

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER Director
JOEL LAWSON
TRAVIS PARKER
ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.
JACOB RITTING, ESQ.

The transcript constitutes the minutes from the Regular meeting held on February 23, 2009.

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

6:41 p.m.

1
2 CHAIRPERSON HOOD: Good evening,
3 ladies and gentlemen. This is the February
4 23, 2009 public meeting of the Zoning
5 Commission of the District of Columbia.

6 My name is Anthony Hood. Joining
7 me are Vice-Chairperson Jeffries, Commissioner
8 Keating, Commissioner May and Commissioner
9 Turnbull.

10 We are also joined by Office of
11 Zoning staff Ms. Sharon Schellin, Donna
12 Hanousek and Ms. Bushman; Office of Attorney
13 General; also the Office of Planning.

14 Okay. Office of Attorney General staff,
15 Mr. Bergstein and Mr. Rittig; Office of
16 Planning, Ms. Steingasser and Mr. Lawson and
17 other staff.

18 Copies of today's hearing are
19 available to you and are located in the bin
20 near the door. We do not take any testimony
21 during this meeting unless otherwise asked to

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1 come forward.

2 This is also being webcast live.
3 We would ask you to refrain from any
4 disruptive noises. Please turn off all
5 beepers and cell phones at this time.

6 Does the staff have any preliminary
7 matters?

8 MS. SCHELLIN: No, sir.

9 CHAIRPERSON HOOD: Okay. I think
10 we can go with the agenda as prescribed.

11 We will go to hearing actions
12 Zoning Commission Case No. 08-33. This is
13 Conference Center Associates, LLC,
14 Consolidated PUD and Related Map Amendment of
15 Parcels 121/31.

16 Mr. Lawson?

17 MR. LAWSON: Thank you, Mr. Chair.

18 For the record, Joel Lawson of the
19 Office of Planning.

20 The Office of Planning recommends
21 that the Zoning Commission set down for a
22 hearing this proposal for the development of

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1 the property at the corner of Michigan Avenue
2 and Irving Street, Northeast, with a
3 conference center, hotel, retail space and
4 restaurant and future development of
5 additional hotel and/or residential
6 development.

7 The site is currently has the
8 surface parking lot servicing the Washington
9 Hospital Complex. Although owned by the
10 federal government, jurisdictional authority
11 has been transferred to the District, and the
12 D.C. Department of Housing and Community
13 Development is the agency responsible.

14 The application includes a PUD-
15 related map amendment to zone the property
16 from government, i.e., unzoned, to the C3A
17 district; 2) a Consolidated PUD for a portion
18 of the site -- this is phase one of the
19 development -- with frontage along Michigan
20 and Irving including a 314-room hotel as well
21 as retail space, a restaurant and a parking
22 garage, as well as a 280-space surface parking

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1 lot; and 3) consideration of a first stage of
2 a two-state PUD for the north end of the site.

3 This would be phase 2 of the development.
4 And this would be either 240 residential units
5 with below-grade parking or 120 residential
6 units with a 200-room hotel with underground
7 parking and an addition to the garage of phase
8 1.

9 The proposal is not inconsistent
10 with the 2006 Comprehensive Plan Future Land
11 Use and Generalized Policy Maps which
12 designate the site as federal property in
13 reflection of the ownership of the lot rather
14 than the jurisdiction or the intended use.
15 The Zoning Commission previously approved a
16 map amendment which has since expired, but
17 which deemed the property consistent for mixed
18 commercial uses under the commercial zoning
19 designation.

20 The proposed development would meet
21 or further many of the policies of the
22 Comprehensive Plan related to land use,

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1 housing, economic development and urban
2 design, as well as specific goals and
3 objectives of the upper Northeast element.
4 These are further outlined in our report.

5 As I noted, the site is currently
6 zoned GOV. In other words, it's unzoned. And
7 the Applicant proposes to establish the C3A
8 zoning on the site and develop the site
9 utilizing the PUD standards for building
10 height.

11 C3A permits matter-of-right medium-
12 density mixed-use development including
13 office, retail and residential uses to a
14 maximum FAR of 4, with nonresidential uses
15 limited to 2.5 FAR. Through the PUD process,
16 a maximum height of 90 feet is permitted. The
17 proposed development would add an FAR of 2.6
18 and a maximum height of just over 94 feet.

19 The Applicant is requesting
20 flexibility from the Zoning Regulation roof
21 structure and loading requirements to allow
22 multiple buildings on a single lot and for the

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1 phasing of development. OP believes that
2 flexibility may also be necessary to allow for
3 the proposed range of stage 1 which is phase 2
4 development regarding the residential and
5 hotel uses.

6 The proposed re-development targets
7 an underutilized site in an already mixed-used
8 changing neighborhood. The amenity package
9 evaluation is partially based on an assessment
10 of the additional development gained through
11 the application process.

12 As this site is currently unzoned,
13 there is no defined by-right potential under
14 the current zoning. Rather, zoning must be
15 established to allow any development on the
16 site, or at least any nonfederal development
17 on the site.

18 The Applicant has listed a number
19 of areas which they believe contribute towards
20 their amenity package including urban design,
21 architecture and site planning, vehicular and
22 pedestrian access whereby several initiatives

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1 are being proposed to improve access and
2 circulation to and around the site, retail
3 which would improve the neighborhood's urban
4 fabric and increase pedestrian activity there
5 by creating a livelier, more inviting
6 streetscape experience for residents and
7 visitors to the site, local business
8 opportunities and for-source agreements, and
9 finally green building and transportation
10 demand management strategies. And we'll
11 continue of course as usual to work with the
12 Applicant to clarify and refine these items
13 which would be elaborated at the public
14 hearing.

15 In summary, OP recommends that the
16 Commission set down the requested proposal for
17 a public hearing as it is not inconsistent
18 with the 2006 Comprehensive Plan. OP will
19 continue to work with the Applicant and other
20 District agencies to ensure coordination of
21 this PUD with other area planning initiatives
22 and to ensure that the Applicant addresses the

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1 items noted in our report prior to the public
2 hearing.

3 Thank you. And we're available for
4 questions.

5 CHAIRPERSON HOOD: Okay. Thank
6 you, Mr. Lawson.

7 I'll open it up for any comments or
8 questions for Mr. Lawson? Commissioner May?

9 COMMISSIONER MAY: Yes. I just had
10 a couple questions.

11 The development of the site itself
12 seems to be very suburban in character and
13 kind of inwardly focused as if it were just a
14 green field off of Rockville Pike or something
15 like that where you just drive in and you've
16 got everything sort of clustered around the
17 center. And granted this is not an
18 established kind of urban fabric. It seems
19 like there's so much focus on the inside, and
20 would just be curious about what kind of a
21 street life it's really going to generate, or
22 whether it really is going to be truly

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1 automobile-focused, and as I say, kind of
2 inwardly focused within the site. But I'm
3 sure you'll explore that with the Applicant.
4 So that's just kind of a comment about it.

5 The next question I had is as I
6 understand it when they implement the
7 consolidated PUD portion of this that it will
8 leave a parking lot on that one portion of the
9 property, or half of it will be parking lot,
10 and then half of it will be this new
11 development. Is that right?

12 MR. LAWSON: Yes. Their intention
13 is to develop over what's going to be the
14 parking lot that I think is intended to be
15 mostly used for the hospital site, and to
16 accommodate that parking. And they would add
17 to the existing parking garage -- sorry, it's
18 not existing -- but the phase 1 parking garage
19 as well as build additional underground
20 parking.

21 COMMISSIONER MAY: Okay. So there
22 is a reason to maintain that much surface

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1 parking to support the hospital use?

2 MR. LAWSON: There's a reason to
3 maintain parking. There is an agreement that
4 they will provide parking -- a certain number
5 of parking spaces for the hospital use. And
6 that's the demand that they're attempting to
7 meet.

8 COMMISSIONER MAY: Okay. Because
9 it seemed sort of odd that they'd be building
10 kind of this freestanding part one in
11 development and then cutting down -- are there
12 actually trees in that area that's going to be
13 now the parking lot?

14 MR. LAWSON: I'm not sure. A fair
15 portion of the site right now is already paved
16 over -- a surface parking lot.

17 COMMISSIONER MAY: So they're just
18 retaining the parking lot. All right.

19 And I think that's just about it.
20 I'll look forward to seeing more details in
21 the development of the buildings when we get
22 to the hearing stage. Thanks.

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1 CHAIRPERSON HOOD: Okay. Thank
2 you.

3 Anyone else? Any other comments?
4 Vice-Chairman?

5 COMMISSIONER JEFFRIES: Just a
6 quick question, Mr. Lawson.

7 I notice in your recommendation you
8 said that this project would further economic
9 development in enhancing the Michigan Avenue
10 corridor. Can you walk me through what the
11 plans are for the Michigan Avenue corridor? I
12 would never even look at it as a corridor,
13 quite frankly, the way it spins and moves
14 around.

15 MS. STEINGASSER: There's not a
16 Michigan Avenue corridor plan. But there are
17 a series of small area plans and corridor
18 plans in the area. We're just beginning the
19 North Capitol Cloverleaf Study.

20 COMMISSIONER JEFFRIES: Right.

21 MS. STEINGASSER: We're just
22 completing the Brookland Study. And of course

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1 the Armed Forces Retirement Home has had a
2 land use plan accepted by the National Capitol
3 Planning Commission, as well as McMillan is in
4 its design stages. So there's kind of a
5 comprehensive body of activity going on up
6 there. And this will add to that and kind of
7 bring some connection between the east and the
8 west pieces.

9 COMMISSIONER JEFFRIES: Okay. But
10 it's not like you're trying to do a main
11 street or anything?

12 MS. STEINGASSER: No.

13 COMMISSIONER JEFFRIES: Okay.

14 MS. STEINGASSER: We're trying to
15 make sure that all the pieces relate to each
16 other, that there is animation, that the
17 traffic is viewed comprehensively between them
18 and things like that.

19 COMMISSIONER JEFFRIES: Okay.
20 Great. Thank you.

21 COMMISSIONER KEATING: Is there any
22 intent to create a plan? As I think about

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1 this site and I think about McMillan back this
2 way, and I think about you've got the
3 university over here, there really is I think
4 a need for some sort of overall transit plan
5 or pedestrian plan that fills in like in this
6 area because there's been conversation about
7 with McMillan, where do you put maybe some
8 sort of bus kind of tie-on for the rest of the
9 city going east and west. And is that part of
10 this site? Is that part of one of the Armed
11 Forces sites? Is it McMillan? Where's the
12 best fit? And it seems like there needs to be
13 something that brings that all together.

14 MS. STEINGASSER: And DDOT is
15 looking at the traffic management of the
16 entire area hitting on every point you just
17 raised including the east-west flow of the
18 buses -- how do they connect from one Metro to
19 the next. They will be stopping at this site,
20 but not within the site. So there is some
21 coordination here with DDOT -- the relocation
22 and enhancement of the bus stop itself. But

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1 DDOT is doing a larger scale study of the
2 entire area.

3 COMMISSIONER KEATING: Because
4 that's what made me think of that. I see this
5 little bus stop picture here. It looks like
6 for four or five people. I thought to myself,
7 well, there must be more to this.

8 Will that be ready for us -- what's
9 the time line on that?

10 MS. STEINGASSER: Well, I'm not
11 sure if they're planning to release it in a
12 book form -- here's the study. I think they
13 are reviewing all the pieces together and they
14 are definitely modeling them -- their computer
15 system as a whole. So you'll definitely have
16 a report from DDOT as part of this PUD.

17 COMMISSIONER JEFFRIES: The other
18 point -- and I recognize this is a first stage
19 PUD -- but I did want to comment. And this is
20 probably more for my colleagues because I
21 probably will not be here. But when we get to
22 the second stage, I would hope that the

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1 Applicant will spend a great deal more time on
2 the architecture here.

3 This building is sitting in a field
4 right now. And it would be viewed from
5 several sides. And I'm really hoping that the
6 architecture can improve tremendously. It's
7 nothing that we're looking at now. But I just
8 wanted to put that out there that given where
9 this is located, my hope is that it can look
10 less institutional. I mean, it just leaves a
11 lot to be desired.

12 And I'm really saying this to my
13 colleagues that when we get to stage 2 that we
14 could spend some time in making certain that
15 the architecture is a little more sensitive
16 and forward-thinking.

17 CHAIRPERSON HOOD: Well, I will say
18 I really hope you are here because I've seen
19 your work and how you've helped create a lot
20 of things that before us -- make them look a
21 lot better. So hopefully you will be still
22 around. That's the goal.

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1 But anyway. Ms. Steingasser and
2 Mr. Lawson, this is more of a comment. I'm
3 really hoping that at the hearing that DDOT
4 and the Applicant can really explain to me
5 A1.07, which is the circulation plan because
6 if you look at -- just tell us how vehicle
7 traffic is going to mix with pedestrian
8 traffic.

9 Because I'm looking here and I'm
10 thinking already you can't make a left off of
11 Michigan Avenue if you're going east. But
12 some people may do it anyway. Well, you're
13 not supposed to. I'm not saying people don't
14 do it. But I just see a catastrophe getting
15 ready to happen.

16 And I just want to make sure that
17 at the hearing, we'd be able to walk through
18 that. We can do a 3-D movement and just show
19 me how all that's going to work with the
20 vehicles and the pedestrians in that
21 circulation -- how that site is actually going
22 to work. And we can do that at the hearing.

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1 Okay. Any other questions,
2 comments?

3 COMMISSIONER TURNBULL: Yes, Mr.
4 Chair, I do.

5 Mr. Lawson, this is a consolidated
6 PUD and there's going to be phase 1, phase 2.

7 But if I'm reading your report, in addition
8 to the hotel, they're looking to put
9 residential units?

10 MR. LAWSON: Yes. There's actually
11 two parts to the application. For part of the
12 site, it is a consolidated PUD. So you'd be
13 reviewing both first and essentially first and
14 second stage. And that's for the hotel and
15 convention center portion.

