GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

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MONDAY

JANUARY 12, 2009

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, CHAIRPERSON
WILLIAM WARREN KEATING, COMMISSIONER
MICHAEL TURNBULL, FAIA COMMISSIONER (OAC)
PETER MAY, COMMISSIONER (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN Secretary
DONNA HANouseK Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.
OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, DEPUTY DIRECTOR
ARTHUR JACKSON
KAREN THOMAS
PAUL GOLDSTEIN
MAXINE BROWN-ROBERTS
TRAVIS PARKER
ARLOVA JACKSON

The transcript constitutes the minutes from the Public Meeting held on January 12, 2009.
### Consent Calendar

**Z.C. Case No. 08-32**
- Modification to BZA Order No 16330
- Vote to Approve 08-32 (4-0-1)

### Final Action

**Z.C. Case No. 06-32**
- Text Amendment to Add Square 766 to the Capitol Receiving Zone
- Vote to Approve 06-32 (4-0-1)

**Z.C. Case No. 84-19A**
- PUD Modification at Square 24
- Vote to Approve 84-19A (3-0-2)

### Hearing Action

**Z.C. Case No. 02-51C**
- Second stage PUD
- Arthur Jackson
- Vote to Set Down as Contested 02-51C (4-0-1)

**Z.C. Case No. 09-01**
- Text Amendment
- Karen Thomas
- Vote to Set Down for Rulemaking (4-0-1)

### Proposed Action

**Z.C. Case No. 08-19**
- Map Amendment at Square 101
- Vote to Accept Letter of Support from the Bureau of Catholic Indian Missions
- Vote to approve 08-19 (3-0-2)

**Z.C Case No. 08-13**
- Consolidated PUD & Map Amendment, Square 370
- Vote to approve 08-13 (4-0-1)

**Z.C. Case No. 08-06-6**
- Office of Planning Rewrite of Industrial Areas to PDR
- Travis Parker
CHAIRPERSON HOOD: Okay. This meeting will please come to order. Good evening, ladies and gentlemen. This is the January 12th, 2009 public meeting of the Zoning Commission of the District of Columbia.

My name is Anthony J. Hood. Joining me are Commissioner Keating, Commissioner May and Commission Turnbull. We're also joined by the Office of Zoning staff, the Office of Attorney General and the Office of Planning.

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 this proceeding is being recorded a court reporter and is also web cast live. We must ask you to refrain
from any disruptive noises. Please turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: Okay. We're going to move the agenda around. But before I do that, we want to welcome our new Commissioner, Mr. Bill Keating. We want to welcome him to the District of Columbia Zoning Commission and we're looking forward to working very hard with him for the best interests of the city.

And with that, I would like to ask him does he have any introductory remarks?

COMMISSIONER KEATING: Thank you. Thank you for the introduction. I'm excited about being here and on the Commission. This is my first evening and I'm looking forward to serving the District.

Thank you, Mr. Chairman.

CHAIRPERSON HOOD: Sure.
Commissioner Keating, I hope I mind he doesn't saying that he was just sworn in about an hour-an-a-half ago. And as I told the mayor, he's going to straight to work.

Ms. Schellin, we want to move the agenda around for the best interest of trying to move this thing as expeditiously as possible. We're going to do the consent item second -- well, first. Final action is going to be third. Hearing action is fourth. Proposed action is fifth. And then we'll go on with the rest of the schedule. Hopefully no one is confused by that.

Also, a brief announcement. We want to acknowledge the retirement of the Director of the Office of Zoning, Ms. Jerrily Kress, who has retired effective January 9th. At this point, Mr. Richard Nero is the acting Director of the Office of Zoning. And just stayed tuned and we'll see how that transpires.

Okay. Ms. Schellin, do you we
have any preliminary matters.

MS. SCHELLIN: Just one other thing, I believe you wanted to also rearrange the order of proposed action. Did you still want to do that?

CHAIRPERSON HOOD: Yes, thank you very much. We're going to do B first, C second and A third. You know, I don't know why I do this, because I mix myself up. But anyway, we're trying to do that to be efficient.

Okay. Any other preliminary matters?

MS. SCHELLIN: No, sir.


Ms. Schellin.

MS. SCHELLIN: Yes, this is a request from Howard University to modify BZA Order 16330. They are requesting an 18-month extension to file and update to their campus plan for their central campus. And I did
verify with their attorney Cynthia Giordano
today that the 18-month extension would take
them until June 2010.

CHAIRPERSON HOOD: All right.

Thank you, Ms. Schellin.

Colleagues, as we have a
submittal, Howard University has requested an
extension which will take them to June 10.
And the reason and rationale is also mentioned
here in the Office of Planning report. A new
president of the university was recently
installed in the school year beginning in
August of 2008. The new president has not had
ample time to focus on the long-range planning
issues for the university.

Let me just open that up for
discussion. That is the request that is
before us. Any discussion?

COMMISSIONER MAY: Mr. Chairman?

CHAIRPERSON HOOD: Commissioner

May.

COMMISSIONER MAY: Yes, I
understand that this sort of an extension request is not uncommon and has been granted by the Commission in the past. I would just want to register the fact that it seems like the request is the result of the university not actively engaging in a planning process of the course of the years. And I'm just a little concerned that, you know, the comprehensive planning process or the master planning process for the university is something that should be ongoing and shouldn't be waiting for changes in leadership and so on. I mean, I'm not opposed to granting this at this time. I just would want to register the fact that I would hope that there will be substantial planning and outreach with the community and that what we'll see in 18 months will be well worth the wait.

CHAIRPERSON HOOD: Thank you.

Okay. Any other comments?

COMMISSIONER TURNBULL: I would, I
guess, concur in some manner with Commissioner May. I could see a 12-month extension, but I'm not opposed to the 18. It just seems like it's dragging it out a little longer than what it need to be, but I'm not opposed to it. I mean, 12 months would have been enough, but I'll go along with the 18.

CHAIRPERSON HOOD: Okay. Anybody else?

Okay. Thank you.

With that, I would move approval of Zoning Commission Case 08-32 and also encompass the approval with the remarks of my colleagues that hopefully in 18 months that they will come back and this will have really been vetted through the community. And I think I've captured most of what Commissioner May had mentioned.

And I would move approval of 08-32 and ask for a second.

COMMISSIONER TURNBULL: Second.

COMMISSIONER MAY: Moved and
properly seconded. Any further discussions?

   All those in favor?

   ALL:  Aye.

   CHAIRPERSON HOOD:  So ordered.

   Staff, would you record the vote, and the proxy.

   MS. SCHELLIN:  Yes, we do not have a proxy on this one, so I would record the vote 4-0-1 to approve the 18-month extension to June 2010 for Zoning Commission Case 08-32.

   Commissioner Hood moving, Commissioner Turnbull seconding. Commissioners Keating and May in support; Commissioner Jeffries not present, not voting.

   CHAIRPERSON HOOD:  Okay. Thank you.

   Next, we will move to final action. Zoning Commission Case No. 06-32, the Office of Planning text amendment to add square 766 to the Capitol Receiving Zone.

   Ms. Schellin.

   MS. SCHELLIN:  We are going to
final action. This is before you. There's nothing further except for a report from NCPC. They have no issues with this case.

    CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.

    Colleagues, if you remember, this is where anything that's being built on square 766 that may exceed a height of 90 feet will come back to the Zoning Commission. If it exceeds 90 feet, it will come back for review. And if we just look at what we have at Exhibit 32, and it basically spells that out. I don't need to reread it because we fleshed all that out at the hearing.

    And we did a bench decision on this, didn't we?

    MS. SCHELLIN: I think we did.

Can't remember really, but yes, it seems like we did. It's been awhile.

    CHAIRPERSON HOOD: Okay. Any other comments?

Okay. I would move approval of
Zoning Commission Case. 06-32 and ask for a second.

COMMISSIONER MAY: Second.

CHAIRPERSON HOOD: It's moved and seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRPERSON HOOD: So ordered.

Staff, would you record the vote?

MS. SCHELLIN: Yes, and we do have a proxy from Mr. Jeffries. He read the record in this case so he could participate. So we would record the vote 4-0-1. Commissioner Hood moving; Commissioner May seconding. Commissioner Turnbull in support; Commissioner Jeffries in support by proxy. Commissioner Keating, not voting, having not participated.

CHAIRPERSON HOOD: Ms. Schellin, let's work on that. Because in all fairness to Commissioner Keating; and I know you're being fair, because at that time the Zoning Commission member was not seated. And let's
just look at how we normally record that.

Okay? Well, we'll talk about it. If we can work on that, I just don't want him to be listed already as not voting. All right.


Ms. Schellin.

MS. SCHELLIN: This was a case that came before you in early December that had a bench decision and is now before you for final action.

