

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

MONDAY

June 8, 2009

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON  
TRAVIS PARKER

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OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT:

MARY NAGELHOUT  
ESTHER BUSHMAN  
JACOB RITTING

The transcript constitutes the  
minutes from the Public Hearing held on June  
8, 2009.

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

Preliminary Matters  
 Relaxed Clothing for June and July. . . . . 6

Office of Zoning Director . . . . . 9

Elect Bill Keating as Vice-Chair  
 Vote to elect Bill Keating (4-0-1). . . . . 11

The Athena Group  
 Reset schedule. . . . . 11

Final Action  
 Z.C. Case No. 06-14A  
 Two-Year Time Extension for PUD  
 at Square 3584. . . . . 21  
 Vote to approve (4-0-1) . . . . . 22

Z.C. Case No. 06-24B  
 Two-Year Time Extension for PUD  
 at 2400 14th Street, N.W. . . . . 22  
 Vote to approve (4-0-1) . . . . . 24

Z.C. Case No. 03-12G/03-13G  
 Z.C. Case No. 03-12H/03-13H  
 Preliminary Matter - Reopen the Record to  
 Accept Exhibits 103, 104 and 105. . . . . 24  
 Vote to Approve Reopening of Record (4-0-1) . 26  
 Vote to Approve (3-0-2) . . . . . 30

Correspondence  
 Z.C. Case No. 09-06  
 Request to Convert Application Into a  
 Modification. . . . . 30  
 Vote to Reconsider Set Down from C-3-A to CR  
 (4-0-1) . . . . . 45

Letter from ANC 1-D . . . . . 45

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Proposed Action

Z.C. Case No. 08-15

Preliminary Matter - Reopen the Record to

Accept Exhibits 261, 262 and 264. . . . . 48

Vote to Approve Reopening of Record (4-0-1) . 50

Vote to Approve (4-0-1) . . . . . 82

ZRR Guidance

Z.C. Case No. 08-6-8

Office of Planning - ZRR: Low and Moderate

Density Residential . . . . . 83

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

2 6:38 p.m.

3 CHAIRPERSON HOOD: Okay. We're  
4 ready to get started with our public meeting.  
5 This meeting will please come to order.

6 Good evening, ladies and  
7 gentlemen. This is June 8, 2009. My name is  
8 Anthony Hood, joined by Commissioners Keating,  
9 May and Turnbull. We're also joined by the  
10 Office of Zoning staff and the Office of  
11 Planning staff, and the Attorney General.

12 Copies of today's meeting agenda  
13 are available to you and are located in the  
14 bin near the door.

15 Please be advised that this  
16 proceeding is being recorded by a court  
17 reporter and is also webcast live.

18 Please turn off all beepers and  
19 cell phones.

20 Does the staff have any  
21 preliminary matters?

22 MS. SCHELLIN: No, sir..

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1                   CHAIRPERSON HOOD: Okay. I have a  
2 few preliminary matters, but I want to move  
3 the agenda around. First, we're going to  
4 take up final action. Second, we're going to  
5 take up correspondence. Third, we're going to  
6 take up proposed action. And fourth, we're  
7 going to take up the ZRR guidance.

8                   Now under proposed action, we're  
9 going to move A to preliminary matters. Now  
10 there are four preliminary matters in which I  
11 would like to discuss this evening. The first  
12 one is relaxing clothing rules for the months  
13 of June and July. B, the Office of Zoning  
14 director. C, elect Bill Keating as the vice-  
15 chair. And D, Zoning Commission case 08-21,  
16 Athena Group time schedule.

17                   What I would like to propose to my  
18 colleagues; we've talked about this some eight  
19 years ago, sometimes when it's 90 degrees,  
20 it's kind of hot. And I hate to put us all  
21 out on public display, but sometimes we put  
22 our ties on in the back. So what I would

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1 propose is that we come up here in the months  
2 of June and July comfortable. So I think we  
3 can just do that on general consensus. It's  
4 optional. If you would like to come in  
5 relaxed, feel free. And I hope the public  
6 would excuse us if we come in without a tie  
7 and we would say the same thing to everyone in  
8 the audience, as you come down in front of the  
9 Zoning Commission for the months June and  
10 July. We're still professional. We just  
11 won't wear our ties.

12 Okay. Any disagreement?

13 PARTICIPANT: No.

14 CHAIRPERSON HOOD: Okay. Next,  
15 the Office of Zoning director. I received the  
16 news that our new colleague, Mr. Konrad  
17 Schlater will be sworn in at 6:30. He's  
18 probably a commissioner at this time, if that  
19 clock is correct. So our former vice-chair  
20 will not be joining us tonight, Mr. Greg  
21 Jeffries, who has served this city well. I  
22 personally have enjoyed working with Greg. He

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1 brings a wealth of knowledge and he's made  
2 some very tough decisions. And he's really  
3 brought a great balance to the Zoning  
4 Commission and he will be missed. And I'm  
5 sure he will continue to make contributions in  
6 his future endeavor. All of my colleagues  
7 that I worked with in the past, I will tell,  
8 you know, we've all become friends, even  
9 though we may disagree up here. But it's like  
10 a friendship that goes on and I appreciate the  
11 experience that I've had with Greg Jeffries.

12 So, Greg Jeffries will be replaced  
13 by Konrad Schlater starting one week from  
14 Thursday. So we want to welcome Mr. Schlater  
15 and we will do that properly at our next  
16 meeting, even though we'll probably welcome  
17 him at the hearing, but we will properly  
18 welcome him at the hearing on Thursday.

19 But I would just ask and so the  
20 record reflect, if we could just give Greg  
21 Jeffries a round of applause and thank him for  
22 his hard work.

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1 (Applause.)

2 CHAIRPERSON HOOD: Ms. Schellin,  
3 could you make sure Mr. Jeffries watches the  
4 web cast live re-run?

5 Okay. Next I want to talk about  
6 the Office of Zoning director. We were on a  
7 time schedule, Commission Keating and I, and  
8 also Vice-Chair Jeffries, but in all respect  
9 and fairness to our new colleague, we're  
10 probably going to have to push that schedule  
11 back. We're going to be trying to kind of  
12 consult with Commissioner Keating and also  
13 with Commissioner Schlater to see how we're  
14 going to move this process forward. I'm not  
15 sure what the deadline's going to be, but I  
16 want to publicly announce that we're going to  
17 bring Commissioner Schlater up to speed as  
18 fast as possible and then we're going to try  
19 to coordinate our efforts and see what we come  
20 back with and try to hurry up and resolve the  
21 Office of Zoning so we can move forward with  
22 a director. I will tell that you with the

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1 great staff and with the acting director, the  
2 Office of Zoning has not missed a beat.  
3 Sometimes when things are working you like to  
4 leave them alone, but we do need to put a  
5 director in place, and we will do that in the  
6 very near future. The schedule that we  
7 publicize, that we sent to the council and  
8 that we notarized in the Northwest Current and  
9 other places, it's going to be amended due to  
10 the fact of our new colleague coming on board.  
11 And I don't know if Commissioner Keating  
12 wanted to add to that.

13 VICE-CHAIR KEATING: No.

14 CHAIRPERSON HOOD: Okay. Next,  
15 what I'd like to do, and I think this  
16 shouldn't take but a second, I would like to  
17 move that we elect Bill Keating as the vice-  
18 chair of the D.C. Zoning Commission and as for  
19 a second.

20 COMMISSIONER MAY: Second.

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

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1 All those in favor? Aye.

2 VICE-CHAIR KEATING: Aye.

3 COMMISSIONER MAY: Aye.

4 COMMISSIONER TURNBULL: Aye.

5 CHAIRPERSON HOOD: Not hearing any  
6 opposition, and I'm sure I wouldn't hear any  
7 opposition, Ms. Schellin, could you record the  
8 vote?

9 MS. SCHELLIN: I'm assuming that  
10 Mr. Keating voted for that?

11 VICE-CHAIR KEATING: Yes.

12 MS. SCHELLIN: Okay.

13 CHAIRPERSON HOOD: If he didn't,  
14 we would discount his vote this time.

15 MS. SCHELLIN: Staff would record  
16 4-0-1 to vote Commissioner Keating as vice-  
17 chair. Commissioner Hood moving, Commissioner  
18 May seconding. Commissioners Turnbull and  
19 Keating in support. Commissioner Schlater not  
20 present, not voting.

21 CHAIRPERSON HOOD: Okay. Next,  
22 under preliminary matters; we're going to move

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1 to preliminary matters, Zoning Commission Case  
2 No. 08-21, The Athena Group, consolidated PUD  
3 and map amendment, 4460 MacArthur Boulevard,  
4 N.W. And what we would like to do is set a  
5 schedule.

6 Ms. Schellin?

7 MS. SCHELLIN: Yes, sir. If  
8 you'll recall, this was a schedule that had  
9 been set at the last meeting, the May 11th  
10 meeting, which was June 1st, for the applicant  
11 to provide an additional filing and the  
12 parties to provide their response thereto on  
13 June 8th.

14 May 28th the applicant filed a  
15 letter asking for a 30-day extension. And I  
16 contacted Chairman Hood asking for a revised  
17 time schedule and granting that 30-day  
18 extension. And Chairman Hood, you approved  
19 that. And I advised the parties that the  
20 applicant had until July 1st to provide their  
21 filing and the parties would have until July  
22 8th. And then we would take this up, or the

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1 Commission would take this up at their July  
2 13th meeting.

3           Since then, I've received email  
4 communications from the parties that the ANC  
5 meets on July 1st and that scheduling would  
6 not work for them with the applicant providing  
7 their filing on July 1st by 3:00 p.m. They  
8 would have approximately four hours to review  
9 it and make a decision. So therefore, they're  
10 asking for a revised schedule.

11           CHAIRPERSON HOOD: Okay. Now  
12 who's asking? Let me sure I'm correct. The  
13 applicant's asking or the ANC?

14           MS. SCHELLIN: The ANC.

15           CHAIRPERSON HOOD: Okay. All  
16 right.

17           MS. SCHELLIN: And the applicant  
18 did advise that they would be willing to  
19 provide their filing on June 26. And the ANC  
20 said they would like to have a full week.

21           CHAIRPERSON HOOD: So the original  
22 date, Ms. Schellin; I want to make sure I

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1 understand, and my colleagues will chime in  
2 when ready, the original date was July the  
3 1st?

4 MS. SCHELLIN: The last date that  
5 we gave, yes, July 1st.

6 CHAIRPERSON HOOD: And now the  
7 applicant has agreed to move it up to June 26?

8 MS. SCHELLIN: Yes.

9 CHAIRPERSON HOOD: Okay. So the  
10 ANC --

11 MS. SCHELLIN: And they would hand  
12 deliver that to the ANC, and I'm assuming all  
13 the other parties, yes.

14 CHAIRPERSON HOOD: So that gives  
15 the ANCs and the other parties an additional  
16 time to be able to peruse information?

17 MS. SCHELLIN: Yes.

18 CHAIRPERSON HOOD: Okay. So why  
19 don't we do this and then I'll open up to my  
20 colleagues, if they want to make any changes.  
21 Why don't we do June the 26th for the  
22 applicant? And the ANCs and the other parties

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1 can stick with July the 8th.

2 MS. SCHELLIN: Okay. And is that  
3 still going to be by 3:00 p.m.?

4 CHAIRPERSON HOOD: Yes, what's our  
5 normal time?

6 MS. SCHELLIN: 3:00 p.m.

7 CHAIRPERSON HOOD: 3:00?

8 MS. SCHELLIN: So the applicant  
9 should serve it on the parties by 3:00 p.m. on  
10 June 26th.

11 CHAIRPERSON HOOD: They've agreed  
12 to do that and make sure they do that by June  
13 the 26th.

14 MS. SCHELLIN: Okay.

15 CHAIRPERSON HOOD: Is that -- ANC?  
16 Ms. Haas? Just come forward and tell us if it  
17 puts you --

18 MS. HAAS: Chairman Hood and  
19 Commissioners, we wonder whether it would be  
20 possible to have a week's time for the ANC to  
21 review this, which would put it on Wednesday  
22 the 24th?

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1 CHAIRPERSON HOOD: 24th of July?

2 MS. HAAS: June.

3 CHAIRPERSON HOOD: Okay. If the  
4 applicant is going to give it to us by --

5 MS. SCHELLIN: June 26.

6 CHAIRPERSON HOOD: Right. And you  
7 want it by June the 24th?

8 MS. HAAS: It would give us two  
9 more days, if that would be okay.

10 CHAIRPERSON HOOD: Oh, you're  
11 asking if the applicant can turn it in by the  
12 24th?

13 MS. HAAS: Right.

14 CHAIRPERSON HOOD: Is the  
15 applicant here? Is that a problem?

16 MS. RODDY: Hi. We'd actually  
17 scheduled a meeting --

18 CHAIRPERSON HOOD: Could you  
19 identify yourself?

20 MS. RODDY: Christine Roddy with  
21 Pillsbury representing the applicant. And  
22 we've scheduled a meeting for June 19th to get

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1 all the parties together and just because, you  
2 know, with vacation schedules it's difficult.  
3 So obviously we would like as much time as  
4 possible to work with that. But if that's the  
5 deadline or the time line that we need to be  
6 on the July agenda, then I think that we'd be  
7 okay with it.

8 MS. SCHELLIN: And actually, just  
9 to clarify, we would not be putting this on  
10 our meeting until July 27th.

11 CHAIRPERSON HOOD: Right. So does  
12 that add more time, so the applicant can stay  
13 with the 26th?

14 MS. HAAS: Well, our ANC meets on  
15 July 1st and I'm quite confident that our ANC  
16 would like to have a decision made, you know,  
17 as soon as possible thereafter.

18 CHAIRPERSON HOOD: Well  
19 unfortunately, Ms. Haas, because of us pushing  
20 back and another Commissioner coming on, and  
21 we have a Commissioner out, before our  
22 deliberations on the 13th, we're going to have

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1 to move it to our second meeting in July.