16 However, for the second phase --
17 which would include the residential -- you
18 would just be considering that as a first-
19 stage PUD. They'd have to come back at some
20 point for second-stage approval.

21 COMMISSIONER TURNBULL: In their
22 amenity package, I haven't seen anything about

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1 affordable housing. There's nothing
2 proffered?

3 MR. LAWSON: We can certainly
4 clarify that with the Applicant and just
5 address that issue so that we can have a
6 general idea as you're dealing with the first
7 stage PUD.

8 COMMISSIONER TURNBULL: Okay.

9 COMMISSIONER JEFFRIES: Okay.
10 Well, thank you for that clarification for me.

11 So I will then strike my former
12 comments and say to the Applicant that my hope
13 is that we see much informed architecture or
14 something by the time we get to the hearing.
15 This is just really bare bones here. It looks
16 like something in the middle of some suburban
17 office park. It's just not acceptable I don't
18 think.

19 CHAIRPERSON HOOD: Okay. Thank
20 you.

21 COMMISSIONER MAY: Chairman?

22 CHAIRPERSON HOOD: Commissioner

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1 May?

2 COMMISSIONER MAY: I wanted to
3 follow up on my earlier question.

4 I'm looking at your report which
5 gives us an aerial photo of the proposed site.

6 And it looks like about 60 percent of it is
7 paved. And then the part that's the future
8 surface parking lot looks like it's all trees.

9 Is that not accurate?

10 MR. LAWSON: You're correct. There
11 would be some tree clearing. It looks like
12 it's part of phase 1.

13 But we can certainly make sure that
14 we get clarified exactly what is going where
15 and how much additional if any hard surface
16 there would be on the property.

17 COMMISSIONER MAY: Yes. It seems
18 pretty clear to me if you compare your aerial
19 on page 2 with A1.07 that pretty much
20 everything that's the consolidated PUD is
21 going over what's currently a parking lot.
22 And then everything that looks like trees -- I

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1 don't know how good a stand of forest that is,
2 but it looks like it's a pretty densely packed
3 area of trees -- will all be paved for a
4 pretty full surface parking lot with not a lot
5 of even islands within it. It's lots and lots
6 of cars.

7 So I don't know what the time frame
8 is for getting to phase 2, but it would be
9 unfortunate to see all this development -- all
10 this paved area at the expense of the trees --
11 when I'm not sure what the deal is with the
12 parking and all that. But the interim phase
13 doesn't look like a very attractive phase with
14 all that surface parking there.

15 One other point that I would note,
16 in your report you cited the fact that they're
17 looking for 94 feet 4 inches of height, and
18 the C3A zone is limited to 90 feet with a PUD.

19 Is that right?

20 MS. STEINGASSER: It is their
21 request in the additional five percent that
22 the Commission has as its discretionary

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1 authority within the PUD Chapter.

2 COMMISSIONER MAY: I see. Okay.

3 All right. Well, given the
4 relatively low percentage of lot occupancy, it
5 seems kind of odd that they'd be needing to
6 push it up that much higher when they're only
7 at what -- 47 percent or something like that.

8 But I would agree with Commissioner
9 Jeffries with regard to the suburban office
10 park style. Not my favorite either.

11 But I was more concerned with the
12 site plan than the actual architecture of the
13 building, because there's a lot of like access
14 roads and things like that ringing around it
15 and not what we're accustomed to seeing.
16 Thanks.

17 CHAIRPERSON HOOD: Yes, I would
18 echo. I think we need to make this a little
19 more exciting. So we're looking forward to
20 maybe some tweaks as we get into the hearing.

21 Okay. Any other comments?

22 (No audible response.)

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1 CHAIRPERSON HOOD: I would move
2 that we set Zoning Commission Case No. 08-33
3 as a Consolidated PUD and first stage --

4 COMMISSIONER TURNBULL: Mr. Chair?
5 I just want to make sure that we cover that.

6 Mr. Lawson, you're going to meet
7 with them and talk about the amenity package?

8 MR. LAWSON: Absolutely.

9 COMMISSIONER TURNBULL: Okay.
10 Thank you.

11 CHAIRPERSON HOOD: I would move
12 that we set down Zoning Commission Case No.
13 08-33, Consolidated PUD, first-stage PUD and
14 Related Map Amendment, and ask for a second.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRPERSON HOOD: Moved and
17 properly seconded.

18 Any further discussion?

19 MS. SCHELLIN: Chairman Hood, can I
20 just ask Mr. Lawson one question?

21 We spoke earlier and we were going
22 to clarify whether this was a related or a

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1 permanent map amendment. Did we get
2 clarification on that?

3 MR. LAWSON: Our understanding is
4 that this is a PUD Related Map Amendment.

5 MS. SCHELLIN: Related. Okay.
6 Just wanted to clarify that.

7 CHAIRPERSON HOOD: Any further
8 discussion?

9 (No audible response.)

10 CHAIRPERSON HOOD: All those in
11 favor?

12 (A CHORUS OF AYES.)

13 CHAIRPERSON HOOD: Not hearing any
14 opposition, Ms. Schellin, would you record the
15 vote?

16 MS. SCHELLIN: Yes. Staff records
17 the vote five to zero to zero to set down
18 Zoning Commission Case No. 08-33 as a
19 contested case. Commissioner Hood moving;
20 Commissioner Turnbull seconding; Commissioners
21 Jeffries, Keating and May in support.

22 CHAIRPERSON HOOD: Okay. Let's

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1 move right along.

2 On the final action, Zoning
3 Commission Case No. 08-30 -- Ms. Schellin, did
4 I say 08-33 or 08-30?

5 MS. SCHELLIN: I think you said 33.

6 CHAIRPERSON HOOD: Okay. So we're
7 right for them. Okay. These numbers are
8 running real close. Okay.

9 For final action 08-30, West Half
10 LLC, et al, Capitol Gateway Overlay Review at
11 26 and M Street, Southeast.

12 Ms. Schellin?

13 MS. SCHELLIN: This case is before
14 you for final action. We have a supplemental
15 report from OP and also some additional
16 comments from the Applicant.

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

19 Colleagues, you see that there were
20 some responses that we asked for. And I think
21 as we got into this case, there were some
22 outstanding issues. And one of our colleagues

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1 -- I think it was Commissioner Keating --
2 mentioned that we wanted to get a supplemental
3 report, which I think was a fantastic idea
4 because then we were able to see what was
5 resolved, what wasn't resolved. And the only
6 ones that I had marked in my reading yesterday
7 were numbers 1 and 2 that we need to look a
8 little closer to, even though I think OP gives
9 their concurrence.

10 Then also if we look at Exhibit No.
11 31, we'll see where they have answered a few
12 questions. I think someone mentioned about
13 the roof plan, and we have that under Tab A.

14 Tab B -- I think it shows how
15 things relate to pedestrian and vehicle
16 traffic. I'm not sure who asked for it. I do
17 remember someone asked about it. And C, it
18 has the conditions.

19 And we also have a proposed order.

20 With that, I will open it up for
21 any comments.

22 (No audible response.)

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1 CHAIRPERSON HOOD: Okay. Well,
2 what I'll do, I'll start off. And maybe I
3 need to ask Mr. Bergstein.

4 Typically when we have an
5 application like this, I know in PUDs whenever
6 this is CG overlay, typically don't we have
7 two-year approvals? Or is it three?

8 MR. BERGSTEIN: Only two, because
9 this is essentially a special exception.
10 There's not an amendment to the zoning map or
11 an amendment to the zoning text that would
12 require proposed action either for a notice of
13 proposed rulemaking or for NCPC. So this is
14 more akin to a special exception. And
15 therefore only one vote is required.

16 CHAIRPERSON HOOD: Okay. I think
17 on 12 -- and I know that some more needs to be
18 looked at there -- they're asking us to do a
19 three year. I just want to make note that we
20 make sure that that's a two-year approval.
21 Projects shall be valid for a period of three
22 years from the effective date. At least

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1 that's the way I read it.

2 COMMISSIONER MAY: They asked for
3 additional time and flexibility, did they not?
4 Wasn't that in that --

5 MR. BERGSTEIN: In the past, there
6 has never been in a CG review order a
7 requirement that a building permit be filed
8 within any given period of time or
9 construction begin after it. That's a PUD
10 provision.

11 This Applicant I believe, in order
12 to be assured of how long they have to do
13 those things, proposed in their conditions a
14 requirement that a building permit be filed
15 for within three years, and then one year
16 construction after that. So normally our
17 orders are solvent with respect to CG-type of
18 approvals. But in this case, the Applicant
19 actually imposed that requirement on
20 themselves in order to get the assurance that
21 they have that period of time to file for a
22 building permit. So that's why that condition

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1 is in there.

2 CHAIRPERSON HOOD: So typically
3 there's no time and this is self-inflicted by
4 the Applicant?

5 MR. BERGSTEIN: I think it's a
6 self-inflicted restriction. Yes.

7 CHAIRPERSON HOOD: All right. Well
8 --

9 COMMISSIONER MAY: I'm sorry. Can
10 I --

11 CHAIRPERSON HOOD: Sure. Go ahead.

12 COMMISSIONER MAY: I'm a little
13 confused because I remember hearing on some
14 other actions that -- or actions taken by the
15 Zoning Commission that were similar or
16 effectively similar to a BZA order -- where
17 there was not an expiration date noted. And
18 at the time I remember someone telling me that
19 that was actually an error, and that we should
20 have noted the expiration of the order or that
21 there would be some time frame for issuance of
22 a building permit and start of construction as

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1 there normally would be for a BZA order.

2 MR. BERGSTEIN: Well, the BZA
3 orders are governed by a rule that says that a
4 building permit has to be filed within two
5 years.

6 COMMISSIONER MAY: Right.

7 MR. BERGSTEIN: When the CG overlay
8 provisions were written, there was either
9 through oversight or by intention that type of
10 provision was not put in. Nor is there a
11 provision as there is in the BZA regulations
12 that say that the construction rights vest
13 upon the issuance of the BZA order as opposed
14 to the normal instance where your construction
15 rights don't vest to the building from this
16 issue.

17 But the CG regulations are silent
18 on that. That's why in this particular case,
19 the Applicant is actually seeking to make
20 clear that it has at least three years, though
21 the other interpretation to the CG overlay
22 provisions is that there's no time frame and

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1 that the Applicant pretty much has forever to
2 file for a building permit based upon the
3 plans.

4 So if you feel that some sort of
5 time frame needs to be indicated, you really
6 have to do it on an order-by-order basis,
7 which in this case is what the Applicant is
8 requesting.

9 CHAIRPERSON HOOD: I started that
10 conversation, and I will tell you since we
11 have not done it in the past, I think this
12 Applicant is setting the benchmark.

13 So three years is fine with me. I
14 will withdraw my comments.

15 COMMISSIONER MAY: Okay.

16 CHAIRPERSON HOOD: Other
17 discussion?

18 COMMISSIONER MAY: Yes. I just
19 wanted to note that one of the other
20 conditions was a condition that would allow
21 for flexibility to reduce the number of
22 parking spaces. And I would just note that

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1 reducing it that we didn't want it -- well, we
2 ought to discuss this. But I wouldn't think
3 that we would want to reduce it below what is
4 required under the zoning regulations. And
5 that's a pretty high number still. It's 360-
6 something? Is that it -- 367?

7 CHAIRPERSON HOOD: Mr. May, are you
8 in the order?

9 COMMISSIONER MAY: I'm in the
10 conditions that were requested.

11 CHAIRPERSON HOOD: Okay. I see it
12 in two places actually -- in the order and
13 proposed order, and also --

14 COMMISSIONER MAY: It's in the
15 order itself that way?

16 CHAIRPERSON HOOD: Yes. In the
17 order. And it's also behind Tab -- what's
18 that -- C?

19 COMMISSIONER MAY: Right.

20 COMMISSIONER JEFFRIES: Was that a
21 recommendation of DDOT?

22 COMMISSIONER MAY: DDOT wanted it

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1 to be reduced by 100 spaces. But DDOT didn't
2 bother to show up and make the case. So I'm
3 not sure if I'm persuaded by that.

4 I didn't bring the order with me.
5 I have just the conditions that were cited as
6 607 with flexibility.

7 MR. BERGSTEIN: Condition 8, I
8 believe, is the condition you're referring to
9 which asks for flexibility to reduce.

10 COMMISSIONER MAY: Has that already
11 been corrected in the order?

12 MR. BERGSTEIN: It's our
13 recommendation that you do put that in, that
14 provided that the number of parking spaces is
15 not reduced below the minimum required for the
16 use.

17 COMMISSIONER MAY: Yes. Okay.

18 CHAIRPERSON HOOD: Okay. It's
19 actually reflecting the order as it is in the
20 conditions in this proposed order here.

21 COMMISSIONER MAY: The proposed
22 order is correct?

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1 CHAIRPERSON HOOD: It's actually
2 just like it is in your --

3 COMMISSIONER MAY: Oh, I see.

4 CHAIRPERSON HOOD: -- behind Tab C.
5 So Commissioner May, what would you
6 like to see?

7 COMMISSIONER MAY: Just that they
8 have the flexibility to reduce it but not
9 below that which would be required by the
10 zone.

11 CHAIRPERSON HOOD: Okay. Anybody
12 else have comments on that?

13 (No audible response.)

14 CHAIRPERSON HOOD: All right. We
15 all agree on that.

16 Anything else?

17 (No audible response.)