CHAIRPERSON HOOD: Okay. Let's open it up for discussion. I think, normally our final actions we have fully vetted and proposed. So in this case, if we did a bench decision, I think we did it at the hearing. But let me open it up.

Any comments? If not, I will obtain a motion from one of my colleagues.

COMMISSIONER TURNBULL: Well, Mr. Chair, I think it was pretty obvious from the
intent of the applicant at the time that they had been as earnest as they could to try to use that space as retail space and rent it out, but it was just the nature of where it is. The site, the location makes it awkward and I think using it over to office space or whatever they can use it for, I think, is in the best interest of the neighborhood. And I think we want through that at the hearing and I think it became fairly evident that they're doing the best that they can. So I think it made sense.

I'd like to make a motion to approve.

CHAIRPERSON HOOD: So moved. Can I get a second?

COMMISSIONER MAY: Second.

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

Further discussion?

All those in favor?

ALL: Aye.
CHAIRPERSON HOOD: So ordered.

Staff, would you record the vote?

MS. SCHELLIN: Okay. Staff will record the vote 3-0-2 to approve final action of Zoning Commission Case No. 84-19A. Commissioner Turnbull moving; Commissioner May seconding. Commissioner Hood in favor.

Commissioner Jeffries not present, not voting. Third mayoral appointee seat vacant at the time the case was heard, not voting.

CHAIRPERSON HOOD: It sure don't take you long to fix things. It don't take long at all, does it?

Okay. Hearing action. Zoning Commission Case No. 02-51C, Center for Strategic and International Studies, Inc., second stage PUD.

I see Mr. Jackson coming, but is it Ms. Steingasser? Oh, okay. Mr. Jackson. Okay.

MR. JACKSON: See, when you juggle the agenda, they don't have everybody in the
right chair on time.

CHAIRPERSON HOOD: Mr. Jackson.

MR. JACKSON: All right. Good evening, Mr. Chairman, members of the Zoning Commission. My name is Arthur Jackson. I'm the Development Review Specialist with the District of Columbia Office of Planning and I will present a brief summary of the overall findings and conclusions in the Office of Planning's preliminary report on this application.

The applicant, the Center for Strategic and International Studies, Incorporated is requesting a second stage approval of a previously approved planned unit development that encompasses lots 82 and 83 on square 182.

Lot 83 on square 182 is improved with a University of California building that includes office and classroom space, and nearly 100,000 square feet of student apartments. On September 8th, 2008, the
Zoning Commission approved Order No. 2-51B to continue the first stage approval for a nine-story office building to a height of 104 feet on lot 82 until June 29th, 2009. The new owners needed additional time to develop architectural plans for this site.

This new proposal would instead construct an office building affecting the following changes from the first stage approval. Approximately a 17,000 square foot reduction of the total building floor area from the approved 130,000 square feet to 113,000 square feet. Elimination of a proposed driveway curb cut along Rhode Island Avenue for the garage entrance. Relocation of access to the below-grade parking garage and loading bays to the adjacent 12-foot wide and 20-foot wide alleys. Reduction of the 30-foot deep loading berths from two to one, reflecting the anticipated needs of the applicant which will be the only tenant in the building. Reduction of the on-site parking
from 90 spaces to 78 spaces which would still exceed the required amount. Addition of environmentally sensitive building elements, including a green roof, estimated to be equivalent to a LEED certification of silver. And the additional of an architectural embellishment on the roof.

This proposal as presented would continue to be allowable in the Dupont Circle Overlay District and the C-3 Zone District.

Regarding evaluation criteria on the 2400 of the Zoning Regulations, the primary amenities would continue to be the quality of urban design, architecture and landscaping, site planning and the effect of the safe vehicular and pedestrian access around the site.

The package of amenities proposed under stage one would still be implemented, however, since some of the projects originally listed for monetary contributions have been completed, the applicant would like
flexibility to identify other suitable recipients for the proposed funding based on consultations with the Advisory Neighborhood Commission.

Based on this information, this application is substantially in accordance with the elements, guidelines and conditions of the first stage approval. The Office of Planning therefore recommends that it be scheduled for public hearing and staff will continue to work with the applicant to clarify the zoning relief required, identify alternative approaches to building affordable housing and with the District of Columbia Department of Transportation to determine whether proposed improvements in the public space are acceptable.

That concludes my summary of the Office of Planning's report and we remain available to answer questions.

CHAIRPERSON HOOD: Thank you very much., Mr. Jackson.
Colleagues, we have a hearing action request before us and I would like to open it up, any comments or questions that we would like to either relay to the applicant or ask the Office of Planning.

COMMISSIONER TURNBULL: Mr. Chair, I'm not opposed to setting it down. And the only thing is, and although Wells & Associates has included diagrams on the access into the alley, it looks awfully tight. But they've got several pages where they at least diagram how it's going to work, but figure 3-6 in the Wells report shows a 30-foot truck, but you basically have to touch almost the building, go across to get into it. It's a little bit of a work, so I'd like to -- I mean, hopefully by the time we get to the hearing we'll have report from DDot that will answer some of my concerns. They're showing that's doable, but it just looks awfully tight.

CHAIRPERSON HOOD: Any other questions for Mr. Jackson?
COMMISSIONER KEATING: I just had quick clarification. On page 3 of the summary, the second footnote mentions that the height is 118 feet. I just want to be clear, that's 116?

MR. JACKSON: That is correct.

COMMISSIONER KEATING: Okay.

MR. JACKSON: It's 12 feet above the current limit under the -- one to 16 feet would be the architectural embellishment and that would be 12 feet above the 104 feet that was approved under the PUD.

COMMISSIONER KEATING: Okay.

Thank you.

COMMISSIONER MAY: Can you tell me what the embellishment actually is? I can see what it's measuring, I mean, from the drawings what they're indicating it is, but what do you call that feature if it's not a roof?

MR. JACKSON: Well, if you go to the section on, I think it's A301 where it has the building sections. The roof of the
principal office space is at the 104-foot level. And then there's an increase in height to the front creating the architectural embellishment, which covers the terrace. The way it's described in the application, the primary purpose is to -- well, one of the purposes is to provide a nice exterior space for the employees on the top floor. Then of course it talks about the architectural character of the building.

We can clarify. It is a roof element, but it does not cover the office, what's shown as office space within the building. We can ask the applicant to clarify exactly how that works.

The other element I would say is that this section appears to be taken at what will be the west end of the building. But look at the elevation of the building. I guess the best elevation to look at would be -- well, maybe A201B. There are two things happening. The architectural embellishment is
moving backward. The interior facade of the office space is moving away from the street and the architectural embellishment is parallel to the street. So it's not clear on the east side of the building whether that architectural embellishment is actually in what is office space now. So it varies from the various parts of the building.

I think there may be some other ways to achieve the ends the applicant has asked for. And if you'd like, we could ask them to do several sections just showing how that architectural embellishment works along the facade.

COMMISSIONER MAY: Yes, I think we need that because, you know, what I'm seeing is that even though it's a portion of roof that breaks free of the walls of the structure at certain points, it seems to rejoin the structure as you move to the west. And I'm not sure what it's roofing over at that point. But even if it's a roof that has, you know, a
MR. JACKSON: During our meeting with the applicant, we explained that we thought for the final that it probably would be good to have a three-dimensional model that actually shows how the roof structure would work. They agreed and I think these architectural illustrations are better in terms of the way they illustrate it, but I think in three-dimension the Board, the Commission would have a better understanding of how this works.

COMMISSIONER MAY: Yes.

MR. JACKSON: But it sounds like what you're more concerned about is how this element functions or interacts with the interior spaces.

COMMISSIONER MAY: Well, right. I mean, if at a certain point it becomes joined with the roof of the interior space and it's above the theoretical top of roof the way I'm seeing in the section on A301, then it's no...
longer a architectural embellishment and it's just the roof. So, you know, frankly I don't think it is anything but a roof. It's a roof that breaks free of the walls and so I think we should call it what it is and measure it the way it should be and, you know, make that work with the zoning envelope. Because calling it an embellishment, to me, is just doesn't make a lot of sense. They've either got really prove that this is just a decorate element and it's somehow very special, or they've got to treat like roof. I mean, just because a roof doesn't protect interior space doesn't mean that it's not a roof anymore.

MR. JACKSON: Okay.

COMMISSIONER MAY: So it can just protect the exterior space, which is what it seems to do.

MR. JACKSON: Okay. So you want them to clarify what the objectives are of this element and then indicate how --

COMMISSIONER MAY: Well, they need
to prove that it's an embellishment.

MR. JACKSON: Right.

COMMISSIONER MAY: And not just a roof. And, you know, I'm not sure how you do that.