2 MS. HAAS: Oh, well that's fine.

3 Oh, that's fine.

4 CHAIRPERSON HOOD: Trying to  
5 accommodate everyone else's schedule.

6 MS. HAAS: Oh, that's just fine.

7 CHAIRPERSON HOOD: Okay.

8 MS. HAAS: Yes.

9 CHAIRPERSON HOOD: Is that a  
10 problem, Ms. Roddy?

11 MS. RODDY: (Off microphone.)

12 CHAIRPERSON HOOD: Okay.

13 MS. HAAS: I think what we were  
14 trying to not have to do is have another  
15 special meeting of the ANC, that we could hope  
16 to resolve it at our July 1st meeting.

17 CHAIRPERSON HOOD: I hope you all  
18 get it resolved at your July 1st meeting. I  
19 really do.

20 Okay. So what is the time  
21 schedule?

22 MS. SCHELLIN: June 26.

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1 CHAIRPERSON HOOD: June 26.

2 MS. SCHELLIN: And July 8th still  
3 for the ANC. We're not changing the ANC's  
4 response date. We're only changing the  
5 applicant.

6 CHAIRPERSON HOOD: And is that --

7 MS. HAAS: Okay. So that's five  
8 days to wrap things up.

9 CHAIRPERSON HOOD: So you need two  
10 more days, the 24th?

11 MS. HAAS: We would love to have  
12 those two more days.

13 CHAIRPERSON HOOD: Well, they  
14 agreed to the 24th.

15 MS. HAAS: Okay. Okay.

16 CHAIRPERSON HOOD: All right.

17 Let's do this. I think the applicant agreed.

18 Ms. Roddy, you agreed to the 24th,  
19 right?

20 MS. RODDY: I guess we would  
21 prefer the 26th, only because that only gives  
22 us shorter time. That gives us five days then

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1 to change the plans.

2 CHAIRPERSON HOOD: Let's make it  
3 the 25th.

4 MS. HAAS: Sold. Perfect.

5 CHAIRPERSON HOOD: Okay. 25th.  
6 I'm glad there's a day in between the 24th and  
7 the 26th. So we're going to do the 25th.  
8 Okay. Thank you.

9 All right. Ms. Schellin, could  
10 you make it clear, please, for the record?

11 MS. SCHELLIN: Yes, the applicant  
12 will provide their filings by 3:00 p.m. on  
13 June 25th. The ANC and the other parties have  
14 until July 8th, 3:00 p.m. And this case will  
15 be considered at our July 27th meeting at 6:30  
16 p.m.

17 CHAIRPERSON HOOD: Okay. Thank  
18 you very much. Appreciate everyone helping to  
19 work that out so quickly.

20 Let's move right into our agenda.  
21 We have no hearing action, nothing on the  
22 consent calendar. We're going to begin with

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1 final action in Zoning Commission Case No. 06-  
2 14A, MRP Realty, LLC, two-year time extension  
3 for PUD at square 3584.

4 Ms. Schellin?

5 MS. SCHELLIN: Staff has nothing  
6 further to add to this, other than to just say  
7 that it's a request for a two-year time  
8 extension.

9 CHAIRPERSON HOOD: Colleagues, we  
10 have from the applicant a submission, which  
11 was very well done, and it really described  
12 exactly what the issues are, what the  
13 circumstances are and things that we should  
14 look at. Look at page 3, and it says, "In  
15 this case the subject property is being  
16 cleared and is ready for development; however,  
17 due to the dire economic climate, the  
18 applicant has been unable to obtain sufficient  
19 financing for the construction of the approved  
20 project. The financial crisis has frozen the  
21 credit markets." And it goes on to say that,  
22 and that's on page 3. And I think that's

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1 sufficient for the record.

2 And what I would do is move that  
3 we do a two-year time extension for Zoning  
4 Commission Case No. 06-14A and ask for a  
5 second.

6 COMMISSIONER TURNBULL: Second.

7 CHAIRPERSON HOOD: Any further  
8 discussion? All those in favor? Aye.

9 VICE-CHAIR KEATING: Aye.

10 COMMISSIONER MAY: Aye.

11 COMMISSIONER TURNBULL: Aye.

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

15 MS. SCHELLIN: Yes, staff records  
16 the vote 4-0-1 to approve the two-year time  
17 extension in Zoning Commission Case No. 06-  
18 14A. Commissioner Hood moving, Commissioner  
19 seconding. Commissioners Keating and May in  
20 support. Commissioner Schlater not present,  
21 not voting.

22 CHAIRPERSON HOOD: Okay. Next

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1 Zoning Commission Case No. 06-24B, DCO Realty,  
2 Inc, two-year time extension for PUD at 2400  
3 14th Street, N.W.

4 Ms. Schellin?

5 MS. SCHELLIN: Again, this is  
6 another request for a two-year time extension  
7 and staff has nothing further add on this one.

8 CHAIRPERSON HOOD: Okay. Thank  
9 you.

10 Again, this is very well done.  
11 The structure and the layout of submittal I  
12 think was very easy to read and flowed well.  
13 So what I would do, and again on page 3, the  
14 applicant has been unable to obtain sufficient  
15 financing for the construction of the approved  
16 PUD due to the dire economic climate. It goes  
17 on and talks about the freeze of the credit  
18 markets.

19 And I would move that we allow a  
20 two-year extension on Zoning Commission Case  
21 No. 06-24B and ask for a second.

22 VICE-CHAIR KEATING: Second.

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1 CHAIRPERSON HOOD: Thank you.  
2 Moved and properly seconded. Any further  
3 discussion? All those in favor? Aye.

4 VICE-CHAIR KEATING: Aye.

5 COMMISSIONER MAY: Aye.

6 COMMISSIONER TURNBULL: Aye.

7 COMMISSIONER TURNBULL: Not  
8 hearing any opposition, Ms. Schellin, could  
9 you record the vote?

10 MS. SCHELLIN: Yes, staff records  
11 the vote 4-0-1 to approve the two-year time  
12 extension in Zoning Commission Case No. 06-  
13 24B. Commissioner Hood moving, Commissioner  
14 Keating seconding. Commissioners May and  
15 Turnbull in support. Commissioner Schlater  
16 not present, not voting.

17 CHAIRPERSON HOOD: Okay. Next,  
18 what I would like to do is to move both of  
19 these next two in block, if that's okay.

20 MS. SCHELLIN: On this one, I do  
21 have a couple items that the Commission needs  
22 to reopen the record on.

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1 CHAIRPERSON HOOD: Okay.

2 MS. SCHELLIN: They are Exhibits  
3 103, 104, 105. They are letters from the  
4 Department of Navy, the U.S. Marines. And  
5 then there was a copy of the letter from the  
6 applicant to NCPC. And also to advise that we  
7 did receive a report from NCPC.

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

10 Ms. Nagelhout, if we move this in  
11 block and highlight the issues with the  
12 specific case, is that okay to move in that  
13 fashion, or should I take them individually?

14 MS. NAGELHOUT: I think you could  
15 do it either way.

16 CHAIRPERSON HOOD: Okay. Let's  
17 try to move it in block. First, let's open  
18 the record for the submissions of the exhibit  
19 numbers so cited by Ms. Schellin.

20 I move that we reopen the record  
21 for the exhibits so cited and ask for a  
22 second.

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1 COMMISSIONER TURNBULL: Second.

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

5 VICE-CHAIR KEATING: Aye.

6 COMMISSIONER MAY: Aye.

7 COMMISSIONER TURNBULL: Aye.

8 CHAIRPERSON HOOD: Not hearing any  
9 opposition, Ms. Schellin, would you record the  
10 vote?

11 MS. SCHELLIN: Yes, staff records  
12 the vote 4-0-1 to reopen the record to accept  
13 Exhibits 103, 104, 105 in Zoning Commission  
14 Case Nos. 03-12G and 03-13G. Commissioner  
15 Hood moving, Commissioner Turnbull seconding.  
16 Commissioners May and Keating in favor.  
17 Commissioner Schlater not voting, having not  
18 participated.

19 CHAIRPERSON HOOD: Okay. Let's  
20 take up Zoning Commission Case No. 03-12G/03-  
21 13G, Capper/Carrollsborg Venture, LLC & DCHA,  
22 second stage PUD and PUD modifications at

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1 Squares 769 and 882. And also Zoning  
2 Commission Case. 03-12H/03-13H,  
3 Capper/Carrollsborg Venture, LLC and the DCHA,  
4 PUD modifications at Square 739, 767, 668 and  
5 S825.

6           Again, this was a case that was  
7 kind of to a point where we got kind of  
8 confused and I want to thank the applicant for  
9 bringing this to some kind of structure where  
10 we can understand what we're doing. Again,  
11 another job well done. You know, when you put  
12 submissions together and make it easier for us  
13 to read, I think that goes a long way with us  
14 so we don't have to fight to figure out what's  
15 going on.

16           The only issue on Zoning  
17 Commission Case No. 03-12G/03-13G, colleagues,  
18 if you'd turn to the NCPC report in the  
19 filing, it spoke about the issue and it  
20 actually says, "The applicant has discussed  
21 these proposed conditions with the Navy and  
22 Marines, and we've submitted a letter from the

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1 Navy and Marines and we understand that the  
2 conditions adequately address their concerns.  
3 Moreover, including these items as conditions  
4 in the PUD would make the provisions binding  
5 upon the applicant." And it says, "The  
6 applicant hereby agrees to the modifications  
7 proposed by the Navy, thus the applicant will  
8 request that the Zoning Commission revise  
9 condition A identified in the applicant's June  
10 1st letter to read as follows." And that is  
11 in a submission that was given June the 4th.

12 And then the final conclusion from  
13 the National Capital Planning Commission says,  
14 "The Commission advises the Zoning Commission  
15 that the modifications to the proposed second  
16 stage consolidated PUD development for Squares  
17 882 and 769 would not be inconsistent with the  
18 Comprehensive Plan from the National Capital,  
19 nor would they adversely affect any other  
20 identified federal interest subject to the  
21 Zoning Commission included in its final  
22 action, the conditions set forth in the June

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1 1st, 2009 letters from the Department of the  
2 Navy and the U.S. Marines, and the June 4th,  
3 2009 letter from Holland & Knight." And those  
4 letters were attached.

5 And I would only ask in this final  
6 vote that we give the Office of Attorney  
7 General permission to revise the order stating  
8 the agreement between all the parties that  
9 were involved. Okay?

10 So with that, I would move that we  
11 approve both of those cases, and the agenda  
12 cites what those cases are, but let me do it  
13 for the record. Zoning Commission Case No.  
14 03-12G/03-13G and also Zoning Commission Case  
15 No. 03-12H/03-13H with the modification to  
16 03/12G and 03-13G as noted, and ask for a  
17 second.

18 COMMISSIONER MAY: Second.

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

22 VICE-CHAIR KEATING: Aye.

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1 COMMISSIONER MAY: Aye.

2 COMMISSIONER TURNBULL: Aye.

3 CHAIRPERSON HOOD: Not hearing any  
4 opposition, Ms. Schellin, would you record the  
5 vote and the not participating?

6 MS. SCHELLIN: Yes, staff records  
7 the vote 3-0-2 to approve Zoning Commission  
8 Case Nos. 03-12G/03-13G and 03-12H/03-13H.  
9 Commissioner Hood moving, Commissioner May  
10 seconding. Commissioner Turnbull in favor.  
11 Commissioner Keating not voting, having not  
12 participated. Commissioner Schlater not  
13 voting, having not participated.

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

16 Next, let's go to correspondence.  
17 Zoning Commission Case No. 09-06. This is  
18 Abdo New York, LLC, request to convert  
19 application into a modification.

20 Ms. Schellin?

21 MS. SCHELLIN: Okay. This was  
22 before you. There's a request from Abdo

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1 asking that you convert the application to a  
2 modification.

3 CHAIRPERSON HOOD: Okay. Let me  
4 open that up for discussion. I think we set  
5 this down. Was it at our last public meeting?

6 MS. SCHELLIN: I believe so. Yes,  
7 sir.

8 CHAIRPERSON HOOD: We set this  
9 down as a proposal at our last public meeting.  
10 And now the applicant is asking us to consider  
11 this as a modification.

12 Just a little history, some years,  
13 I don't know how many years it's been, but we  
14 first approved the project. The applicant  
15 came back and made some changes and presented  
16 it as a different project, even though some  
17 things changed, maybe density and some of the  
18 architectural drawings and what not. So now  
19 they're asking us to reconsider what we set  
20 down and consider it as a modification. And  
21 it's Exhibit 17. And let me just open it up  
22 for comment here from my colleagues.

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1 Commissioner May?

2 COMMISSIONER MAY: Yes, Mr.

3 Chairman. I think it's very hard to argue  
4 that since the change in the case is so  
5 significant that this is something that could  
6 actually be considered as a modification. I  
7 just don't think it fits the criteria. I  
8 mean, I'm totally sympathetic to the problem  
9 and, you know, I'm not sure that I see another  
10 way out of it. But if there is another way to  
11 consider it, you know, I'd be willing to do  
12 that. I just can't see that this case could  
13 actually be considered as a modification.

14 CHAIRPERSON HOOD: Anyone else  
15 want to comment?

16 Okay. Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes, Mr.

18 Chair. I would just concur with Commissioner  
19 May.

20 CHAIRPERSON HOOD: Okay. So I  
21 guess in essence -- and Mr. Rittig or Ms.  
22 Nagelhout, I'm not sure who has this, but the

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1 request is for us to make this a modification.  
2 If we vote against the request, then it stands  
3 as to what we set down at the last meeting.  
4 Am I correct?

5 MR. RITTIG: Yes, if you do  
6 nothing else, that's correct.

7 CHAIRPERSON HOOD: But we need to  
8 vote on what's before us today on the  
9 modification, or we can just recognize it and  
10 say we received it?

11 MR. RITTIG: Yes, I don't think  
12 it's necessary to vote on a correspondence  
13 item. You could, if you wanted to vote  
14 against it. That would be appropriate as  
15 well, but it's not a requirement.

16 CHAIRPERSON HOOD: Okay. With  
17 that, I will wait to hear from my colleagues  
18 unless, you know, if someone wants to put a  
19 motion on the table, we can. If not, we'll  
20 just say that we received it.

21 COMMISSIONER MAY: Mr. Chairman?

22 CHAIRPERSON HOOD: Yes?

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1                   COMMISSIONER MAY: I'm not sure  
2 that it's worth actually taking a vote over.  
3 But I would just want to suggest that the  
4 staff work with the applicant to see if there  
5 isn't some other way to solve this particular  
6 problem, because, like I said before, I'm  
7 sympathetic to the problem. And otherwise,  
8 I'm just not inclined to make it a  
9 modification and it doesn't really matter to  
10 me whether we vote or not.