18 CHAIRPERSON HOOD: Okay. Oh, one
19 other thing.

20 We had a laundry list that
21 Commissioner Keating picked up on, and I'm
22 looking at some of the issues resolved. And I

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1 will ask the Office of Planning -- Mr. Lawson,
2 the only -- yes, Mr. Lawson. The only one
3 that I noticed, Mr. Lawson, was number 1. And
4 I looked at the submission where you did your
5 report on the 13th and the submittals came in
6 on the 9th. So apparently, this number 1 was
7 not resolved.

8 This is the only one where you do
9 not have issue resolved -- number 1 on your
10 report, February 13th. And basically what
11 you're saying is "OP feels however that it
12 would benefit the project if additional
13 information was submitted describing
14 interaction between the private and public
15 spaces."

16 COMMISSIONER JEFFRIES: Where is
17 this located, by the way -- just the actual --
18 the large blank wall or the potential for?

19 CHAIRPERSON HOOD: Is that Tab A or
20 B? Behind Tab A? Okay. It's behind Tab A.

21 COMMISSIONER JEFFRIES: Well, I
22 mean, this would be an elevation, wouldn't it?

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1 These are plans.

2 Office of Planning? Where would
3 that condition --

4 MS. STEINGASSER: The concern that
5 the reviewer had was if the retail space --
6 especially down towards the residential
7 building -- became one large retail space,
8 that there would be a large expanse of
9 unanimated --

10 COMMISSIONER JEFFRIES: As opposed
11 to several storefronts. It's broken down. I
12 got you.

13 MS. STEINGASSER: So he was hoping
14 to get some information on just how in the
15 alternative they would do store windows or
16 something like that.

17 But we're comfortable enough that
18 the project could go forward. We don't wish
19 to delay it any further.

20 CHAIRPERSON HOOD: We can put
21 issued resolved?

22 MS. STEINGASSER: The issue is

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1 resolved.

2 CHAIRPERSON HOOD: Issue resolved.

3 Okay. That completes it. We have a full
4 house. Okay.

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRPERSON HOOD: Yes.

7 COMMISSIONER MAY: There's another
8 issue I wanted to raise. And I don't remember
9 the extent to which we discussed this in the
10 hearing.

11 But the way I read the drawings,
12 the roof over the roof terrace of the office
13 building is above the height limit of 110
14 feet, and it's being called essentially an
15 embellishment.

16 COMMISSIONER JEFFRIES: I thought
17 we had talked about this.

18 COMMISSIONER MAY: Did we resolve
19 it and come to agreement on it? Because I'm
20 not totally comfortable with that notion.

21 CHAIRPERSON HOOD: I will tell you
22 that trying to remember, we meet two and three

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1 times a week and I can't remember. I do
2 remember that coming up, but I'm not sure if
3 this -- was this the case?

4 COMMISSIONER JEFFRIES: Okay. Is
5 that number 6? Is that in OP's supplemental
6 report -- "information on how the above-
7 mentioned roof structures meet the
8 requirements of 411 and the Height Act?"

9 CHAIRPERSON HOOD: I think you're
10 exactly right, Commissioner May. I think you
11 brought it up.

12 COMMISSIONER MAY: The issue with
13 regard to the exit stair towers and the
14 residential building, that was resolved by
15 reducing the height of those penthouses. And
16 they submitted a plan that shows the heights.
17 But it shows the height of the tower roof at
18 157 feet. And then --

19 COMMISSIONER JEFFRIES: You're at
20 A?

21 CHAIRPERSON HOOD: Right behind Tab
22 A.

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1 COMMISSIONER JEFFRIES: Section B?
2 Where are we looking?

3 CHAIRPERSON HOOD: The first page
4 right behind A.

5 COMMISSIONER MAY: And somewhere I
6 saw a dimension of the roof or a height of the
7 roof terrace itself. But I'm not seeing that
8 now. Hold on.

9 But if you look even at the
10 original drawings that they had submitted,
11 they had that sort of oximetric drawings of
12 building heights. And it shows the 110 feet
13 being measured to the top of the roof deck.
14 And then there's a roof over the roof deck.

15 COMMISSIONER JEFFRIES:
16 Commissioner May, in terms of the sections,
17 are you looking at any of the sections of what
18 was submitted -- Section A, B or C or D? I'm
19 just trying to see it in section.

20 COMMISSIONER MAY: Right. It gives
21 us the -- okay.

22 What we don't see is an absolute -

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1 - or an elevation from the measuring point.
2 We see an elevation above sea level or
3 something like that. And the roof is at 144
4 feet. And then the tower roof is 13 feet more
5 or less above that. But I think the 144 feet
6 of the roof itself is equivalent to 110 feet.
7 And so we've got another 13 feet above that.

8 CHAIRPERSON HOOD: Okay. If your
9 assessment is correct, I came up with us being
10 over five feet over what's permitted. You
11 came up with more?

12 COMMISSIONER MAY: I thought we
13 were limited to 110 feet.

14 CHAIRPERSON HOOD: But can't you do
15 18.6?

16 COMMISSIONER MAY: Yes. But it's
17 got to be set back one to one. This is not
18 set back at all.

19 CHAIRPERSON HOOD: You're talking
20 about the set back.

21 COMMISSIONER MAY: This little
22 tower roof is not set back at all from the

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1 building's edge.

2 And again, it's being treated as an
3 embellishment in effect -- the tower roof.

4 CHAIRPERSON HOOD: Okay. Well
5 actually, we have one or two options. I don't
6 think we --

7 COMMISSIONER JEFFRIES: Wait.
8 Before we even go there though, I just want to
9 be clear.

10 CHAIRPERSON HOOD: You don't know
11 where I'm going.

12 COMMISSIONER JEFFRIES: Oh, no. I
13 want clarity in terms of what Commissioner May
14 is saying.

15 So look at Section C of Akridge.
16 So you're saying the roof line is 144 -- the
17 measurement, right?

18 COMMISSIONER MAY: Right.

19 COMMISSIONER TURNBULL: Well,
20 that's the elevation.

21 COMMISSIONER JEFFRIES: That's the
22 elevation.

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1 COMMISSIONER MAY: That's the
2 elevation above sea level, I think.

3 But if you look at their prior
4 submission, there's an oximetric drawing that
5 shows 110 feet from the measuring point to the
6 height of the roof deck.

7 Yes, here we go. Measuring is at
8 34 1/2 feet. So if you look at Section C,
9 subtract 34 1/2 --

10 COMMISSIONER JEFFRIES: Right.

11 COMMISSIONER MAY: -- from everyone
12 of those measurements, and you'll see how high
13 it is -- how tall it is.

14 So the roof is 144 1/2 feet.
15 Subtract 34 1/2 feet; you get 110.

16 COMMISSIONER JEFFRIES: Right.
17 110. Right.

18 COMMISSIONER MAY: But -- let's not
19 look at Section C. Let's look at Section A.

20 COMMISSIONER JEFFRIES: Okay.

21 COMMISSIONER MAY: And you see
22 there the roof line is at 144 1/2.

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1 COMMISSIONER JEFFRIES: Right.

2 COMMISSIONER MAY: And then above
3 that, you have the tower roof at 157.67.

4 COMMISSIONER JEFFRIES: And you're
5 saying that that is not a setback.

6 COMMISSIONER MAY: It's not set
7 back at all from the edge of the building.

8 Essentially, my question here is
9 that you can exceed 110 feet with an
10 architectural embellishment. The question is
11 whether we consider the roof over the roof
12 deck to be an embellishment or not. And I'm
13 not sure that I agree with that opinion. But
14 I'm interested in hearing what the rest of the
15 Commission has to say.

16 CHAIRPERSON HOOD: Well, from my
17 standpoint, I think most of the time unless we
18 -- I don't know if we have a whole lot of
19 practice with that. At least I don't. The ZA
20 usually makes that determination. And today
21 to try to be determining it myself, I mean, if
22 we blatantly see this as an issue, then we

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1 need to stop it here. But in the past, we've
2 always -- at least the 12 years I've been here
3 -- we always -- I'm not going to say punted --
4 the ZA makes that determination.

5 COMMISSIONER MAY: If there were a
6 circumstance where we had a very clear and
7 pronounced tower somewhere on the facade and
8 you had a roof over the tower -- something
9 like that -- it's clear it fits the definition
10 of an embellishment. But here we have an
11 elongated bar of building running through the
12 building. It's hard to really regard that in
13 itself the same way that you would regard a
14 tower.

15 The object that they have at the
16 corner with the big screen and the pole on
17 top, I mean, that's an embellishment. That's
18 very clearly an embellishment. But if you're
19 just talking about the roof over the roof
20 deck, it's a roof over a roof deck. Is that
21 really an embellishment?

22 CHAIRPERSON HOOD: Commissioner

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1 May, what would you like to see us do with
2 this?

3 COMMISSIONER MAY: Well, I'd like
4 to hear what Commissioner Jeffries and
5 Commissioner Turnbull have to say about that.

6 CHAIRPERSON HOOD: You're going to
7 the architects.

8 COMMISSIONER MAY: Well, I'd like
9 to hear what you have to say about it too.

10 CHAIRPERSON HOOD: No, that's all
11 right. I just said what I had to say.

12 COMMISSIONER MAY: Okay. Well,
13 then that's why I was moving on --

14 CHAIRPERSON HOOD: Okay. And then
15 I'm going to make a motion.

16 COMMISSIONER TURNBULL:
17 Commissioner May, I'm looking at RS 1 -- the
18 roof plan of the office building.

19 Are we looking on the one -- on the
20 southern building, there's a small green roof.

21 And then across that -- across the via,
22 there's the other longer roof. Is that the

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1 roof you're referring to -- the longer roof --
2 the longer-angled roof?

3 COMMISSIONER MAY: I'm referring to
4 the longer-angled roof that's part of the
5 building closer toward M Street.

6 COMMISSIONER TURNBULL: Okay.
7 Toward M Street? Okay.

8 And your feeling is that as far as
9 an embellishment, it's gone too long. It's
10 stretching the limits. It's a roof that seems
11 to keep going and it's not really an
12 embellishment? It's kind of one of those --

13 COMMISSIONER MAY: I don't know
14 whether it is or it isn't. Because it's not
15 like it's an element that is integral to a
16 piece that is an embellishment.

17 COMMISSIONER TURNBULL: It's not a
18 dominant feature.

19 COMMISSIONER MAY: Right. If you
20 look at what's happening at the corner, and
21 look at the view that they provided behind Tab
22 B -- if you look at that for a second, right

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1 in front of us there there's the multi-colored
2 mesh screen thing with the pole sticking out
3 of it.

4 COMMISSIONER TURNBULL: Right.

5 COMMISSIONER MAY: That's clearly
6 an embellishment.

7 The piece that's supporting that
8 which extends above 110-foot level also is
9 part of that piece.

10 COMMISSIONER TURNBULL: Right.

11 COMMISSIONER MAY: And I have no
12 issue with that even though I don't know
13 what's happening within that space. I assume
14 it's not occupied space. But it's part of
15 that tower element on the corner.

16 COMMISSIONER TURNBULL: Right.

17 COMMISSIONER MAY: The question is
18 whether the roof over the roof deck really is
19 an embellishment per se.

20 Now that I'm looking at it, maybe
21 even the rest of the green bar there. As you
22 extend forward to M Street, is that also an

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1 embellishment?

2 I don't really know the answer to
3 this. I'm sort of raising the question
4 because I'm afraid of what this opens the door
5 to.

6 COMMISSIONER JEFFRIES: So that's
7 your concern if this is going to be pressed
8 and if we're going to look at this and someone
9 will be able to point to it? Because --

10 COMMISSIONER MAY: Right. I mean,
11 the roof deck idea to me is probably the most
12 problematic consideration because it's got
13 this other functional use. It's creating a
14 space that's going to be occupied if not -- I
15 mean, not full time, but it's going to be
16 used. It's more than just a roof deck now.
17 It's a roof deck with a roof over it.

18 COMMISSIONER TURNBULL: Right.
19 It's sort of an extension of the trellis
20 concept which we've dealt with before.

21 COMMISSIONER JEFFRIES: Yes. And
22 before when Commissioner Parsons was here,

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1 that was his deal -- rooftop embellishments.
2 And I never really joined him in that. And
3 I'm probably going to depart this time as
4 well.

5 I think this is a wonderful
6 project, quite frankly. And they're in front
7 of us really for design review. I think that
8 they've responded to a number of our issues
9 and so forth.

10 Commissioner May, I understand your
11 concern. But you're really asking a question.
12 You're not really certain.

13 COMMISSIONER MAY: Right. I'm
14 trying to get a sense of what the rest of the
15 Commission feels about this.

16 COMMISSIONER JEFFRIES: Yes. Yes.
17 I'm going to give it the pass from where I
18 sit.

19 My suspicion is that someone else
20 will be able to take that up.

21 COMMISSIONER MAY: Well, as
22 Chairman Hood had suggested --

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1 CHAIRPERSON HOOD: Let's make sure
2 we get the comments from Mr. Turnbull.

3 COMMISSIONER TURNBULL: Well, I
4 guess in one way I see where you're going. I
5 guess it depends how big you actually make the
6 -- there's no regulation that says how big
7 something is going to be.

8 I could see how the covered roof -
9 - this terrace -- this covered roof walk -- if
10 it extended over half the roof would be a
11 major issue. Because basically you're almost
12 getting another floor of not occupiable space.

13 But it's becoming a usable space. It's going
14 beyond the extent of what an embellishment
15 would really mean. So I think they're
16 treading in on a grey area here -- on how far
17 you can actually stretch this.

18 I don't mind the trellises to the
19 extent that they're an interesting part of the
20 roof feature itself. Where they would begin
21 to dominate the whole roof and actually become
22 more than a feature, I think that's the issue

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1 we have to struggle with.

