look at it, it
says, the filing, The TIS allows the extensive
transportation options in the area, including the bicycle network, buses in proximity to the Shaw and Howard Metro Stations. It also shows an excess of on-street parking in the area at a maximum of 64 percent occupied."

This does not support the assumption that there is a parking shortage or a need to exceed the minimum parking requirements by 141 spaces, which they count as 157 percent. I don't see that in that area. This is excessive parking. Maybe I'm just there at the wrong time. I mean, you know, I know the numbers are what they are, but I don't -- here's what I don't want.

I don't want us to create a problem. I don't know if this is a site where we want to test the theory of the Vice Chair and the former Chair.

COMMISSIONER JEFFRIES: Well, no, it's not the theory of myself or the former Chair. It's just we are trying to be true to what has been set forth in terms of transit-
oriented developments. And, you know, making certain that we are not putting ourselves in the position where we are encouraging greater vehicular use in these neighborhoods that are in close proximity to Metro Stations.

And so I didn't create it. I'm just -- I just believe in it.

CHAIRMAN HOOD: All right. And I don't disagree, but, you know, the same thing that I said that I think I have been pretty consistent and you have been pretty consistent. I just don't know if like the issue we talked about previously, I don't specifically remember the case. I don't know if that's the right one. And that's my point.

I don't know if this is the right one. I don't know enough on it. And I think it didn't meet what Commissioner May -- as far as proximity to the Metro Station.

COMMISSIONER MAY: Well, it apparently didn't need to, because it's 1 per 4, once you go to C-2-C as the Zone. I was --
I had it stuck in my head that I had to remember, too.

COMMISSIONER JEFFRIES: Well, I will say this, Mr. Chair. I mean, I'm looking at the garage plans and, you know, while I'm not --

CHAIRMAN HOOD: What page?

COMMISSIONER JEFFRIES: A.12.

While I'm not happy with what is being presented here, to take a full floor off, I think would probably be a bit severe in terms of this development just given -- I mean, given that there is a 123 total parking spaces on the second level here. And I just think that that's probably too far a distance in terms of trying to support this.

I mean, I would like to be somewhere in between the 100, you know, here, but I just don't -- just given how -- yes, this is the first 106.

CHAIRMAN HOOD: So I guess in keeping in the spirit of the letter that we
just received from DDOT asking us to be closer
to the minimum parking requirement and what we
are -- and the applicant having, what is it,
230, I don't know if I want to do -- does
anybody have any recommendations? I really
don't know. You know, I'm not a parking
expert. I just don't like to see the
overflow. I would not want to create an
overflow into the community.

COMMISSIONER JEFFRIES: You know,
what we could do here is if we wanted to vote
on this tonight and, obviously, I believe that
the attorney representing the applicant is
here, we could, you know, get some more, I
don't know what it is that they might be able
to pull together, that really talks about this
need for the number of parking spaces that are
being put forth. And we can look at it during
final action or we could not take proposed
action tonight and just give them time to turn
around and provide something to us.

Because I think the more troubling
piece was in that transportation report that
talked about a parking shortage on-street.
I mean, it seemed like -- I mean, I was
expecting to see that there was going to be
spillage into other communities.

And I believe that Commissioner
Padro had talked about, you know, all of the
spill-over from the convention center. And
perhaps there could be some more discussion or
evidence around that being problematic. But
I just feel like this report didn't really
help the case.

I mean, it helped the case in
terms of making a statement that in terms of
trip generation, that didn't seem to -- there
parking ratios didn't seem to increase trip
generation. But it didn't really talk about
the parking shortage.

CHAIRMAN HOOD: That is one way
and I would be more inclined to move with the
first way and finalize some of this at final,
like we typically do.
COMMISSIONER JEFFRIES: Okay.

CHAIRMAN HOOD: If we wanted to move forward tonight, put it back on the applicant and DDOT to work together.

COMMISSIONER JEFFRIES: And yeah.

CHAIRMAN HOOD: And come back to us for final with a solution. Because here's my concern, if we change any of the parking spaces, there is going to be a design issue.

COMMISSIONER JEFFRIES: Um-hum.

CHAIRMAN HOOD: I think.

COMMISSIONER JEFFRIES: Um-hum.

CHAIRMAN HOOD: So we need to probably -- if we approve it, we can leave it open for the flexibility to come back with a design. I don't know, legally come back with a design and verify if what I'm saying is true.

COMMISSIONER JEFFRIES: Well, the one thing, too, what would be good is for the applicant to, you know, talk about, you know, hardship as relates to, you know, taking off
an entire floor of the parking, beyond -- you
know, perhaps it's a problem with the
marketing of the units. I mean, there could
be a number of reasons for why, you know, you
really need to have as many.

But I really do think that this
Commission really needs to start, you know,
setting a higher bar and disciplining these
applicants about this parking issue. We just
cannot continue to go down the road and
continue this whole business of you can be 2
or 3 blocks from a Metro Station and still be
close to 1 per 1.

I think we really need to start to
do something about the parking situation or
the vehicular problems in the District. And
I think we have to do our part. So, Chair, I
don't know what your discussion was there, but
I'm ready to move on this. I just, you know,
wanted to just make certain that, you know,
this applicant can come back and we can get on
the record and we have something that talks
about, you know, why we, you know, allowed a
project, that I feel is perhaps a bit over-
parked, to go forward.

CHAIRMAN HOOD: I think, Vice
Chair, your comments are very well-taken. And
actually there should be -- they are well-
thought out. And I think actually you bring
up a real point. I'm more moved by this
particular case than I was the previous ones
that you and the former Chair worked on
together.

But anyway, what I want us to do
though, I think if we do move in that fashion,
I would advise and have been advised that we
probably need more clarity, because there is
going to be design change and we leave that to
DDOT and to the applicant to work out and come
back to us before we do final. And I'll tell
you why.

I've been advised that, you know,
we may have questions. It may be a design
change. There may -- and I don't want to
inconvenience the applicant, but I think it's better for us to move that way, even to the point that we meet in another two weeks, if we were to do that. We have another meeting in two weeks.

COMMISSIONER JEFFRIES: Okay.

CHAIRMAN HOOD: A regular meeting just like tonight. Am I correct, Ms. Schellin?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. So what we can do is iron all the issues out, so when they come back, this will be the only one. Okay.

COMMISSIONER JEFFRIES: I have other issues.

CHAIRMAN HOOD: Right. That's what I'm saying.

COMMISSIONER JEFFRIES: As I look in the direction of --

CHAIRMAN HOOD: Well, we know that's one.
COMMISSIONER JEFFRIES: Okay.

CHAIRMAN HOOD: And part of it is due to -- and I appreciate the DDOT giving us this letter, but we just received the letter. This was kind of a surprise. I was not expecting this.

COMMISSIONER JEFFRIES: And also, the letter spoke about a more robust program as well. I mean, in addition -- I mean, I just covered the last paragraph. I mean, apparently, it seems to be looking for --

CHAIRMAN HOOD: More aggressive.

COMMISSIONER JEFFRIES: -- a more aggressive TMP, you know, a number of things that they feel should be set forth here, just given the location.

CHAIRMAN HOOD: Ms. Schellin, do we know if the applicant has had time to even look at the letter? Did they have it before we did?

MS. SCHELLIN: No. You don't have it?
UNIDENTIFIED SPEAKER: We just got it.

MS. SCHELLIN: They just got it, I guess, when we did.

CHAIRMAN HOOD: Okay. So we all just got it?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. I'm not upset. I'm glad we got it. I don't think we wanted that to be on, you know. Okay. Okay. So we know that's -- let's put that in the parking lot, so to speak.

COMMISSIONER JEFFRIES: No pun intended.

CHAIRMAN HOOD: Okay. Any other issues with Kelsey Gardens?

MS. SCHELLIN: I think if we are going to -- just to -- before we put this on our December 22nd agenda, just so the applicant knows, we would need to have their filings by noon on the 16th. And if they can't do that, we'll have to move into
January. So I'm getting the nod of the head that they will be able to do it. But maybe after Mr. May -- Mr. May may have some other concerns.

CHAIRMAN HOOD: And so we already know we can't do it in January.

MS. SCHELLIN: Right. We're going to go for -- they are going to shoot for December 22\textsuperscript{nd}.

CHAIRMAN HOOD: They're going to shoot for December 22\textsuperscript{nd}?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. All right. Commissioner May, let's see what else we've got.

COMMISSIONER MAY: Well, I'm all for making some progress and getting some agreement on parking. You know, I will -- I guess the question I have about parking is that, you know, we're talking about parking requirements in the new -- in the zoning rewrite.
And we talk about eliminating minimums and establishing maximums. And I'm curious as to whether this would have been, you know, under the new rules. Is this something that would be subjected to a maximum or is this, you know, in that range from the minimum to the -- I'm sorry, to the no minimum to the maximum? And whether, you know, this is just the market speaking, because that's, you know, what we are told to believe in is that the market will help establish what the parking ratios will be.

MR. PARKER: So you are asking if this would have been a place with minimums and/or maximums?

COMMISSIONER MAY: Yeah.

MR. PARKER: Based on our current recommendations?

COMMISSIONER MAY: Or maximums is the relevant thing.

MR. PARKER: Definitely. There are -- the main three areas that we are
looking at maximums are downtown first, transit-oriented second and then our commercial areas. So this would have been -- could have been considered a transit-oriented, but at least a commercial near transit.

COMMISSIONER MAY: Do you have a sense of what the maximum might be?

MR. PARKER: Not at all.