You know, the other comments I had. The rest of the architecture, I mean, it's this sort of big move architecture, you know, the big, really big kind of idealized arch, if you will, with the masonry spanning across the top and these sort of slit windows on the side. I've never been a big fan of slit windows. I'd like to understand what the dimensions of those things are on the right side because, I mean, they look too narrow to be really comfortable on the facade and I'm not sure what they really gain you in terms of the appearance of the building from the exterior.

I'm also a little confused by the chart showing the needed relief. It indicates that there's a 10-foot rear yard on your
chart, in your report.

MR. JACKSON: Yes.

COMMISSIONER MAY: And can you show me where that is on a drawing? I can't seem to find a 10-foot rear yard anywhere.

MR. JACKSON: I was just taking that from the middle of the alley.

COMMISSIONER MAY: Oh, from the middle of the alley?

MR. JACKSON: Yes.

COMMISSIONER MAY: Oh, I see.

Okay.

MR. JACKSON: The alley is 20 feet wide in the rear.

COMMISSIONER MAY: Okay. All right. I understand that better.

And I have a lot of questions about this screening that's going to happen between it and the university building next door. And there are some drawings of that, but we need to understand that a little bit better. You know, I'm not sure if it's
something that I really think should be there, or whether it's something that, you know, shouldn't be there, or what it should look like. Just that if we're pointing that out and saying this has got to be, you know, a certain way, provides a certain function, I need to just understand what it is and whether it provides that, I guess.

And I think that's about it for me. Thank you.

CHAIRPERSON HOOD: Mr. Jackson, in looking at the submittals, I know that in the first stage we had approved it for one year, and I saw it in your report. My only problem is I see where the applicant gave us the first order, which was signed by the Vice-Chair at the time in June of 2007. But it's just unfortunate, and I may have missed it, I don't see where we did the -- and I'm not saying we didn't, but it would have been helpful if the applicant would have provided the most recent one we took action I guess to extend it for
another year.

One of the things that I will say, and I think you have it written on your report on page 2, but when or about did we do the extension to June 29th, 2009? Was it a year after? I'm not sure.

MR. JACKSON: I think I have it here.

CHAIRPERSON HOOD: Oh, you have it?

MR. JACKSON: I think. No, that's B.

CHAIRPERSON HOOD: Maybe I don't have it then. I mean, we got the old order, but we didn't get the one in between. I don't know. At least I didn't.

MR. JACKSON: I understand that the final order has not been issued.

CHAIRPERSON HOOD: Oh.

MR. JACKSON: Yet. But it's coming.

CHAIRPERSON HOOD: Maybe I
shouldn't have asked that question. Okay.
Can't strike it for the record because I already asked it. But anyway, okay. I'm just wondering where we were. Okay. All right.

MR. JACKSON: But we'll be sure to include that in our final report.

CHAIRPERSON HOOD: I was curious of the date really, you know, because what we just did for the university and everything, I just wanted to make sure that we were not missing things by months and the time as far as filing. Okay. All right. Thank you.

Any other questions? Any other comments?

COMMISSIONER KEATING: I move that we set down Zoning Commission Case No. 02-51C.

CHAIRPERSON HOOD: It's moved.

Can I get a second?

COMMISSIONER MAY: Second.

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

Any further discussion?
All those in favor?

ALL: Aye.

CHAIRPERSON HOOD: Any opposition?

Hearing none.

Ms. Schellin, would you record the vote? I think we have a proxy.

MS. SCHELLIN: No, we do not have a proxy on the hearing actions.

Staff records the vote 4-0-1 to set down Zoning Commission Case 02-51C as a contested case. Commissioner Keating moving; Commissioner May seconding. Commissioners Hood and Turnbull in favor; Commissioner Jefferies not present, not voting.

CHAIRPERSON HOOD: Okay. Under hearing action, Zoning Commission Case 09-01, Office of Planning text amendment, Board of Zoning Adjustment time extension of orders.

I believe that's you, Ms. Thomas.

MS. THOMAS: Yes, good evening, Mr. Chair, members of the Commission. I'm Karen Thomas for the Office of Planning.
The Office of Planning is proposing amendments to the Zoning Regulations referring to time limits on board actions.

Concerns were expressed about project delays due to the current economic climate which could possibly lead to BZA orders expiring before a project gets to permitting.

Specifically, we're proposing amendments concerning section 3130, which establishes a two-year period from the date of a BZA order for applicants to file plans for a building permit. And also to section 3129 which was suggested by OAG, which currently authorizes the Board to consider minor modifications to such plans if filed within six months of the order date.

The amendment would make the time to request minor modifications to a plan the same two-year period is allowed to file plans with DCRA. It would also permit the Board to grant a time extension to allow more time to
file such plans. And finally, the rules would clarify that the Board consider any other requests for modifications such as a change of conditions, but requires the Board to hold a hearing in these instances.

We would continue to work with OAG to further refine and clarify the text prior to a public hearing. And I will be happy to take any questions. Thank you.

CHAIRPERSON HOOD: Ms. Thomas, I just have one question. I think this kind of mirrors what the Zoning Commission now does with time extensions. Okay?

MS. THOMAS: That's correct, yes.

CHAIRPERSON HOOD: That's what we're trying to get to on the BZA side of things.

MS. THOMAS: Right. Yes.

CHAIRPERSON HOOD: Okay. Any other questions of Office of Planning?

Commissioner May?

COMMISSIONER MAY: Yes, just to be
clear, because I got kind of confused. On the language as proposed, under 3130.6, the Board may grant one extension of the time periods in section 3130.1 for good cause. And I guess the time limits are established in another -- the amount it can be extended is established somewhere else, right? No. I mean, how much can it be extended? One extension of the time periods, but for how long? Two years and one year?

MS. THOMAS: Two years by two more years and one more years. Two more years in the case of construction of a building. One more year in the case of an electronic facility.

COMMISSIONER MAY: Okay. How do you limit it to just two years and one year?

MS. STEINGASSER: 3130.6D, no extension granted by the Board shall be valid for a period longer than the original approval.

MS. THOMAS: But we would to
further clarify that.

COMMISSIONER MAY: Oh, I see.

MS. THOMAS: Yes.

COMMISSIONER MAY: So it can be up to the full length?

MS. THOMAS: Right.

COMMISSIONER MAY: I got it.

Okay.

MS. THOMAS: Yes.

COMMISSIONER MAY: All right.

That makes more sense now.

And then I just have a minor typo.

On 3129.6, the "its" should be an "in."

MS. THOMAS: 3129.6?

COMMISSIONER MAY: 29.6.

MS. THOMAS: Okay.

COMMISSIONER MAY: Last line of that.

MS. THOMAS: Okay.

COMMISSIONER MAY: Relied upon in approving the application.

MS. THOMAS: In its approving the
application. And also, 3129.8 should read, "the scope of a hearing conducted pursuant to 3129.7."

COMMISSIONER MAY: Ah.

MS. THOMAS: Yes. We caught that later.

COMMISSIONER MAY: Okay. That's all for me. Thanks.

CHAIRPERSON HOOD: Okay.

Commissioner Turnbull? No?

All right. I would move that we set down Zoning Commission Case No. 09-01. I ask for a second.

COMMISSIONER KEATING: Second.

COMMISSIONER MAY: Moved and properly seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRPERSON HOOD: Not hearing any opposition.

Ms. Schellin, could you record the vote?
MS. SCHELLIN: Staff records the vote 4-0-1 to approve Zoning Commission Case No. 09-01 for set down as a rulemaking case. Commissioner Hood moving; Commissioner Keating seconding. Commissioners May and Turnbull in support; Commissioner Jefferies not present, not voting.

CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.

Let's move right into proposed action. And we're going to go the order, we're going to take B first, C second and A third.

Let's begin with Zoning Commission Case No. 08-19. That's the HSC Foundation, map amendment at square 101. I do know that we have a proxy. I did not participate. Neither did my colleague Commissioner Keating.

So what I will do at this point is go to Ms. Schellin. Then I'll open it up to my two colleagues.

MS. SCHELLIN: This case is
before the Commission for a proposed action.

And as you said, Chairman Hood, I do have a
proxy from Commissioner Jefferies at the time
Commissioners May and Turnbull are ready to
move forward.

CHAIRPERSON HOOD: Okay. Thank
you very much.

Let's start discussion.

Commissioner May?

COMMISSIONER MAY: Yes, I would
want to note that we did get an additional
submission after the record was closed. And
do we want to consider whether we should
accept that submission? That was the letter
from the Bureau of Catholic Indian Missions.

CHAIRPERSON HOOD: Okay. Let's --

MS. SCHELLIN: Sorry. I apologize
about that. That is Exhibit 31.