2 So I guess I'm kind of nebulous on
3 how to vote on this too. I guess I'm willing
4 to let it go.

5 But I can definitely see
6 Commissioner May's stance on this that someone
7 could come back and say oh, look what Akridge
8 did, and we're only 20 percent more than this
9 -- or 30 percent more than what they had. So
10 you're treading an area where how much of a
11 roof becomes usable to the point it's beyond
12 just a roof feature.

13 MR. BERGSTEIN: Can I make a
14 suggestion?

15 First of all, when the Zoning
16 Commission approves a design like this, it
17 does not mean that it has reviewed the design
18 for compliance with the zoning regulations or
19 the Height Act. And it's incumbent upon the
20 Zoning Administrator to make that
21 determination independently.

22 However, the order could include a

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1 provision pretty much stating that,
2 specifically with respect to this particular
3 element being discussed that in approving this
4 application the Zoning Commission is not
5 finding that this particular element exceeds
6 the Height Act or represents an embellishment
7 and encourages the Zoning Administrator to
8 take a specific look at the issue. And in
9 addition, the Office of Zoning could send a
10 cover letter sending this order to the Zoning
11 Administrator specifically pointing out the
12 issue for his review.

13 COMMISSIONER MAY: I would be very
14 happy with that.

15 I'm not really so much concerned
16 about this from a Height Act perspective,
17 although there may be an issue there. I'm
18 concerned about how we define embellishment or
19 we don't.

20 So if we can get clarity from the
21 Zoning Administrator on what that should be, I
22 think that's fine too.

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1 COMMISSIONER JEFFRIES: Can't we
2 just tell the Zoning Administrator to look at
3 the minutes of this hearing.

4 MR. BERGSTEIN: The concern is
5 precedent. And so that someone can't say
6 well, they did this, so we can do something
7 like it. So what I was suggesting that the
8 order itself indicate that its approval of the
9 design does not create precedent with respect
10 to the particular issue as to whether or not
11 what you're describing is an embellishment or
12 not. However you want us to do it, we can
13 just make it clear that those aspects of the
14 design that you're finding problematical or
15 questionable do not create a precedent in
16 terms of what is permitted under the zoning
17 regulations. And that remains an obligation
18 of the Zoning Administrator to determine.

19 COMMISSIONER TURNBULL: I could go
20 along with that.

21 CHAIRPERSON HOOD: All right. Mr.
22 May, now we're going to put that in the water.

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1 Well, we're going to have that put in the
2 water.

3 The problem that I see with that is
4 we won't know what happens other than every
5 order that comes down and somebody gets close
6 to that, are we looking for a response or
7 something from the ZA to kind of see where he
8 was in that? And I don't even know if that's
9 even legal if we can do that.

10 MR. BERGSTEIN: You could ask. But
11 you could ask that the Zoning Administrator
12 inform you of his ultimate decision on the
13 issue. But that's something you would do in a
14 cover letter where did you say that the
15 Commission was concerned about this aspect,
16 and would urge the Zoning Administrator to
17 take a look at it and to advise the Zoning
18 Commission as to his determination as to
19 whether or not this is an embellishment or
20 not. You could certainly request that.

21 COMMISSIONER MAY: It would be
22 helpful to know from the Zoning Administrator

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1 where this stands so that we don't go through
2 this kind of debate next time when we see
3 something like this. Because I'm sure we'll
4 see it again, and then I'll try to remember
5 what happened in this case, and it'll take ten
6 minutes to reconstruct what we were thinking.

7 Anyway.

8 It would be helpful if we can at
9 least request that, and we'll deal with it the
10 next time it comes up.

11 MR. BERGSTEIN: So we'll work with
12 Office of Zoning staff to craft a letter that
13 does that, and we can share it with the
14 Commission or as you please.

15 CHAIRPERSON HOOD: Okay. Anything
16 else? Thank you, Mr. Bergstein. Anything
17 else?

18 (No audible response.)

19 CHAIRPERSON HOOD: All right. I
20 will move for approval of 08-30, and ask that
21 the record and the motion encompass all the
22 comments of my colleague, Commissioner May,

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1 even though it's going to the Zoning
2 Administrator so he can make an interpretation
3 and maybe if at all possible that the Office
4 of Zoning work with OAG to send a letter so we
5 can kind of get some resolution exactly how
6 this was proceeded. And I'll ask for a
7 second.

8 COMMISSIONER JEFFRIES: Second.

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

11 Any further discussion?

12 (No audible response.)

13 CHAIRPERSON HOOD: All those in
14 favor?

15 (A CHORUS OF AYES.)

16 CHAIRPERSON HOOD: Any opposition?

17 (No audible response.)

18 CHAIRPERSON HOOD: Not hearing any,
19 Ms. Schellin, would you record the vote?

20 MS. SCHELLIN: Yes. Staff records
21 the vote five to zero to zero to approve
22 Zoning Commission Case No. 08-30 as modified.

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1 Commissioner Hood moving; Commissioner
2 Jeffries seconding; Commissioners Keating, May
3 and Turnbull in support.

4 CHAIRPERSON HOOD: Thank you. Most
5 people don't want to hear me. Okay.

6 Zoning Commission Case No. 08-09,
7 ANC 4C, Text and Map Amendments to expand the
8 Sixteenth Street Heights Overlay District.

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, sir. This one
11 is before you for a final action. I had my
12 package before me and I believe I've shared
13 that with some others here tonight. And so it
14 kind of got split up, and so I'm not real sure
15 -- I believe the NCPC provided a response, but
16 I believe I shared that with someone else on
17 the dais. So I'm not sure that they
18 responded.

19 MR. BERGSTEIN: They did.

20 MS. SCHELLIN: They did. Okay.

21 CHAIRPERSON HOOD: Did we get that
22 tonight or did they send it --

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1 MS. SCHELLIN: We didn't get
2 anything new tonight. It was in the package.

3 MR. BERGSTEIN: That came back.
4 That came in very early in December.

5 MS. SCHELLIN: Yes. So nothing new
6 came in tonight.

7 CHAIRPERSON HOOD: Okay. Let me
8 just say, it's my understanding that the
9 Office of Planning has taken a review
10 pertaining to this petition. We may need to
11 re-open the record.

12 But before I move anyway legally, I
13 want to talk to Mr. Bergstein and see how I
14 would be able to proceed if I go to the Office
15 of Planning and hear some limited comments. I
16 understand that they have some more
17 information that they could basically put into
18 the record if we were to open the record.

19 Mr. Bergstein?

20 MR. BERGSTEIN: That's true. I've
21 been discussing various issues of this overlay
22 with the Office of Planning. And the one

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1 issue of concern for me was that one of the
2 factors that was looked at by the Commission
3 in 1994 was the extent to which the Sixteenth
4 Street Heights neighborhood was occupied by
5 nonresidential uses.

6 And it concerned me that the order
7 that was issued by the Commission didn't
8 really explain what extent of the land area
9 was occupied. And I believe the Office of
10 Planning has looked at the existing
11 neighborhood that's proposed to be included in
12 the overall, and then also looked at other R1B
13 neighborhoods to see how the extent to which
14 nonresidential uses that are occupied in the
15 proposed expansion area compares to R1B
16 properties as a whole. And I think they have
17 information to share. If you do allow them to
18 do that, it would require the opening of the
19 record.

20 And what I would recommend if you
21 do that is to then permit persons who
22 commented on the proposed rulemaking to

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1 respond to OP's information and preferably
2 that OP put that information in writing and
3 that's shared with the persons who offered
4 comments.

5 CHAIRPERSON HOOD: Okay. I guess I
6 will need to do a motion to re-open the
7 record?

8 MR. BERGSTEIN: If you care to, you
9 may.

10 CHAIRPERSON HOOD: Okay.

11 MR. BERGSTEIN: To re-open the
12 record to hear the information -- additional
13 information -- from the Office of Planning.
14 Yes.

15 CHAIRPERSON HOOD: I'm not going to
16 try to repeat everything Mr. Bergstein said.
17 But I would ask my colleagues that we
18 incorporate and actually follow the procedure
19 which Mr. Bergstein so eloquently laid out.
20 I'm not going to try to rehash it because I
21 won't remember half of it. But I would ask
22 that we do that and re-open the record and do

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1 as Mr. Bergstein has laid out a procedure I
2 think that we can follow so we can be fair to
3 everyone who's involved in this case. And ask
4 for a second?

5 COMMISSIONER TURNBULL: Second.

6 CHAIRPERSON HOOD: Moved and
7 seconded. Any further discussion?

8 (No audible response.)

9 CHAIRPERSON HOOD: All those in
10 favor?

11 (A CHORUS OF AYES.)

12 CHAIRPERSON HOOD: Not hearing any
13 opposition, Ms. Schellin, would you record the
14 vote?

15 MS. SCHELLIN: The staff records
16 the vote five to zero to zero to re-open the
17 record to accept the information that the
18 Office of Planning will provide; Commissioner
19 Hood moving; Commissioner -- you did not vote
20 -- okay.

21 Staff will re-record the vote four
22 to zero to one to re-open the record to accept

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1 the additional information that the Office of
2 Planning will submit in Zoning Commission Case
3 No. 08-09. Commissioner Hood moving;
4 Commissioner Turnbull seconding; Commissioners
5 Jeffries and May in favor; Commissioner
6 Keating not voting having not participated in
7 the case.

8 And we're going to go from there.

9 CHAIRPERSON HOOD: Okay. What I
10 would like to do is go to the Office of
11 Planning, and in your report I guess, Ms.
12 Steingasser, could you also at some point
13 reduce your comments to writing so we can
14 share with I guess everyone who commented in
15 that 30-day period? And then we will set up a
16 time schedule.

17 MS. STEINGASSER: Yes. We'll be
18 happy to submit it in writing. We're not
19 really prepared to do a full presentation.

20 But what OP did in the last week
21 was using our GIS system and analyze the
22 percentage of institutional uses in the R1B

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1 land area throughout the District of Columbia
2 so we had a city-wide average. We then look
3 at the existing Sixteenth Street Heights
4 overlay, and we have it by land area. And
5 then we looked at the proposed overlay area.
6 And what we found was that District-wide, it's
7 7.8 percent institutional uses in the R1B.
8 Again, this is land area.

9 In the existing Sixteenth Street
10 Heights overlay, it's 6.5 percent. But in the
11 area proposed for the extension of the overlay
12 or the mapping of the overlay, it's 18
13 percent. So it's more than twice the city
14 average and almost three times the average of
15 the existing overlay. So in terms of land
16 area utilization, it's quite high.

17 With conversions however, it was
18 quite low. It was less than two percent
19 conversions as opposed to the ten percent
20 established for the existing overlay. We did
21 not have an opportunity to do a District-wide
22 conversion. That was a much longer exercise.

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1 We also did it by lots. Came down
2 with a series of figures as well. And we'll
3 be happy to put that together in a chart so it
4 covers both land area and number of lots --
5 both District-wide, existing overlay and then
6 the proposed expansion. And we'll be happy to
7 get that into the record this week for
8 comment.

9 CHAIRPERSON HOOD: Thank you, Ms.
10 Steingasser. She says she's not necessarily
11 prepared for a full-blown report tonight. I
12 appreciate her comments. I think we have laid
13 out a process. And if all my colleagues agree
14 to that process -- which we voted on --
15 hopefully we can continue to sustain it.

16 Now let me ask Ms. Schellin -- Ms.
17 Steingasser, about how long would it take
18 maybe for you to put that in writing?

19 MS. STEINGASSER: We can have it
20 into the record this week.

21 CHAIRPERSON HOOD: Okay. This
22 week?

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1 Can I just ask you to work with Ms.
2 Schellin on a time schedule so we can make
3 sure we get everybody who commented in that
4 notice period to be able to have adequate time
5 to be able to look at it and get it back to us
6 -- their comments?

7 MS. STEINGASSER: Yes.

8 CHAIRPERSON HOOD: Okay.

9 MS. STEINGASSER: Absolutely. We
10 can do so.

11 MR. BERGSTEIN: Mr. Chair, I would
12 suggest that the Commission itself determine
13 how much time the persons who offered comments
14 would have to respond to the Office of
15 Planning report which will be provided to them
16 from the Office of Zoning. So from the
17 mailing date that the Office of Zoning sends
18 the Office of Planning report to the persons
19 who made comments, how much time do you want
20 to provide those persons and institutions to
21 provide a response if they care to?

22 CHAIRPERSON HOOD: I would think

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1 two weeks. But as I think about it, I think
2 the petitioner's case was an ANC, and I'm not
3 sure if they have to go back and have a
4 special meeting and all those kinds of things.

5 By law, don't we have to do
6 something like 40 days?

7 MR. BERGSTEIN: Well, first of all
8 it's their petition. So they know they filed
9 it.

10 And at this juncture, I think that
11 it's appropriate. We're talking about a
12 technical issue here of the methodology used
13 by the Office of Planning. And I think the
14 ANC should already have a representative who
15 should be in a position to respond. But
16 you've already fulfilled the ANC notice
17 requirement actually by telling them they
18 filed their own petition. And I think at this
19 point any other response period can be as you
20 think prudent.

21 CHAIRPERSON HOOD: Okay. Well, I
22 think what we can do, colleagues, is two weeks

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1 since apparently from what I'm hearing from
2 Mr. Bergstein, I don't have to go back for a
3 full vote of the ANC for any comments. As he
4 stated, someone was already designated, and I
5 think they can still carry that out for this
6 case. So I would suggest that we do it within
7 two weeks?

8 MR. BERGSTEIN: Two weeks from the
9 mail date.

10 CHAIRPERSON HOOD: From the mail
11 date?

12 MR. BERGSTEIN: Yes.

13 CHAIRPERSON HOOD: Okay? All
14 right. Anything else? Is everything in
15 order, Ms. Schellin? Mr. Bergstein, do we
16 need to do anything else?