COMMISSIONER MAY: Not at all.

Okay. Because I'm just curious about if we are going to have to try to chart a path towards a future of transit-oriented development and the parking maximums is going to be one of the tools by which we do that. It would be interesting to know where we think we are heading.

So but I'll go on to other issues. First, I would note the fact that we received so much of the material that was requested from the hearing, the traffic study itself, the materials board with enlarged elevations and the clarification from Fire and EMS.
The -- I will say, and this is more for the sake of future submittals, than it is for information that I am looking for in this case, because I think I have enough information on this case to know how I would want to vote.

Enlarged elevations doesn't mean taking the existing elevations and putting them on the copier and making them bigger. It means drawing them in a larger scale, showing greater detail, showing more information about what it would be and that's really what I was looking for.

I do appreciate getting the boards. Generally speaking, I like the materials that I saw on the boards, so, you know, that was encouraging. There are still some odd things in there. You know, there are these projecting stone looking balconies in the center building that has an ornate rail kind of in between.

And according to the drawings, we
are going to have this stone looking platform that is going to be -- and underneath that there are going to be some expanded polyurethane packets, which, I mean, I can see putting those on to support a cornice, but supporting an actual balcony, even visually, I think, is a mismatch of materials. Architecturally, it doesn't make a lot of sense to me.

There -- I have a concern about the project still about the size of it. I am not entirely comfortable that this is what is truly necessary to make it marketable. I think it is really, really big for where it is.

COMMISSIONER JEFFRIES: You said big. You mean height or density?

COMMISSIONER MAY: I mean, the FAR.

COMMISSIONER JEFFRIES: Oh, okay.

COMMISSIONER MAY: And you know, I think overall some buildings of this height,
you know, could work in the neighborhood. Obviously, it's going to work across the street to the south, but, you know, we're just really packing a lot of density in here. And I'm not comfortable with that.

I will say also that I find the architecture overall of this project to be lacking. And I think I have said enough about what some of my concerns are.

COMMISSIONER JEFFRIES: Perhaps as the architect, it seems like we are always on this architect.

COMMISSIONER MAY: Well, and I hate to single out an architect for this, but, I mean, this is the second project in recent memory where what I have seen I find lacking. I don't -- I find the design to be somewhat incoherent, lacking some discipline. I mean, it's -- there are some ploys that are used to try to differentiate a very long facade that I think are really false in nature.

And you wind up with -- even when
it comes to the plan of the building, Mr. Turnbull, I think, has mentioned the fact that the loading doesn't connect to some of the retail space. That's problematic. That corridor, the interior corridor is 400 feet long.

The corridor outside here is 200 feet long and it's a foot wider. And that feels like a very long corridor and this building has two elevators. So imagine that twice as long, a foot narrower and there is only one elevator. I think it's a very poorly planned building.

When you look at some of the elevations, I'll point out in particular the Q Street elevation on A-14B.1, the most recent version that we got. And the elevation with a large section of the building cantilevered over the alley. And I'm not against cantilevering. I know structurally this is all possible. But when you create an architecture in the year 2008 that mimics a
style from the 1940s or the 1930s, you don't then cantilever it with, you know, this heroically. It stands out as a complete structural mismatch.

And I just -- it is further proof to me that the design is not well-conceived. And I also, frankly, would point out, and we didn't really focus on this, but, the townhouses that are part of the project, I guess, along P Street they are less than 14 feet wide. And I'm sorry, I don't think 14 feet wide townhouses work very well.

COMMISSIONER JEFFRIES: Are they 12? Wait, what are they?

COMMISSIONER MAY: They are just under 14 feet wide.

COMMISSIONER JEFFRIES: Oh.

COMMISSIONER MAY: At least that's what my calculation is. It's hard to read the drawings, but I just took 95.5 feet and divided that by 7 units and it comes out to be about 14 feet or just under 14 feet.
I don't know. Even if excellence in architecture is not being proffered as one of the benefits of a PUD, I feel like there is a higher standard when we review something like this and I just don't think that is met here nor do I think it will be met with revisions, so I'm not asking you for revisions.

I think some of my comments are being made for the sake of future PUDs that may come here, because I think we need to be holding to a higher standard. Thanks.

CHAIRMAN HOOD: Let me make sure I understand, Commissioner May. You are not necessarily looking for revisions?

COMMISSIONER MAY: I am not, because I don't think -- I don't feel that it is the consensus of the Commission that all of these things are issues.

CHAIRMAN HOOD: I'm not sure.

COMMISSIONER MAY: So --

CHAIRMAN HOOD: Cantilevering,
let's hold on.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: I think you bring up a good point in 14B.1. I didn't know what it was called. To me I would call it a hangover, but I'm looking at the bottom where it says Q Street elevation and that's cantilevering? Turn your mike on.

COMMISSIONER MAY: When part of the building projects and is unsupported like that, that's called cantilever.

CHAIRMAN HOOD: Right. Let me ask my other two colleagues. You have heard some concerns from Commissioner May. And I guess do you all share the same concerns?

COMMISSIONER JEFFRIES: Well, I have to say, you know, Commissioner May, you actually made a lot of very good points here. I mean, the one thing that you spoke about in terms of the corridor out here, I mean, I have always had problems with this corridor, but it's your understanding that this corridor
will be how much less in width?

    COMMISSIONER MAY: Just scaling
the drawing, just looking at it visually from
the width of a doorway, which I would assume
to be 3 feet.

    COMMISSIONER JEFFRIES: Um-hum.

    COMMISSIONER MAY: It looks like
it's a 5 foot wide corridor. And I mean,
maybe it's 6 feet wide, but it looks like it's
5 feet here.

    COMMISSIONER JEFFRIES: And the
corridor out here is?

    COMMISSIONER MAY: 6 feet wide.

    COMMISSIONER JEFFRIES: And then
it goes 200 --

    COMMISSIONER MAY: It's about 200
feet. And according to the measurements that
I could get from the drawings here, this is
about 400 feet.

    COMMISSIONER JEFFRIES: See the
problem with this development, this
application is that, I mean, it's starting to
-- the weight of all of these things is just
starting to become a little bit too much.
Because I mean, I have issues with the
development. I mean, I brought it up earlier.

   My issues is that I truly think
this building should be taller and that you
shouldn't put the height on the west side. It
should be on 7th Street and it should be
brought down on the west side facing R-4 and
the row homes.

   You're bringing up this corridor
issue which, you know, I have had concerns
about, but I decided to let that go. And then
the parking issue, I kind of let that go. And
then I'm looking at these 14 foot wide row
homes. Now, Eaken/Yougentaub does 12 foot
row homes. And so they are certainly
marketable and they have somehow figured out
how these things can happen.

   And I know that Eaken/Yougentaub
uses Lessard, so I'm certain that that's
probably how. You know, I don't know that for
a fact, but I guess the concern I have to my colleagues here is that, you know, when these things start adding up, all the issues that we have with this development, you know, should we just ask the question are we moving too quickly here?

CHAIRMAN HOOD: Mr. Turnbull, did you want to expound?

COMMISSIONER TURNBULL: Thank you, Mr. Chair. Yeah, let me get back to Commissioner May had pointed out my concern about the loading and the retail. And you can clearly see on A.02 that the loading dock serves retail 1 and 2, but there is no convenient way for retail 3, 4 and 5 to be served, unless you do off-loading on 7th Street.

I don't really see a direct -- so from an urban problem, I'm -- to me it's why can't you solve it all in one loading dock? So that does bother me. It sounds like they have moved -- they are not going to get the
curb cut, so they moved everything back to the
alley, which is fine. But somehow from an
organizational feature, they haven't met the
need of -- because they also have residential
units on this same corridor on the ground
floor.

So it's kind of a combination of
uses for this corridor. And it is very
narrow. It's about a 5 foot corridor. And
now, obviously, retail does not enter. You
don't get into retail from that corridor.
It's all from the outside, but it's still from
a residential standpoint, it's an awkward
arrangement.

I think they haven't
organizationally laid out this building as
easily as possible for the residents and for
the retail occupancy. It is a problem. It
needs work.

I guess in the beginning
architecturally, I wasn't as -- we have had
some issues with this architect before on
another residential project, which I think we find the architecture even more problematic than it is here, I guess.

The Commission makes a very excellent point on Q Street elevation, which I think I had asked that of the applicant once before, only I don't think it looked -- maybe it didn't look as bad the last time, but it looks like somebody has just erased the bottom of the building and it looks like it is floating in space, which, you know, it's set design.

It is set design. It is not -- it's architecture that sort of drops the ball. So that is an issue. And maybe it would have looked better in perspective, I don't know, rather than on an elevation. But an elevation clearly looks like there is a serious design flaw with this building.

Density wise, I guess I'm not sure. I think the Office of Planning was okay with the density in this area with the
development. And so I guess I don't have quite the issue with the density that Commissioner May does.

Architecturally, it is a pastiche of historical size. I mean, we have seen different architects/designers handle facades differently with either they are going -- they use different terms. They are either going to the industrial look or they are picking up cues and it's a little bit more modernistic it is tied into.

This is definitely really an historicism. I am ambivalent about it. It's trying to create that old fashioned downtown image you had in the '30s and '40s and trying to make everybody feel comfortable. I guess I'm not totally opposed to it. I also am not -- it's not totally honest to what you are trying to achieve.

So I'm ambivalent about having them change the whole thing, I guess. I'm -- and I agree with Commissioner May and
Commissioner Jeffries. I would like to see them move the bar up and make it a little better. But you know, of course, we have made projects in the past go back and start over. We made Florida Rock do that.