11                   CHAIRPERSON HOOD: Okay. I think  
12 hopefully the applicant picked up that we are  
13 not in favor of this being modification, but  
14 we will entertain any suggestions. And thank  
15 you, Commissioner May, for bringing that up in  
16 that fashion.

17                   Okay. Any other comments?

18                   Okay. Ms. Schellin, if you could  
19 work with the applicant?

20                   We are not willing or we don't  
21 want to look at this as a modification, so try  
22 to work with staff and come back with

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1 something that we can work with. Now, we  
2 haven't denied anything. So normally we'd  
3 bring you if we deny it, but we haven't denied  
4 anything. But we're good folks.

5 Ms. Prince, come up to the table.  
6 But we haven't denied you now.

7 MS. PRINCE: Thank you so much,  
8 Chairman Hood. Allison Prince of Pillsbury.

9 We really have thoroughly looked  
10 into all the options here. This was quite an  
11 unusual and counterintuitive result to reduce  
12 the density of a project so substantially and  
13 reduce the height and go into a more intensive  
14 zone category that we would almost triple our  
15 hearing fee.

16 We looked at the options. The  
17 options included considering the case as a  
18 modification, which we hadn't done at the  
19 outset because frankly we thought it was  
20 simpler to handle it as a new case, or change  
21 the zoning -- or maintain the originally  
22 requested zoning of CR, which is far more than

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1 we need in terms of height and density, but  
2 ironically would result in a much more  
3 reasonable hearing fee, still one far greater  
4 than we feel this project should be required  
5 to pay given the amount of affordable housing.

6 So, aside from the Commission's  
7 general flexibility to waive its rules and  
8 take into special consideration the  
9 circumstances of the project as a very, very  
10 substantial affordable housing project, we  
11 ended up with the modification approach as the  
12 best option.

13 So, I would say the other options  
14 would be to allow us to keep the zoning at the  
15 CR that was originally requested, which would  
16 at least substantially reduce the hearing fee  
17 from that that results from C-3-A zoning, or  
18 to just consider your ability as a commission  
19 to waive your rules and fee schedule given  
20 these unusual particular circumstances.

21 CHAIRPERSON HOOD: I'm not sure.  
22 Typically in my tenure here we don't usually

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1 mess around with the fees. But you hit  
2 something, and I also saw it in your  
3 submission about the CR, which you said is  
4 much more than what you really need. Are you  
5 making that request?

6 MS. PRINCE: Well, if that's the  
7 only other option available, then that's the  
8 request I would make, that we would just stay  
9 with the zoning that we originally secured in  
10 the PUD, which was CR, which would result in  
11 repaying again basically the same hearing fee  
12 that we paid two-and-a-half years ago when we  
13 sought approval for a much more dense PUD.  
14 It's just a very counterintuitive result. The  
15 regulations, as you know, do contemplate fee  
16 relief for projects that have a substantial  
17 amount of affordable housing, but we don't  
18 quite fit under that either.

19 We have a retail component. We  
20 have some market rate housing, although we  
21 have this extremely significant amount of  
22 affordable housing. So it was just one of

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1 those situations where we felt that going back  
2 to the modification option -- I'm talking too  
3 much, but as a modification we did work  
4 through so many issues last time. Traffic is,  
5 you know, a non-issue under this revised plan.  
6 Height is a non-issue under the revised plan.  
7 Density is a non-issue. And these were all  
8 worked through in connection with the original  
9 PUD. So we were hoping that the Board could  
10 be open-minded about the modification option,  
11 even though I know it doesn't quite feel  
12 right. And frankly, we didn't file it as such  
13 because we had the same reaction as  
14 Commissioner May.

15 CHAIRPERSON HOOD: Okay.

16 MS. PRINCE: I'm begging.

17 CHAIRPERSON HOOD: Well, we don't  
18 want you to beg. We're going to try to do it.

19 Let's do this: I don't know, and  
20 I'm sure that they would like for us to deal  
21 with as soon as possible. It looks like we're  
22 making a little headway, Ms. Prince. We're

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1 going to go to the Office of Planning and see  
2 what they think of that CR option.

3 Ms. Steingasser?

4 MS. STEINGASSER: I think we  
5 struggle just like the applicant and the  
6 Commission with this question. We're very  
7 sympathetic to the smaller project with an  
8 increased price tag that doesn't seem  
9 intuitive.

10 We wouldn't object to the CR as an  
11 alternative in the setdown, as long as it's  
12 clear that this is not setting a precedent for  
13 all cases to come and request zoning to the  
14 lowest possible fee structure. That's our  
15 concern, as we typically don't like to over  
16 zone even in PUDs, create a lot of excess in  
17 zoning. It unnerves neighborhoods. It makes  
18 community groups uncomfortable to have this  
19 excessive zoning when the project doesn't  
20 match. It's not consistent with the zone  
21 plan. However, we do agree in this case that  
22 there is a significant amount of affordable

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1 housing that's going in and the project's come  
2 back to address a lot of financial  
3 constraints. So as long as it's clear this is  
4 not a precedent and that, you know, perhaps  
5 the Office of Zoning and Office of Planning  
6 can work together to try to balance out the  
7 fee structure going forward so that we can  
8 kind of close this disparity.

9 CHAIRPERSON HOOD: I guess my only  
10 question then is we have a request from Ms.  
11 Prince. The Office of Planning wants to work  
12 with the Office of Zoning to work the fee  
13 structure.

14 Mr. Rittig, we don't have anything  
15 in writing as a formal request, only a verbal  
16 request, and what the submission is on June  
17 1st. Do we need to wait to get a formal  
18 request in writing?

19 MR. RITTIG: I don't see any  
20 reason that you could not reconsider your  
21 setdown decision and just set it down as a  
22 different map amendment request.

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1 CHAIRPERSON HOOD: Okay.

2 MS. STEINGASSER: Mr. Chairman, if  
3 could also add, we would need to modify the  
4 application, the zoning tabulations sheets.  
5 The whole application would have to be  
6 readjusted now to reflect that so we get the  
7 file correct.

8 CHAIRPERSON HOOD: So we really  
9 can't deal with this other than to -- we don't  
10 really want to deny the modification. We just  
11 don't want to look at it as a modification.  
12 We would like to look at it is going into the  
13 context of a CR, I think what I'm hearing from  
14 my colleagues and the discussion we've had.  
15 So what we want to do, how soon do you think  
16 we could do this? Because we have a meeting  
17 coming up one week from Thursday. And what we  
18 could do is do a 15-minute special public  
19 meeting prior.

20 Oh, do I have enough time? Do I  
21 have seven days?

22 MS. PRINCE: We have a timing

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1 issue because of the hearing notice. So it  
2 would be very helpful and important to get the  
3 Commission's action tonight. We certainly in  
4 our submission that we'll make to the  
5 Commission will change all of our tabulations  
6 to comport with the CR zoning. We agree in  
7 principle, but is it important for you to see  
8 those computations before? I mean, it's the  
9 same project. It's a two-and-a-half FAR.  
10 It's 32 percent affordable housing, some of it  
11 at a very, very low AMI level. I mean, it's  
12 just a mechanism for getting to a more  
13 sensible fee result. And we're happy to make  
14 sure to present the case in a way that makes  
15 it clear what the FAR is and how it's really  
16 a fraction of what's permitted under the  
17 zoning.

18 CHAIRPERSON HOOD: Okay. Again,  
19 as Ms. Steingasser said, we don't want to make  
20 this precedent setting, but what I would like  
21 to do is turn to my colleagues.

22 We've heard the discussion. Does

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1 anyone have any problems with moving in that  
2 fashion?

3 COMMISSIONER MAY: No, I would be  
4 comfortable moving in that fashion tonight.  
5 You know, I think generally there's a certain  
6 amount of unease about doing this sort of a  
7 maneuver to avoid the fee. That's why I think  
8 it's very important to have a look at the fee  
9 structure to understand why this anomalous  
10 situation occurs. And I think that it is  
11 important to recognize that we don't want to  
12 see any future cases like this where we have  
13 zoning categories selected for the sake of the  
14 fee that would be charged. So, I'm okay  
15 moving forward with those various caveats.  
16 And then I'd be happy to see the analysis from  
17 the Office of Planning that reflects the right  
18 tabulations and so on.

19 CHAIRPERSON HOOD: Okay. Anyone  
20 else want to comment?

21 PARTICIPANT: No.

22 Okay. So in the spirit of that, I

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1 would move that we consider our setdown of C-  
2 3-A to the CR zone for a PUD for Zoning  
3 Commission Case No. 09-06 contingent on the  
4 submissions and everything given to us that  
5 everything equals up and is sufficient to the  
6 Commission's needs and what we need to work  
7 with.

8 Is that all right? Is that  
9 agreeable?

10 MS. PRINCE: That's agreeable.  
11 Thank you.

12 CHAIRPERSON HOOD: Let me see if I  
13 can get a second.

14 VICE-CHAIR KEATING: Second.

15 CHAIRPERSON HOOD: It's moved and  
16 properly seconded. Any further discussion?  
17 All those in favor? Aye.

18 VICE-CHAIR KEATING: Aye.

19 COMMISSIONER MAY: Aye.

20 COMMISSIONER TURNBULL: Aye.

21 CHAIRPERSON HOOD: Not hearing any  
22 opposition, Ms. Schellin, would you record the

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1 vote?

2 MS. SCHELLIN: Yes, staff records  
3 the vote 4-0-1 to reconsider setdown from C-3-  
4 A to the CR zone in Zoning Commission Case No.  
5 09-06. Commissioner Hood moving, Commissioner  
6 Keating seconding. Commissioners May and  
7 Turnbull in support. Commissioner Schlater  
8 not present, not voting.

9 CHAIRPERSON HOOD: Okay. Thank  
10 you very much.

11 MS. PRINCE: Thank you.

12 CHAIRPERSON HOOD: Okay. Next on  
13 our correspondence we have a letter from ANC  
14 1-D, request to include additional language in  
15 notices advising residents to contact their  
16 local ANC to participate in formulation of  
17 local advice.

18 Ms. Schellin?

19 MS. SCHELLIN: Yes, this was a  
20 letter that was submitted to our office and is  
21 before you for consideration.

22 CHAIRPERSON HOOD: You know, when

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1 I first reviewed this, and I don't think it  
2 has an exhibit number. At least mine doesn't.

3 MS. SCHELLIN: No, sir. It's just  
4 general correspondence. It's not to a  
5 particular case.

6 CHAIRPERSON HOOD: The ANC 1-D,  
7 which I thought was a very good gesture, but  
8 what it does is there's already an ANC law and  
9 there's already in our hearing structure a way  
10 for ANCs and persons who may not participate  
11 in the ANC, a way to come down and give their  
12 input. While it's always good to work on one  
13 accord and the ANC gets great weight, we don't  
14 want to make the appearance or give the  
15 impression that individuals cannot come down  
16 and still participate. I think that it's a  
17 bigger structure than us than just saying  
18 let's do this, let's add this sentence. And  
19 we don't want anyone to be understood to the  
20 fact that they cannot come down and testify in  
21 front of the Zoning Commission.

22 So I would just suggest that we

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1 acknowledge and ANC 1-D may need to do a  
2 little more work on this and see exactly what  
3 all the legal ramifications are, and how this  
4 can properly be done through the ANC. That's  
5 just my opinion on it, and if any of my  
6 colleagues want to add anything.

7 Okay. So if we can just say that  
8 we acknowledge it. Anybody want to add to  
9 that?

10 PARTICIPANT: No.

11 CHAIRPERSON HOOD: Okay. So we  
12 will just acknowledge it. And I commend the  
13 effort, but I think a little more work needs  
14 to go into actually how you get it done and  
15 not excluding any persons or parties, or  
16 anyone who may not necessarily participate in  
17 their local ANC.

18 Okay? Is that sufficient? If it  
19 didn't make sense to Ms. Schellin -- you  
20 understand what I'm saying?

21 MS. SCHELLIN: (No audible  
22 response.)

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1 CHAIRPERSON HOOD: Okay. All  
2 right. Let's go to proposed action. Zoning  
3 Commission Case No. 08-15, Friendship-Macomb  
4 SC, Inc., consolidated PUD and related map  
5 amendment at Squares 1920 and 1920N.

6 Ms. Schellin?

7 Just give us a few minutes. Let  
8 me move some of this paperwork.

9 MS. SCHELLIN: Okay.

10 CHAIRPERSON HOOD: Let's get out  
11 stuff out because I think we'll have some  
12 deliberations.

13 Okay. Ms. Schellin, we're ready.

14 MS. SCHELLIN: Yes. There's a  
15 couple exhibits that we need to reopen the  
16 record for late filing. The first one,  
17 Exhibit 261, was just a matter of being an  
18 hour late. Mr. O'Sullivan and the other  
19 parties, they joined in as one group to file  
20 their draft findings of fact, conclusions of  
21 law, and he was having some computer issues.  
22 And he tried to get it in on time and just fax

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1 machine, computer, he was not having a good  
2 technology day. So that was the issue with  
3 the first one.

4 And then in faxing it, it came in  
5 pieces and we did not get all of it. So I  
6 asked him to send another faxed copy so we  
7 would have a complete copy. So that was the  
8 reason for Exhibit 262.

9 And then Exhibit 264 he filed  
10 because he realized in his haste of trying to  
11 get it all filed, you know, pieces some got  
12 left out. So I would just ask that the record  
13 be reopened to accept those Exhibits, 261, 262  
14 and 264.

15 CHAIRPERSON HOOD: Okay. Any  
16 objection? I move that we open the record for  
17 those submissions. We all have bad technology  
18 days; I know I sure do. And ask for a second?

19 COMMISSIONER TURNBULL: Second.

20 COMMISSIONER MAY: Moved and  
21 properly seconded. Any further discussion?  
22 All those in favor? Aye.

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1 VICE-CHAIR KEATING: Aye.