17 MR. BERGSTEIN: You're completed, I
18 believe.

19 CHAIRPERSON HOOD: For the night?
20 Can we go? Or that was just for the --

21 MR. BERGSTEIN: Just for this
22 docket.

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1 CHAIRPERSON HOOD: I've got to have
2 some fun.

3 MR. BERGSTEIN: This matter will be
4 rescheduled for final action after the
5 completion of this period of comment.

6 CHAIRPERSON HOOD: Okay. Good.

7 All right. Thank you, everyone,
8 for their participation on that one.

9 Let's move right to Zoning
10 Commission Case No. 08-13. That's the
11 Marriott International, Inc., Consolidated PUD
12 and Related Map Amendment at Square 370.

13 Ms. Schellin?

14 MS. SCHELLIN: Yes, sir. We have a
15 couple preliminary matters.

16 We did receive a letter from East
17 Central Civic Association. And as you know,
18 the record is closed. So it's up to the
19 Commission to decide whether they accept that
20 letter. And if so, the Applicant has
21 submitted a letter in response thereto.

22 But probably a bigger issue is that

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1 staff realizes that it failed to send notice
2 to ANC 2C, who is an ANC across the street.

3 CHAIRPERSON HOOD: Okay. We failed
4 to send this to ANC 2C.

5 And Ms. Schellin, we do have
6 exhibit -- and it's actually run off my page,
7 so I'm not sure which exhibit it is -- from
8 the East Central Civic Association. Also we
9 have Exhibit 63 in response to Holland and
10 Knight.

11 So Ms. Schellin, to make sure I
12 understand, we didn't send notice to ANC 6C?

13 MS. SCHELLIN: 2C.

14 CHAIRPERSON HOOD: I'm sorry. 2C.

15 MS. SCHELLIN: Correct. And I
16 believe Mr. Bergstein can respond to that
17 issue as far as what we need to do about that.

18 CHAIRPERSON HOOD: Help me out, Mr.
19 Bergstein.

20 MR. BERGSTEIN: I'll try. There's
21 two issues here.

22 One is that the Commission's rules

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1 require that an ANC within 200 feet of the
2 project receive notice from the Zoning
3 Commission. That wasn't done.

4 You can waive that rule under
5 Section 3000.8 if in the judgment of the
6 Commission the waiver will not prejudice the
7 rights of any party and is not otherwise
8 prohibited by law. Now the prohibited by law
9 part goes into the ANC Act which requires that
10 affected ANCs receive 30-day notice of any
11 proposed zoning change and that they receive
12 it by First Class Mail.

13 Although that was not done in this
14 case, the other aspects of notice were given
15 in terms of publication in the *District of*
16 *Columbia Register*, and the property was posted
17 as well. And in fact, a representative of
18 that ANC did testify. So the Commission could
19 look at the ANC Act and interpret it as saying
20 that although technically the mail notice
21 wasn't provided, there's enough evidence to
22 suggest that ANC 2C was put on notice as to

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1 the proposed zoning action and that the fact
2 that they did not submit a written report was
3 intentional and therefore the order could
4 state that because no report was submitted
5 that the ANC is not given the great weight to
6 which they would otherwise be afforded.

7 The other alternative would be to
8 continue final action for 30 working days,
9 give notice to the ANC, and then schedule
10 final action for either the completion of that
11 period or upon the receipt of a written
12 report, whichever of those two events happens
13 first.

14 So basically, I need to know what
15 to say in this order whether either you say
16 that on the great weight that no ANC report
17 was received from ANC 2C, therefore no great
18 weight is given. And the Commission
19 acknowledges that no mail notice was received
20 but that other indicia would indicate that
21 notice was received by the ANC.

22 And the other option as I said is

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1 to continue the matter.

2 CHAIRPERSON HOOD: Okay. And I
3 want to open it up for discussion, but I tell
4 you, colleagues, we want to make sure that
5 it's clean. It's right. If we didn't send a
6 notice that we want to make sure what we do is
7 right here. At least I'm sure that all five
8 of us agree on that.

9 But then I know how it is sometimes
10 when you come and you continue to see the same
11 cases. It's like peddling without a chain.
12 We're not going anywhere because we come back
13 every 30 days and we're still dealing with the
14 same case.

15 But I think there's a mistake on
16 our part that we need to basically deal with.

17 While I don't want to come back and see
18 Marriott International in 30 days, but that's
19 just preliminary where I stand. But I want to
20 open it up and hear some comments before we
21 get into the submittals.

22 Do you just acknowledge? Or do we

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1 want to give this ANC 2C an opportunity to
2 weigh in. And here's the thing. Once they
3 weigh in, either they have a chance to weigh
4 in, or we'll deal with it in 30 days,
5 whichever comes first.

6 COMMISSIONER JEFFRIES: Is there
7 evidence anywhere in the record that members
8 of 2C had no idea about this development?

9 CHAIRPERSON HOOD: I don't know if
10 anyone was present that night. I'm not sure.

11 MR. BERGSTEIN: I thought one of
12 the ANC Commissioners testified at the
13 hearing. Am I incorrect?

14 COMMISSIONER JEFFRIES: Mr. Padro.
15 That's right. That's right. Mr. Padro.

16 So this is really an issue of
17 notice. Clearly, we should have given notice.

18 But I have difficulty up here believing that
19 the 2C did not know about this project.
20 Clearly we dropped the ball here, but
21 particularly given that one of the
22 Commissioners sat here and testified.

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1 COMMISSIONER TURNBULL: And he
2 testified that the ANC 2C had taken no
3 position on the case. And they did not
4 request party status.

5 CHAIRPERSON HOOD: But the
6 difference on that was I don't think it was --
7 normally you're supposed to be authorized. I
8 don't even think he was even authorized. He
9 didn't even have a letter that says he was
10 even authorized to come and tell us that.

11 COMMISSIONER TURNBULL: That's
12 true. But the ANC did not request party
13 status either.

14 CHAIRPERSON HOOD: But he was here
15 in the capacity I think as President of Shaw
16 Main Street. I thought that's why he was
17 here.

18 COMMISSIONER JEFFRIES: Yes. But I
19 think it is just heavy handed toward the
20 Applicant quite frankly -- just my view. I
21 mean, we have really been with this project
22 for several months.

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1 And clearly -- again for the record
2 -- we dropped the ball in terms of not giving
3 notice. But I have a difficult time believing
4 that the ANC has been somehow harmed because
5 we did not give notice of a huge city project
6 that's happening across the street from them.

7 I have some difficulty seeing how they could
8 have been harmed through the fact that we
9 didn't give notice here, particularly given
10 the fact that one of the Commissioners spoke
11 here, granted, not in the capacity and so
12 forth. But I just have to be convinced.

13 CHAIRPERSON HOOD: I can't convince
14 you. Anyone else?

15 COMMISSIONER MAY: Do we have any
16 indication from the ANC that now that this is
17 all done that they have an interest in
18 submitting a report and having great weight?
19 We have something from a third party that
20 notes this problem.

21 CHAIRPERSON HOOD: Central Civic
22 Association.

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1 COMMISSIONER MAY: Right.

2 CHAIRPERSON HOOD: And I can go
3 either way on this actually.

4 But I think to keep it clean
5 because the technicality for me is we didn't
6 send notice. And I think to keep it clean if
7 we do the latter part of what Mr. Bergstein
8 mentioned about leave it open for 30 more
9 days. If they respond, it'll be quicker. If
10 they don't respond in 30 days, we take final
11 action.

12 We've already taken a proposed
13 action. So I would be fairly hard pressed to
14 do a 180 -- at least from my standpoint. It
15 would have to be something very compelling
16 that comes into the record for me.

17 COMMISSIONER JEFFRIES: But Mr.
18 Bergstein, you did say that we could waive
19 this if we felt there was enough in the record
20 that stated -- and I don't have your exact
21 words -- that 2C has not been harmed by the
22 fact that we did not give notice

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1 in our estimation.

2 MR. BERGSTEIN: Well, the first
3 issue is the waiver of your rules, which
4 you've done in other cases where other notice
5 has been given under your regulations.

6 The question is whether or not you
7 have an ANC Act that says that notice must be
8 given by First Class Mail. It did not happen
9 in this case. But you do know that at least
10 one ANC representative had notice of the
11 project because they showed up and testified.

12 Based upon that, I'm suggesting -- but not
13 recommending, because you have to make this
14 decision -- that it would be legally
15 sufficient for you to find that based upon the
16 presence of the ANC representative that the
17 other means of notice that were given -- the
18 posting of the property, the publication in
19 the *D.C. Register*, the notice of public
20 hearing -- did put the ANC on notice of the
21 proposal and that the fact that they did not
22 submit a written report can be deemed to have

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1 been a conscious action on their part. And
2 therefore, they would not get great weight.
3 Because you only give great weight to the
4 written report of the ANC, not of anything
5 that's stated at the hearing.

6 So that's one way. And that's how
7 I would write the order if that was your view.

8 The other thing to do is to
9 continue it and see which comes first -- the
10 30 days or an ANC report.

11 CHAIRPERSON HOOD: Also, I think
12 that if I remember correctly -- and I see him
13 -- Mr. Bill was responsible for outreach. And
14 I'm sure that members of that ANC property
15 knew about this project as my colleague
16 already mentioned. Now that I think back, I
17 don't know if that -- I don't have that record
18 in front of me -- I don't know if that was
19 sufficient -- the outreach that was done. I
20 noted at the hearing, I specifically asked
21 about the outreach. But I can't remember what
22 all the answers were. But I would have to go

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1 along with my colleague.

2 But again, I go back to making sure
3 we keep it clean. But let me open it up and
4 hear from --

5 COMMISSIONER JEFFRIES: I think
6 that Mr. Bergstein has stated it succinctly to
7 me. I have difficulty accepting that ANC 2C
8 has somehow been harmed given what's in the
9 record -- the evidence. This is the Civic
10 Center of the District of Columbia that's
11 right across the street from them. Are they
12 saying they just had no idea about what was
13 going on, and therefore they've been harmed
14 when their own ANC Commissioner -- one of them
15 -- came here and spoke? If they're not
16 keeping in contact with each other, it's not
17 our job to police these people.

18 CHAIRPERSON HOOD: Okay. Let me
19 hear from others. Commissioner May?

20 COMMISSIONER MAY: Honestly, I
21 could proceed either way. I think the only
22 reason to make a decision tonight and move

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1 forward and just acknowledge that this
2 happened would be the urgency of just making a
3 decision and moving on. But if the Chairman
4 would like to move with an abundance of
5 caution and allow the ANC the opportunity to
6 file a report, I would be happy to go along
7 with that.

8 CHAIRPERSON HOOD: Mr. Turnbull?

9 COMMISSIONER TURNBULL: Well, Mr.
10 Chair, I'm in favor of going ahead with this
11 and granting approval. But I've always been
12 in favor of it. And I think there may be an
13 internal ANC 2C issue here which is not
14 germane to what we're discussing. But if you
15 feel that we are doing some disservice to 2C,
16 I'm willing to postpone it.

17 I think we're also doing a
18 disservice to the Applicant by not proceeding.

19 But I'm in favor of going. I think there has
20 been sufficient notice. I think there may be
21 some friction within ANC 2C that we're not
22 privy to.

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1 But again, I'm willing to go along
2 with however you want to go with this.

3 CHAIRPERSON HOOD: I don't want to
4 do anymore harm to the Applicant. I think
5 this case is very well flushed out. And as we
6 get into the materials, we still can do that.

7 But I just think we need to proceed with an
8 abundance of caution since it seems to be
9 coming back.

10 I know how my Vice-Chair stands,
11 but I can go either way. But I don't think 30
12 days is going to hurt us even though we've
13 already had proposed action. Either we get a
14 report, and then if we don't, then we move on
15 in 30 days after not receiving a report.

16 But I think it's incumbent upon
17 this office -- they've made one mistake in 12
18 years. They didn't send 2C a letter. Okay.
19 But I can tell you, when you make one mistake
20 around here -- as my colleagues will remember,
21 I made one mistake. We had a whole other
22 night down here. So I just think we need to

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1 proceed very cautiously and I would rather
2 move in an abundance of caution.

3 MR. BERGSTEIN: Mr. Chair? I just
4 want to put in it's 30 working days. It
5 amounts to 45 days.

6 CHAIRPERSON HOOD: So that doesn't
7 include --

8 MR. BERGSTEIN: It excludes
9 Saturdays, Sundays and legal holidays.

10 CHAIRPERSON HOOD: So Mr.
11 Bergstein, what we would do now -- and Ms.
12 Schellin if you could help me -- if we went
13 and gave them notice, we will send a letter
14 from the Office of Zoning to them?

15 MS. SCHELLIN: Yes.

16 CHAIRPERSON HOOD: Keeping in
17 correspondence with the ANC Act.

18 MR. BERGSTEIN: You would send them
19 written notice advising them of this proposal.

20 CHAIRPERSON HOOD: Okay. Would
21 somebody like to make a motion besides me?

22 COMMISSIONER JEFFRIES: Excuse me?

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1 CHAIRPERSON HOOD: Would somebody
2 like to make a motion? I would like to move,
3 but whatever motion I get, I'll entertain.

4 COMMISSIONER JEFFRIES: Yes. I'd
5 like to make a motion that we approve in the
6 final action of Zoning Commission Case No. 08-
7 13, Marriott International, Incorporated,
8 Consolidated PUD and Related Map Amendment at
9 Square 370.

10 And I'd like to also point out that
11 the Zoning Commission has acknowledged the
12 error in terms of notice to ANC 2C. But I'm
13 also asking we waive our rights and forego
14 notice to the ANC given the fact that we
15 believe that there is sufficient information
16 in the record to state that they have not been
17 harmed, or will not be harmed by going forward
18 tonight.

19 I'm sorry. Strike that. Waive our
20 rules. Sorry.

21 CHAIRPERSON HOOD: We want to keep
22 our rights.

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1 Okay.