COMMISSIONER JEFFRIES: Yeah. You know, I think too, I mean, I know this neighborhood fairly well and I know people have been looking for this development for quite a while. And you know, they have seen developments take place throughout other parts of the District and, you know, so there is this real push to get something up as quickly as possible.

And it is a tough site as well, because it's a long narrow site. And obviously, given the market, you know, I mean, I don't have an issue with the FAR. Again, my issues are just where they decided to put the density. But beyond that, I'm probably, you know, in your ballpark.

I mean, I'm less concerned about--
I'm not looking for them to redesign this development. But I still continue to be troubled with sort of the totality of all of the issues that seem to -- I mean, we all have some fairly --

COMMISSIONER TURNBULL: They're beginning to mound up.

COMMISSIONER JEFFRIES: -- substantial issues and they start to mound up and then at some point it's like now, wait a minute, you know, are we moving too quickly here. So, Mr. Chair, I think, I don't know exactly what it is at this point. I mean, I do have concerns with the number of things that Commissioner May has brought up. And my issues and Commissioner Turnbull's concerns about whether we should take a vote tonight -- well, I don't know.

CHAIRMAN HOOD: Let me say, I don't think we are going to be taking a vote tonight. Basically, to start with, because of the DDOT letter, that's the first issue. And
that's why I wanted to expound on some additional problems.

But let me kind of find out where we all are before we say just redesign the whole thing and come back. I don't think that's -- I don't hear two colleagues of mine saying that and I'm not saying that either. But I think, at the same time, there is an opportunity here to address a few of the issues of Commissioner May.

I think Commissioner May has stopped short of saying redesign.

COMMISSIONER MAY: Well --

CHAIRMAN HOOD: I think he stopped short of saying it maybe.

COMMISSIONER MAY: Well, you know, I understand how big an effort it is to redesign it. I tried to get sympathy for that position during -- you know, at set-down, you know, because I thought, at that point, it needed to be redesigned. But you know, we proceeded from that point.
You know, I would be happier with this design if some of the glaring issues with the look of the building and with the plan of the building were addressed. In other words, if they did take a good hard look at how the floor plan lays out and see if there is a way to get, you know, a second lobby in or something like that.

I mean, I understand that may be a lot of work and planning and all of that, but, you know, it would make it a better building as a result. But I also would have to say honestly that I'm not sure that you could -- that one could adjust this design enough to get my vote, because I'm troubled enough by what I see.

It's this whole collection of things. If it were just, you know, the stylistic disagreement that I have, you know, I could get past that, but it's the stylistic thing. It's the sort of incoherent kind of moves where the styles don't match with some
of the things that the building is doing, you know, like the cantilever.

      It's the floor plan. I mean, it's just a whole host of things. I mean, even, you know, when you turn the corner at the north end and the south end, and we have these sort of corner buildings, even those corner buildings are not continuous. In other words, at the Q Street facade you have two different colors of brick, not necessarily two different styles of building.

      But the one building that sort of borders on the alley is made of a different brick. Again, it's that 14B. You know, you have the reddish brick on the corner and then you have got the brown brick on the alley. I mean, why did all of a sudden that change to brown brick? I mean, where is the front door to that building?

      I mean, I can see it when you, you know, are going across the facade along 7th Street, you don't have to discern separate
building entrances, because it's all of that retail. It kind of gets lost in the fact that you have all these different retail entrance doors.

But here, you know, I want there to be a door on that or I want it to be the same red brick as the rest of the building that is right on the corner. But you know, the attention with which this whole facade is composed is focused -- well, is unfocused, frankly. It's just let's make it brown brick for variety's sake.

I mean, cleaning up things like that, making the cantilever make more sense, you know, just a number of those sorts of things. I'm not saying you can't do a cantilever, you can do the cantilever, you just have to have the architecture work with it.

COMMISSIONER JEFFRIES: Breaking down that corridor in some way.

COMMISSIONER MAY: Breaking down
the corridor in some realistic way.

COMMISSIONER JEFFRIES: So yeah, maybe, Mr. Chair, I mean, that's -- you know, I mean, it sounds that three of us up here are not looking for any, you know, huge changes. But, you know, there could be still some overtures, because, I mean, I can't defend much of what Commissioner May is saying. I mean, it's -- you know, I'm not used to being in this position, quite frankly, with Commissioner May, but I find his comments quite compelling.

And given my issues with this application, it's just I feel like I can't fully, you know, defend or I really think that the applicant should probably revisit some of these things and then we will take a look, at that point.

CHAIRMAN HOOD: So I guess in a way, I think we should move, and I'm going to hear from you in a second, Mr. Turnbull, on. If the applicant -- as a matter of fact, hold
on. Let me back up. Let me hear from you, Mr. Turnbull.

COMMISSIONER TURNBULL: Well, you know, let's continue on with what Commissioner Jeffries and Commissioner May were talking about. Recognizing that they have got one, two, you know, six different buildings sort of put together on this collage.

COMMISSIONER JEFFRIES: They're not -- it's really one building.

COMMISSIONER TURNBULL: It's one building, but it is a collage of six almost. And but I --

COMMISSIONER MAY: I would argue it's eight.

COMMISSIONER TURNBULL: Right.

COMMISSIONER MAY: Because you turn the corners, you've got those different brick colors.

COMMISSIONER TURNBULL: But what I'm saying is that if you look on the King Street, if you look at the very -- on the 7th
Street elevation at the very north end at Q Street --

COMMISSIONER JEFFRIES: Um-hum.

COMMISSIONER TURNBULL: And I think Commissioner May made a point. When you look at that building, you see the red brick and the brown brick with the erased bottom. You want to see two buildings, but, you want to read it as two buildings, there is no door, there is no nothing and it's simply a change of brick to differentiate the change.

And I think he makes sense where it ought to be all the same color. It's what Q visually that -- says that doesn't work with what organizationally you want it to read. So maybe that is one item they ought to pick up is redo that Q Street with the overhang and the whole how that is organized to make it read more cohesively.

COMMISSIONER JEFFRIES: These shadows that they are showing on the elevations, are those -- I mean, does it make
it look as is if you have seven or eight
different buildings. I mean, I know it's
showing -- are they --

COMMISSIONER MAY: Which drawing
are you looking at?

COMMISSIONER JEFFRIES: I'm
looking at A.13B. I mean just any of them.
I mean, that show the shadow lines here.

COMMISSIONER MAY: Um-hum.

COMMISSIONER JEFFRIES: Is that
really accurate in terms of what -- look at
the red building that is off of Q Street.
That building represents Unit, if you go to
A.06, D1. Is that -- I guess I'm trying to
understand what the shadows -- I guess I'm
trying to read the elevations from the plans.

COMMISSIONER MAY: Um-hum.

COMMISSIONER JEFFRIES: Let's just
start there.

COMMISSIONER MAY: Yeah, I think
you are -- you make a good point here. I
think that there is a line missing.
COMMISSIONER JEFFRIES: Yeah.

COMMISSIONER MAY: In the lower right hand side where it says signage.

COMMISSIONER JEFFRIES: Right.

COMMISSIONER MAY: You can see there is just to the left and above the S there is a break --

COMMISSIONER JEFFRIES: Right.

COMMISSIONER MAY: -- in the cornice.

COMMISSIONER JEFFRIES: Right.

COMMISSIONER MAY: But there is no change in the line.

CHAIRMAN HOOD: Let's slow down. Let's back up and let's take this -- we're going to walk through this. Okay.

COMMISSIONER JEFFRIES: Well --

CHAIRMAN HOOD: So I know you are referencing A.06.

COMMISSIONER JEFFRIES: Yeah.

CHAIRMAN HOOD: 14B.1.

COMMISSIONER JEFFRIES: Yeah.
CHAIRMAN HOOD: Right here.

COMMISSIONER MAY: There's a line that needs to come down.

COMMISSIONER JEFFRIES: Right, right, right, right, right.

CHAIRMAN HOOD: What is it?

COMMISSIONER JEFFRIES: So you --

CHAIRMAN HOOD: Are you pointing to A?

COMMISSIONER JEFFRIES: -- see this indentation here?

CHAIRMAN HOOD: Um-hum.

COMMISSIONER JEFFRIES: It's --

this should be something that shows here that continues this line here that comes down. And I'm only bringing this up and I'm sorry you're catching me, I shouldn't be on the mike. But I would just ask the applicant to be careful with this elevation and making certain that it is appropriately reflected. I mean, that the elevation reflects what is shown in this plan here. We see it on the P Street side.
CHAIRMAN HOOD: You were looking at the alley elevation?

COMMISSIONER JEFFRIES: The Q Street.

CHAIRMAN HOOD: Q Street?

COMMISSIONER JEFFRIES: Yeah, yeah. I think the applicant -- I think they are following us. But even beyond that, I guess the point that I was trying to make is that if you look at the elevation and you look at these shadows, it really makes it look as if there are all these different buildings. But in actuality, this thing is going to look somewhat flat. It's probably not going to look like what we are seeing here, which is, for a few of us, a little more attractive than --

CHAIRMAN HOOD: Okay.

COMMISSIONER JEFFRIES: I mean, this is one building, I guess that's my point, with a few bays that step out, but by and large this is one long building. Are you
following what I'm saying?

COMMISSIONER MAY: Um-hum.