CHAIRPERSON HOOD: Okay. Does
anyone have any problems with accepting
Exhibit 31?

COMMISSIONER MAY: I have none.
MS. SCHELLIN: If they want to choose to do that, if they have no problem with that, they can do that by general consensus.

CHAIRPERSON HOOD: Yes, but don't we need a general consensus of three? Can I accept it? I haven't read it, but I'll accept it.

MR. RITTIG: That's an interesting question. I believe that you need to have a consensus of the voting members in that particular case.

COMMISSIONER MAY: Not just a majority?

CHAIRPERSON HOOD: Let me ask this, if I read the letter, can I accept it?

MR. RITTIG: In order to move by consensus, you need to have the approval of all of the participating members.

CHAIRPERSON HOOD: Okay.

COMMISSIONER MAY: So can we make a motion, or can we vote on it having only two
of the members present?

CHAIRPERSON HOOD: Here's what we're going to do. Let's see if we can get --

MR. RITTIG: Proven by vote.

CHAIRPERSON HOOD: -- right quick.

We don't want to hold this up.

Okay. I'm going to ask my colleagues if we can defer accepting the letter into the record, hold onto it, but we can defer it until final action.

COMMISSIONER MAY: That's fine.

CHAIRPERSON HOOD: Okay. Thanks.

COMMISSIONER MAY: Does that mean I can't talk about it?

COMMISSIONER MAY: Yes. Yes, that's exactly what that means. You can talk about it at final.

COMMISSIONER MAY: Okay.

CHAIRPERSON HOOD: Well --

COMMISSIONER MAY: No, I'm prepared to proceed.

CHAIRPERSON HOOD: Okay.
COMMISSIONER MAY: I would also note that we did get the proper letter from ANC 2A. Because originally we had gotten the resolution, but we had not gotten the record of a vote and so now we've gotten the record of the vote and, you know, all of the right statements so that it could be given great weight.

I'll start off on this one. I understand what some of the concern is on the part of the neighborhood. I think it has less to do with the exact circumstance of this property than it does to the -- that it raises issues for what else might happen in the neighborhood. I mean, in this circumstance you've got a very tall building on the north side and a very tall building that's going to built on the east side, and then there's a gap and then there's another tall building. So it's a zone that's been sandwiched by other higher-density buildings. So I'm not uncomfortable with the idea that this would be
used for a commercial purpose and that it would be developed with a taller building. I do think, you know, it does open the door for some odd things to occur if at some point the university decides to do something different with the adjacent property on the west side. But, you know, I guess if the Foundation is willing to take that chance on what could happen in the future with that property, I mean, they don't really have any guarantees that they're always going to be open on that west side.

I think that the concern that somehow this rezoning of the residential neighborhood to commercial in this circumstances is either going to spark or open the door for similar rezonings in other areas. I just don't see that happening. The blocks that were cited in particular, I don't perceive a real risk there that the very low-residential character of those other blocks is going to be impinged upon by, you know,
reckless commercial development. I don't see
this opening the door to do that. This is a
very unusual circumstance. And it's also,
frankly, an unusual circumstance that you have
a building owner who's willing to invest in
redeveloping this property in this manner. I
mean, in many ways it's an exceptional venture
on their part. So I don't even think that if
you found another site like this that you
would open the door to even this happening
again because I think it's an exceptional
effort.

So I'm not terribly
uncomfortable with it, so I would be prepared
to vote in favor of it.

MR. RITTIG: Excuse me,
Commissioners. I had a chance to review my
Zoning Regulations while you were talking.
And I wanted to point to your attention that
there is a regulation that allows a majority
of Commission members present at a meeting to
take a procedural action. So if a majority of
the members present vote or believe that it's appropriate to include that letter into the record, they may do so.

    COMMISSIONER MAY: Then I would move that we accept into the record the letter from the Bureau of Catholic Indian Missions that was received after the record was closed. I don't have the date it was received. Oh, yes, it was December 22nd. And I would ask for a second.

    COMMISSIONER TURNBULL: And I will second.

    COMMISSIONER MAY: I guess the question is who gets to vote?

    CHAIRPERSON HOOD: This is in support, right?

    COMMISSIONER MAY: It's a letter in support, yes.

    CHAIRPERSON HOOD: Okay. It's been moved and properly seconded.

    ALL: Aye.
CHAIRPERSON HOOD: All of us voted. No opposition. Thank you very much, Mr. Rittig.

MS. SCHELLIN: Staff would record the vote 4-0-1 to accept the letter from the Bureau of Catholic Indian Missions in Zoning Commission Case No. 08-19, a letter in support. Commissioner May making the motion to accept; Commissioner Turnbull seconding. Commissioners Hood and Keating in support. Commissioner Jefferies not present, not voting.

COMMISSIONER MAY: And I would just note that we have a letter in support from the neighbor, you know, kind of across the courtyard, if you will, and I think it makes it all the more reason why this is -- I'm comfortable proceeding with this.

COMMISSIONER TURNBULL: Commissioner May, I would agree with you on most of your points. And I know it's always come up at these kinds of situations where we
talk about a precedent-setting approval here. And I think you have to be careful when you talk about something being a precedent because it has to be very similar in character to what you're approving to some place else. And I think some of the other areas that were pointed out in the hearing are a lot different than this particular case. And I think Commissioner May has pointed out the fact of the taller buildings adjacent and the different character that exists rather than the ones being around by the circle, which had been brought up at the time of the hearing.

And I think this is a localized situation and I think as the Office of Planning explained in their report, too, I don't think they saw this as being very compatible with the Comprehensive Plan in fitting in with the development of the area. I think the existing residence that's there, the fact that some of it is being -- although again you could look at it as a token gesture,
at least that aspect of the building is being preserved as a street front.

    I really don't see this as something that's going to start anything off, either. I think this is a highly-localized situation. I think that the condition of the neighborhood where it's being developed, I think it is germane to the request that's being asked by the applicant and I, too, would not be in opposition to approving this going forward.

    CHAIRPERSON HOOD: Okay.

    COMMISSIONER MAY: Mr. Chairman?

    CHAIRPERSON HOOD: Sure, Commissioner May?

    COMMISSIONER MAY: I would move approval of Zoning Commission Case 08-19, HSC Foundation map amendment at square 101, and ask for a second.

    COMMISSIONER TURNBULL: Second.

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

COMMISSIONER MAY: Aye.

COMMISSIONER TURNBULL: Aye.

CHAIRPERSON HOOD: Any opposition?

Any abstentions? We have two.

Ms. Schellin, would record the vote?

MS. SCHELLIN: Yes, staff would record the vote 3-0-2 to include the proxy in favor from Commissioner Jefferies.

Commissioner May moving; Commissioner Turnbull seconding. Commissioner Jefferies in support by proxy. Commissioner Hood not voting, having not participated. Third mayoral appointee position was vacant at the time of the hearing, therefore not voting.

CHAIRPERSON HOOD: Okay. Thank you very much.

And thank you again, Mr. Rittig, for being able to come up with that.

Okay. Next is under proposed action. We're going to go to Zoning

Ms. Schellin?

MS. SCHELLIN: I believe that we got a submission this evening; I'm trying to put my hand on it. It was a letter from --

CHAIRPERSON HOOD: HQ Hotel, LLC?

MS. SCHELLIN: Yes, HQ Hotel, LLC.

And then also just to let you know that we do have a very large materials board that was a little too heavy for me to pick up, but it's located over there. Let Mr. May bring that over, if he chooses to do so. I'm not sure he can even do it. It took quite a few men to bring that in and out. So, it's pretty heavy

CHAIRPERSON HOOD: We'll let him take it --

MS. SCHELLIN: Yes, we'll let him.

Yes. Yes.

CHAIRPERSON HOOD: Okay. While they're looking at the -- Commissioner May,
can you bring that over here? No, I'm just playing.

Okay. I'll let my colleagues look at the materials board and I'll look at it while they deliberate.

Okay. We have a letter from the Headquarters Hotel, LLC. This is addressed to Commission Padro and it's from Robert Knopf and also from Norman Jenkins. And what I would like to do, by general consensus, that we accept this late file.

Any opposition?

Okay. So ordered.

If you'll remember, colleagues, we asked for a number of things. And if you look at the submission; we also have a proposed order from the applicant, but if you look at the submission dated December the 22nd, it talks about the post-submission materials. And what I would like for us to do, and I'm sure we have reviewed the additional drawings and everything that was submitted, the
construction management plan, but case in point, it talks about detail elevations, drawings identifying the range of building materials, colors and textures with the relationship to where they are placed on the various facades, details for the trellis, clarification on facade overlooking the Pepco Building site. It also directed us to what sheet it was within the binder. Clarification of the pedestrian tunnel, clarification of street level experience, drawings that clarify the use of the space at the mechanical penthouse level, drawings illustrative of proposed signage; and I'm not reading the whole thing, the lead check list, construction management plan, photographs, additional community benefits contributions after meeting with the Shaw Main Street and One DC, and the established variety of Marriott's in-kind contributions to the $2 million job training program is $90,000. And this is dated December the 22nd, I think is well identified.
So what I'd like to do, is let's just run down the list in that order of what we asked for. And anything else that is omitted from this, we'll deal with that.