2 COMMISSIONER JEFFRIES: And I need
3 a second.

4 CHAIRPERSON HOOD: Okay. It's been
5 moved. Can I get a second?

6 COMMISSIONER TURNBULL: Second.

7 CHAIRPERSON HOOD: All right. Any
8 further discussion?

9 (No audible response.)

10 CHAIRPERSON HOOD: All those in
11 favor?

12 (A CHORUS OF AYES.)

13 CHAIRPERSON HOOD: Any opposition?

14 (No audible response.)

15 CHAIRPERSON HOOD: Any abstentions?

16 (No audible response.)

17 CHAIRPERSON HOOD: Okay, Ms.
18 Schellin, could you record the vote?

19 MS. SCHELLIN: Yes. Staff records
20 the vote as zero to one to approve final
21 action on Zoning Commission Case No. 08-13 as
22 stated; Commissioner Jeffries moving;

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1 Commissioner Turnbull seconding; Commissioners
2 Hood and May in support; the third mayoral
3 appointee seat was vacant at the time this
4 case was heard; not voting.

5 COMMISSIONER MAY: Mr. Chairman?

6 MS. SCHELLIN: And I believe that
7 since there was no vote taken that the record
8 was not re-opened to accept them. Is that
9 correct?

10 MR. BERGSTEIN: I agree with you.

11 MS. SCHELLIN: Okay.

12 CHAIRPERSON HOOD: Okay.

13 MS. SCHELLIN: So we will return
14 those.

15 CHAIRPERSON HOOD: All right.
16 Good.

17 COMMISSIONER MAY: Mr. Chairman? I
18 probably should have noted this before the
19 vote, but I did want to recognize the fact
20 that we did get some additional drawings in
21 the package that were part of what we had
22 requested and addressed what was requested at

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1 the proposed action. And I appreciated being
2 able to see that and review it.

3 CHAIRPERSON HOOD: And you're
4 right, Commissioner May.

5 Also NCPC said no adverse impact to
6 the federal interests. We did receive a
7 letter from them. I guess we were so busy
8 trying to figure out which way to go here, we
9 omitted that. But I appreciate you're
10 bringing that too.

11 Any other comments on the
12 submittals?

13 (No audible response.)

14 CHAIRPERSON HOOD: Okay. Thank
15 you.

16 Let's move right along with our
17 agenda.

18 Okay. Zoning Commission Case No.
19 08-23, Office of Planning Text Amendment
20 1706.2 and 1706.8(b).

21 Ms. Schellin?

22 MS. SCHELLIN: This one I do have

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1 the ANC report in front of me. Did not have
2 to share that one.

3 And they did provide a report
4 saying that it would not be inconsistent with
5 the Comp Plan for the National Capitol, nor
6 would it adversely affect any identified
7 federal interests.

8 And for this one we also have a
9 supplement report from the Office of Planning,
10 and ask that the Commission consider final
11 action.

12 CHAIRPERSON HOOD: Thank you, Ms.
13 Schellin. Did you say the NCPC? Okay. Here.

14 MS. SCHELLIN: Yes, sir.

15 CHAIRPERSON HOOD: Okay,
16 colleagues, I think we've dealt with this
17 already. The text and map amendments to
18 remove Square 374, Lot 44, B Parcel West from
19 Housing Priority Area B. We have a two-pager
20 dated October 30th from Ms. Steingasser which
21 explains and shows exactly what's transpiring.

22 We also have as Ms. Schellin has already

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1 mentioned Housing Area B is not inconsistent
2 with the Comprehensive Plan for the National
3 Capitol Area nor would it adversely affect any
4 other identified federal interests.

5 With that, I would move approval of
6 Zoning Commission Case No. 08-23, and ask for
7 a second.

8 COMMISSIONER MAY: Second.

9 CHAIRPERSON HOOD: Moved and
10 properly seconded.

11 Any further discussion?

12 (No audible response.)

13 CHAIRPERSON HOOD: No further
14 discussion. All those in favor?

15 (A CHORUS OF AYES.)

16 CHAIRPERSON HOOD: Not hearing any
17 opposition, Ms. Schellin, would you record the
18 vote?

19 MS. SCHELLIN: Yes. Staff records
20 the vote four to zero to one to approve final
21 action on Zoning Commission Case No. 08-23,
22 Commissioner Hood moving; Commissioner May

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1 seconding; Commissioners Jeffries and Turnbull
2 in favor; Commissioner Keating not voting
3 having not participated.

4 CHAIRPERSON HOOD: Okay. Next is
5 the zoning re-write guidance. Okay, Ms.
6 Schellin?

7 MS. SCHELLIN: Yes. The last case
8 is the ZRR Guidance. And I believe you have a
9 work sheet before you to go through. And they
10 work with that for the public. So they also
11 have them before them.

12 CHAIRPERSON HOOD: Okay.
13 Commissioners, simply what we do is read
14 through. I think for the sake of time, I'm
15 just going to read the Office of Planning's
16 recommendation. And it looks like the other
17 recommendations are one liners with the
18 exception of -- anyway, I will read the Office
19 of Planning's recommendation to us. And I
20 would ask that we read silently the other
21 options as I'm reading. I don't know how we
22 want to do this, but let's proceed in that

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1 fashion. I'm just trying to get out of
2 reading all the options.

3 Okay. Again, this is institutional
4 uses in residential zones work sheet. It's
5 Zoning Commission Case No. 08-06-07. And I
6 want to make sure that everyone in the
7 audience has this work sheet in which we're
8 going to be going by. Okay. And we have Mr.
9 Parker if we have any questions. We can do
10 like we normally do -- go back and forth for
11 dialogue. And again, this is just giving
12 guidance to the Office of Planning as they
13 move forward as far as text is concerned.

14 "Consistent regulations of institutional
15 uses Option 1, Office of Planning's
16 recommendation. All institutional uses in
17 residential zones should be subject to the
18 same regulatory structure outlined below, with
19 requirements divided by the size and impact of
20 the use rather than the type of use."

21 And then it goes on to say, "See
22 Page 4 of the OP report for discussion on what

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1 is included in the institutional definition.
2 As of now, public schools and chanceries are
3 not included in this recommendation."

4 And then you have Option 2 and
5 Option 3.

6 I am actually looking for my Office
7 of Planning report. Let's take our time. We
8 want to make sure we do it right. Campus Plans
9 have been an issue for awhile, so we want to
10 get this right.

11 Okay. Mr. Parker, did you want to
12 add something or do you want to give us a
13 snapshot?

14 MR. PARKER: Would you like a
15 snapshot of this first recommendation? That'd
16 be great.

17 This first recommendation --

18 CHAIRPERSON HOOD: We're getting a
19 little old up here. Sometimes we can't
20 remember everything.

21 MR. PARKER: Not a problem. Not a
22 problem.

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1 This first recommendation is kind
2 of the primary concept on which the rest of
3 the recommendations rest. And the basic
4 concept is similar to the discussion of uses
5 that we had earlier in past hearings in that
6 we want to head in a direction where we have
7 consistent regulation across a group of uses
8 -- in this case, institutional uses so that
9 we're treating large institutional uses the
10 same. And right now, our recommendation is
11 that that category includes things like
12 universities, private schools, hospitals,
13 churches, and certain types of CBRFs, and
14 other things that are commonly considered
15 institutional.

16 Now you've heard a lot of
17 discussion both in the submissions and at the
18 hearing that some of these uses act
19 differently. And I know we've gotten
20 discussion of churches and how we should be
21 careful how we tread in regulating them, how
22 private schools often act differently than

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1 universities. And the only uses that OP has
2 recommended not be included at this point are
3 public uses that would fall into their own use
4 category, and chanceries which have some legal
5 ramifications of lumping them in with
6 anything.

7 So we've recommended that this
8 category include even schools and churches --
9 private schools and churches. But that
10 certainly Option 2 and Option 3 give you the
11 leeway to pull some uses out and continue to
12 treat them differently or maybe throw them in
13 the special exception, but put separate
14 criteria on them.

15 CHAIRPERSON HOOD: Okay. Any
16 comments to the adoption --

17 COMMISSIONER JEFFRIES: Not really.
18 I mean, clearly if Option 1 is the bedrock
19 here of the first one -- that's your point,
20 right?

21 MR. PARKER: Well, the point being
22 -- yes. Yes. Absolutely.

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1 I mean, basically the argument here
2 is that OP's argument is that we need to treat
3 all these uses the same. And then
4 recommendations 2 through 6 are how we would
5 treat those. There still is the option to
6 pull uses out if you feel that they are
7 inconsistent with the others in the
8 institutional category.

9 But, yes, that is OP's
10 recommendation.

11 COMMISSIONER MAY: That's an option
12 as we move forward. In other words, we can
13 say yes to Option 1, but then when we get to
14 the refinement, we're going to -- if we
15 realize -- yes, actually churches do need to
16 be treated differently or something like that.
17 We still have that flexibility.

18 MR. PARKER: Sure. This will just
19 tell us how to write it and how to bring it
20 back to you.

21 COMMISSIONER JEFFRIES: But based
22 on what you're saying, if we sign up on Option

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1 1 here as we go forward, isn't that going to
2 be a recurring theme? I mean, unless you're
3 thinking that --

4 MR. PARKER: No. What struck me
5 through the rest of the discussion and in many
6 of the comments is that there seems to be a
7 pretty wide range of opinions about how we
8 should be handling this. What's the threshold
9 level for certain types of review in terms of
10 square footage? And do we need a second level
11 of further processing kind of process after
12 you've done a campus master plan or not and
13 what the threshold levels are for that? There
14 just seems to be such a variety of opinion.
15 And on the institutional side, there doesn't
16 seem to be the consistency of opinion.

17 But even on the private side,
18 there's a lot of angst about this. And I
19 think that's been apparent in the cases that
20 have come before the Zoning Commission when it
21 comes to campus plans that there's a lot of
22 very strong opinion about it. And these very

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1 large institutions have significant impacts
2 that the community doesn't want to lose their
3 voice on these things.

4 So I just feel that as we go
5 forward, while this in principle makes sense
6 that we should be looking at things in terms
7 of the size, in terms of the impacts, terms of
8 the uses as neutrally as possible, I would
9 still think that there's possibility that
10 we're going to find that we need to address
11 something differently because either it puts
12 an undue burden upon the institution or
13 because it kind of accidentally bypasses
14 appropriate and necessary community input. So
15 I would not do that but say that in principle
16 this is the right way to move forward.

17 CHAIRPERSON HOOD: Okay. I would
18 agree.

19 I think though the way I've seen it
20 thus far, that's going to be throughout the
21 whole ZRR -- the way I interpret it, some more
22 than others. And this may be one of those

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1 cases.

2 Anyone else?

3 (No audible response.)

4 CHAIRPERSON HOOD: So Option 1,
5 colleagues?

6 COMMISSIONER JEFFRIES: Yes.

7 CHAIRPERSON HOOD: Okay. And I
8 think that's the quicker way to do it, Mr.
9 Parker, because you have the snapshot. And
10 that way we don't read all this.

11 MR. PARKER: Sure.

12 CHAIRPERSON HOOD: Option 2?

13 MR. PARKER: All right. So based
14 on what the guidance you just gave us in
15 Option 1, Option 2 is the recommended --
16 instead of looking at it as three types of
17 review, I'd like you to look at it as a
18 continuum or a spectrum.

19 At the bottom you have
20 institutional uses that are small enough to go
21 forward as a matter-of-right. And that
22 threshold would vary by the residential

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1 district.

2 So R1 might be more stringent --
3 will be more stringent than R2, than R3, than
4 R4 and on up. But each residential zone would
5 have a threshold at which below which
6 institutional uses as a matter-of-right and
7 above which it requires special exception
8 review.

9 And special exception review falls
10 into two categories -- either special
11 exception individual for every project, or
12 special exception done proactively as a campus
13 plan.

14 For those uses between the matter-
15 of-right and 300,000 square feet, there would
16 be a choice. Each institution would have a
17 choice whether to do a special exception
18 individually or proactively for all changes
19 over ten years. Above 300,000 square feet,
20 that choice is removed, and institutions must
21 do a proactive special exception looking
22 forward ten years.

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1 Again, we'll get into what the
2 things are in the future in recommendation 3
3 and 4 that need to be included in special
4 exception. But the detail that we get into
5 these would vary by the size of an
6 institution. So even within a category --
7 even within above 300,000 square feet, an
8 institution at 500,000 square feet may have to
9 do a lot less detail than one at six million.

10 Or an institution at 50,000 square feet might
11 have to do a lot less detail than one at
12 150,000 square feet.

13 So there are three categories of
14 institutions. But it's more a continuum of
15 how much detail goes into a special exception
16 and how far forward it looks.

17 CHAIRPERSON HOOD: So, Mr. Parker,
18 under Option 1, Office of Planning's
19 recommendation would be (a), (b) and (c)?

20 MR. PARKER: Those would be the
21 three categories in review. So an institution
22 would either be matter-of-right, would have a

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1 choice between an individual or a proactive
2 campus plan special exception, or above
3 300,000 square would require a proactive
4 campus plan as a special exception.

5 CHAIRPERSON HOOD: So let me just
6 make sure. A matter-of-right to me has always
7 been a question. A matter-of-right -- when
8 I'm looking at (a), that means even though the
9 threshold is less than 300,000 square feet of
10 GFA, matter-of-right would take out any public
11 comment.

12 MR. PARKER: And for example, that
13 would be discussed for R1. For R1, we would
14 sit down and determine what's the appropriate
15 size threshold, what's the appropriate number
16 of users, what's the appropriate number of
17 staff, what's the appropriate hour of
18 operation. And those conditions if they're
19 all met then a use can go forward as a matter-
20 of-right. If not, then it's a special
21 exception.