COMMISSIONER JEFFRIES: It's not

seven or eight different buildings. Yeah,

that's right and this is what we are always

asking for. We probably do need to see a

perspective that is like at street level that,

you know, we can look down the street and see

exactly what someone walking down the street

is going to see as relates. So a perspective

of some type or some sort of volumetric or

something. Because these elevations are a bit

deleceptive.

COMMISSIONER MAY: I think that

there were some perspectives in the --

COMMISSIONER TURNBULL: In the

original?

COMMISSIONER MAY: -- original

set.

COMMISSIONER JEFFRIES: Do you

have them, because I -- from the original?

COMMISSIONER MAY: Yeah. Yeah, I
have. I'm looking at Sheet A.20. Granted the building has changed from the -- this is the October 13th set. Do you have that?

COMMISSIONER JEFFRIES: Yeah, but that's too far away. They could just blow that up a little bit. I see what you are showing.

COMMISSIONER MAY: The lower one, lower right.

COMMISSIONER JEFFRIES: Yeah, I see the lower right, yeah.

COMMISSIONER MAY: It just doesn't show much of the building.

COMMISSIONER JEFFRIES: Yeah.

Now, the top right, if we got a little bit more detail, we need a blow-up of that elevation from this perspective, but the entire elevation, so that we know what we are going to see here, because, I mean, it's nice looking at this elevation. It looks like it is very -- you know, lots of different materials. It is, but it would be interesting
to see if it comes off looking like a fairly flat facade with again a few protruding elements.

COMMISSIONER TURNBULL: And now as far away.

COMMISSIONER JEFFRIES: Yeah.

COMMISSIONER TURNBULL: Closer to it.

COMMISSIONER JEFFRIES: Closer to it.

COMMISSIONER TURNBULL: But looking at the actual --

COMMISSIONER JEFFRIES: Yeah, don't say blow it up. We'll just put it all in.

COMMISSIONER TURNBULL: Yeah, you know, we don't want a blow-up. We want a constructed perspective.

COMMISSIONER JEFFRIES: Yeah, so the applicant can look at A.20 at the top right, it is showing the before and after. Look at the after and just we need a closer
perspective that shows that street wall of the
elevation.

CHAIRMAN HOOD: Okay. Is there
anything else or is there anything left?

COMMISSIONER JEFFRIES: This is a
large building.

CHAIRMAN HOOD: And I understand.
And that's why I wanted us to make sure that
we put it all out there. My main issue is the
DDOT. Obviously, there's some architectural
issues and concerns. Anything else?

And from what I'm hearing, here is
the thing. I don't want the applicant to go
back and start all over. I think we have a
majority up here that don't agree to him
necessarily starting back over. But also take
into account the comments of Commissioner May
as well as Jeffries and Turnbull, who have
made some architectural or design issues, made
those noted and come back with something at
the appropriate time addressing to the best
intent of what discussion you heard up here
this evening.

Okay. Anything else? So basically, what we are looking at, the parking issue concerns, the DDOT issue and their letter. Mr. Turnbull, I think you mentioned the loading.

COMMISSIONER TURNBULL: I was just concerned and maybe they have an answer for the loading for retail 3, 4 and 5, how you service those three shops, restaurants, whatever they are going to be.

COMMISSIONER JEFFRIES: Is it through the elevator back there?

COMMISSIONER TURNBULL: Well, the loading dock, the retail loading berth can easily serve retail 1 and 2, because there is doors right off of it, but there is no way to get into the corridor, I don't think. There is the business center next to the retail. There is the leasing office. Unless you are going to go through retail to it and I'm sure they wouldn't appreciate that.
CHAIRMAN HOOD: Let's let them respond to that.

COMMISSIONER TURNBULL: Right.

CHAIRMAN HOOD: That will be something they can respond to us on that.

COMMISSIONER TURNBULL: Yeah, okay.

CHAIRMAN HOOD: And the design and density, that whole question, that whole gamut and the perspectives and the whole conversation you heard, if you can tweak it, do what you think is necessary and the comments that you heard from the Commission tonight. One more?

COMMISSIONER JEFFRIES: I did, Mr. Chair, want to ask the Office of Planning just to make certain about the comments around the density. And in particular, I know that you were supportive of more density, the higher building on 7th Street and the lower buildings, the wings being lower. But you are fine with the eight story?
MR. JESICK: I mean, we felt that the nine story design was more visually appealing. It's not a life or death issue. It's -- we thought we liked the step-downs a little better, but, you know, the eight story design is acceptable.

COMMISSIONER JEFFRIES: Okay.

There's such ambivalence about this project. It just -- okay.

CHAIRMAN HOOD: Okay. I think we have addressed this project enough architecturally and the issues of concern. Ms. Schellin, do we have any dates?

MS. SCHELLIN: I think we may be going into January 26th. Okay. So if we could have the applicant to provide their documentation. Do you just want them to respond to what you have heard here or do you want the ANC to also respond --

CHAIRMAN HOOD: Well, I think --

MS. SCHELLIN: -- to what they provide? Just for them?
CHAIRMAN HOOD: You know what though, I think with the magnitude of the changes, I think that -- and I hate to put the applicant back through it, because I don't know what is all going to change. I think it's the due courtesy for us to let the ANC know exactly what has happened, because they supported, I think, what we had in front of us.

MS. SCHELLIN: Um-hum.

COMMISSIONER TURNBULL: Well, the ANC wanted the curb cut, which DDOT is not going to give. But I think they wanted that curb cut next to the alley, that's what the ANC was pushing for.

COMMISSIONER JEFFRIES: Right.

I've not supportive of that either, so --

COMMISSIONER TURNBULL: Right.

CHAIRMAN HOOD: Well, I think we're going -- not going to get to that point. I'm just talking about just what may change, because right now, I don't know what may
change and what may not. The applicant may
come back and say we made a few tweaks. I
don't know what is going to happen. But I
think out of courtesy, we probably need to go
back to the ANC.

MS. SCHELLIN: Yeah. I don't
think the ANC provided a report in the
original case, did they?

CHAIRMAN HOOD: Oh, they didn't?
Okay.

MS. SCHELLIN: They did? Okay. I
don't think they came to testify.

COMMISSIONER JEFFRIES: I would
hope, Mr. Chair, we could keep this, the
response, somewhat narrow if we can.

CHAIRMAN HOOD: Yeah, but my only
problem is I believe this applicant has met
with the ANC and they went out and showed them
one thing and the Zoning Commission changed it
and then it's not acceptable to those in the
community. I just think it's better to be
cautious and safe than sorry.
MS. SCHELLIN: Yeah. And also, Ms. Giordano reminded us that all parties, actually, they are required to be given seven days to respond, so we should do that.

CHAIRMAN HOOD: Oh, so it's going to happen anyway.

MS. SCHELLIN: Yeah.

CHAIRMAN HOOD: Okay. Thank you for that comfort level.

MS. SCHELLIN: Yeah. If we could have the applicant provide their information by January 13th and then have the -- I'm sorry, January 12th and have the ANC provide their response by the 21st, since Monday and Tuesday are holidays.

CHAIRMAN HOOD: Okay. All right. Is everybody on board with that. The applicant is okay with that, Ms. Schellin?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: All right. So we will postpone to the dates as noted by Ms. Schellin. We'll take a 2 minute break.
Whereupon, at 7:44 p.m. a recess until 7:47 p.m.)

CHAIRMAN HOOD: All right. So much for the break, I don't have my -- oh, here it is. Okay. Next for proposed action we're going to go to the Zoning Commission Case No. 08-06-5. This is Office of Planning - ZRR, commercial.

I'm sorry, Ms. Schellin?

MS. SCHELLIN: There is a retail/use worksheet in your packet that, I believe, was prepared by OP with the assistance, I believe, of OAG.

CHAIRMAN HOOD: Okay. We have that in front of us. And we're going to use that as our reference point. We also have submittals from ANC-6B, also from Commissioner Spalding alone. Oh, no, I'm sorry, ANC-1B02, Commissioner Spalding, Cleveland Park Citizens Association. I know I have something from Committee 100.

Let me take my time, I know I had
it, because I saw it. We had it to begin with. Maybe it got mixed up with Kelsey. Hold on one second. Also, we have a report from the Office of Planning. Thank you very much. Thank you, Ms. Hanousek. I'm going to look for my copy, because I had it marked up. Okay. Anyway, all right, let's move forward. Yeah, it's the same.

COMMISSIONER JEFFRIES: Okay.

CHAIRMAN HOOD: What I had has marks on it. Okay. We're going to go like we normally do. Let me first find out does everyone in the audience have a copy of the worksheet in front of them? Okay. Good. For the record, they nodded yes, they do have it. Okay. Let's go straight to No. 1, Commercial Zones and Overlays. Okay. Basically, for No. 1 in the worksheet it says "No decision needed at this time. OP has recommended a system of customizable commercial zones based on a common template as a replacement of the current overlay system.
The customized zones will be used in lieu of overlays. This change will be discussed further in other working groups, including commercial corridors."

So those who work in the work groups or attend will have another bite at the apple to be able to continue that dialogue. Right, Mr. Parker? So there's no need us moving anything on that. I know some people had commented on it and, Mr. Parker, my suspicion is you probably heard some of the same comments, at that time.

Okay. No. 2, are we ready to move on?

COMMISSIONER JEFFRIES: We weren't -- okay. Commercial zones or overlays, no decision needed at this time. Okay. So I mean, I do have a comment about an issue on -- that I experienced last week at the BZA, Mr. Parker, around, I think, 1901.6. This 25 percent cap of linear frontage, I was thoroughly confused on the dias, not that it
was my first time being confused, but I -- for the life of me just found it to be a terribly onerous and confused enforcement problem.