Let me just start off and say that two of the things that I had mentioned, and I know Commissioner Jefferies had talked about, where we talked about the amenities package and trying to figure out how this was going to work. And I know Commissioner Jefferies may have insisted a little more, and I don't want to speak for him, but I think this letter is in concurrence and I think Commissioner Padro and all the many groups are in concurrence, because I do have a signature dated December 19th, 2008 of how the additional money will be distributed per group, and also when it will be distributed.

Also, the Headquarters Hotel, LLC is also confirming that this was the agreement that was worked out.

Construction management plan is
one of the things that I know that we had 
requested or spoke about.

My memory didn't serve me well 
when it came to the estimated value of the 
Marriott's in-kind contribution to the $2 
million job training program. I'm not going 
to knock it, I just didn't remember it.

But I'm sure that the detailed 
elevations, the drawings identifying ranges of 
buildings and some of those, the details for 
the trellis, the canopies. And I'm sure we're 
going to have quite a bit of discussion, but 
I will just tell you that I think that this 
project is very important to the city, as I 
stated at the hearing. I have people 
personally out of town, so when you all get a 
-- you know, a hotel near your convention 
center. So one of the things that I know that 
this is very important.

But anyway, let's do our jobs and 
I will open it up with -- unless somebody 

wants to give me a motion, you know, I don't
mind moving on.

Commissioner May?

COMMISSIONER MAY: Okay. First of all, I would want to recognize that the drawings that we have in this set are significantly improved and are of the kind of level of quality and detail that we really need to be able to evaluate the building. You know, the biggest improvement is probably in the three-dimensional drawings where we can actually start to get a sense of what the building is made of and how it will look on the street, and so on. It's still not the best set that I've ever seen, but it's significantly better than what we had before. The level of quality is consistent and, as I said, you really can get a better sense of what the building is made of and what it will look like from the street.

The same is not necessarily true for some of the detailed drawings. The details on trellises, canopies, etcetera are
small enough that you can't really understand too much about them. Better yes, but still not great. And also the drawings that attempt to identify the materials at a larger scale, I mean, you know, it's an interesting set of drawings. It's interesting to look at, but for this sort of thing it's really most useful to be able to look at a drawing and understand exactly, you know, what is being pointed to and what it is. I mean, I'm looking at A351 and there's a little note in there that says that -- it looks like three different things are CW2, but I can't quite see what the dots are touching that indicate what is CW2. And then I got to go to a different drawing to see what CW2 is. And now that I have the board in front of me, I can actually touch and feel CW2, but it shouldn't be that complicated.

And I think that maybe in sending the message that we needed to have more detail, we didn't quite send the right message. Because what we really needed was to
have portions of the elevation blown up at a larger scale with arrows pointing to the things and saying, you know, simple codes like metal and glass, and pre-cast, as opposed to, you know, keynoting, which is what we got.

So I mean, I wouldn't mind seeing something that shows that a little bit better, but, you know, this is certainly better than what we had before. Let's see, there were a couple of things.

CHAIRPERSON HOOD: Let me make sure I understand.

COMMISSIONER MAY: Okay.

CHAIRPERSON HOOD: Because I'm going to make a proposal, hopefully you'll accept it.

So on 350, I guess what you're saying, you mentioned CW2 and that's pointing to the --

COMMISSIONER MAY: Yes, it's not really clear what it's pointing to and it may just be my failing vision, but I just can't
see that very well.

CHAIRPERSON HOOD: Well, I think what we have, we have a black dot and you're right, it's not easy to see.

COMMISSIONER MAY: And now that I see what the profile of the material is, you know, I understand that's, you know, the metal mullion that's running between the glazing. That must be what it's pointing to.

CHAIRPERSON HOOD: In other words, if we turn to 350 right in front of it, like we were, you know, going back and forth.

COMMISSIONER MAY: Yes.

CHAIRPERSON HOOD: I understand what you're asking for, but I wanted to make sure that --

COMMISSIONER MAY: It shouldn't be that hard. We shouldn't have to look at two different drawings to understand what's going on in the one. It should just be, you know, point very clearly, you see what it's pointing to and you know what it is. It's not just
CHAIRPERSON HOOD: Let me just put it out there. If we ask for that before final --

COMMISSIONER MAY: Well, I mean, I think it's up to the rest of the Commission whether --

CHAIRPERSON HOOD: Well, I want you to have a confidence level and I'm hoping that we can kind of move forward tonight.

COMMISSIONER MAY: I'm not trying to make work. I think if other Commissioners feel it's necessary to understand it, then by all means let's request it. But don't just do it for my sake. I think that I can survive with what I have here.

COMMISSIONER MAY: Mr. Turnbull, do you have a --

CHAIRPERSON HOOD: Mr. Turnbull, do you need to see something else or is this --

COMMISSIONER TURNBULL: I would
agree with Commissioner May. I think some of the drawings could be defined a little bit more. I do appreciate the fact that this set of drawings is 100 percent better than the last set of drawings that we saw. And I know my concern was, I had one concern on drawing A303, which showed the Pepco Building and then you had the facade of the building behind, that part of the hotel behind. And if you recall, the last submission showed simply a blank white space that said metal panels. At least here, you're beginning to see the rhythm, you're beginning to see the articulation. It's looks like there's some glass involved in there; I'm not sure. But it's 100 percent. I mean, the elevation that shows on here is 100 percent better, I mean, for actually understanding what the intent is of what the applicant is looking to design on the site. So from that standpoint, I'm pleased. But, yes, I think a little bit more articulation on some of these drawings would
be very helpful.

I'm also glad that the non-dome dome has gone away and has been refined. And it's a lot cleaner solution. I think the elevations now are a lot cleaner than with that fussy thing on the roof.

CHAIRPERSON HOOD: Okay. Let me bring it back to what my question was. I wanted to ask this: Commissioner Turnbull, you agreed with Commissioner May?

COMMISSIONER TURNBULL: Yes, I do.

CHAIRPERSON HOOD: Okay. So what we're going to do, Commissioner May, if you and Mr. Turnbull agree, because there's only three of us tonight, we do have a proxy though, don't we? Okay. I would just suggest that we maybe as the applicant more specifically at the end of proposed for that. I think we can do this on a one sheet, hopefully, and then point directly. I just think maybe we need to do just a different color scheme, just one page, and we do it
before final action. That would be my
suggestion.

Okay. Commissioner May, you can
continue.

COMMISSIONER MAY: Yes. Okay. On
the vault that's not a dome, I'm glad that
it's now something different and that the
height of it is dropped down. I actually
think it improves the look of the building.
So I'm glad to see that change. It makes me
more comfortable with what we would consider
a dome.

I do have a small issue, and it's
the sort of thing that hopefully is going to
get just straightened out naturally, but I'm
looking at sheet A407. And what I'm seeing is
what seems to be a top-of-roof with a setback,
and then there's some sort of a plenum.
Section 2 on A407. And the zoning envelope
line, which is a 45-degree line that cuts
across that seems to be touching the top of a
portion of the roof that's above the 130-foot
top-of-roof. So it sort of steps back about, I don't know, not a foot. It steps back two feet and then goes up like four feet. Everyone see that? Anyway, it should be stepping back. If it steps back two, it can up two. But if it steps back two, it can't go up four. And, I mean, this is small. This is also true in the, I guess, section 1 on the upper left.

COMMISSIONER MAY: What page are you on?

COMMISSIONER MAY: A407.

CHAIRPERSON HOOD: Oh, 407.

COMMISSIONER MAY: Anyway, I consider that a minor matter, but it would certainly be correctable. It's not corrected now, it would have to be corrected at some point before they get all of the final approvals that they need from all the agencies that need to approve it. I'm just pointing it out for convenience sake.
I would also, on Commissioner Jefferies behalf, note that we did get an elevation, or rather a rendering of the interior where the tunnel connecting to the Convention Center attaches in. I can't put my finger on the drawing number, but --

COMMISSIONER TURNBULL: A513, I think.

COMMISSIONER MAY: Thank you very much. So, I mean, we see a snapshot of one moment in that experience. I'm not sure it's what Commissioner Jefferies wanted, but it was a step in that direction.