22 CHAIRPERSON HOOD: So once we

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1 establish -- it's just not -- okay. Okay.

2 COMMISSIONER MAY: Can I --

3 CHAIRPERSON HOOD: -- with the
4 whole matter. Right? Okay.

5 COMMISSIONER MAY: And let's just
6 take an example. Pick a residential zone.
7 Okay? So say R4. We might determine that an
8 institutional use at less than 50,000 square
9 feet, a staff of five, and occupancy of 50
10 people or something -- people, students,
11 whatever -- might be allowed as a matter of
12 right in an R4 zone.

13 MR. PARKER: Exactly.

14 COMMISSIONER MAY: And I'm not
15 suggesting that those would be realistic
16 limits or numbers by any stretch. I'm just
17 saying so that I understand it in my simple
18 mind.

19 I guess the question that I have is
20 does that mean that in a typical R4
21 neighborhood, so long as you met kind of area
22 minimums that are appropriate for that use

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1 that you have -- I don't know -- 10,000 square
2 feet of land and that no more than 40 percent
3 lot occupancy or things like that -- that you
4 could actually locate that institutional use
5 within a residential area. Will that also be
6 a way of making sure that you don't wind up
7 with massive conversions of residential
8 properties to institutional properties?

9 MR. PARKER: Absolutely.
10 Absolutely. You have a size limit per
11 institutional use. But you also get at it
12 other ways. You can say no more than X number
13 of users at any one time, or hours of
14 operation are limited. We need to --

15 COMMISSIONER MAY: Or what the
16 parking requirements are going to be -- things
17 like that.

18 MR. PARKER: Bingo.

19 COMMISSIONER MAY: And if you don't
20 meet the parking requirements, you can't
21 locate in that area.

22 MR. PARKER: And again, so we have

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1 a chance to get at this by what are the
2 impacts that we want to limit rather than
3 what's it called.

4 COMMISSIONER MAY: Okay. Well, the
5 thing that I fear -- and I don't want to speak
6 for the Chairman -- but the idea of having
7 matter-of-right institutional uses within a
8 residential zone is a little scary because we
9 don't know what all of those other things are
10 that might limit it. So I think if we were to
11 move forward on this assumption, I think it's
12 with the assumption that there are going to be
13 significant limits and that if we can't find
14 those limits, then they're pretty much isn't
15 going to be a matter-of-right.

16 MR. PARKER: Well, keep in mind, we
17 have matter-of-right institutional uses
18 allowed in residential districts now.
19 Churches have no limits on them. Most schools
20 have no limits on them. Museums in R4 have no
21 limits on them. So there are a lot of these
22 institutional uses that we aren't putting any

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1 constrictions on at all -- and they're
2 probably should be -- versus others that
3 require special exception even if there are
4 ten people.

5 COMMISSIONER MAY: Right. But
6 there are still some pretty classic cases that
7 have gotten a lot of attention where a single
8 relatively minor use creates a real firestorm
9 within the neighborhood because of -- I don't
10 know -- a school, for example, can have
11 significant impacts if there's not sufficient
12 land or it's not on a block that can handle it
13 or what have you. So I think that there's
14 that fear that the matter-of-right is going to
15 be difficult.

16 And this sort of returns back to
17 differences in some of those uses. You cited
18 the institutional uses that are allowed as a
19 matter-of-right. Churches, yes. Public
20 schools, yes. Private schools, no. How do
21 you go at that? So.

22 CHAIRPERSON HOOD: Mr. Turnbull?

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1 COMMISSIONER TURNBULL: Well, if I
2 was a wise campus administrator, I would make
3 sure that our \$1,200,000 building would be
4 built in phases of 300,000 square feet each.

5 MR. PARKER: That's a cumulative
6 measure. So that's all of the buildings on
7 your campus put together.

8 COMMISSIONER TURNBULL: Oh, so
9 300,000 is for the whole --

10 MR. PARKER: Yes. It's all the
11 buildings put together on your campus.

12 COMMISSIONER MAY: You'd have to
13 build it in 3500 square foot increments.

14 MR. PARKER: I could do that. Give
15 me a piece of paper.

16 COMMISSIONER TURNBULL: All right.
17 So you're saying 300,000 is the low end of
18 the totem pole here?

19 MR. PARKER: No. That's --

20 COMMISSIONER TURNBULL: It's the
21 high end for a small institution.

22 MR. PARKER: It's the high end for

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1 a small. Right.

2 COMMISSIONER JEFFRIES: Is a
3 hospital part of that?

4 MR. PARKER: A hospital is included
5 in there. There are three hospitals that are
6 well over that that are in the report. I
7 think Sibley, Washington Hospital Center, and
8 Providence -- hospitals that are not already
9 in campus plans.

10 COMMISSIONER JEFFRIES: And we had
11 the Sibley case where they had the office
12 building?

13 MR. PARKER: Right. So right now,
14 a hospital is and isn't a matter of right.
15 The hospital function is a matter of right.
16 But all of the accessory functions often cause
17 it to come in as a PUD like Sibley did.

18 COMMISSIONER JEFFRIES: Right.

19 MR. PARKER: So this would sort of
20 put it all into just plan the entire campus
21 and come in and do a ten-year campus plan
22 rather than a PUD.

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1 CHAIRPERSON HOOD: I don't know,
2 colleagues, which way you all want to move. I
3 will tell you the stickler for me has always
4 been matter-of-right of anything.

5 MR. PARKER: Well, keep in mind,
6 that's undefined. So there's another
7 discussion on what that level should be. And
8 as Mr. May said, it can be next to nothing.

9 COMMISSIONER MAY: Yes. I still
10 have this feeling of uneasiness about that
11 threshold for matter-of-right. And I also
12 frankly have uneasiness about the 300,000
13 square foot threshold based on the comments
14 that we receive that some think it should be
15 100,000 and some think it should be 500,000.

16 COMMISSIONER JEFFRIES: Office of
17 Planning, I guess this is a question for you.
18 Are there like an unlimited number of
19 situations where this could occur currently in
20 terms of --

21 MR. PARKER: Yes, I think there's
22 11. Situations that are over 300,000?

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1 COMMISSIONER JEFFRIES: Right.

2 MR. PARKER: Yes. They're listed
3 in our report. There's eight colleges and
4 universities and three hospitals.

5 The rest -- the bulk of
6 institutional uses that we identified are well
7 below 300,000. I think the largest private
8 school is 250,000.

9 COMMISSIONER JEFFRIES: See, that's
10 my point. Those are sort of covered.

11 I guess, Commissioner May, I'm
12 trying to understand. You feel that it should
13 drop well below 300,000? I guess I'm trying
14 to understand what's driving --

15 COMMISSIONER MAY: No. I read
16 enough sort of good arguments in both
17 directions that I'm not sure where I stand.
18 And that's all.

19 But I think that the idea or this
20 structure makes sense, that there be some
21 level matter-of-right, and that there be lots
22 of conditions that would have to be met in

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1 order for anything to be matter-of-right.
2 Up to some threshold -- 300,000, 250, 350 --
3 I'm not sure what the right number is. And
4 then above that, it has to be a master plan.

5 COMMISSIONER JEFFRIES: We can go
6 back and deal with the number, right?

7 COMMISSIONER MAY: And that's what
8 I'm getting at too is that if we --

9 COMMISSIONER JEFFRIES: The concept
10 -- I mean, you're fine with the concept.

11 COMMISSIONER MAY: I'm fine with
12 the concept.

13 COMMISSIONER JEFFRIES: Yes. Yes.
14 Because I think we're trying to get the
15 simplicity here.

16 COMMISSIONER MAY: And I just think
17 if we decide further down the line that we
18 want to lower it or raise it, we would still
19 certainly have the flexibility to do that.

20 CHAIRPERSON HOOD: I just want to
21 read a part of a submission from a wise man.
22 I don't want to say who it is.

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1 But it agrees with what we're
2 saying up to 300,000 -- "to submit and gain
3 approval for a campus plan that was valid for
4 ten years." Then it says, "and allow
5 institutions with lesser area to apply for
6 approval under the process as well in lieu of
7 a special exception process for the program
8 facility or the expansion of program with the
9 facility."

10 I guess we'll get to those kinds of
11 points when we talk about square footage and
12 what the number is. We'll get there. We'll
13 get there.

14 Okay. But again, I might not be
15 here, but I've always had an issue with
16 matter-of-right.

17 Okay. So --

18 COMMISSIONER JEFFRIES: Mr.
19 Chairman, I'm going to have to step away. But
20 I did leave a proxy.

21 CHAIRPERSON HOOD: Thank you very
22 much.

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1 COMMISSIONER JEFFRIES: Thank you.

2 CHAIRPERSON HOOD: We'll be right
3 behind you. Don't stop.

4 Okay. So Commissioners, Option 1
5 with some questions?

6 MR. PARKER: Why don't I write down
7 what I've heard is the concept of Option 1 is
8 acceptable, but the 300,000 square feet is not
9 in stone yet.

10 CHAIRPERSON HOOD: Right. Okay.

11 Do we need to do the proxy for each
12 one? Did we get a proxy?

13 MS. SCHELLIN: Yes. And he said
14 Option 1.

15 CHAIRPERSON HOOD: Okay. Mr.
16 Parker, we're on number 3, right?

17 MR. PARKER: Absolutely.

18 COMMISSIONER MAY: I'm sorry. I
19 forgot that within number 2, we have the issue
20 under Option 2 of including this cellar area.

21 And I did want to talk about the cellar area
22 issue and just understand whether -- the

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1 definition of cellar has always bothered me
2 because it's a way to get extra space without
3 having to hit your FAR cap. And yet the
4 impacts, particularly when it comes to
5 institutional use -- the impacts of that
6 cellar space would be just the same as if it
7 were above ground, would it not?

8 MR. PARKER: It depends. It's
9 often space like lockers and storage and
10 parking and things that don't carry
11 necessarily the same weight or have the same
12 use as above-ground space.

13 More important to the reason that
14 we didn't recommend that be changed is that we
15 base our calculation in determining 300,000 on
16 above-ground space.

17 COMMISSIONER MAY: If you were to
18 include it, you'd want to increase that
19 number.

20 MR. PARKER: I think we'd want to
21 re-look at the number.

22 COMMISSIONER MAY: Well, I guess

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1 I'd like to leave the door open for
2 considering that as well because things like
3 lockers can be above ground too, and in many
4 cases they are. It's not like you
5 automatically because of cellar space wind up
6 with those sorts of things down below grade.
7 And in fact, we're encouraging below-grade
8 development.

9 I don't know. I don't feel like I
10 have the answer there yet either, but I don't
11 want to close the door on that question.

12 CHAIRPERSON HOOD: Okay. You
13 finished? Okay. Can we go to 3?

14 MR. PARKER: Sure. So the bulk of
15 institutions again would have a choice between
16 doing an individual special exception for each
17 project that comes forward or each change in
18 student counter or whatever, versus the ten-
19 year campus plan.

20 The first of the two -- the
21 individual special exception -- we've laid out
22 a set of core requirements that an application

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1 would have to address -- a facilities plan,
2 neighborhood context, accessibility plan,
3 conservation issues and landscaping and open
4 space.

5 I guess that's it. Each of these
6 would have to be reviewed by the Commission
7 upon the acceptance of the application, and
8 the Commission would have to determine that
9 these were not adversely impactful on the
10 surrounding neighborhood or the city as a
11 whole.

12 The only difference is the level of
13 detail that's requested for each of these.
14 Every institution would have to address all
15 five of these areas. But a 20-person private
16 school in a residential neighborhood is going
17 to have to do a lot less work on some of these
18 than a 250,000 square-foot, 1200-student
19 private school down the street.

20 So these are the areas that need to
21 be addressed. We haven't gone into for
22 obvious reasons how much detail needs to go

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1 into each one because that's really a function
2 of the institution itself, and it would be
3 incumbent on the Zoning Commission to take a
4 look and determine whether the institution had
5 done enough work in each of these areas.

6 CHAIRPERSON HOOD: Okay. We'll
7 accept that?

8 COMMISSIONER MAY: I think it's a
9 reasonable outline of things that need to be
10 addressed. The idea of how much work goes
11 into it for a small institution versus a large
12 institution, it makes me a little nervous
13 because how do you determine -- I mean, the
14 Zoning Commission is going do this by
15 practice, by looking at these things
16 individually. And are we going to find
17 ourselves sort of five years down the road in
18 the position where the only way a small
19 institution is going to be able to do this
20 successfully is to hire architects and lawyers
21 and do thick presentations?

22 MR. PARKER: Well, I think the

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1 point is to avoid that. I think the point is
2 a small institution needs to put a lot less
3 work into it. But you're right.

4 COMMISSIONER MAY: That's the
5 point. But let's not lose sight of that
6 objective for those smaller institutions.

7 CHAIRPERSON HOOD: Okay. We'll
8 accept the Office of Planning's recommendation
9 for number 3.

10 Ms. Schellin, do we have a proxy?

11 MS. SCHELLIN: Yes. He accepts
12 Option 1.

13 MR. PARKER: Number 4 then is the
14 other option for institutions. It's the
15 proactive. It's designed to look at mainly
16 the same areas. Again, look ten years into
17 the future and encompass all of the changes
18 that that institution expects over the next
19 few years in terms of user count, in terms of
20 facilities, additions, GFA additions, et
21 cetera.

22 The list is almost identical with

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1 the addition of more information on the
2 institution itself -- background history,
3 mission, guiding principles. And then
4 assuming that these are generally larger
5 areas, it looks at streetscape treatment as
6 well for rights-of-way going through the
7 campus. So exact same situation as the
8 others, just a slightly longer list.

9 CHAIRPERSON HOOD: And we may get
10 to a point -- I'm reading from some different
11 correspondence that we got from people who are
12 very interested in how we're moving.