And first of all, you know, how does one measure 25 percent? And then how do individual developers sort of know when they are reaching the tipping point in a particular overlay and how does that impact their ability to negotiate with various retailers, restaurants?

So I have a question around enforcement. I also have a question around if 25 percent is the right number. Should we revisit, you know, this cap? But I just found that we were -- the case in particular was on 14th Street between Swan and S Street. And on that west side of 14th Street, there seemed to be a lot less eating establishments.

Whereas, on U Street there were a lot of eating establishments. And so, you know, the developer just didn't know when, you know, they would actually reach that tipping
point and they, obviously, need to be able to
prepare in terms of their leasing of retail
and so forth.

So I don't know whether the
working groups took this up and I think that
Commissioner Spalding, I think, he had a
comment on this as well. Yes, yeah, the
discussion about the 25 percent linear street
frontage limitations in Neighborhood
Commercial Overlay Districts.

So I just wanted you to comment on
that. Had there been much discussion in the
working group around that?

MR. PARKER: Not a terribly lot in
the working group, but you have hit on one of
the more confusing sections in our code and we
have had a lot of issue with it over the past
couple of years. I mean, this is something
that has been in place in a couple areas of
our city for many, many years, but never until
the last year or so really been ever measured
or enforced or even much concern taken about.
And so it has been something that has been on people's radar screen lately. What we have done in this recommendation is proposed that it remain an option for neighborhoods. One of the things we have talked about throughout is that this process is about the structure and the language of the recommendations and we are trying to make things simpler.

We don't necessarily want to, you know, take away the tools that existing neighborhoods have in existing overlays. I think what we have been saying is that whether we end up with overlays or just individual zones, we want there to be a choice of multiple tools for these neighborhoods to have. And this is one of them that we have got on the table.

You are right, it's a complicated one to keep track of, but we have a lot of neighborhoods that have it in place now and, frankly, want to keep it.
COMMISSIONER JEFFRIES: So like Cleveland Park?

MR. PARKER: Cleveland Park.

COMMISSIONER JEFFRIES: Okay. So you know for a fact that Cleveland Park -- I mean, many of the leaders in that community like having that in place, the 25 percent cap? Because see, I'm dealing with just not the enforcement issue, but also the number.

MR. PARKER: I can't speak to many of the people or most of the people or I can speak to a few of the people that I have talked to that are happy with it. But I don't know how much of a percentage of the population they represent.

COMMISSIONER JEFFRIES: So how does the option work? I mean, it's a menu. I mean, how will this work and whether a particular group wants to use it or not?

MR. PARKER: Well, basically, the same way it does now, except more standardized and simplified. Right now, when we create a
new overlay, we have the universe to choose from. And we can go to Chicago or we can go to existing overlays in our city and we design a whole new chapter.

But the system that we have proposed, there would be a series of menus that -- a series of these options, these tools that would be available. So if Cleveland Park didn't have an overlay and just had C-2-A right now and wanted to come in and said all right it's time to customize our zone, well, here are the tools that are used elsewhere in the city or that we have available and that we are aware of and you can choose, you know, the tools that most fit your area or that would most benefit your area.

COMMISSIONER JEFFRIES: So the 14th Street Overlay if the powers that be decided that, you know, this really doesn't work for us, then they would not opt for that particular tool. This is all part of sort of customizing per neighborhood?
MR. PARKER: Right. And ultimately you being the powers that be.

COMMISSIONER JEFFRIES: Well, okay. Okay. So this will -- okay. So are we -- we're going to vote on this option business?

MR. PARKER: Well, I think what you are going to vote on tonight is yeah, the options would be an option whether we have an overlay system or just a --

COMMISSIONER JEFFRIES: Stand alone zone.

MR. PARKER: -- stand alone zone system. You are really voting on two things tonight. The first is No. 2, the Use lists and then second is, yeah, what these general tools are. And we have outlined a series of tools that we have recommended be available for neighborhoods. And most of these are in our existing code somewhere or other and we are saying that we should just standardize the list of tools that are available for new
customization or customized zones.

And so you can say yes, all of these should be available. You could say no, I really don't like the 25 percent, that's too complicated and shouldn't be available.

COMMISSIONER JEFFRIES: Okay. So let's just say I opt to use the 25 percent. What about the enforcement piece? I mean, I know that's not our job.

MR. PARKER: Right.

COMMISSIONER JEFFRIES: I mean --

MR. PARKER: That has been the problem with this up to date is that it is never -- until this year, it has never been measured before by the Zoning Administrator.

CHAIRMAN HOOD: We were told that they use a ruler. They don't do that?

MR. PARKER: I can't speak. I don't know. But it is something, you are right, that has to be measured constantly and then has to be made public. And so that the public property owners and potential
restauranteurs know what the existing situation is, so whether they are under 25 and can locate or whether they are over 25 and have to seek a special exception.

And it's not something that has been done successfully to date.

COMMISSIONER JEFFRIES: So, Mr. Parker, what about best practices?

MR. PARKER: This is something that is done. It's done in different places, other places. Our current Zoning Administrator worked in Berkeley and they have a quota system where there is just a number of restaurants that is allowed, rather than a percentage of the square footage.

There is lots of ways to do it.

This is one.

COMMISSIONER JEFFRIES: I mean, do you think -- well, I guess I'm asking about best practices. I mean, do you -- I mean, upon studying this, do you -- are you comfortable that this is the best way, I mean,
or could it be more, you know, simplistic, the
number of eating establishments? I mean, I
just, I mean --

MR. PARKER: Right.

COMMISSIONER JEFFRIES: -- there's
no need to have this if it's going to be,
obviously, confusion in terms of how you
really fulfill it.

MR. PARKER: It's really a
balancing act between impact and simplicity.
And this is weighted away from simplicity and
more towards 25 percent is a number that we
control versus like in Berkeley, they just say
okay, only 10 restaurants in that
neighborhood. Well, if somebody buys up four
properties and combines them all into one
restaurant, that's just one restaurant.

So their system is more simple,
but doesn't really get as detailed and as
precise as the one that we have.

COMMISSIONER JEFFRIES: Any other
ones you know of?
MR. PARKER: We have some notes, but I don't have those notes in front of me, but there are other ways. There is distance between, you know, you can't be closer than 100 feet together and that doesn't work as well for restaurants.

COMMISSIONER JEFFRIES: Okay.

MR. PARKER: But it's used for a lot of other uses. It's just a matter of, you're right, how complicated we want to get.

COMMISSIONER JEFFRIES: I mean, obviously, we're going through a process to simplify and reduce. I mean, it would seem that we would want to follow suit here. I would -- you know, my fellow Commissioners could indulge me here. If, you know, you could sort of review this again, best practices?

I mean, my understanding is that we are trying to sort of deal with this, you know, as a potential text amendment is my understanding, but, you know, just going
forward looking at the rewrite, if there is a way in which you're just studying best practices and seeing, you know, whether we can get something that is a little more simplistic that also gives you the bang for the buck.

I mean, I get the impression that you have looked in a couple of places, but not a lot of places.

MR. PARKER: Well, we have. The discussion in the working groups was really not the way to accomplish this, but whether we should be doing it at all. The discussion in the working group was is it really productive to limit a certain type of use or is it just resulting in vacant store fronts?

And the determination was that it is still something that is desired in a lot of our commercial corridors and that's where we ended up. But we could -- we will certainly put some more thought into other -- simpler ways to accomplish that.

COMMISSIONER JEFFRIES: Yeah,
because, I mean, you know, I mean, I live a couple of blocks from Adams Morgan on 18th Street. I mean, you know, I don't -- I mean, that's probably the more severe example, but, you know, I'm probably more from the school of do you really need it.

So I'm really speaking around compromise here, because I was really sort of taken aback when I really honed in on it and thought about how does this thing really work when I actually had a developer with ground floor retail space looking at a restaurant and not knowing where things were in that overlay. And that's just a lot of confusion.

MR. PARKER: Okay.

COMMISSIONER JEFFRIES: So anyway.

CHAIRMAN HOOD: Okay. I think your point is well-taken. And let me say this, Mr. Parker, I know we have no control over this as we move forward. While I encourage and I appreciate those who were involved, I think you said it, you have no way
of knowing what communities want, because I
guess you are hearing from a few.

    And I guess you really have no
control over that. My only issue is some of
the representation we have here and it may not
be true in all cases, it may not be reaching
the masses and may not be the opinion from the
masses. And as we move forward, I know the
Office of Planning is doing due diligence to
try to get the word out, but I'm just
concerned when I see -- I see the same
comments from the same organizations.

    And while I'm happy that they are
participating, there is a lot that are not
participating that may not share the view of
any of what we have here and we may be opening
it up. And I know we, basically, have no
control of it. But in that conversation that
you and Vice Chairman Jeffries were having, I
remember a specific case where this person who
has been in zoning for years came down and
told us they -- we set it down and they had
the whole neighborhood behind them.

They did. At the hearing they had
the whole neighborhood behind them, but they
were against them. And so that -- and that
brought back that memory. It really -- I had
a flashback. They sat here. They are well-
respected. I'm not going to call their name.
I've seen them the whole 10 years I have been
here.

One side was them, the whole
neighborhood that was against what they had
told us that they the whole neighborhood's
support was over there. So and I know it's no
way to really, I guess, handle that.