2 COMMISSIONER MAY: Aye.

3 COMMISSIONER TURNBULL: Aye.

4 CHAIRPERSON HOOD: Not hearing any  
5 opposition, Ms. Schellin, would you record the  
6 vote?

7 MS. SCHELLIN: Yes, staff records  
8 the vote 4-0-1 to reopen the record to accept  
9 the late filing of Exhibits 261, 262 and 264.  
10 Commissioner Hood moving, Commissioner  
11 Turnbull seconding. Commissioners May and  
12 Keating in favor. Commissioner Schlater,  
13 having not participated and not voting.

14 CHAIRPERSON HOOD: Okay.  
15 Colleagues, we've had a number of hearings on  
16 this case, Zoning Commission Case No. 08-15.  
17 Again, this was a consolidated review and one-  
18 step approval of a planned unit development  
19 and zoning map amendment for the Friendship  
20 Shopping Center, which has both a north and  
21 south parcel. We had a number of parties and  
22 I don't have them right off with me, but we

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1 had a number of parties, a lot of them named  
2 after different streets. We had one young  
3 lady who was a party. The ANC who was a party  
4 with some conditions.

5 So, we have that before us. And  
6 just to kind of frame some of the preliminary  
7 questions, one of them was should the  
8 development plan be heard by BZA as a special  
9 exception under Section 1308.3 of the MW  
10 Overlay, Macomb-Wisconsin Overlay, which was  
11 one of the questions that was asked.

12 Also, the other preliminary one  
13 was whether it is within the authority of the  
14 Zoning Commission to adjust the amount and  
15 location of parking within the PUD. And that  
16 goes to 2405.6.

17 So let's take the first one. And  
18 if there's something I'm missing, help me out.  
19 This is not exactly the smallest record we've  
20 had to deal with. I'm not sure how many  
21 hearings we had, but we had quite a few. And  
22 timeliness and everything, because we have

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1 this case along with another and they started  
2 coming together for me, even though there were  
3 particularly specific different issues in  
4 both.

5 Let's just discuss the development  
6 plan, whether or not it should have been heard  
7 in front of the BZA. I'm not sure exactly  
8 which party mentioned that, one of the parties  
9 in opposition mentioned. And I think we said  
10 we would hold this into abeyance until our  
11 deliberations. So let me open it up.

12 Okay. With that, as far as --  
13 Commissioner May?

14 COMMISSIONER MAY: No, I never  
15 really understood that argument. I mean,  
16 there isn't anything that the BZA would be  
17 considering that we would not be able to  
18 consider. So, I don't see the argument.

19 CHAIRPERSON HOOD: Anyone else?

20 Okay. I would also agree. I  
21 think that they cited 1308.3. Within the MW  
22 Overlay District, a lot that has 10,000 square

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1 feet or more in land area, construction of a  
2 new building on a lot with a gross floor area  
3 of an existing building, about 50 percent  
4 shall be permitted subject to review and  
5 approval as a special exception by the Board  
6 of Zoning Adjustment.

7 The Commission has authority to do  
8 special exceptions and variances, and PUDs.  
9 And I agree. I didn't see the validity in  
10 that argument. And I understood how they may  
11 have went there, but, you know, again, we  
12 write the regulations, so we definitely can  
13 make changes or deal with issues of things  
14 that we write. And while we write it for the  
15 BZA to look at, I think the Zoning Commission  
16 has that authority.

17 So, anyone else wants to add to  
18 that?

19 Okay. Is any moved by the parking  
20 issue? And I think this was the only  
21 preliminary issue that I saw. Whether there's  
22 authority of the Zoning Commission to adjust

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1 the amount and location of parking within a  
2 PUD, 2405.6. Off street parking spaces and  
3 loading berth facilities shall be provided as  
4 otherwise prescribed in this title. However,  
5 the Commission may reduce or increase the  
6 amount of such facilities depending on the use  
7 and the location of the project.

8 I will tell you as we get into  
9 deliberation, it is the loading berth that was  
10 a specific issue for me, but I want to keep  
11 this in some type of fashion.

12 Okay. So that doesn't move  
13 anyone.

14 Some of the issues. We looked at  
15 traffic and, I believe -- well, let me just  
16 say this. The opposing parties, we heard  
17 traffic. Traffic was a major concern. With  
18 the mitigation efforts, calming measures.  
19 We've heard conversation about pedestrian use.  
20 Then we went into parking. Amount of  
21 residential parking, amount of commercial  
22 parking. The shortfall I think on the north

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1 parcel. Location of all commercial parking on  
2 the south parcel. Provisions of the  
3 neighborhood parking for surrounding uses.

4           Again, we talked about loading  
5 impacts. Truck traffic estimates. A truck  
6 management plan. We talked about the grocery  
7 loading. I think it was on Idaho Avenue.  
8 Location design and visual and noise buffering  
9 of loading area. I do know, I think one of  
10 the issues was -- I do know the gentleman's  
11 name, Mr. Montalto, was the issue I think with  
12 the loading and buffering. I think he even  
13 mentioned the backup decibels and how close it  
14 was to the proximity of the four or five  
15 homes. And I'm going off the top of my head.  
16 Hopefully it was four or five. Maybe more.

17           Also, the Cleveland Park Citizens  
18 Association mentioned to us about the  
19 agreement, the private agreement. Unless I'm  
20 told something otherwise, and I think we  
21 mentioned this at the meeting, that agreements  
22 before parties and the applicant in any

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1 situation are not enforceable by the Zoning  
2 Commission. This is a private agreement. And  
3 I would hope that if that was something that  
4 Cleveland Park wanted to see sustained, they  
5 would work it through the realms of which they  
6 agreed to it for. Because within our auspices  
7 we just deal with the zoning.

8 So those are some of the issues.  
9 Again, we have to evaluate our PUD guidelines  
10 and evaluation. But with that, that's enough  
11 to try to recap.

12 I will open it up. We have some  
13 finders in facts. I believe it was  
14 consolidated by and I think Mr. O'Sullivan  
15 took the lead on that. So, anyway, let's open  
16 it up and let's try to hit some of the  
17 highlights and let's see where we fall.

18 COMMISSIONER TURNBULL: Mr. Chair,  
19 I guess I just want to get back onto your last  
20 comment with the traffic and the parking.

21 I think DDoT's testimony and its  
22 evaluations were very good, very, very

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1 critical. As you know, I think we've been  
2 getting -- I think I've been impressed. The  
3 more that DDoT looks at these things, we're  
4 getting better answers, better responses and  
5 better analysis. And I think they're looking  
6 at this with the applicant's TMP, a new  
7 traffic signal and traffic signal optimization  
8 measures, the intersection reconstruction and  
9 the truck management plan. And they're  
10 looking at the amount of parking at the  
11 applicant was providing. They basically said  
12 it was sufficient to accommodate the  
13 anticipated parking demand generated by the  
14 PUD. I think the provision of a traffic  
15 calming escrow account is something that they  
16 wanted. And I think basically that the  
17 proposed future mitigation measures provided  
18 by the applicant are something that DDoT  
19 looked at very carefully. And I don't think  
20 we had any -- I mean, this was one project  
21 that they really looked at very closely and I  
22 think they felt very comfortable with it, and

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1 I do, too.

2 CHAIRPERSON HOOD: Thank you, Mr.  
3 Turnbull.

4 Anybody else want to hit any of  
5 the issues that stood out or any of the ANC  
6 conditions, opposition, proponent?

7 Vice-Chair Keating?

8 VICE-CHAIR KEATING: Yes.

9 CHAIRPERSON HOOD: Get used to  
10 that.

11 VICE-CHAIR KEATING: I'm not used  
12 to that.

13 CHAIRPERSON HOOD: At least I  
14 didn't call you Madame Chair.

15 VICE-CHAIR KEATING: This is true.

16 Yes, I'd have to confer with  
17 Commission Turnbull's statements there about  
18 the traffic and what was done. And recalling  
19 DDoT's testimony, I also felt comfortable with  
20 what they were saying about what they  
21 anticipated to be happening in the area with  
22 this development in place, and also

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1 comfortable with their views on the parking.

2           You know, an issue that stuck with  
3 me, I think you mentioned was the loading, the  
4 loading dock, loading area and scheduling of  
5 the loading. I do feel with the testimony  
6 that I heard that there's a plan in place. I  
7 think we can set conditions and make sure that  
8 the plan is in place for that loading to  
9 ensure that that is controlled. And so I got  
10 comfortable with that as well.

11           We heard testimony about the noise  
12 being created at the main loading dock and  
13 that was truly an issue of contention and  
14 testimony in both directions on that. But and  
15 kind of going back again and looking at the  
16 plans and drawings, and at the last hearing  
17 the discussion about the height of the  
18 barrier, the berm, the trees, I did start to  
19 get more comfortable with the idea that that  
20 may not cause a significant problem and  
21 started to get comfortable again with that  
22 loading area activity and the noise that might

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1 be generated with that.

2 So those are my initial thoughts  
3 on those issues.

4 CHAIRPERSON HOOD: Commissioner  
5 May?

6 COMMISSIONER MAY: Yes, I'm going  
7 to hit a few points and I may have more. But  
8 there were a number of really substantive  
9 issues, I think, that were raised in the case.  
10 You know, one is a key question of the  
11 interpretation of the Comprehensive Plan and  
12 whether that allows for a C-1 Zone or a C-2-A  
13 Zone. It seems very, very clear to me that  
14 the Comprehensive Plan allows for a C-2-A Zone  
15 in this area. You know, it certainly was an  
16 argument worth making, but, as I said, it's  
17 very clear to me that C-2-A is appropriate  
18 here.

19 With respect to the massing of the  
20 project and the overall density, I think it's  
21 also quite fitting. Overall the density is  
22 quite low. The density of the buildings are

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1 placed appropriately. In other words, it's  
2 the same sort of relatively low-rise retail  
3 development in the site of the existing Giant  
4 and then a taller building toward the north  
5 end of the site. I think that makes perfect  
6 sense from a massing point of view and it's  
7 the sort of thing that you really should be  
8 doing in a PUD. You want to design the  
9 entirety of the site, not just design each  
10 block individually. And it's not reasonable  
11 in a PUD to think that you're going to try to  
12 hold each individual block to the underlying  
13 zoning requirement of that zone. So in other  
14 words, each site does not have to adhere  
15 specifically to the C-2-A requirements. You  
16 get to push things around a little bit in  
17 terms of, you know, where the parking goes or  
18 where the massing goes and so on. So I think  
19 it's very well considered there.

20 With regard to loading, I think  
21 that the project has made some serious  
22 progress from where it had started originally.

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1 It was helpful seeing some of that background.  
2 And there were some subtle changes that were  
3 made during the course of the hearings that I  
4 think improved things even further.

5 We have seen some commercial  
6 projects in here with very problematic loading  
7 situations in the past, and in all honesty,  
8 this is not one of them. I mean, it's not the  
9 sort of perfect situation that we've seen in  
10 a couple of cases where you have an entire  
11 underground loading dock and turnaround area  
12 which we've seen in a couple of projects. But  
13 that's really an extraordinary circumstance  
14 and frankly can only happen in circumstances  
15 where you have much taller buildings on top of  
16 it. So I think that a lot of progress has  
17 been made here and I think that overall the  
18 applicant has done a good job of placing the  
19 loading strategically, being able to service  
20 the retail space from within the building,  
21 which is a problem we've seen in other  
22 projects where the loading spaces are there

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1 but they don't connect well to the retail.  
2 And so we're opening the door to a lot more  
3 street loading. I don't think that's going to  
4 happen as much here. And I think that they've  
5 taken steps to try to buffer the zoning from  
6 the neighbors.

7           And the last thing I would mention  
8 is that overall I believe that the design of  
9 the project has improved significantly. I  
10 remember looking at very early drawings of the  
11 project and seeing frankly unattractive  
12 elevations of the buildings that were much too  
13 complicated, much too -- almost kind of  
14 whimsical in color and nature. And I think  
15 that what we have now is a well thought out,  
16 appropriate design. I mean, I would never say  
17 that this project is absolutely perfect.  
18 There are certainly things that I would prefer  
19 to see differently, but in balance I think  
20 that overall they've managed to hit the high  
21 points pretty well.

22           And I would agree with the earlier

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1 comments about DDoT and the traffic issues and  
2 the information that we got from DDoT. I  
3 would say I'm actually very pleased that we're  
4 seeing improved information from DDoT and  
5 involvement from DDoT. And it's encouraging  
6 just to see someone here from DDoT as  
7 regularly as we do now. Because in the short  
8 time that I've been back on the Zoning  
9 Commission, the participation from DDoT has  
10 increased significantly. I hope it stays up  
11 at this very high level.

12 CHAIRPERSON HOOD: Just speaking  
13 to DDoT, and I'm not sure if this came out at  
14 the -- might have been this case or another  
15 one, but there was talk about enforcement, and  
16 I think DDoT was starting to ask that. We're  
17 starting to see more of that request. In the  
18 letter dated April the 2nd to Acting Director  
19 Nero from Associate Director of DDoT, Karina  
20 Ricks, it states that, "We believe the Zoning  
21 Commission needs to stipulate in the order  
22 that necessary enforcement will occur if the

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1 applicant is non-compliant with the loading  
2 and delivery goals as mentioned in the  
3 applicant's transportation report."

4 And I know we've dealt with that.  
5 I wasn't sure if it was this case, but I know  
6 we dealt with that. I don't know if we could  
7 do that, put it in the order or not put it in  
8 the order.

9 MS. SCHELLIN: (Off microphone.)

10 CHAIRPERSON HOOD: Okay. So  
11 previously we dealt with that. Maybe it was  
12 another case and we could not do that. Okay.

13 Thank you, Ms. Schellin, for  
14 helping me remember.

15 And I do specifically asking Ms.  
16 Haas, I think, or the ANC. Maybe it was Ms.  
17 Barristow. One of the ANC commissioners about  
18 the necessary stipulations and conditions to  
19 be placed. And I think the Acting also  
20 mentions in what we received as of lately that  
21 there were two out of the 10 or 11 or so  
22 conditions -- there were only two that were

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1 not met. and I may be misquoting that, but I  
2 can tell you it was more that was met than it  
3 was not met, even though this is not a  
4 popularity contest or how many conditions you  
5 meet. But I think that just goes back to what  
6 Commissioner May said about how this project  
7 has evolved and changed with the input of the  
8 neighborhood. I know all neighbors are  
9 probably not going to be happy with it, at  
10 least the way I'm anticipating I'm going to  
11 move tonight. But I can tell you also when I  
12 look at what Cleveland Park -- this is  
13 Cleveland Park? Okay. Well, all the parties  
14 in opposition. Some of the concerns, the  
15 delivery, loading, parking and traffic  
16 mitigations, the proposed requests for zoning  
17 relief are excessive and would negatively  
18 impact residents and businesses in the  
19 surrounding neighborhoods in many respects  
20 such as delivery, loading, parking and  
21 traffic.