13 One of them was -- and I'm sure you
14 may have heard this -- "provide some
15 flexibility for minor structural changes to
16 meet unanticipated requirements without having
17 to formally amend and approve campus plan and
18 require the Zoning Administrator to review
19 submissions for buildings for occupancy within
20 the area of the campus plan for consistency
21 with the approved plan."

22 MR. PARKER: That's coming up in

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1 number 5.

2 CHAIRPERSON HOOD: Oh, okay.

3 COMMISSIONER TURNBULL: I take it
4 that some of these categories will be flushed
5 out as we go along. Or are they just going to
6 be left as general --

7 MR. PARKER: Well, again, that's
8 sort of the point.

9 The point is this is an
10 identification of the sections that need to be
11 in your application. Your application as an
12 institution needs to address these eight
13 things.

14 But if you don't have any
15 streetscapes, or if you just have one
16 streetscape on your campus, then your
17 application can be a paragraph in that
18 section. So a lot of it's going to be
19 contextual in terms of how much detail goes
20 into these sections.

21 But again, the point is to have a
22 general list of these are the things that will

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1 be addressed, but not get into how indepth
2 they're addressed.

3 MS. STEINGASSER: Where we came up
4 with these, we went back through the last
5 eight years worth of campus plan and school
6 institutional use orders and combed out the
7 conditions that the BZA and the Zoning
8 Commission had been routinely asking for. And
9 as you know at many of these hearings, there's
10 a lot of frustration in both the community
11 side, the applicant side and the Commission
12 side that there was no continuity of what was
13 required in the application. So we went
14 through the orders and pulled these out to try
15 to create that. So if we get to the end and
16 we find we need more or less or they need more
17 flushing, you'll still have that prerogative
18 to go.

19 CHAIRPERSON HOOD: Okay. All
20 right.

21 Number 4, colleagues, we'll take
22 Option 1. Not hearing any objections. Do we

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1 have a proxy?

2 MS. SCHELLIN: Mr. Jeffries
3 concurs.

4 CHAIRPERSON HOOD: Let me ask this.
5 Ms. Steingasser, do you remember David
6 McGettigan? And I just thought about that
7 when you were talking about going back over
8 all the old campus plans. He had started on a
9 lot of work on campus plans. Is some of his
10 work being shown here in this?

11 MR. PARKER: We definitely looked
12 back at his work.

13 CHAIRPERSON HOOD: Mr. Parker, he
14 was in the Office of Planning. But did some
15 of what he had done -- because I know he had
16 started really working on this earlier in the
17 early years?

18 MR. PARKER: Yes. And he had a lot
19 of background work that was useful to us. But
20 yes, he had put a lot of time into this. And
21 we certainly combed through those files.

22 CHAIRPERSON HOOD: Okay. All

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1 right.

2 Can we do number 5, which I think I
3 already started on?

4 MR. PARKER: Sure. Number 5 has to
5 do with second-stage review.

6 Right now, campus plans get one
7 review up front that looks at FAR and general
8 campus issues. And then each individual
9 project comes in to look at design and its
10 impact and its final FAR lot occupancy, et
11 cetera.

12 The idea for the procedure that
13 you're looking at now is that there would be a
14 lot more work put into the upfront ten-year
15 campus plan. Each building would be given an
16 FAR and a lot occupancy, and basically
17 everything short of architectural design.
18 It'd look at a maximum for each site on the
19 building in terms of these measures. And the
20 impacts would be judged up front as to how are
21 the people using this building going to impact
22 the neighbors. So similar to the campus plans

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1 that you're doing now and looking at GW campus
2 plan and actually making an analysis of every
3 site, the thought being that this work can be
4 done better up front and avoid having to come
5 back and re-do it for each building at each
6 second stage. And then any unanticipated
7 change -- any building that wasn't on the plan
8 or an addition that wasn't on the plan or
9 extra student enrollment or hospital users
10 that weren't accounted for in the plan would
11 require them to come in and amend their plan
12 with the exception -- and again we've set
13 another threshold here of small additions of
14 3500 square feet or less -- could be done to
15 accommodate minor things that weren't
16 necessarily anticipated -- ADA improvements
17 and the like. So that's our recommendation.

18 Your Option 2 is to retain a
19 second-stage review for the largest projects
20 to have them come back in later on.

21 Option 3 is to set a different
22 standard for that 3500 square feet for

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1 unanticipated changes.

2 And Option 4 is to keep the
3 existing standards of every single project
4 that comes back for a second-stage review.

5 CHAIRPERSON HOOD: Okay. Any
6 comments? Are we going to accept the --

7 COMMISSIONER MAY: Yes. I'd like
8 to have a couple questions.

9 CHAIRPERSON HOOD: Okay.

10 COMMISSIONER MAY: Compared to
11 campus plans the way they are prepared right
12 now, what would be layered on top of that is
13 more specific building-by-building information
14 -- FAR and height and how many cars, how many
15 people -- that sort of information. So we
16 don't typically get that in our campus master
17 plan at this point.

18 MR. PARKER: Right.

19 COMMISSIONER MAY: Now,
20 understanding your second sentence here, which
21 is "Additions or use changes not anticipated
22 in the plan would require an update to the

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1 plan." Would we leave the door open for in
2 effect an institution to submit a campus plan
3 just like they've been doing, and then just
4 kind of automatically come back because it
5 wasn't well defined? Can they leave things
6 sort of undefined if they don't know with the
7 assumption that --

8 MR. PARKER: That they would have
9 to come in for a second stage? I don't see
10 why that couldn't be an option, I guess.

11 The intent is for them to go
12 through a planning process and define it all
13 up front. But yes, that seems like a
14 reasonable --

15 COMMISSIONER MAY: But I guess I'd
16 like to understand better from the larger
17 institutions whether in fact they really can
18 anticipate their needs in that level of detail
19 ten years out, or whether they just have a
20 notion well, we're going to need to put a dorm
21 there --

22 MR. PARKER: Right.

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1 COMMISSIONER MAY: -- and probably
2 X number of students.

3 MR. PARKER: Based on the last
4 couple of plans that we worked with,
5 institutions certainly have a question about
6 when things will happen because of funding and
7 -- but institutions of that size certainly
8 know what their needs are. They know next
9 we're going to need a science center. And
10 after that, we're going to need more classroom
11 space and we're also going to need a dorm for
12 300 students. And it's a matter of saying
13 well, over the next ten years, we may not
14 build all this, but here are the four
15 buildings that we're going to need, and here
16 is where we're going to put them. And if we
17 do it according to this plan -- if we reach
18 our fondest fundraising goals and can build
19 all four of these buildings, here's how we'll
20 do it. And if we do it according to this
21 plan, then we can proceed forward.

22 I think the biggest open question

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1 for institutions is when the funding will
2 arrive to build those buildings.

3 COMMISSIONER MAY: Okay. I don't
4 know. I guess I'm not totally convinced that
5 everything will be that planable that far in
6 advance. I think I'm okay enough with this
7 idea to be able to push forward. But I think
8 we may wind up backing up a little bit and
9 maybe introducing a size threshold above which
10 we'd want to review or having an option for --
11 I don't know -- campus plan light where you
12 have to come back for further processing. I'm
13 not sure with those caveats. I've always got
14 caveats on Option 1.

15 COMMISSIONER TURNBULL: So, are you
16 concerned about the threshold number?

17 COMMISSIONER MAY: Well, no.
18 Planning ten years in advance seems
19 reasonable. But I also know that in planning
20 the facilities for the government that our
21 plans aren't necessarily that well fleshed out
22 or that well thought out. And I'm not sure

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1 that they really can be. It's not my Park
2 Service experience talking here. There are
3 always new circumstances and particularly when
4 we're dealing with things that are in
5 neighborhoods where there are going to be
6 potentially substantial numbers of people who
7 are impacted by it.

8 CHAIRPERSON HOOD: Do you want to
9 take the lead on that one since you have the
10 most experience?

11 COMMISSIONER MAY: Well, no. I'm
12 okay with Option 1. But I would mention just
13 with a caution that we may want to introduce
14 certain thresholds for a second level of
15 review or that we may want to allow
16 universities some flexibility with the level
17 of planning within their campus plans.

18 CHAIRPERSON HOOD: Yes. I
19 anticipate when they come back with some of
20 this guidance and we start seeing it bring
21 down with threshold numbers, I anticipate
22 those to be long evenings.

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1 Okay. All right. Option 1 for
2 number 5.

3 MS. SCHELLIN: Mr. Jeffries agrees.

4 CHAIRPERSON HOOD: Okay.

5 Okay, Mr. Parker, can we do number
6 6?

7 MR. PARKER: Number 6 -- again, we
8 had this discussion about ancillary uses. And
9 I continue to use the term because often these
10 are uses on stand-alone lots versus accessory
11 which are part of a primary use. But the
12 point being, campuses have fast-food
13 restaurants and book stores and retail and
14 service-type uses that wouldn't be allowed
15 otherwise in the underlying zoning.

16 The recommendation is that those
17 types of uses be allowed as part of a campus
18 plan. The other option is to also allow those
19 uses as part of an individual special
20 exception. Those are really the only two
21 options we could identify.

22 COMMISSIONER MAY: I guess I have

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1 concern about such uses be limited to less
2 than half the total GFA of the campus. I
3 think that in some circumstances that might
4 make sense when you have certain institutions
5 that have significant ancillary uses -- maybe
6 hospitals because they've got office buildings
7 and cafeterias and parking and things like
8 that. But is that going to be the case? Does
9 this open the door for the private school to
10 have a department store on half the lot or
11 something like -- that's ridiculous -- but 50
12 percent's a big --

13 MR. PARKER: Well, I don't know
14 that we even have to define a number. I think
15 maybe it's more important to define what is
16 accessory to or what is ancillary to rather
17 than a number.

18 COMMISSIONER MAY: Right. Well, at
19 some point we're going to want to define that
20 limit.

21 MR. PARKER: Absolutely.

22 COMMISSIONER MAY: Okay. So saying

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1 that it's less than half does not mean that
2 it's 49 percent. We could wind up with 20
3 percent.

4 MR. PARKER: Absolutely. Or --

5 COMMISSIONER MAY: Or it may vary
6 by zone or whatever.

7 MR. PARKER: Personally, I don't
8 even think we should have a threshold. And I
9 think we should take out the less than half
10 language and instead just have a definition of
11 what it means to be accessory to.

12 COMMISSIONER MAY: So no explicit
13 limit. Just define what's ancillary so that
14 the ancillary uses we would find objectionable
15 or really unrelated are just not going to make
16 the cut?

17 MR. PARKER: I would think so.

18 COMMISSIONER MAY: What does the
19 rest of the Commission think of that idea?

20 CHAIRPERSON HOOD: Well, I agree we
21 need to have some definitions. And then we're
22 taking out the percentage. I thought 50

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1 percent was too large also.

2 Then we're going to do it
3 individually on each individual case. I think
4 that's the better way to go.

5 We may want to put back in five or
6 ten percent. Who knows? But I saw that in
7 one of the submissions. But for now, I don't
8 have any problems proceeding in the fashion in
9 the discussion.

10 Mr. Turnbull, anything?

11 COMMISSIONER TURNBULL: No. I
12 think -- and again, I think it depends upon
13 the type of campus. And the way things are
14 going, who knows? An art school can have
15 galleries and might have places to exhibit
16 student work that's for sale or something too.

17 So I guess it's kind of a mixed bag on how
18 you could do that.

19 But you definitely need to define
20 it. But how far you go with the number, I
21 don't know.

22 I would be surprised if any campus

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1 came anywhere near 30 percent or 20 percent.
2 But that even seems like a lot.

3 CHAIRPERSON HOOD: All right.
4 Option 1?

5 MS. SCHELLIN: Option 1.

6 CHAIRPERSON HOOD: Okay. I thank
7 everyone for their participation tonight. And
8 I thank everyone in the audience --

9 COMMISSIONER MAY: Mr. Chairman?
10 I'm sorry. I just keep prolonging this.

11 But I want to ask a question of the
12 Office of Planning which is how are you going
13 to deal with government facilities in the same
14 sort of vein? Is that going to be addressed
15 somewhere else in the zoning regulation? And
16 is there going to be a requirement for
17 planning government facilities when they're in
18 a campus-like setting? I mean, not my
19 government, your government. District
20 government versus --

21 MS. STEINGASSER: I don't know that
22 we have any that would qualify as a campus-

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1 like setting. They would be office buildings
2 like any other mostly, or a service building.

3 MPD's already called out libraries --

4 COMMISSIONER MAY: Well, I'm
5 thinking of the DPW's facility where the
6 motorpool is and all that sort of stuff.
7 That's kind of a campus.

8 MS. STEINGASSER: It's kind of a
9 campus, but --

10 COMMISSIONER MAY: And then the
11 other one was D.C. Village and what might
12 eventually happen there.

13 MS. STEINGASSER: Those are all
14 already zoned industrial -- high-density
15 industrial.

16 COMMISSIONER MAY: Right.

17 MS. STEINGASSER: So there's really
18 very little interaction with --

19 COMMISSIONER MAY: Yes. So they're
20 not going to be dealing with residential.

21 MS. STEINGASSER: -- with
22 residential. Yes.

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1 COMMISSIONER MAY: Okay.

2 CHAIRPERSON HOOD: All right. Did
3 you get your answer to the question? All
4 right.

5 Again, I want to thank everyone for
6 their participation and following this in the
7 audience. And I'm sure you all will be
8 staying tuned.

9 I thank the Office of Planning. I
10 also thank our staff.

11 All right. And thank my
12 colleagues.

13 Ms. Schellin, do we have anything
14 else?

15 MS. SCHELLIN: No.

16 CHAIRPERSON HOOD: This meeting is
17 adjourned.

18 (Whereupon, at 8:54 p.m., the
19 hearing was adjourned.)
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