MR. PARKER: Well, and I would
tell you something. I don't think this is --
the point is not any particular neighborhood.
The point is not whether Cleveland Park should
have a 25 percent limit or not. What we are
trying to do here is maximize the number of
tools that neighborhoods have in their toolbox
to achieve their goals.
And we are not interested, right now, in having those individual discussions come later about which tools should apply to neighborhood X or whether Cleveland Park should have this tool or not. Yes, that's a later discussion.

This discussion is just what tools should be in our toolbox citywide. And what I hear is we need our tools to be simple enough that people can understand them and use them.

CHAIRMAN HOOD: And I agree, I agree exactly with what you just said.

MR. PARKER: Okay.

CHAIRMAN HOOD: Because that was kind of where I was going. And that's what I hear from the folks that live, at least, in my neighborhood and that's what I hear from my neighborhood. Okay. Are you straight? Okay. So No. 1, other than the comments that we have heard from Vice Chairman Jeffries, okay, let's move to No. 2.
Are we all on board, Mr. Turnbull?

Okay. Consolidation of --

COMMISSIONER MAY: I'm sorry, I did have one question that relates probably more to 1. Which is that, you know, my recollection for the discussion when we had the hearing was that there seemed to be some confusion about how the customizable zones compared to overlays, and that there was just some sort of basic confusion that it would -- that every single one had to be customized, but no, they don't.

And I'm wondering if you had subsequent meetings with the various folks who were, you know, at the hearing to clarify that issue and if you have sort of taken any steps to make it clearer in future presentations?

MR. PARKER: We're certainly working on that and we have had the same discussions in the arena of the residential zones as well. And I think people are becoming more familiar with the concept. I
can't say necessarily that they are becoming more comfortable with it.

COMMISSIONER MAY: Um-hum.

MR. PARKER: But we are continuing to discuss and present. And I think you will be seeing this on an individual basis as we come through it with future working groups. Yes, I'll leave it at that.

COMMISSIONER MAY: Okay. Yeah, because I was thinking about as Commissioner Jeffries was asking his questions, I was picturing, you know, buying a computer and, you know, sort of getting the basic model, but being able to pick on the drop-down list, you know, your different options for it, you know, customize your own neighborhood commercial zone.

MR. PARKER: Exactly.

COMMISSIONER MAY: But anyway.

CHAIRMAN HOOD: Okay. Anybody else, any comments on 1? Okay. Let's look at 2, Consolidation of Use Lists. We have had
many comments on that, but what we have in front of us is the conceptual view of the Office of Planning and their recommendation.

Option 1 is the Office of Planning's recommendation. And then Option 2, I'm going to read Option 2. "Update existing lists of uses, continuing to regulate uses by list of permitted uses, introduce use-based upon intensity of zones, use special exceptions to regulate potential adverse impacts, rather than control impacts from the GFA and standard performance measures gross floor area."

But if you look at some of the comments, I'm not going to read it. It's there. We have some varying views and comments no Recommendation 2. One that really stuck out to me was the one I would like to proceed in and it says "The Commission reserves judgment," this is the ANC Commission. While the concept sounds interesting, in theory, there maybe many
practical difficulties when it comes to implementation.

And that goes back to sort of what Vice Chair Jeffries was mentioning. But I guess, colleagues, right now, our goal is to look at Option 1 or 2 and see. Office of Planning is recommendation Option 1. You can see I'm not going to read all that.

COMMISSIONER JEFFRIES: Yeah, but, I mean, I think that the difference, the primary difference between the both of them is one is saying consolidate and the other one is saying update. I think Option 1 is really trying to again simplify the uses. And I thought I read -- how many uses do we have currently in the zone?

MR. PARKER: We have 670 unique uses.

COMMISSIONER JEFFRIES: Yeah, that's right. And if I remember, you sort of compared those here. I have your -- yeah, anyway. The other best practices, you just
compared that to, you know, other places like Boston, 89, Boulder, Colorado, 128, Chicago, 51.

COMMISSIONER MAY: I'm going to be interested in how that is spelled in the transcript.

COMMISSIONER JEFFRIES: You know, it's just you know, I don't know. You know what I'm talking about. Anyway, so I think that's really the real thrust of sort of the difference between the two and I would be supportive of Option 1, because I think that's the whole point of what we are trying to do, I mean, you know.

COMMISSIONER TURNBULL: We just went through this on the gun shops, which in a commercial area would be accepted in most -- in practically every commercial area. So that's -- you would no longer have to name them specifically. It's just matter-of-right.

MR. PARKER: Um-hum. It's just a retail shop.
COMMISSIONER TURNBULL: It's a retail shop.

MR. PARKER: And you can limit it in ways like the size and the hours of operation and even things like no sexually-oriented activity and things like that.

COMMISSIONER TURNBULL: Yeah.

MR. PARKER: So you can put limits on it without naming it.

COMMISSIONER JEFFRIES: Which is--

COMMISSIONER TURNBULL: Okay.

COMMISSIONER JEFFRIES: -- a good thing, because that's generally where you have your problems, you know, size and, you know, it's the other measurables that you tend to have problems with as opposed to just the use.

CHAIRMAN HOOD: Let me ask this. As we tailor those functions, will we have an abundance in a certain area? Would they all be in, say, Ward 1?

MR. PARKER: The gun shops?

CHAIRMAN HOOD: No, I'm just
saying in general. I'm talking about in general. Any use.

COMMISSIONER JEFFRIES: Why Ward 1?

CHAIRMAN HOOD: Because if I said 5, you know. Which already exists today, I'll have you know, but would it just -- let me just say this for the community folks that are not as up to speed on this. And certain neighborhood tailor things to keep some of those elements, certain type of retail out of their neighborhood. It's going to eventually migrate and there's going to be an influx.

I'm not saying it won't work, but has that been thought out or --

MR. PARKER: No.

CHAIRMAN HOOD: -- contemplated?

MR. PARKER: This really won't have any effect of pushing uses here or there any more than the existing regs do. It's just a different way of organizing the list. So instead, if I want to open a shop X, right
now, I have to look through a series of lists
to determine what zones I'm allowed in versus
okay, I know I'm retail and retail is allowed
in these five zones.

So it's just a simpler way to
organize where things are allowed, rather than
allowing or disallowing or pushing things in
certain ways. It really shouldn't have an
impact on where businesses choose to locate in
the city.

CHAIRMAN HOOD: Okay. Anybody
else want to comment?

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Mr. May?

COMMISSIONER MAY: I'm really
having tremendous difficulty understanding how
we have 670 actually separate discrete uses.
There has got to be some sort of overlap.

MR. PARKER: With the overlap,
there is 1,200.

COMMISSIONER MAY: Sheesh.

CHAIRMAN HOOD: Don't ask that
COMMISSIONER MAY: Okay.

COMMISSIONER JEFFRIES: Mr. Parker was waiting for that. He was laying in wait. He was behind the bushes like he is going to come out and I'm going to whack him.

COMMISSIONER MAY: I'm not going to argue that one any more.

MR. PARKER: I wanted to use the 1,200 number, but --

COMMISSIONER MAY: All right. Some day I'm going to count them.

MR. PARKER: We've got the list. I'll be happy to turn it in.

COMMISSIONER JEFFRIES: You mean you have it?

COMMISSIONER MAY: All right. I am a little but curious. You know, I really do appreciate the list of the best practice cities. And I will note that most of the examples have a lot more than 21 uses, which is what you are proposing. And I'm just
noting that. I'm not necessarily doubting it.

I appreciate the desire for simplicity.

But it may prove to be more aggressive than you can achieve. The only thing that is close is, I will point out, Portland, Washington, according to the chart, probably actually, Portland, Oregon, 30 use subcategories, 5 use categories.

So I don't know if that is -- 30 is the finest grain. It's not like there are 30 for each of the five.

MR. PARKER: No.

COMMISSIONER MAY: And get 150, right.

MR. PARKER: Right.

COMMISSIONER MAY: Okay. Anyway, I would just note that that might be a bit aggressive. I also think and I'm sure we'll get this at some point, but when we get further into this, we'll probably want to see from some of these -- from a limited selection of the best practice studies what their use
categories actually are and not just the quantities.

    MR. PARKER: We have that for all of them.

    COMMISSIONER MAY: Right. And I don't think we want all of them.

    MR. PARKER: Okay.

    COMMISSIONER MAY: I'm just saying a certain selection when we get to that point. And I'm interested -- I'm curious about that now, but not curious enough to require it, at this moment. So that's about all I have to say.

    CHAIRMAN HOOD: Okay. So I guess the signal Option 1, colleagues?

    ALL: Yeah.

    CHAIRMAN HOOD: Okay. Option 1. Now, let's go down to the Zoning Tools to regulate retail on designated streets. And what I'm going to do is just call my colleagues' attention to turn over and it says -- well, let me read it. "The goal is to
create a single set of standard text to be used when these specific types of retail controls are petitioned for and adopted. At this point, OP is only requesting the Commission to indicate whether these concepts are generally acceptable. The text templates will be subsequently submitted for your approval. The proposed retail zoning tools are as follows:"

The first one talks about area restrictions or requirements and the next one is design standards. So I don't think we have an option. This is -- if I read this correctly, Mr. Parker, these are the tools and these are the recommendations.

MR. PARKER: Our recommendation is that all of these tools would be available for commercial, but if there are particular ones that you are uncomfortable with like we have already heard that we need to relook at the first one in limiting the size of new retail spaces. No, excuse me, ground floor occupancy
is limited. It's the last one.

We have heard that we need to relook at this 25 percent limit or the ability to impose a limit on a particular area. If there is other ones that you want us to take off the table or relook at, that's what we're here to hear.