The construction management plan has been submitted. It's pretty basic, but without folks in the neighborhood speaking up and saying you need to cover, you know, points X, Y and Z, it's not going to get much more specific. But I appreciate it being there. And particularly, the thing that I always find useful in these things is the fact that they're committing to having somebody
available to call if there's ever problem so that the folks in the neighborhood will always be able to reach somebody if there are issues during the course of construction.

And I also appreciate the fact that they did put a value on the in-kind contribution to the job training program. I'm actually kind of surprised that it's as little as it is. I would think that it would amount to something more, with a $2 million training program that it's small as it is, but it is what it is.

So, I think that wraps it up for my comments.

CHAIRPERSON HOOD: Commissioner Turnbull, did you want to add something?

COMMISSIONER TURNBULL: Well, I would just like to again thank the applicant and compliment them on the renderings that we got in the A500, 515, 516, 517, which actually show the building in perspective. And I think these are the kind of drawings that I think we
had hoped we would have got earlier. These
are beginning to tell a very clear picture
what this building is going to look like and
I think they're very significant. I think
they're a lot clearer than the little cartoons
that we had before and I'm beginning to like
what I see. I think it's telling a good story
and I think because of the nature of what this
building is, this is going to be a very
significant building in the downtown and I
think these are extremely helpful in telling
that story.

I just wish the girl in the one
picture would finally fix her hair. She keeps
showing up. But, she's always fixing her hair
on this picture, but you get to see it from
different perspectives, which I like.

Now but I guess my thing is, there
are some things missing, but in general I like
the way the drawings are going. I think
they're telling the picture that we wanted to
see and I think they're very clear and I want
to thank you for doing that.

CHAIRPERSON HOOD: I too want to thank the applicant, Mr. Quinn and Mr. Teese, also this applicant. I appreciate it. At the hearing there were a lot of things doing in different directions and the way this was given to us and the applicant's response, including Mr. Bailey working with the ANC and the different community groups. The voluminous number of community groups really shows that this applicant made some effort, from the materials that I have here in front of me.

Any other comments?

And I can tell you this Commission greatly appreciates the response.

Okay. With that, let me make the motion first. I would move that we approve Zoning Commission Case No. 08-13, the Marriott International, Inc. consolidated PUD and related map amendment at square 370 and ask for a second.
COMMISSIONER TURNBULL: Second.

CHAIRPERSON HOOD: Moved and properly seconded.

The only thing, Commissioner May, I want to make sure that one page that you asked for really showing what material is going to. First of all, we probably need a color change, something a little more clear that it can be viewed. And we would need that before final. And it's basically a one-pager, the way I see it. And I'm asking.

COMMISSIONER MAY: Well, if we got a one-pager, I think what they'd have to do is take one of the, I don't know, 10 different slices of the elevation that they've investigated and show it to us in, you know, a little bit larger format. I mean, frankly, I'm not sure how you can do this in one page and --

CHAIRPERSON HOOD: And one thing I do know, I do know print, and I do know that we can reverse it out. But I don't want to
try to get into trying to tell the applicant
how --

COMMISSIONER MAY: Oh, no, no.
I'm not so much concerned about that. It's
just that they've taken slices of about 15
places on the elevation and attempted to show
what all the materials are.

CHAIRPERSON HOOD: What page are
you talking about? Show me which page.

COMMISSIONER MAY: I'm talking
about 351 through 361, so it's 10 pages.

CHAIRPERSON HOOD: Okay. But we
were talking about CW2, right? CW2. I'm just
using that example, because that's what we
called out.

COMMISSIONER MAY: That's one
drawing.

CHAIRPERSON HOOD: That's one?

COMMISSIONER MAY: But, you know,
the next 10 pages that follow it have the same
sort of thing. It's not that I'm looking for
clarity on what CW2 is, or even specifically
what that elevation is. It's just that in the process of doing something like this, you know, it would be helpful to take perhaps a smaller snapshot, maybe not the full height of the building. So you'd take half of what you're showing there in that height and blow it up to the full height, and call it out with notes that are in English, not in code. And that's what I would normally want to see. Because then you could look at it and understand readily what it is without having to decipher it.

CHAIRPERSON HOOD: But here's what I'm trying to do. I'm just trying to make it -- it may be more than one page, but when I look at it, I'm not going to go to -- I'm going to say MA7. MA7 is on 351, and you mentioned 10 pages. If I'm not mistaken, MA7 is on more than one page. MA1.

COMMISSIONER MAY: What MA7 is calling out is what material is being used in that location.
CHAIRPERSON HOOD: I understand.
I understand that. Okay?

COMMISSIONER MAY: So what I'm saying, if I were to get this the way I would have liked, I would take that amount of information, make it twice the size, right? And instead of it saying MA7, it says, you know, gray metal mullion.

CHAIRPERSON HOOD: I understand. I'm just trying to figure out. I understand.
I'm just trying to help the applicant.

COMMISSIONER MAY: Right.

CHAIRPERSON HOOD: So we won't cause him to do too much work, because they have been very responsive to what we had to begin with.

COMMISSIONER MAY: Right. And what I'm saying is that if you were to do that for here, then you'd have to do it for here, you'd have to do it for here. I mean, these are all different parts of the elevation of the building. So we can't understand the
totality of the building without doing, maybe
not 10 snapshots of the building, but you
know, five or six. So it's more like five or
six pages.

CHAIRPERSON HOOD: Okay. Case in
point, MA7, I'll tell you this is whatever it
is, whatever material it is, and I take an
arrow and I point it to something this size so
we can read it.

COMMISSIONER MAY: No, that's not
what I'm asking.

CHAIRPERSON HOOD: Okay. What are
you asking?

COMMISSIONER MAY: Okay. Let's go
to A357. You see where you've got all of
those notes up toward the top?

CHAIRPERSON HOOD: Okay.

COMMISSIONER MAY: Okay. I've
drawn a box around it. Take that whole thing
and enlarge it.

CHAIRPERSON HOOD: Yes.

COMMISSIONER MAY: Put it on the
copier at 200 percent, or print it out at 200 percent of what it is, just that section. And then instead of IMA, right in what the material is. You know, painted metal, gray painted metal, whatever it is. At a larger scale you can get a better sense of what the material is. You don't need to have a bigger picture of that material. You know, I don't need a really big picture of that material, I just need to see the material kind of in the context.

COMMISSIONER MAY: Mr. May, what am I saying any different than what you said? It's just a different way. We read the same --

COMMISSIONER MAY: What you seem to be calling out is focusing on one particular material. I'm not focusing on --

CHAIRPERSON HOOD: I'm just using an example.

COMMISSIONER MAY: Okay.

CHAIRPERSON HOOD: I'm just using
it as an example.

COMMISSIONER MAY: But on that --

CHAIRPERSON HOOD: I could have
went down the whole list, just like you're
talking.

COMMISSIONER MAY: On that same
page --

CHAIRPERSON HOOD: I could have
said M1A, GL1, GL2.

COMMISSIONER MAY: Right.

CHAIRPERSON HOOD: But for the
sake of time, I just used one example.

COMMISSIONER MAY: Okay. Well, I
misunderstood what you were trying to
describe.

CHAIRPERSON HOOD: We actually are
saying the same thing.

COMMISSIONER MAY: Good.

CHAIRPERSON HOOD: But let's do
this: Let's let --

COMMISSIONER MAY: But --

CHAIRPERSON HOOD: I basically
don't care to see it, but I want to make sure
you and Commissioner Turnbull want to see it.
We're actually saying the same thing, so we
won't belabor the point. What I'm trying to
do is get what you're asking for for the
applicant. That's what I'm --

COMMISSIONER MAY: And, Mr. Chair,
that I'm saying is that one page like this
would only show one snapshot. They've given
us 11 snapshots already. And I would want to
have, maybe not 11, but five or six, if I was
going to get this. I frankly don't think that
it's that necessary at this moment. If it's
just for my sake, I'm going to forego this at
this point.

CHAIRPERSON HOOD: No, I -- I'm
just trying to make sure we let the applicant
know what you need. Commissioner Turnbull
also asked for the same thing.

COMMISSIONER MAY: Okay.

CHAIRPERSON HOOD: Why don't you
just describe what you want instead of me
describing it, and then we'll go from there? Because I think we're saying the same thing.

COMMISSIONER MAY: Okay. Just a smaller portion enlarged bigger with notes that are in English, that's all, not in code.

CHAIRPERSON HOOD: So you want seven pages, and how many trees are we going to kill? Anyway.

COMMISSIONER MAY: All right. And it doesn't need to be all 11 or 12. It can be a sampling.

CHAIRPERSON HOOD: Okay. So, anyway, I hope the applicant understands that.