22 I think the record is clear of

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1 trying to put mitigation measures in place.  
2 And I think the Comprehensive Plan designation  
3 I think was a big issue, and Commissioner  
4 Turnbull and Commission May have alluded to  
5 that. I think that's sufficient.

6 And I just think that the record  
7 is complete. I don't see from this standpoint  
8 I will be voting in favor of this project. I  
9 don't see, you know, in weighing it -- and I  
10 think while it's not a win-for-all for those  
11 parties in opposition, the only other thing I  
12 would ask is that -- I think it was the Idaho  
13 Neighbors represented by Mr. Montalto. I  
14 think the concern of the -- and I mentioned  
15 this earlier, the beeper noise and the loading  
16 dock and that whole -- I just want to know if  
17 any of my colleagues were moved with the  
18 concessions in the buffering which the  
19 applicant has already provided. That was the  
20 only issue after reviewing that really stood  
21 there for me and gave me whether, you know, we  
22 need to revisit that.

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1                   But you know what I would like to  
2 do, is before final action, is that the  
3 applicant revisit that. You know, not  
4 necessarily do a major design change, but see  
5 if we can put some -- I don't even want to  
6 start trying to design it, but see if we can  
7 put some more types of buffers there. Because  
8 I think those few houses are going to be very  
9 well impacted. And I don't know if anyone  
10 else agrees with it, but I would like for them  
11 to at least consider. If it's not given to  
12 us, then silence is golden. I know that you  
13 chose not to take that other option, but  
14 that's the request from this Commission. If  
15 I see it, then I would appreciate it. If I  
16 don't see it, then I understand you want to  
17 move forward, which you have now. And I know  
18 that may sound counterintuitive or  
19 contradictory, but that's just how I'm going  
20 to leave that.

21                   Okay. Anything else?

22                   COMMISSIONER MAY: Mr. Chairman?

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1                   CHAIRPERSON HOOD: You have  
2 comments, Commissioner May?

3                   COMMISSIONER MAY: Yes, I think we  
4 should talk for a second about the overlay and  
5 the impacts to the PUD on the overlay.

6                   I think one aspect of this  
7 absolutely clear, which is that the PUD, if  
8 approved, would essentially override the  
9 existing base zone and the overlay for this  
10 particular project. Not do away with it, just  
11 override it for this particular project. And  
12 if this project weren't built or if at some  
13 point in the future the project were to go  
14 away, what would be left would be the existing  
15 underlying zone and overlay. That's one  
16 aspect of the overlay discussion.

17                   The other aspect is that it seems,  
18 or one of the things I learned in the course  
19 of the hearing was that the existing  
20 commercial use in that area that's subject to  
21 the overlay that's limited by the 20 percent  
22 limit, I guess, it lies -- and the reason why

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1 there is as much of the retail as there is of  
2 the restaurants and such is because there is  
3 so much vacant storefront in the existing  
4 Giant. In other words, you could build up the  
5 amount of restaurants and such in the other  
6 areas where there is retail as a result of  
7 this. I'm not sure what happens when we take  
8 this vacant retail out of the mix. I mean,  
9 say there's a 1,000 feet and we take 600 of it  
10 out of the mix, does that mean that the  
11 denominator for the calculation of how much --  
12 what the percentage would be is now 400? And  
13 I don't have a clear answer to that. And I  
14 would actually appreciate it if we could have  
15 the Office of Planning either explain it to me  
16 now, or explain it to me in the future,  
17 because I don't think it's something that I  
18 would want to leave the interpretation of the  
19 Zoning Administrator. I think we ought to try  
20 to be very clear about what happens with the  
21 remains of the overlay.

22 MS. STEINGASSER: It would be up

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1 to the interpretation of the Zoning  
2 Administrator. We haven't asked him that  
3 direct question, but we will be happy to get  
4 that for you in the 30-day comment period.

5 COMMISSIONER MAY: i guess I'm  
6 suggesting that we shouldn't simply leave it  
7 up to the Zoning Administrator. Or let me put  
8 it this way: If we find that what the answer  
9 is from the Zoning Administrator and if it's  
10 going to wind up with an undesirable effect as  
11 a result, then I think the Office of Planning  
12 should come back with a recommendation for how  
13 we would alter the overlay, you know, to  
14 compensate for this.

15 MS. STEINGASSER: We'll be happy  
16 to do that.

17 COMMISSIONER MAY: Okay.

18 MS. STEINGASSER: If it mean  
19 accompanying a text amendment or something,  
20 we'll bring that --

21 COMMISSIONER MAY: Right. That  
22 would be great.

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1                   COMMISSIONER TURNBULL: Mr. Chair,  
2 I would like to continue on. And Commissioner  
3 May has brought up a good point. The  
4 applicant has -- this one point of the  
5 overlay. This is one aspect that they've said  
6 they're basically hanging onto, they're  
7 keeping. I mean, this whole commercial,  
8 that's one part of the overlay that I thought  
9 was consistently through this. You know, the  
10 limitations on financing and eating  
11 establishments, its neighborhood-supporting,  
12 you know, retail, are you concerned that other  
13 things won't come in or --

14                   COMMISSIONER MAY: Well, the  
15 amount of linear --

16                   COMMISSIONER TURNBULL: The  
17 footage.

18                   COMMISSIONER MAY: The linear  
19 footage is going to increase as a result of  
20 building the building.

21                   COMMISSIONER TURNBULL: Right.

22                   COMMISSIONER MAY: Does that mean

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1 that the total amount of linear footage is  
2 going to increase within the entire overlay,  
3 because we know there's going to be 20 percent  
4 or 25 percent limit. Twenty or twenty-five?

5 COMMISSIONER TURNBULL: I think  
6 it's 20.

7 COMMISSIONER MAY: It's 20 now.  
8 Right.

9 COMMISSIONER TURNBULL: I think  
10 it's 20.

11 COMMISSIONER MAY: It's 20  
12 percent. So there's going to be a 20 percent  
13 limit on the new linear footage. But that's  
14 separate from the overlay.

15 COMMISSIONER TURNBULL: Right.

16 COMMISSIONER MAY: Then you have  
17 the other stuff outside the overlay, or rather  
18 outside of the PUD that's still subject to the  
19 overlay. And the overall total linear footage  
20 will have been reduced by the fact that what  
21 was in the area of the PUD is now no longer  
22 part of the calculation.

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1 COMMISSIONER TURNBULL: Part of  
2 the overlay calculation.

3 COMMISSIONER MAY: Exactly.

4 COMMISSIONER TURNBULL: Right.

5 COMMISSIONER MAY: So what happens  
6 outside of the PUD? We know that within the  
7 PUD it's going to be limited to 25 percent.  
8 But outside, but still within the overlay --  
9 outside the PUD, still in the overlay, it's  
10 going to be a 20 percent limit as well, but  
11 guess what? They're already way over that.

12 COMMISSIONER TURNBULL: Yes.

13 COMMISSIONER MAY: Because of the  
14 amount of square footage that's being taken  
15 out of circulation.

16 COMMISSIONER TURNBULL: You've got  
17 a good point.

18 COMMISSIONER MAY: So that's what  
19 needs to be clarified and I want to know what  
20 the impact is going to be on those other  
21 areas.

22 COMMISSIONER TURNBULL: Okay.

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1 Yes. I would agree.

2 CHAIRPERSON HOOD: You know, I  
3 want to reconsider what I asked for about  
4 Idaho. I want the applicant to re-look at  
5 that before final. I don't want to just say  
6 silence is golden. I actually want you to  
7 look at that. Because as I sit here and look  
8 at this, I'm sure the answer -- I wouldn't get  
9 anything back. So I want that to really be  
10 reconsidered. And that's Idaho Street, what  
11 I think -- I just Mr. Montalto  
12 and his street. I want us to re-look at that  
13 loading berth and how that's going to operate,  
14 and necessary buffers.

15 Also in looking at the findings  
16 again, as Commissioner May was just talking,  
17 and I don't remember this, but, my colleagues,  
18 you all can help me. And Mr. O'Sullivan's  
19 addendum to his findings, he states that the  
20 applicant stated the following construction of  
21 the PUD. All signalized study in the sections  
22 would operate as an acceptable level of

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1 service D or better if existing signal times  
2 are optimized. The applicant stated in his  
3 traffic report that it proposes that signal  
4 re-timing be deferred until the PUD is fully  
5 operational and be funded from the same  
6 \$100,000 escrow proposed for traffic calming.

7 And I didn't remember that until I  
8 read this night. But I don't remember,  
9 there's going to be \$100,000 in escrow for  
10 DDoT to be able to do traffic -- is that --

11 PARTICIPANT: (Off microphone.)

12 CHAIRPERSON HOOD: Okay. You guys  
13 remember that? Okay.

14 PARTICIPANT: (Off microphone.)

15 CHAIRPERSON HOOD: Okay. All  
16 right. That's really all I actually had.

17 Anything else?

18 COMMISSIONER TURNBULL: Mr. Chair,  
19 I guess the other thing that, and you know, we  
20 had a lot a discussion by the applicant, the  
21 opposition, OP and we had the former director  
22 of OP, Ellen McCarthy, testify and we talked

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1 about the future land use map of the comp  
2 plan. And everyone talked about  
3 interpretation guidelines. The guidelines are  
4 actually on the map itself. And, Ms.  
5 Steingasser, you can jump in any time if I go  
6 off on a tangent here. But I think that the  
7 future land use map is not a zoning map.

8 MS. STEINGASSER: That is correct.

9 COMMISSIONER TURNBULL: It's not a  
10 zoning map. And it does not specify allowable  
11 uses or dimensional standards.

12 MS. STEINGASSER: That is also  
13 correct.

14 COMMISSIONER TURNBULL: Right.  
15 And it talks about a general character of the  
16 area and the land use designations are not  
17 parcel-specific.

18 MS. STEINGASSER: That's correct.

19 COMMISSIONER TURNBULL: And they  
20 need to be interpreted. You can't isolate  
21 that and not look back at the -- again, this  
22 whole thing, everything's tied together.

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1 MS. STEINGASSER: That's correct.  
2 The title of the map is "Generalized Future  
3 Land Use Map."

4 COMMISSIONER TURNBULL: And the  
5 plan does not require that each block strictly  
6 corresponds to the general description. There  
7 is some give and take and understanding  
8 interpretation of how this is supposed to work  
9 with the comp plan.

10 MS. STEINGASSER: That's correct.

11 COMMISSIONER TURNBULL: And I  
12 guess I'm just touching base on a couple of --  
13 you know, looking at some of this language  
14 here. And one thing that came up, and this  
15 was actually in the applicant's comment, that  
16 the absence of a mixed-use designation on the  
17 future land use map -- I guess the opponent  
18 had said that this precludes mixed-use  
19 development. And I guess what we're saying  
20 here is that the text is clear that housing is  
21 permitted in all commercial areas and that the  
22 mixed-use striping is only used where it is

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1 strongly encouraged.

2 MS. STEINGASSER: That is correct.  
3 That's correct. Housing is permitted in all  
4 but the industrial zoning district.

5 COMMISSIONER TURNBULL: So I mean,  
6 I guess when we look at this and we then look  
7 at this specific PUD, this PUD is then  
8 consistent with the intents of the  
9 Comprehensive Plan.

10 MS. STEINGASSER: We believe it is  
11 absolutely consistent.

12 COMMISSIONER TURNBULL: Okay. I  
13 don't know if my colleagues had any other --  
14 I mean, going back and forth between what the  
15 opposition had said and the applicant, you  
16 know, we had a lot of testimony going back and  
17 forth about, no, that's not right. You got to  
18 look at it another way. And I think there is  
19 some give and take on here, but you've got to  
20 look at it as an entirety, as development, the  
21 commercial neighborhood center, which this is.  
22 And I think that the applicant has done a good

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1 job in recognizing that.

2 CHAIRPERSON HOOD: Very well said,  
3 Commissioner Turnbull, and I thank you for  
4 bringing that to light. I would concur with  
5 your comments and actually Ms. Steingasser.

6 I will say while I didn't  
7 necessarily agree with most of it, I do want  
8 to recognize the work that all the parties did  
9 in opposition. But I want to call my  
10 colleagues' attention to Exhibit 262. This is  
11 not the addendum from Mr. O'Sullivan, but page  
12 57 and 58. And I just want us to revisit that  
13 very quickly and look at in the decision of  
14 the opposition and see if 1 through 7 moves  
15 anyone. And the reason I want to do this is  
16 because there are some issues in there and it  
17 goes back to what Commissioner Turnbull said  
18 about, you know, some of what we heard during  
19 the whole hearing process.

20 And I'll just use the first one.  
21 Applicant shall redesign the north block  
22 building by removing not less than two floors

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1 of the height of the proposed building.

2 Does that move anyone? In Exhibit  
3 262 with the addendum, it's 1 through 7, then  
4 it continues onto 12 and on, and, you know,  
5 the amendments. But I just wanted us to look  
6 at that and for the record see if it moved  
7 anyone. And if not, I guess -- does anyone  
8 have any additional comments, or take some  
9 more time.

10 I think the record is complete and  
11 I think it was stated by a number of my  
12 colleagues that I think the applicant has made  
13 a lot of changes; this has been going on for  
14 a long time, and give and take, and working  
15 with the neighborhood. And as Commissioner  
16 May said, this is not the perfect resolve. It  
17 is a resolve for coexistence for that  
18 community and for the city.

19 So with that, I would move to  
20 approve Zoning Commission Case No. 08-15,  
21 Friendship-Macomb SC, Inc., consolidated PUD  
22 and related map amendment to Square 1920 and

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1 1920N, with the exception of what I asked for  
2 by final and anything else. Anybody else ask  
3 for anything?