CHAIRMAN HOOD: Now, the 25 percent, we're not taking off that. We're looking at it, right? Okay. We're going to look at it. Okay. I just wanted to make sure.

COMMISSIONER JEFFRIES: How is this different than like form-based codes?

MR. PARKER: Well, form-based codes are a system where you look at the building and you look at design of the building and you regulate an area based on the size and the appearance of a building and less on the use. You don't really regulate the use so much.

COMMISSIONER JEFFRIES: Um-hum.
MR. PARKER: You have some upper limits, no, you know, blast furnaces, but basically you control the size and shape of buildings and you use that as a way to control what goes in them. It's like you can't have a Walmart if you only allow 10,000 square foot buildings.

So form-based code is really more about appearance and design and the size and shape of buildings.

COMMISSIONER JEFFRIES: Okay.

MR. PARKER: And this is a system -- we are convinced that we still need to address both.

COMMISSIONER JEFFRIES: Okay.

MR. PARKER: Form and use.

COMMISSIONER JEFFRIES: Okay.

COMMISSIONER TURNBULL: Are these design standards geared mainly toward new buildings, new construction?

MR. PARKER: And renovation.

COMMISSIONER TURNBULL: And
renovation?

MR. PARKER: Yes. And these are in our code right now. We have -- I mean, basically, new overlays that come up now get into this. The H Street Overlay has all of these things. And when we are doing new overlays now, we're looking at a lot of these things in retail corridors anyway.

COMMISSIONER TURNBULL: Well, I'm just wondering if on some of the renovations it may be difficult to achieve the standards. Like if you don't have 14 feet high or --

MR. PARKER: Absolutely. No, that minimum ceiling height would be for new construction. You're absolutely right.

COMMISSIONER TURNBULL: Okay.

MR. PARKER: As well as the adoptability standards, yeah.

COMMISSIONER JEFFRIES: So where would you cover like flex space? Flex space, ground floor flex space. Let's say it is not anticipated that retail will come to a
particular area for several years. Obviously, the goal is for there to be retail, but in the interim, there is, you know, some sort of flexible space. It could be gallery space. It can be office space, residential.

Is there anywhere in the -- where that is covered in the current code?

MR. PARKER: You mean that the code puts standards on those types of space?

COMMISSIONER JEFFRIES: Yeah.

MR. PARKER: Not to my knowledge. And keep in mind, these tools are for -- these tools would be for retailers, areas with a requirement for retail and areas that we want to have retail. That sounds like more of a transitioning area or --

COMMISSIONER JEFFRIES: Yeah, I mean, we have some transitioning areas. I'm just sort of wondering, I mean, I know there are some places in Ward 7 where there are cases where there is the thought about some flex space. Clearly, it's intended as store
fronts and bays and, you know, but how would--
would that still be handled?

MR. PARKER: Yeah, there's no
reason you couldn't put these requirements on
them, that it have active window space and a
certain ceiling height and minimum building
entrances. And that would -- even if you
didn't have retail in there in the short term,
that would encourage buildings to be built to
accommodate retail.

COMMISSIONER JEFFRIES: Okay.

MR. PARKER: In the longer term.

I think that is the point.

COMMISSIONER JEFFRIES: Okay. So
in the use, you know, obviously, it would be
a commercial zone.

MR. PARKER: Absolutely. That's
another tool that you can or -- I mean, the
requirement to put retail in is a tool that
you could apply in areas where it is going to
happen and where -- you know, that are
established. And in transitioning areas, you
just don't have that requirement, so that, you know, in the interim you can get some transitioning uses in there until the area becomes established.

COMMISSIONER JEFFRIES: Okay. Has there been any discussion in the working groups around that or is that just --

MR. PARKER: Well, I think that's one of the benefits of this system where each area is --

COMMISSIONER JEFFRIES: Customized.

MR. PARKER: -- pick the tools that apply locally.

COMMISSIONER JEFFRIES: Okay.

MR. PARKER: Right.

COMMISSIONER JEFFRIES: Okay.

Thank you.

COMMISSIONER MAY: You know, I'm reminded of another recent case where we actually wound up giving up on the -- a retail requirement on an old PUD. And what it brings
to mind for me is whether we are also
contemplating some sort of method for relief
from some of these requirements. In other
words, if you find out that, you know, there
really is no -- there isn't sufficient market
for retail in a given neighborhood, you know,
and the owner of the building really needs to
rent those space out as office spaces or
something like that, I assume that we would
have some way of getting relief there that
wouldn't be too onerous.

MR. PARKER: Most of our existing
overlays have special exception provisions to
get at it and there's no reason that couldn't
continue.

COMMISSIONER MAY: Right. Okay.

CHAIRMAN HOOD: The other thing,
Mr. Parker, when it talks about these design
tools and measures and I've looked in the
Committee 100, we may have addressed it during
the hearing, but I just don't remember, it
talked about moreover there needs to be a
specificity regarding impact of historic
districts and landmarks and regarding other
regulatory powers, particularly ABC Board,
liquor license, moratoriums, that's what they
have.

Did we talk about that at the
hearing or did that come up at the hearing?

MR. PARKER: No.

CHAIRMAN HOOD: I don't remember.

MR. PARKER: I don't know if we
did.

CHAIRMAN HOOD: So with these
tools, I guess, it goes back to what the
committee has been impressing upon us all the
time about agencies working together and their
collaboration, which I think is happening.

MR. PARKER: Right.

CHAIRMAN HOOD: But I think this
is a prime example.

MR. PARKER: Well, and yet again,
I mean, these are available tools. If we are
sitting here three years from now designing a
commercial district for a historic area, we're not going to apply 14 foot ceiling heights in that commercial district, because they don't exist. And we don't want new buildings to be out of scale with the existing area. So we are going to apply design standards that work in that historic area.

CHAIRMAN HOOD: Okay. All right. Anybody in these two lists need to add something, take something away?

COMMISSIONER JEFFRIES: Well, just what is meant by active retail window space?

MR. PARKER: There is some standards that generally exist that you have so much of your frontage be window. It has to be a certain amount of transparency and you can't have it blocked off with signs and shelves and things.

COMMISSIONER JEFFRIES: Active meaning, you know?

MR. PARKER: It's interactive between the street and the establishment.
COMMISSIONER JEFFRIES: Yeah, okay.

CHAIRMAN HOOD: We will agree with what we see here other than the issue about the 25, which was so noted by Mr. Parker. Okay. All right. I think that's it? Any other comments? Technically, we don't do this, but, you know, I'm the type of guy to do things out of -- just don't come back next time and tell me we did it this time.

Is there something you want to bring to our -- any of my colleagues have any issue? We normally don't do this.

COMMISSIONER JEFFRIES: Not from Ms. Zartman, really, please.

CHAIRMAN HOOD: It's just so crowded out there tonight, we will --

COURT REPORTER: Your microphone, please.

CHAIRMAN HOOD: You need to get on the mike. Now, you have to fill out two witness cards.
MS. ZARTMAN: I would be happy to do that.

COMMISSIONER MAY: She probably already has them in a stack. Sorry.

MS. ZARTMAN: You asked earlier if we had the worksheet. There are two different worksheets that have been circulated. There is one that came to the members of the task force that is remarkably shorter than the one that you used tonight.

CHAIRMAN HOOD: You know what I think happened? They didn't copy the second side.

MS. ZARTMAN: No, it's different.

CHAIRMAN HOOD: It's totally different?

MS. ZARTMAN: Item 2, that's Item 2 on what was sent to the task force.

COMMISSIONER JEFFRIES: Oh.

MS. ZARTMAN: I can print it again as opposed to this? I'm not suggesting anything nefarious, but just that some how the
system hasn't worked to get us the same material you were working from tonight.

And one of the things that would be helpful is if we were always able to get comments in after we see what the latest submission is from the Office of Planning. I think we have flipped the deadlines this time and it would be helpful to us if that weren't the case. You may keep it. I can print it out again.

CHAIRMAN HOOD: So all the material that we got with this package was given to us previously.

MS. SCHELLIN: I think what we did back then, too, is you wanted OP to respond to the additional requirement, so that's kind of why it got flipped, because the Commission asked OP to respond to it.

MS. ZARTMAN: Um-hum.

MS. SCHELLIN: So the record was left open for a period of time and then for everyone else to respond to provide additional
documents and then OP was to respond to those things.

CHAIRMAN HOOD: So I think what I'm hearing is that the task force is asking to respond once we do the worksheet.

MS. ZARTMAN: Or at least once the final OP report --

MR. PARKER: The supplemental report.

MS. ZARTMAN: -- has been prepared.

MR. PARKER: Yeah. I think on this particular case versus different ones, you had a public deadline for comments and then the supplemental report that we did responded to those comments. I think they are asking that they get another chance to respond to our supplemental report.

CHAIRMAN HOOD: Respond to this worksheet?

MR. PARKER: No, no, no.

COMMISSIONER JEFFRIES:
Supplemental, the supplemental report.

CHAIRMAN HOOD: Supplemental report.

COMMISSIONER JEFFRIES: That OP did based on our comments.

MS. SCHELLIN: Yes.

MR. PARKER: Yes, the December 1 supplemental report.

COMMISSIONER JEFFRIES: Based on our comments. And so --

CHAIRMAN HOOD: So you want to respond to what you heard here tonight?

MS. ZARTMAN: There were things that were included in here that have language that we would have commented on had the opportunity been ours. But as I say, I'm not suggesting in any way that it was anything other than good faith involved.