COMMISSIONER TURNBULL: I mean, after seeing the perspective views, I'm not as concerned. I think a couple of more things would be well, but I feel pretty good about going around the block with these perspectives and seeing the design of the building. I feel fairly comfortable. But I think Commissioner May would just like a couple of more shots showing some primary elevations as to how it
actually would -- but I think for the most part, I think we all feel very -- I mean, to me, A518 tells a wonderful story and I like that, you know, we are concerned about what this building is going to look like, and you know, I think that they're moving in the right direction. I think, as Commissioner May was discussing, maybe a few more sections or drawings to clarify a couple of points would be worthwhile. But I think these perspectives have really told the story, at least what I was looking for.

CHAIRPERSON HOOD: Okay. And I was trying to make sure that we all understood, or at least the applicant understood exactly what you needed.

COMMISSIONER MAY: No more than five pages, eight-and-a-half by eleven, you can do the sampling that we're looking for.

CHAIRPERSON HOOD: Okay. I think the applicant probably got it long before you and I even had the discussion. So next time
I'll just look out and see if I see a nod, then we can move on.

Okay. Now where were we? Did we do a motion? We did a motion. Second. And then the discussion.

All those in favor?

ALL: Aye.

CHAIRPERSON HOOD: Hearing no opposition of those who are participating.

Staff, would you record the vote with the proxy?

MS. SCHELLIN: Yes, staff would record the vote 4-0-1 to approve proposed action in Zoning Commission Case No. 08-13. Commissioner Hood moving; Commissioner Turnbull seconding. Commissioner May in support; Commissioner Jefferies in support by proxy. At the time of the hearing, the third mayoral appointee seat was vacant, therefore not voting.

CHAIRPERSON HOOD: And I hate to go back into this case, but was I supposed to
open the record for something? Was it supposed to be open?

    MS. SCHELLIN: We did, by general consensus.

    CHAIRPERSON HOOD: All right.

Thank you.

    All right. Let's move right along with our agenda. Next, is Zoning Commission Case 08-06-6. And this is the Office of Planning zoning rewrite of industrial areas.

    Now I will tell you, normally we put our work sheet at the front. Okay. So our work sheets of what we're going to be working from are at the front and you can follow us with that. Those who are leaving, we'll give you a moment to leave.

    Okay. Let's go back on the record. Okay. Zoning Commission Case No. 08-06-6, Office of Planning ZRR industrial and PDR.

    What we normally do in this case, we normally have interaction or exchange with the Office of Planning. This will be Ms.
Steingasser and Mr. Parker.

Okay. Ms. Schellin?

MS. SCHELLIN: We have before you an industrial work sheet and if you'd like to proceed.

CHAIRPERSON HOOD: Okay. What we're going to do is typically how we've done in the past, and for Commissioner Keating, normally what we do is the Office of Planning, I think this is the same way Mr. Parker, the Office of Planning, has a recommendation.

Okay. All right. Everyone have the work sheet? Ready?

Okay. And those in the audience have the work sheet? Okay.

Name of industrial districts.

Option one, the first one is the Office of Planning's recommendation. And I'll let Mr. Parker help me with some of this. CM1 to PDR 1. And PDR, again, is?

MR. PARKER: Production, Distribution and Repair.
CHAIRPERSON HOOD: Production, Distribution and Repair. Okay. And then also we have M to PDR. So we have it in front of us. And then the option is retain existing industrial district names.

COMMISSIONER MAY: I'll all for the renaming.

CHAIRPERSON HOOD: I'm for the renaming and much more. Okay.

Okay. Number two, performance measures. Option one again is the Office of Planning's recommendation. Coordinate, but do not duplicate performance standards with current District Department of Environment Standards, DoE, where possible to ensure that measurable standards are used.

And then option two, do not change existing standards of external effects. I am in favor of option one. Okay. Not hearing anything.

PDR uses. Okay. This one is no decision needed. Okay. We've already given
guidance, so we can just skip past that.

Retention of developments,
potential for PDR uses.

MR. PARKER: If I could comment on
this one, Mr. Hood.

CHAIRPERSON HOOD: Okay.

MR. PARKER: In keeping with what
seems to be a burgeoning tradition with these
work sheets, this one's not without flaws.
I've got two comments on this number four.
The first one is in our
supplemental report and at the hearing we had
talked about increasing the height of PDR 1
from 40 feet and three stories to 50 feet,
without a story discussion. And we'd like to
include that. It wasn't included in the work
sheet, but that should be considered a part of
our OP recommendation option one is that the
height of PDR 1 would go to 50 feet.

And certainly the Commission has
the option to separate that from our
recommendation and accept, you know, the FAR
without the height or the height without the FAR. But that should be considered part of our recommendation.

The second thing on this number four is that you'll notice that there is no option three. And for those following along at home that were very observant, you'll notice that there are six decision points on this work sheet, but only five recommendations in the report. It turns out through some mis-communication with OP and OAG that option three for number four got pulled out and made into a separate recommendation in error. So number five on your sheet, option one on number five is actually option three under number four and is not a stand alone, if that made any sense at all.

PARTICIPANT: It has two options.

MR. PARKER: Well, option two doesn't actually mean anything. Basically, what option one under number fives is it's another way to try and ensure the availability
of PDR land. The recommendation from OP is that we would reserve some of the FAR for PDR uses and say you can only do a certain percentage of it for non-PDR. The rest has to be reserved for PDR. Option two would be you can create your own FAR limits within that same scheme. And option three, which again is option one under number five, would be don't mess with the FAR at all and allow commercial and non-PDR uses to go to the full FAR, but require the buildings to be designed so that they could accommodate either PDR or non-PDR.

So there are two mutually exclusive ways to accomplish the same thing. And so there should be no decision under number five and option one under that should be considered option three under number four.

CHAIRPERSON HOOD: Okay. At this point I'm going to turn it over to Mr. Parker and let him do number four for us. I think what you're saying though is option one under number five should be option three under
number four. Run us through that one.

MR. PARKER: I'll run you through your four options for decision number four.

Option one is that you would limit the FAR potential for non-PDR uses. For non-industrial uses like commercial and institutional, you'd be limited to the numbers on the right hand side of that table. Two for PDR 1, three for PDR 2, four for PDR 3 and one for PDR 4. And then the overall FARs for PDR 1 and 2 would rise by half an FAR.

Accompanying that would be a height -- under PDR 1, the height would be raised to 50 feet. So that's OP's recommendation, option number one.

CHAIRPERSON HOOD: Let me ask you this.

MR. PARKER: Sure.

CHAIRPERSON HOOD: Height is -- I saw it on the table.

MR. PARKER: Right.

CHAIRPERSON HOOD: But 50 feet is
for PDR 1 and everything else remains the
same?

MR. PARKER: Exactly true. Exactly. Option two would be to do the same
scenario, but change the numbers in some way
that the Zoning Commission sees fit. If the
Zoning Commission thinks that the proposed
limits on non-PDR should be higher or lower,
or different than what we've proposed, option
two is make your own table.

Option three is that there would
be no limit on non-industrial uses in terms of
FAR. The FAR could be used in any way that
people see fit, but the building would have to
be built in such a way that it would
accommodate or could be used as flex space for
PDR or non-PDR use. It's an alternative to
ensuring the availability of industrial that
we discussed briefly in our report and our
supplemental. It was not looked on favorably
by some of the people that we had talked to in
this, but it is another option.
And then option four is leave things the way they are.

CHAIRPERSON HOOD: Office of Planning's recommendation was the first one.

MR. PARKER: Option one, right.

CHAIRPERSON HOOD: Option one.

Help me to understand. Why do we up the height for PDR 1? We gave it 10 more feet. What was the analysis on that?

MR. PARKER: It has to do with the fact that we were -- because we're limiting non-PDR use, in an attempt to balance that we raised the overall cap from three FAR to three-and-a-half FAR that you could achieve. Three-and-a-half FAR doesn't match with a cap of 40 feet in that it's generally four to five stories, which in industrial are high stories. You can't fit three-and-a-half FAR in 40 feet, basically. So if we're going to raise the maximum FAR achievable in this zone to three-and-a-half, we need to do a commensurate raise in the height.
CHAIRPERSON HOOD: Good. Thank you.

I will tell you, colleagues, to get this discussion started, I am in favor of the Office of Planning's recommendation as far as guidance. The last one, and I can't even remember, but I am not in favor of that. It sounds horrible for those residential areas that may be living next to it. But anyway, I'm not in favor of the last one. I'm in favor of Office of Planning's recommendation. Open it up for discussion.

COMMISSIONER MAY: Mr. Chairman, I think I generally agree with that, with the Office of Planning and with your position. The one concern that I have is that --

CHAIRPERSON HOOD: We record that?