4 I would ask for a second.

5 VICE-CHAIR KEATING: Second.

6 CHAIRPERSON HOOD: Moved and  
7 properly seconded. Any additional discussion?  
8 All those in favor? Aye.

9 VICE-CHAIR KEATING: Aye.

10 COMMISSIONER MAY: Aye.

11 COMMISSIONER TURNBULL: Aye.

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

15 MS. SCHELLIN: Staff records the  
16 vote 4-0-1 to approve proposed action in  
17 Zoning Commission Case No. 08-15.  
18 Commissioner Hood moving, Commissioner Keating  
19 seconding. Commissioners May and Turnbull in  
20 support. Commissioner Schlater not present,  
21 not voting.

22 CHAIRPERSON HOOD: Okay.

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1 MS. SCHELLIN: Excuse me. Let me  
2 record Commissioner Schlater as not voting,  
3 having not participated.

4 CHAIRPERSON HOOD: Okay. Let's  
5 take a five-minute break before we move to the  
6 ZRR.

7 (Whereupon, at 7:53 p.m. off the  
8 record until 8:05 p.m.)

9 CHAIRPERSON HOOD: Let's go back  
10 on the record.

11 Okay. Next on our agenda is our  
12 ZRR guidance. And I'm going to ask colleagues  
13 if we can put Exhibit 20 in front of us. And  
14 it's been about a month or so since we did it.

15 Mr. Parker, can you run us through  
16 them? Let's do that.

17 MR. PARKER: You want me to run  
18 you through each one?

19 CHAIRPERSON HOOD: You don't have  
20 to read them, but let's just talk about one  
21 and two, and give us the short version. I  
22 think you'd do quicker than I will. We want

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1 to make sure that my colleagues who have to  
2 leave early get to their events.

3 MR. PARKER: All right. So we'll  
4 do each one.

5 The first recommendation is main  
6 structural recommendation. And this again is  
7 this idea of allowing local customization of  
8 zoning. Right now we just have the four to  
9 six, you know, base zones and the only way  
10 that we can make changes to those is to create  
11 a new chapter or create a new overlay. This  
12 is this idea that local areas should be able  
13 to have more customization or more control  
14 over their zoning and the recommendation that  
15 we create the system to allow that. So all  
16 existing zoning categories would keep their  
17 similar standards but would be put into a  
18 standard template format that would be  
19 changeable and customizable in the future.

20 COMMISSIONER MAY: I have a  
21 question. The idea is just there would be a  
22 single template, is that right?

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1 MR. PARKER: Well, there's a  
2 multitude of ways to handle it. The idea on  
3 the table would be to create a template for  
4 different densities. So a single-family  
5 template, for example, and a row house  
6 template with slightly different base rules  
7 for each of them. And again, each of these  
8 templates would have rules that apply to all  
9 single-family zones that aren't changeable and  
10 then rules like, you know, the form and height  
11 and that sort of thing that are changeable.

12 COMMISSIONER MAY: So we might  
13 have three single-family row house apartments?

14 MR. PARKER: Theoretically.

15 COMMISSIONER MAY: Okay. And one  
16 of the issues that came up in the  
17 correspondence that we received had to do with  
18 the effective date of the templates versus the  
19 customized zones. And seeing the way it's  
20 written up here, I mean, it seems like there  
21 wouldn't potentially be the gap that -- you  
22 know, templates go public on January 1 and all

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1 the neighborhoods come running on January 1  
2 for their applications and, you know, they all  
3 line up to get their customized zones and it's  
4 all done on January 2nd? No, it's going to  
5 take like a year.

6 MR. PARKER: Absolutely.

7 COMMISSIONER MAY: Or something  
8 like that. So there's going to be this time  
9 lag --

10 MR. PARKER: Right.

11 COMMISSIONER MAY: -- in which a  
12 zone, an area which is crying out for a  
13 customized template --

14 MR. PARKER: Right.

15 COMMISSIONER MAY: -- is not going  
16 to have it because of that initial lag.

17 MR. PARKER: Right.

18 COMMISSIONER MAY: How do you deal  
19 with that?

20 MR. PARKER: Well, it's no  
21 different than if they came to us today and  
22 asked for an overlay. The overlay doesn't

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1 take place immediately. So the idea is --

2 COMMISSIONER MAY: But they have  
3 the overlay now. Assume they have the overlay  
4 now.

5 MR. PARKER: Well, that becomes  
6 part of their default. Any overlays that  
7 happen now get written into this system. So  
8 if you've got the tree and slope overlay that  
9 has a 30 percent lot occupancy, then that area  
10 starts out with a 30 percent lot occupancy.

11 COMMISSIONER MAY: Got it. Okay.  
12 So that's the real question, I think.

13 MR. PARKER: Yes.

14 COMMISSIONER MAY: Because it  
15 sounded like they were going to go in with all  
16 this -- you know, everybody was going to  
17 generic and it's not going to get customized.

18 MR. PARKER: Everybody gets the  
19 default based on what they have now.

20 MS. STEINGASSER: Yes, the  
21 existing zoning will stay in place until such  
22 time as it's petitioned. So there will never

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1 be a point at which property goes unzoned, or  
2 that those areas covered by an overlay lose  
3 that protection. They'll never get less.

4 COMMISSIONER MAY: Less zoned.

5 Okay. That's good. That is the point that --  
6 maybe I misunderstood the letter, but it might  
7 be worthwhile making that clear at public  
8 meetings because that doesn't come across.

9 MR. PARKER: Sure.

10 CHAIRPERSON HOOD: Okay. So  
11 option 1?

12 COMMISSIONER MAY: I'm in favor of  
13 option 1.

14 CHAIRPERSON HOOD: Okay. All  
15 right. Let's move right on to 2. Height.

16 MR. PARKER: Okay. So 2 through 9  
17 deal with individual changeable things within  
18 these templates. And we have most of these  
19 now, but a lot of these we've -- through our  
20 research have found, or our discussions with  
21 the working group have found different or  
22 potentially better ways in which to measure

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1       them. And height's one of those. Right now  
2       we measure height to the ceiling of the top  
3       story. And that brings into account, you  
4       know, unlimited height above the ceiling and  
5       what is the top story, and what's an attic and  
6       what's a basement. So it brings into account  
7       a lot of things. The recommendation from us,  
8       and we've got a lot of support from this, is  
9       that height is a physical characteristic  
10      that's, you know, viewed from the outside it  
11      should be measured to the top of the roof.  
12      And measuring it that way limits a need to  
13      count stories, which takes care of a lot of  
14      interpretation issues in terms of measuring  
15      height and what a mezzanine is and a basement  
16      and a cellar and a attic, and lot of these  
17      other issues that come up with the code now.

18                        So we get the impact of measuring  
19      height in terms of the aesthetic impact  
20      without having a lot of the baggage we have in  
21      our current code.

22                        CHAIRPERSON HOOD: Okay. And I

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1 like the way Mr. Parker said 2 through 9. I  
2 want thank you for 2 through 9.

3 Let's look at 2 through 9 and see  
4 if anyone has an issue, 2 through 9. Let's  
5 just take our time reviewing it and if someone  
6 has an issue, we'll just --

7 COMMISSIONER MAY: Should I start?

8 CHAIRPERSON HOOD: Two through  
9 nine. Let's do 2 through 9.

10 COMMISSIONER MAY: Yes,  
11 absolutely. I'm not skipping to 10.

12 CHAIRPERSON HOOD: Go right ahead.

13 COMMISSIONER MAY: I got go 2  
14 through 9. All right. The first question I  
15 have on height has to do where you think the  
16 height levels are going to be set. For  
17 example, right now we have in most residential  
18 zones it's a 40-foot limit and measured to the  
19 ceiling on the top floor. And in many  
20 neighborhoods you wind up with a, you know,  
21 10-foot story, a 10-foot story and then like  
22 a 20-foot story. And we don't want to have

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1 things like that. So I'm assuming that what  
2 might happen in a row house zone, for example,  
3 is that we wouldn't have that 40-foot limit.  
4 Or maybe because the 40-foot limit, or maybe  
5 it's 35 and it goes to the top of the roof,  
6 that you won't have those sorts of anomalous  
7 additions or weird houses popping up.

8 MR. PARKER: Well, one of the  
9 advantages of recommendation 1 that you  
10 approved is that neighborhoods will have some  
11 say in what the height limit should be. Like  
12 right now it's 40-foot across the city for 1  
13 through 4.

14 COMMISSIONER MAY: Right.

15 MR. PARKER: And that results in a  
16 lot of the pop-ups, where you have an existing  
17 series of two-story homes, then you get one  
18 that sticks out with a 15-foot third story  
19 like a sore thumb. So this is only changing  
20 how that's measured, that we're measuring it  
21 to the top story. It's not going to change  
22 that 40-foot off the bat. It's going to take

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1 customizing these zones to lower that 40 feet  
2 to something lower. Is that what you asked?

3 COMMISSIONER MAY: Well, so, you  
4 know, out of the box, the standard is going to  
5 be 40 feet?

6 MR. PARKER: Bingo. Yes. Still.  
7 Which is actually lower than it is now,  
8 because now it's 40 feet to the ceiling.

9 COMMISSIONER MAY: Okay. So it  
10 would be 40 feet to the top of the roof?

11 MR. PARKER: Right. Which is  
12 actually a lower standard than --

13 COMMISSIONER MAY: It's a little  
14 bit better.

15 MR. PARKER: Right.

16 COMMISSIONER MAY: And it's not  
17 quite enough to give you four stories when  
18 you're really only entitled to three under the  
19 current zone.

20 MR. PARKER: But neighborhoods  
21 that want to deal with the pop-ups, that will  
22 still be part of the customization process to

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1 set that standard lower.

2 COMMISSIONER MAY: Well, I guess I  
3 would want to be proactive in establishing the  
4 templates in such a way that -- you know, even  
5 if a neighborhood doesn't object to pop-ups --

6 MR. PARKER: Right.

7 COMMISSIONER MAY: -- like that,  
8 that you would object to it and so therefore  
9 you set the template in such a way that it  
10 discourages that kind of thing out of the box.

11 MR. PARKER: True. I hear that,  
12 but we've been working under the guidance that  
13 we would keep standards where they are now, be  
14 they lot occupancy or height, or, you know,  
15 not change the standards out of the gate.  
16 Just change the system to allow those  
17 standards to change. We can look at if there  
18 are neighborhoods that want to start at a  
19 lower standard just starting, or that should  
20 maybe start at a lower standard, doing that,  
21 but that would involve a lot of planning  
22 that's more than we had anticipated as part of

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1 the zoning review.

2 COMMISSIONER MAY: Okay. Well,  
3 I'll register my discontent and note that I'll  
4 come back to that again.

5 Do we want to stay on option 2 or  
6 do we want to go --

7 COMMISSIONER TURNBULL: Yes, I  
8 just had one question on -- not to be  
9 problematic here. Would a mansard roof screw  
10 up the works? Could somebody fiddle around  
11 with --

12 MR. PARKER: No. I don't know if  
13 you have the report in front of you, but  
14 there's a diagram of how these would be  
15 measured.

16 COMMISSIONER TURNBULL: I don't  
17 have the original.

18 MR. PARKER: That's all right.  
19 One of the pictures in he diagram is of a  
20 mansard roof.

21 COMMISSIONER TURNBULL: Oh, it is?

22 MR. PARKER: But it would be to

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1 the main roof.

2 COMMISSIONER TURNBULL: Before it  
3 breaks?

4 MR. PARKER: After. After.

5 COMMISSIONER TURNBULL: At the  
6 break?

7 MR. PARKER: After the break.  
8 Right, right, right, right.

9 COMMISSIONER TURNBULL: Okay.

10 MR. PARKER: So basically the only  
11 things that are allowed above that 40 feet are  
12 structure elements like a cupola or something  
13 like that.

14 COMMISSIONER TURNBULL: Okay.

15 MR. PARKER: Or sloped roofs are  
16 measured to the midpoint of the roof.

17 COMMISSIONER TURNBULL: Right.

18 MR. PARKER: So that you don't  
19 have a disincentive for sloped roofs.

20 COMMISSIONER TURNBULL: Okay.

21 CHAIRPERSON HOOD: Okay.

22 Commissioner May, you can keep going.

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1                   COMMISSIONER MAY: Well, we're not  
2 going to talk them about individually and pick  
3 our options?

4                   CHAIRPERSON HOOD: We can just go.  
5 I was going to just go up the numbers, but if  
6 you are --

7                   COMMISSIONER MAY: All right.

8                   CHAIRPERSON HOOD: I guess what  
9 I'm saying, since he said 2 through 9, I  
10 wanted to hit the highlights and then we could  
11 come back right quickly and --

12                   COMMISSIONER MAY: All right.  
13 That's fine.

14                   On front yards, I understand the  
15 principle of option 1, but I'm not convinced  
16 that establishing what it can be within a  
17 given block is going to be circumstantial that  
18 it's based on what's happening in that given  
19 block. I mean, for example, you know, a row  
20 of houses that are built right to the property  
21 line and you've got one that's set, you know,  
22 20 feet back.

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1 MR. PARKER: Yes.

2 COMMISSIONER MAY: And so if  
3 there's a tooth missing somewhere in that row,  
4 they could go 20 feet back when you really  
5 want them to be right on the line.

6 MR. PARKER: So perhaps adding a  
7 proviso whereby if 90 percent of the homes or  
8 80 percent of the homes are a solid line, that  
9 you must build on that line?

10 COMMISSIONER MAY: Something like  
11 that. I mean, this is like, you know, what  
12 happens in certain -- I'm trying to remember  
13 what the circumstance was. I think it might  
14 have been in construction bidding or something  
15 like that. You throw out the high bid and you  
16 throw out the low bid and then you work with  
17 the ones in the middle. I mean, maybe it's  
18 something like that. I mean, you don't want  
19 to throw out the top one, but anything that's,  
20 you know, outside the majority, just because  
21 there are going to be circumstances like that.

22 MR. PARKER: But I guess that

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1 assumes that this particular neighborhood  
2 desires conformity. There are neighborhoods  
3 that don't necessarily desire that conformity.  
4 Especially non-row house neighborhoods.

5 COMMISSIONER MAY: That's true.  
6 Well and so maybe it's -- I mean, can you --

7 MR. PARKER: Just a row house  
8 neighborhood.

9 COMMISSIONER MAY: Maybe it's just  
10 a row house thing. I mean, I think it's much  
11 more important in row houses than it is in  
12 family detached.