CHAIRMAN HOOD: Okay.

MS. ZARTMAN: Just that the process needs --

CHAIRMAN HOOD: I think though,
Ms. Zartman, there will be an opportune time, believe me, to comment on everything you heard again tonight. While I know it is -- you want to get it in for this record, I think my colleagues and I we have decided on this two-sided worksheet and I would be interested in seeing what you have, but I don't know, was it much of a difference or was it just something left out?

MR. PARKER: It is a previous version. I don't know whether -- I'm sure the fault is mine, that it's just a previous version of the same sheet.

CHAIRMAN HOOD: Mr. Parker, I think you are an honest guy. You know what, believe it or not, I make one mistake a year myself.

MR. PARKER: I think I'm over that by now.

CHAIRMAN HOOD: So I don't --

MS. ZARTMAN: There's a new year coming up.
CHAIRMAN HOOD: So, Ms. Zartman, I don't want you to leave feeling that you didn't -- you were not heard. What is it that you would like for the Commission to do? And that's what we'll do.

MS. ZARTMAN: I simply wanted to make you aware that there was a glitch in the system.

CHAIRMAN HOOD: Okay.

MS. ZARTMAN: And I'm sure it's one we can fix.

CHAIRMAN HOOD: Okay.

COMMISSIONER JEFFRIES: But, Ms. Zartman, I do want to make certain that we just focus on this process business here, because what happens is that the Office of Planning did a supplemental report based on our comments and based on your comments, correct? Office of Planning?

MR. PARKER: Sorry.

COMMISSIONER JEFFRIES: Yeah. I mean, they did a supplemental report based on
Commission comments as well as your comments. And you want to get another bite at the apple from that -- I mean, if this happens again?

MS. ZARTMAN: Where there are substantial changes or much greater detail, we would like that opportunity. I think you would have to talk with the Attorney General's office about the sufficiency of notice here actually.

COMMISSIONER JEFFRIES: Yeah, because I thought where we left this was that there was going to be sufficient opportunity, because right now, we're just discussing concepts. You know, obviously, some of these things are going to be taken up later. So I thought that's where we were.

CHAIRMAN HOOD: I think the process -- the only thing this time is that Mr. Parker made his one mistake and he gave them a previous version of the worksheet. I think the process is in tact, right?

MR. PARKER: Yes. I mean, I think
Ms. Zartman's comment is there has been some inconsistency. Some of the cases you have had OP submit a report and then allowed the public to comment on the supplemental. And in this case, you had the public comment and then OP's supplemental responded to that. And I think the issue is just what's the process for the record being open after the hearing?

COMMISSIONER JEFFRIES: We need to be consistent.

CHAIRMAN HOOD: Right. We probably need to have OP's supplemental and then the public to comment. That's the way we should probably be moving. I don't know what happened.

COMMISSIONER JEFFRIES: Is that what we agreed to?

CHAIRMAN HOOD: Yes.

COMMISSIONER JEFFRIES: I mean, for supplements?

COMMISSIONER MAY: But that does make sense. I mean, you know, theoretically,
they are the petitioner and they are -- you
know, if they have -- after we have a hearing,
if they have follow-up, if they are going to
submit a report or something upon which we
will base our vote.

COMMISSIONER JEFFRIES: But this
is not a hearing.

COMMISSIONER MAY: I understand
that, but --

CHAIRMAN HOOD: All right, it's
turning into one.

COMMISSIONER MAY: But if there
were -- you know, after we have a hearing in
which we discuss these issues, and then there
is a follow-up from the Office of Planning and
that's submitted into the record, then any --
ordinarily parties would have an opportunity
to respond.

CHAIRMAN HOOD: I agree.

COMMISSIONER JEFFRIES: But you
know that train could continue going down the
track for quite a while.
CHAIRMAN HOOD: Well, there's a point where we should cut it off. Ms. Schellin, let me --

COMMISSIONER MAY: Well, I'm not saying it's an endless back and forth. I'm saying it is, you know, whatever OP submits to us that will be the basis for our decision making, that we ought to get the last bite of comments ought to come from interested parties, I guess.

COMMISSIONER JEFFRIES: But I heard what Ms. Zartman said. She said substantial changes. You did say substantial changes and so it doesn't seem like that always has to be the case.

COMMISSIONER MAY: But we won't know that. We'll just know that OP is going to follow-up and submit something, you know.

CHAIRMAN HOOD: Here's what I would suggest. Let me use one of my colleagues words, this process is fluid, nothing concrete. I would ask that Ms. 
Schellin would put time constraints if we get a supplemental, could we work with OP, could we make sure that the interested parties have an opportunity to comment? I don't think we need to spend another half an hour on that.

MS. SCHELLIN: I think that we can do it that way and then rather then having then OP respond to the comments that come in and another comment period, what we can do is have the -- have OP's supplemental report and then allow for -- there are no parties, because this is a rule making process, but allow the community to respond to OP's supplemental and then maybe have OP respond on --

CHAIRMAN HOOD: On the record.

MS. SCHELLIN: -- the record.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: Any responses to what came in.

CHAIRMAN HOOD: We could do that right here while we're -- when we're asking
questions. Okay.

COMMISSIONER TURNBULL: Isn't this Zoning Reg a little bit different from the other ones, too, in that the others had the options. There's usually options and we decided here we have got about two out of the three things. There was really not a -- we weren't voting on an option.

There is things -- No. 1, no decision needed at this time. So it's an ongoing issue. So I don't know how you look at this one as differentiated from the other ones.

CHAIRMAN HOOD: I think what we could do in response to that, Mr. Turnbull, is I think between the Office of Planning, our staff, OAG, they can come up with how -- we know the process we're making. And I agree with you. Like I was saying my colleagues always uses the word fluid. This is not like that. We're going to start using that more often.
But this process is so fluid that things change. I think if we leave it up to staff, they will guide us in moving in the right direction, if that's okay with you, Ms. Zartman.

MS. KRESS: And I think you did decide that it was supposed to go back to the task force after comments were, the last that I heard, made that it would be reviewed before it was submitted to the Commission by the task force.

CHAIRMAN HOOD: Are we doing that now? We're already doing that, right?

MS. KRESS: Not yet. We weren't able to start. We were going to start soon.

CHAIRMAN HOOD: That process is in place, if I'm not mistaken.

MR. PARKER: Yes, and can you repeat what you said, Jerrily? I'm sorry.

MS. KRESS: The process whereas -- where the final report before it comes to the Commission is passed by the task force and
that we couldn't do it on the first ones we had done, but that you were going to start doing it.

MR. PARKER: We definitely send all the reports to the task force when we send them to the Commission. Is that what you are asking?

MS. KRESS: But you were getting the input from -- I guess, that's the part where it has fallen down.

MR. PARKER: Yeah. I guess the process as it stands now is we go to the task force with a series of recommendations, have our interaction with the task force and then prepare a report based on that input and we send that to both the task force and the Zoning Commission.

MS. KRESS: At the same time?

MR. PARKER: At the same time. And then as we go further down the line, after the hearing, then we send the supplemental to both and we send the worksheet that comes out
of OAG to both.

    CHAIRMAN HOOD: I actually think
the way I -- maybe I -- that question really
confused me even more than what I'm already
confused. I thought that process was working.
I thought we were talking about the response
to the OP's supplemental.

    MR. PARKER: Yes, and it is
working. I mean, I think, yeah.

    CHAIRMAN HOOD: Okay. That
process is working.

    MR. PARKER: I think the issue is
yeah, after the hearing and just --

    CHAIRMAN HOOD: Right.

    MR. PARKER: And I think we --

    CHAIRMAN HOOD: That's another
step though.

    MR. PARKER: Yeah.

    CHAIRMAN HOOD: That's another

    MR. PARKER: Yeah.

    CHAIRMAN HOOD: Okay. All right.
Are we on board? Is that -- there's two processes, but you know what, I think I understand it, so I'm going to leave it alone.


COMMISSIONER JEFFRIES: Hold on one second.

CHAIRMAN HOOD: Oh, do we need to vote? Didn't we vote? It was general consensus, right. Okay. All right. Yeah, Mr. Parker said we did. Okay. Thank you, Mr. Parker.

MS. STEINGASSER: Chairman Hood, Commissioners, the status report is in front of you. It's only two pages this evening. I just wanted to bring your attention to the fact that since there has been a slight lull in major cases that are before you, we're going to be bringing through some clean-up
items in the next couple of months.

A couple of things that have come to our attention in definitions in the Zoning Regs and some procedure changes. MPD has changed the way, the Police Department has changed the way they function and operate in precincts, so they have -- the definitions that they provided to us four years ago are no longer relevant, so we're going to be modifying that.

We have also been asked to consider a provision to the Zoning Regs that would allow the BZA orders to be extended for a two year period to allow projects that have undergone recent funding delays to request an extension to their variance or PUD or special exception, so we will be doing some research on that issue and bringing that to you as well.

CHAIRMAN HOOD: Any questions for Ms. Steingasser?

COMMISSIONER JEFFRIES: I'm just
happy to know that we have been experiencing
a lull. I didn't know. But thank you for
letting me know.

CHAIRMAN HOOD: Any other
questions on the status report? Okay. Ms.
Schellin, do we have anything else on the
agenda for tonight?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. I want to
thank the Office of Zoning, the Office of
Attorney General and the Office of Planning
for again helping us to make sure that we are
making informed decisions.

With that, this hearing is
adjourned.

(Whereupon, the Public Meeting was
concluded at 8:37 p.m.)