COMMISSIONER MAY: However, the thing that still remains a concern for me and might be for others is the question of whether there are certain uses that we still find to
be problematic in PDR zones. And, you know, the existing regulations, residential is, you know, you can't do residential in the CM Zone, right? And so, you know, are there circumstances like that? I understand why now we might have a different view of that, not limited to the fact that we might want to put a homeless shelter in a PDR Zone.

CHAIRPERSON HOOD: You like to bring up history, don't you?

COMMISSIONER MAY: But no, I was thinking more about things like some of the uses that actually came up in the hearing. I mean, the idea that warehouses, you know, are desirable space for charter schools. I mean, on a certain level, you know, I can understand and appreciate that. I mean, you're looking for low-cost space for a school, for a charter school, but I mean isn't that something that we really want to encourage? Or do we want to have a more protective view in some circumstances that says, you know,
chart schools really aren't appropriate in a warehouse zone. I mean, you know, I can make a very good argument that that's inappropriate. You know, or even churches or, you know, maybe certain types of residential are not appropriate. I'm not sure what.

I'm not suggesting that we have to come up with a list of what might be left out. I'm just suggesting that we ought to leave the door open for a discussion of uses that we find objectionable within the PDR Zone.

CHAIRPERSON HOOD: Your point is well taken and while I was talking about something in history, but you know, you're right. Sometimes I guess, you have to look out for people, you know, human beings. We have to look out for them. But is it appropriate? I think we're saying the same thing this time, but we might say it a different way. I don't necessarily want to close the door and I don't think if we go with an option that we're exactly closing the door,
because the Commission will have another time
to be able to really dissect that and have
that conversation. I think that's a very good
point.

COMMISSIONER MAY: But I think
that whatever action we take today, if we want
to leave that door open, we ought to leave he
door open explicitly and encourage the Office
of Planning to examine that question. They
may well come back with a recommendation that
says, you know, no there shouldn't be any
limits and this is why. But I'd like to hear
the this is why if that's the circumstance.

CHAIRPERSON HOOD: Okay. And I
think Mr. Parker is nodding. I've learned
that he's nodding his head, so I think he got
it.

MR. PARKER: I think so. Just to
follow up, you talked briefly about
residential. Nothing in our recommendations
would allow residential in industrial, or in
PDR Zones. So that would still be a
prohibited use.

Now then the other things you mentioned, the charter schools, etcetera, would be in the non-PDR use, so they'd be limited by FAR. But you'd like us to look at the potential of prohibiting other uses in the PDR Zones?

COMMISSIONER MAY: Yes. No, and when you're saying residential uses is completely prohibited?

MR. PARKER: The same way they are now except with the exception of artist studies.

COMMISSIONER MAY: Well, okay.

MR. PARKER: In other words, we haven't recommended changing any use allowances in the PDR Zone. We haven't recommended any changes to the uses that are allowed or not allowed.

COMMISSIONER MAY: Right. Artist studies are currently allowed in the PDR Zone?

MR. PARKER: Yes.
COMMISSIONER MAY: And you can live there?

MR. PARKER: Yes.

COMMISSIONER MAY: Yes. Okay.

All right. I think that we should look at the question of whether there are certain uses that should not be allowed in that circumstance, yes.

MR. PARKER: Okay.

COMMISSIONER MAY: I mean, it's beyond just residential.

MR. PARKER: Okay.

CHAIRPERSON HOOD: Commissioner Turnbull?

COMMISSIONER TURNBULL: Well, does that change the language on option one, the OP recommendation?

MR. PARKER: No. I mean, whatever non-PDR uses that are allowed, right now everything but residential is allowed and would be considered a non-PDR use and limited to that. Even if we prohibit some additional
things in addition to residential, still
everything that's allowed that's not PDR would
still be limited to that FAR. So it doesn't
change anything about this particular
recommendation.

COMMISSIONER TURNBULL: Okay.

CHAIRPERSON HOOD: Okay. So we're
going to take the option of the Office of
Planning and still leaving the door for
further discussion.

Now, so number five disappears,
right? Is number six still there?

MR. PARKER: Yes, it is.

COMMISSIONER MAY: Okay. Option
one, Office of Planning's recommendation is
create uniform buffering standards to apply
wherever PDR Zones abut Residential Zones.
These standards will replace existing rear
yard, side yard and court regulations as well
as eliminate the need for existing special
exception and overlay standards. Suggested
standards are 25-foot yard required adjacent
to residential districts, 15-foot yard
required when separated by a street or alley,
yard must contain solid vegetative buffer,
fence of wall to visually screen use, no
outdoor storage of materials/within 200 feet
of a Residential Zone. That's option one of
Office of Planning's recommendation.

Option two is to create uniform
standards above for most uses but continue to
single out particular uses for additional
setbacks.

And option three, do not change
existing buffer or special exception
regulations for industrial uses.

I will tell you this, Mr. Parker.
I was looking at the report and I noticed that
it talked about the solid waste regulations of
the Zoning Commission, 300 feet and the City
Council, 500 feet. And I'm thinking your
report from, I guess an executive
administration standpoint of the executive
branch, in your report it said that the 500-
foot rule, I guess for getting permits, would govern. Is that the way I read that?

MR. PARKER: Correct.

CHAIRPERSON HOOD: But in court, if there was an issue, the Zoning Regulations would govern? And I actually read that with particular interest.

MR. PARKER: I think ultimately the 500-foot would rule. I mean, no permit could be issued unless it met the stricter of the two. So in any case, the stricter of the two would have to be adhered to, was the legal opinion that came back.

MS. STEINGASSER: There are zoning permits and then there is licensing. And the more restrictive comes through the licensing that comes from the Act. So the more restrictive is the 500 feet. So while they may be able to get a zoning permit to open, they would not be able to get a license to operate, so the more restrictive would apply.

Because we had that direct discussion with OAG
in our conversation of whether we wanted to bring those two together to match. And OAG advised that that wasn't really necessary because there was licensing and permitting, and the more restrictive would always be the most applicable. Because you couldn't get your license if it was the more restrictive and you didn't meet it and you couldn't get your permit if that was the more restrictive and you didn't meet it.

CHAIRPERSON HOOD: I'm just trying to -- because I will tell you, that's a question I've asked for 10 years, and it seems like it changes on me. But I mean, it makes sense. It makes sense. I just never heard it put that way.

MS. STEINGASSER: That's how Mr. Bergstein brought it down from the legalese for me to --

CHAIRPERSON HOOD: Oh, maybe that's what --

MS. STEINGASSER: -- is that you
may be able to get your zoning permit at 200 feet, but you wouldn't be able to get your license to operate.

    CHAIRPERSON HOOD: Makes sense.

    MS. STEINGASSER: So you would never actually open.

    CHAIRPERSON HOOD: Okay. Thank you.

    MR. PARKER: So the basic OP recommendation is that we have a standard zoning setback and that would not preclude the council on this case from setting a more restrictive setback for particular uses for licensing requirements. And that would continue to be the case for solid waste.

    CHAIRPERSON HOOD: And I just really just used that as an example. I wasn't picking on solid waste.

    Okay. Let me see. Any other questions or comments?

    I'll guess we'll take the Office of Planning's --
COMMISSIONER MAY: Yes, I'm okay with option one, the OP recommendation.

CHAIRPERSON HOOD: Okay. Mr. Turnbull? Okay. That's what we'll do. I think that's it, right? Yes, that's it.

Okay. Thank you, colleagues. I guess next we'll go to the Office of Planning status report.

MS. STEINGASSER: We don't have a written report for you, but we do want to update you on where we are in the parking text that will be coming to you, and Mr. Parker's going to do that also.

MR. PARKER: When we last talked parking, OAG and OP had talked about having draft text back to you in February. If we did that right now, it would be incomplete. We are still working through the process in terms of downtown and commercial corridors and some of the other groups of formulating the draft parking maximum recommendations. And we'd
like that to be a part of what comes to you. We don't want to bring you part of the parking text and not all of the parking text. So to make a long story short, we would like to hold off on bringing you draft text for parking until we've completed all our work on parking maximums, and that will probably happen after we finish the downtown group, the commercial corridors group and the high-density commercial group. So it would like be fall of 2009.

CHAIRPERSON HOOD: Anything else?

MS. STEINGASSER: No, sir.

CHAIRPERSON HOOD: Okay. All right.

I want thank the Office of Planning, as always. We appreciate everything. And also staff of the Office of Zoning, as well as the Office of Attorney General. And again, want to welcome our new colleague. It's good to have him sitting up with us and looking forward to working with
him.

Ms. Schellin, do we have anything else for tonight?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: Okay. With that, this meeting is adjourned.

(Whereupon, the hearing was concluded at 8:14 p.m.)