13 MR. PARKER: Fair enough. So you  
14 would say option 1 in general would be the  
15 standard, but we'd have again this proviso for  
16 if above a certain percentage of the homes  
17 along a frontage follow the exact same  
18 setback, new homes must follow that?

19 COMMISSIONER MAY: Yes.

20 MR. PARKER: Okay.

21 CHAIRPERSON HOOD: Let's do this.

22 Let me go back. Okay. So, option 1, we all

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1 agree to option 1?

2 No. 2. We all agree with option  
3 1, right?

4 COMMISSIONER MAY: Yes, with that  
5 row house provision, or something like that.

6 CHAIRPERSON HOOD: Under option 2?

7 MR. PARKER: On height.

8 COMMISSIONER MAY: I'm sorry. You  
9 went to 1.

10 CHAIRPERSON HOOD: I'm sorry. No.  
11 2. No. 2.

12 COMMISSIONER MAY: No. 2?

13 CHAIRPERSON HOOD: You're right.

14 COMMISSIONER MAY: Sorry. I was  
15 thinking 1 as 2, and 2 as 3.

16 CHAIRPERSON HOOD: Okay. All  
17 right. No. 1, we're going to option 1.

18 MR. PARKER: Yes.

19 CHAIRPERSON HOOD: No. 2, option  
20 1?

21 MR. PARKER: Yes.

22 CHAIRPERSON HOOD: Okay. No. 3?

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1 I think this is what you --

2 COMMISSIONER MAY: That's where I  
3 just --

4 CHAIRPERSON HOOD: That's what you  
5 were just talking about.

6 COMMISSIONER MAY: I added a  
7 condition.

8 CHAIRPERSON HOOD: Okay. And  
9 we're fine with that?

10 PARTICIPANT: (Off microphone.)

11 COMMISSIONER MAY: I added to  
12 option 1 that condition, yes.

13 CHAIRPERSON HOOD: Okay. So  
14 option 1, anyone else?

15 No. 4?

16 COMMISSIONER MAY: So the  
17 Commission --

18 CHAIRPERSON HOOD: Option 1. Does  
19 anybody have any problem with Peter's  
20 addition?

21 PARTICIPANT: No.

22 COMMISSIONER MAY: Okay.

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1                   CHAIRPERSON HOOD: Okay. Let's do  
2 No. 4. Side yards, determination of minimum  
3 size. We see option 1 from the Office of  
4 Planning's recommendation. Option 2, which  
5 says maintain existing eight-foot requirement  
6 for all side yards but allow customization of  
7 this standard for local zones.

8                   COMMISSIONER MAY: So in other  
9 words that template that we were talking about  
10 before could be customized.

11                  MR. PARKER: Right. I mean, all  
12 of these things 2 through 9 are customizable.  
13 Height, you know, starts out at 40, but can be  
14 changed. But for the side yards we've  
15 recommended a new standard for side yard. We  
16 recommended a building-to-lot-width ratio. So  
17 your option 1 is to adopt the limitation of  
18 side yards by a ratio that takes into account  
19 the varying width of lots. So if you only  
20 have a 25-foot or a 30-foot lot, your allowed,  
21 you know, a percentage of that for your home,  
22 the same as if you have a 75-foot lot. So

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1 it's not a straight eight-foot. It's a  
2 percentage. We found that that was more  
3 consistent with the existing pattern of growth  
4 and development in the city.

5 Option 2 is skip that, keep the  
6 existing eight feet, but obviously under the  
7 template system that you approved in  
8 recommendation 1, that would be a variable  
9 standard.

10 COMMISSIONER MAY: Now you mention  
11 in option 1 that there would be a minimum yard  
12 maintained on each side.

13 MR. PARKER: Yes, that is true.  
14 If you have a detached home, obviously you  
15 have to have some yard and that yard needs to  
16 be passable and maintainable. So we'd be open  
17 for your guidance.

18 In talking with HP and others, you  
19 know, three to four foot seems to be something  
20 that's passable and maintainable.

21 COMMISSIONER MAY: Okay. All  
22 right. I think so long as there's a minimum,

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1 I think that that could work.

2 CHAIRPERSON HOOD: Anyone else?

3 Side yard option?

4 PARTICIPANT: No.

5 CHAIRPERSON HOOD: Option 1.

6 Let's go to 4, side yard extensions in non-  
7 conforming.

8 COMMISSIONER MAY: So if you have  
9 a one-foot side yard, you would continue that?

10 MR. PARKER: Well, yes. I mean,  
11 it's either that or require it to go back to  
12 eight feet, or five feet, or some other  
13 measure.

14 COMMISSIONER MAY: Why not that  
15 same three or four-foot standard that's  
16 minimal passable?

17 MR. PARKER: Well, we could do  
18 that. The thought is you already have a one-  
19 foot side yard. I mean, it's already not  
20 passable and not maintainable. So it's  
21 reasonable to do that and make it work.

22 COMMISSIONER MAY: Let's make it

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1 worse.

2 MR. PARKER: That's fair. I mean,  
3 that's what they tried to do with the existing  
4 regs where they said you can extend it back if  
5 you're within five feet. But the problem is,  
6 the way it's written, if you're less than five  
7 feet, you don't get to go to five feet. You  
8 have to go all the way to eight. We  
9 definitely think that's something we need to  
10 take care of. We're certainly open to being  
11 able to extend back at a different -- it's  
12 certainly changes the type of addition you can  
13 do if you can't extend the existing wall back  
14 and can have impacts, but we're open.

15 COMMISSIONER MAY: Weil, I mean,  
16 it seems to me that we don't really want to  
17 encourage a situation where what's already not  
18 maintainable and not passable would get worse.

19 COMMISSIONER TURNBULL: Are you  
20 looking at more air and light?

21 COMMISSIONER MAY: No, it's the  
22 functionality of just being able to go back

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1 there and clean it and paint the wall if you  
2 need to, or what have you.

3 COMMISSIONER TURNBULL: Oh, yes.

4 CHAIRPERSON HOOD: Okay. So,  
5 Peter, what is it 4B?

6 COMMISSIONER MAY: Well, I mean, I  
7 guess I would just add a qualifier to option  
8 1, which is that we look at maintaining some  
9 sort of minimum. I wouldn't say absolutely  
10 there has to be a minimum, but that you study  
11 that question more carefully.

12 CHAIRPERSON HOOD: That's under  
13 4B?

14 MR. PARKER: Right.

15 COMMISSIONER MAY: Okay. Yes.

16 CHAIRPERSON HOOD: Okay. So 4A,  
17 Mr. Parker, option 1.

18 MR. PARKER: Okay.

19 CHAIRPERSON HOOD: And 4B with the  
20 caveat that Mr. May has asked for.

21 No. 5, option 1 is remove current  
22 court width and area requirements. Option 2

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1 is to retain current court width and area  
2 requirements but allow customization of this  
3 standard for local zones.

4 MR. PARKER: And again, the  
5 discussion in the working group and that we  
6 found is that the majority of our existing  
7 courts in the city don't meet our requirements  
8 and all our requirements serve to do is  
9 require people to get variances to keep them,  
10 and to do anything to their house that  
11 enlarges or extends them. This standard  
12 should actually result in the preservation of  
13 more courts that we currently have.

14 COMMISSIONER MAY: Does it make  
15 sense to in essence grandfather existing ones,  
16 but not encourage the construction of new  
17 ones?

18 MR. PARKER: Well, either way  
19 we're not encouraging the construction of new  
20 ones. We're looking at this same  
21 recommendation in commercial zones right now  
22 and what we're finding is that the building

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1 code gets to light and air issues in a way it  
2 didn't in 1958. This was a light and air  
3 issue in 1958 because we didn't have building  
4 codes. And today we have court width  
5 requirements in the building code based on  
6 whether you have windows or not and different  
7 other separation things that meet or exceed  
8 this. So it really is a duplicative standard.

9 COMMISSIONER MAY: Okay.

10 CHAIRPERSON HOOD: So we agree  
11 with option 2? I notice you all are not  
12 making a recommendation.

13 MR. PARKER: Oh, sorry. Option 1  
14 is your recommendation.

15 CHAIRPERSON HOOD: Oh, okay.

16 MR. PARKER: That should be --

17 CHAIRPERSON HOOD: I like option  
18 2, but I'm not going to make a -- okay.

19 COMMISSIONER MAY: Well, I liked  
20 option 2, but --

21 CHAIRPERSON HOOD: Well, okay.

22 COMMISSIONER MAY: I'll go with

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1 option 1.

2 CHAIRPERSON HOOD: Okay. That's  
3 fine.

4 Okay. Building area. Option 1 is  
5 OP's recommendation and option 2, continue to  
6 regulate building size only.

7 But I want to take a note from one  
8 of the -- and I actually want to respond to a  
9 few of the submittals. I was just kind of  
10 trying to move ahead. And this is where 1  
11 talks about the footprint, the building  
12 maximum footprint. And help me understand one  
13 of the commissioners in ANC-5-A-11, to allow  
14 for a minimum matter of right building  
15 footprint regardless of lot size seems  
16 harmless. However, the potential danger  
17 exists or what could be exploited is for those  
18 vacant lots that are sub-standard size. And  
19 I think the commissioner is talking about in-  
20 fill lots. This too should not be the  
21 inverted solution for more housing or  
22 increased homes. When we allow vacant lots

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1 and in-fills to be built upon an existing  
2 mature neighborhood, it changes the  
3 characteristics of the neighborhood and  
4 imposes further neighborhood impacts.

5 MR. PARKER: I think that one of  
6 the underlying principles of what we've  
7 recommended here is try to allow in-fill that  
8 is conforming with what's there now. The 1958  
9 regs were not written with the current housing  
10 stock in mind. They were written with an  
11 ideal housing stock in mind.

12 And what we found is that a lot of  
13 the existing homes in your city are non-  
14 conforming and putting in in-fill that is in  
15 conformance or in character with the  
16 surrounding homes requires variances in a lot  
17 of cases.

18 This is a recommendation, along  
19 with a lot of these others, that would help  
20 that a little bit in allowing in-fill that is  
21 more in character with its surroundings to be  
22 a matter of right rather than requiring a

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1 variance. So if you do have a lot that's  
2 slightly smaller or a neighborhood of lots  
3 that's smaller than what would be required in  
4 the zone normally, this would allow a matter  
5 of right footprint in conformance with what's  
6 around so.

7           So, for example, in R-4, you have  
8 a normal lot size of 1,800. But say you have  
9 a series of 1,200 or 1,400 square foot lots  
10 that were originally built with 1,000 square-  
11 foot footprint homes. That lot wouldn't allow  
12 1,000 square feet under the R-4, but this  
13 would say 1,000 is the standard for the  
14 neighborhood. You can build 1,000 even if  
15 your lot is too small. And if your lot's  
16 bigger, you can still build your 60 percent  
17 lot occupancy.

18           So this trying to get --  
19 especially you may recall in your report the  
20 graphic that showed a series of a lots in the  
21 city. And this is especially important where  
22 you have like triangle squares in your city,

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1 where the lots change size as you go and go  
2 from, you know, 10 percent lot occupancy on  
3 one side to 90 percent lot occupancy on the  
4 other side. This gets at the idea of a  
5 conforming house size, rather than a  
6 conforming lot occupancy.

7 CHAIRPERSON HOOD: Any other  
8 comments on 6?

9 COMMISSIONER MAY: The thing about  
10 6, about all the sixes, you know, I'm afraid  
11 of unintended consequences, particularly when  
12 it comes to new development.

13 MR. PARKER: Yes.

14 COMMISSIONER MAY: We don't want  
15 to be encouraging, I think, construction of  
16 homes that are too narrow and deep because  
17 they're allowed to be that minimum size. Nor  
18 do we want to create a circumstance where, you  
19 know, you go through a row of houses and  
20 they're all the same size as a percentage of  
21 lot occupancy and then you get to the last one  
22 in the row and it's a narrower lot. And so

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1 therefore it gets that standard footprint and  
2 it winds up, you know, squeezing 50 percent  
3 further into the back yard than everything  
4 else. And so these are the sorts of -- you  
5 know, I'm not sure exactly how to put this all  
6 together.

7 MR. PARKER: Right.

8 COMMISSIONER MAY: And how to  
9 weave it all together. I think the concept of  
10 having, you know, a minimum footprint as a  
11 matter of right is okay in most circumstances  
12 and I think that the principle of trying to  
13 deal with, you know, changing lot sizes and  
14 consistent house sizes makes sense. But house  
15 dimensions are important to that, too, and not  
16 just, you know, how tall is it. It's, you  
17 know, how deep it is.

18 MR. PARKER: Yes.

19 COMMISSIONER MAY: So, I mean, I  
20 don't have an alternative and I don't know how  
21 to change some of these things to make it make  
22 more sense. I do think that we ought to have

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1 more specific aspirations for new development.  
2 In other words, we ought to say we don't  
3 really want to have 14-foot wide town houses.

4 MR. PARKER: Yes.

5 COMMISSIONER MAY: Maybe it  
6 doesn't need to be 18 feet, but maybe it's 16  
7 feet. You know, the idea of having a room and  
8 a corridor in the internal planning of a house  
9 is sort of a -- you know, it's a basic  
10 internal planning concept that, you know,  
11 makes for better houses, frankly.

12 MR. PARKER: Right. Well, and  
13 that gets to lot size. I mean, we're going to  
14 talk later about how big a lot is, but if you  
15 don't allow 14-foot lots, you can't have 14-  
16 foot row houses. So this isn't a matter of  
17 suddenly allowing --

18 COMMISSIONER MAY: We'll address  
19 that when we deal with issues of, I guess,  
20 subdivision.

21 MR. PARKER: Right. Right, right,  
22 right, right.

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1 COMMISSIONER MAY: Okay.

2 MS. STEINGASSER: And I'd also  
3 point out, Commissioner May, No. 7 that's  
4 coming up gets to the building depth for row  
5 houses to maintain that kind of consistency of  
6 rear yard character equal with the consistency  
7 of front yard character.

8 COMMISSIONER MAY: Yes.

9 MS. STEINGASSER: So when we get  
10 there, that might give you some comfort.

11 COMMISSIONER MAY: Yes. Okay.  
12 We'll see.

13 CHAIRPERSON HOOD: Can we just --  
14 unless someone else had any comments, option  
15 1 of all the number sixes, which would be the  
16 Office of Planning's recommendation with the  
17 caveat and the concerns of Commissioner May?  
18 Because I also have an issue with 6A, but I  
19 think as time goes on it will resolve itself.

20 COMMISSIONER MAY: You know, I  
21 think a bunch of these will work themselves  
22 out, but I'm not comfortable with option 1 for

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1 6C. And this goes to, you know, the specific  
2 consideration of what happens in a row house  
3 district when you come to the end of a row.  
4 And technically, it's a semi-detached house.

5 MR. PARKER: Right.

6 COMMISSIONER MAY: And right now,  
7 because it's a semi-detached house in an R-4  
8 neighborhood, your lot occupancy drops and  
9 that's because you're supposed to have an  
10 eight-foot side yard. And I think you should  
11 still have an eight-foot yard and you  
12 shouldn't be entitled to getting that 60  
13 percent lot occupancy, because that's going to  
14 push your house much deeper.

15 MR. PARKER: Even though you can  
16 do it as a matter of right now just by making  
17 it an attached home.

18 COMMISSIONER MAY: Not if you're  
19 at the end of a row and there's not -- and if  
20 you're butting up against a rear yard, you  
21 technically cannot.

22 MS. STEINGASSER: That side yard

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1 interpretation has been once again reversed.

2 COMMISSIONER MAY: Well, I want to  
3 un-reverse it. Okay?

4 MS. STEINGASSER: Well, we'll be  
5 happy to --

6 COMMISSIONER MAY: I know. I  
7 think this is a very important concept.

8 MR. PARKER: Right.

9 COMMISSIONER MAY: And I think if  
10 there have been cases since the one six years  
11 ago where it was made very clear -- this is an  
12 important principle. There should be space at  
13 the end of a row. You shouldn't be butting  
14 against your neighbor's rear yard.

15 MR. PARKER: Is it possible to get  
16 at that without losing the integrity of the  
17 recommendation by specific language for  
18 buildings at the end of a row, a requirement  
19 for a yard at the end of a row?

20 COMMISSIONER MAY: Sure.

21 MR. PARKER: Because I think the  
22 lot occupancy solution has other implications.

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1 COMMISSIONER MAY: That's fine.

2 MR. PARKER: I think we could add  
3 something like that.

4 COMMISSIONER MAY: I mean, I just  
5 think that that's an important concept. It's  
6 much less applicable in existing  
7 neighborhoods, but as we develop new  
8 neighborhoods I think it's been important and  
9 it shows up and it's beneficial in other PUDs  
10 that we've seen.

11 MR. PARKER: So what I'm hearing,  
12 and please tell me if this is the Commission's  
13 viewpoint, that for 6C we take option 1 with  
14 the addition that we will create a standard  
15 for retaining side yards on end units on rows?

16 MS. STEINGASSER: Could we request  
17 that we certainly take a look at that, but I  
18 think you'll be surprised by the data that we  
19 can show you and the neighborhood character  
20 that is actually quite common to have no side  
21 yard. And the zoning regs currently don't  
22 have that side yard for row houses. So I just

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1 want to kind of keep the argument fairly open.

2 COMMISSIONER MAY: Yes, they do.

3 Yes, they do. All of the new PUDs that come  
4 in with row houses in them have side yards.

5 MS. STEINGASSER: All the new  
6 ones. But if we're looking at neighborhoods  
7 like Capitol Hill --

8 COMMISSIONER MAY: Yes.

9 MS. STEINGASSER: -- Brookland,  
10 Georgetown, some of the most desirable  
11 historic row houses, they don't have that side  
12 yard. They hold that corner and you go right  
13 around that street wall. And, you know, it  
14 makes fabulous streetscape.

15 COMMISSIONER MAY: Okay.

16 MS. STEINGASSER: So I'd like to  
17 at least --

18 COMMISSIONER MAY: That's fine.

19 MS. STEINGASSER: -- keep that  
20 door open to make the case.

21 COMMISSIONER MAY: Okay. That's  
22 fine.

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1                   CHAIRPERSON HOOD: Okay. So we're  
2 going to take option 1 with 6C with the door  
3 going to stay open to make the case.

4                   COMMISSIONER TURNBULL: Is a lot  
5 of our data based upon BZA, what's happened in  
6 the BZA?

7                   MR. PARKER: We certainly look at  
8 that, but actually a lot of our data for this  
9 is based on an exhaustive study. We studied  
10 about, I forget, 6,000 lots around the city  
11 and got just general data on lot occupancy and  
12 yards, and everything.

13                  COMMISSIONER TURNBULL: I know  
14 we've had several cases where you've got a  
15 very narrow lot next to a lot that's a little  
16 bit bigger and we've ended up getting what  
17 looks to be a row house even though there are  
18 --

19                  MR. PARKER: Right.

20                  COMMISSIONER TURNBULL: -- and  
21 there are row houses like that on single-  
22 family lots. It's a strange mix that gets in

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1 there.

2 MR. PARKER: Right.

3 MS. STEINGASSER: It's a result of  
4 the way the current regulations are written  
5 that allow a row house to be by definition,  
6 not by adjoining structures.

7 COMMISSIONER TURNBULL: Yes.

8 MS. STEINGASSER: So if you have  
9 no side yard, you be definition are a row  
10 house and are not entitled to row house  
11 standards in these R-3 and above zones. So  
12 that gets to what Mr. Parker was talking  
13 about. There's incentive to fill in courts so  
14 they can kind of punch that out and then they  
15 end up with this really odd character. And  
16 we've seen it to the detriment in a lot of the  
17 historic districts where they artificially  
18 fill in courts to try to get that side yard  
19 definition. So that's why we've done a lot of  
20 field work, GIS work, and we've monitored the  
21 BZA cases. And side yards is one of the most  
22 mind-numbing, because the regs just fold in on

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1 themselves the more you read them and apply  
2 them.

3 CHAIRPERSON HOOD: Okay. The next  
4 one is No. 7. This is unusual because I think  
5 you're recommending both.

6 MR. PARKER: That's where the  
7 other one from the earlier recommendation came  
8 from. But I think we're recommending option  
9 1 on all of these. Absolutely. And, yes,  
10 this is the corollary to the earlier one that  
11 dealt with the minimum, or the matter of right  
12 footprint. This is talking about just for row  
13 buildings, not for others, a matter of right  
14 building depth and that gets to the same issue  
15 that Mr. May talked about.

16 But rear yard would still be  
17 applied except where lots became so short that  
18 the standard building depth couldn't be  
19 achieved otherwise.

20 CHAIRPERSON HOOD: I will just  
21 note that ANC 6-B had some issues with 7, and  
22 it's so noted on page 2 of the submission.

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1 We've already read that. That kind of goes in  
2 line with the argument or the discussion that  
3 we talked about previously.

4 Okay. Any comments? Anyone wants  
5 to go against option 1?

6 COMMISSIONER MAY: No, we'll kind  
7 of wait and see, I think.

8 CHAIRPERSON HOOD: Okay. All  
9 right. So we'll go with --

10 MR. PARKER: That's option 1?

11 CHAIRPERSON HOOD: Yes, option 1.

12 MR. PARKER: All right.

13 CHAIRPERSON HOOD: So you're not  
14 recommending both?

15 MR. PARKER: No, sir.

16 CHAIRPERSON HOOD: You know,  
17 things have changed around here.

18 Okay. No. 8, residential  
19 densities. Number of dwelling units per  
20 structure. Office of Planning's  
21 recommendation is the first one, as you see.  
22 I'm just going to read option 2. When

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1 customizing zones the number of units allowed  
2 per lot may not be changed. And we can talk  
3 about option 1, if need be. If not --

4 MR. PARKER: Would you like this  
5 one explained?

6 Okay. Basically, if you've got a  
7 R-4 zone right now, you're allowed two units  
8 and that can't ever change, even if you want  
9 it to. This is saying that when we create  
10 these templates and we allow changes to height  
11 or to lot occupancy, or to anything else, we  
12 can also consider, if neighborhoods request  
13 it, changes for the number of units allowed.  
14 So if an R-4 Zone has a building stock that  
15 would allow three units, they could ask for  
16 their units per lot to be three instead of  
17 two. Or similarly, if they have very small  
18 shallow row houses, they could ask it for to  
19 be one instead of two. This just allows that  
20 number to be considered as a customizable  
21 standard, just like all of the other things.

22 CHAIRPERSON HOOD: Okay. Option

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1 1. Anything else?

2 Okay. Let's move right along.

3 Mr. Parker, if we can do No. 9?

4 MR. PARKER: So, now we're talking  
5 about the subdivision of lots. 9A has to do  
6 with obviously the creation of new lots.  
7 Right now we have different rules for how big  
8 your lot can be based on different things. So  
9 in the same zone you can lots of one size for  
10 one use and a different size for another use.  
11 We're saying continue to allow that change in  
12 lot size for the type of building that you're  
13 constructing. So a different size for a  
14 detached from an attached. But we can get at  
15 the uses in other ways. So if you put a  
16 church in a row house that doesn't suddenly  
17 require a variance for lot size when you're  
18 not changing the structure. Lot size has to  
19 do with the type of building that you put on,  
20 but not the use that's in that building.

21 CHAIRPERSON HOOD: And the option  
22 is to continue what we have, specific uses

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1 like public schools for all other uses.

2 If I don't hear anything, we're  
3 going to keep moving. We will take Office of  
4 Planning's recommendation.

5 9B?

6 MR. PARKER: 9B. This is  
7 basically saying for pre '58 lots, right now,  
8 again we have these standards for how big lots  
9 can be. And that applies to when you create  
10 new lots. And a side effect of that in the  
11 current regs is it also creates variances for  
12 preexisting lots where they have to get a  
13 variance to do anything on those lots. If  
14 they existed prior to 1958, they are legal and  
15 they're buildable, and our code should  
16 differentiate between standards for the  
17 creation of new lots and taking away any  
18 building right on preexisting legal lots that  
19 don't meet those standards.

20 CHAIRPERSON HOOD: Any comments or  
21 anything?

22 Okay. Option 1.

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1 MR. PARKER: Okay.

2 CHAIRPERSON HOOD: Ten, I think we  
3 can pass by that. We dealt with that earlier.  
4 Unless we want to make a change.

5 MR. PARKER: Yes. Okay.

6 CHAIRPERSON HOOD: Yes, we dealt  
7 with that earlier.

8 Okay. No. 11, accessory  
9 buildings.

10 MR. PARKER: This is related to  
11 the matter of right footprint for lot  
12 occupancy. When you do that standard, you  
13 have lots that allow matter of right footprint  
14 that put them over lot occupancy. This takes  
15 away the right then on those lots for an  
16 accessory structure, because accessory  
17 structures are currently counted with the lot  
18 occupancy. That may be fine if we decide that  
19 those lots are too small. If not, this  
20 recommendation would give that right back and  
21 say that you always have the right for a  
22 particular size accessory structure. Our

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1 recommendation is that that would be based  
2 around the size of about a one-car garage.  
3 You'd be allowed a matter of right accessory  
4 structure at that size even if you were over  
5 lot occupancy based on the matter of right  
6 footprint for your house.

7 COMMISSIONER TURNBULL: Now, this  
8 is something that comes up in BZA a lot. This  
9 is where you've got someone who wants to get  
10 a garage, they have the lot area and they can  
11 put up a garage, but they're going to have to  
12 put in a very small car.

13 MR. PARKER: Right.

14 COMMISSIONER TURNBULL: Because if  
15 you go over two more feet, or whatever,  
16 they're out. They've taken away from the  
17 minimum lot area that they need. And is this  
18 going to address this? Is this going to help  
19 them?

20 MR. PARKER: It could. Yes, if we  
21 define the size of a single-car garage and say  
22 that that size accessory dwelling is a matter

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1 of right, then that would eliminate the need  
2 to get a variance for that size garage.

3 COMMISSIONER TURNBULL: Yes,  
4 because I think the standard size that --  
5 eight-by-nineteen, I think, is the minimum --

6 MR. PARKER: That's for a parking  
7 space.

8 COMMISSIONER TURNBULL: For a  
9 parking space?

10 MR. PARKER: Obviously, you can  
11 have a little bit more for the garage.

12 COMMISSIONER TURNBULL: So if you  
13 need like two to three feet on either side, or  
14 like another two feet in back, that's where  
15 we've had issues. We've had any number of  
16 cases like that on the BZA that just eat up  
17 time.

18 MR. PARKER: What about a Smart  
19 Car garage?

20 COMMISSIONER TURNBULL: Smart Car.  
21 There you go. I like that.

22 COMMISSIONER MAY: Yes, I think

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1 this is okay for now. We just have to kind of  
2 see where it goes.

3 COMMISSIONER TURNBULL: Yes.

4 COMMISSIONER MAY: Because I'm  
5 afraid of --

6 COMMISSIONER TURNBULL: Oh, it can  
7 be taken advantage of.

8 COMMISSIONER MAY: -- we already  
9 have, you know, significantly non-conforming  
10 for lot occupancy. I mean, what is this going  
11 to do for you? You know, you've only got a --

12 MR. PARKER: And this is true. I  
13 mean, this one really is a judgment call.  
14 You've given us the guidance on, you know,  
15 minimum matter of right footprint. It's  
16 really a judgment call of whether people have  
17 a right to an accessory structure and a  
18 garage, if they go over that. This would give  
19 that to them. If you pick option 2, it would  
20 just say, you know, that you still have the  
21 right to an accessory structure if you have  
22 the adequate lot occupancy, and you don't if

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1 you don't.

2 COMMISSIONER MAY: Okay.

3 CHAIRPERSON HOOD: Okay. We're  
4 going to go with option 1, OP's  
5 recommendation.

6 MR. PARKER: Okay.

7 CHAIRPERSON HOOD: Let's go to No.  
8 12, non-residential use of historic  
9 institutional buildings.

10 MR. PARKER: You all have been  
11 dealing with a case on this, so our basic  
12 recommendation would be to adopt your decision  
13 on that. I believe that's true.

14 CHAIRPERSON HOOD: Which case?

15 MS. STEINGASSER: Schools? Is  
16 that what you're referring to?

17 MR. PARKER: Yes.

18 MS. STEINGASSER: Schools?

19 MR. PARKER: Yes, and this could  
20 be, yes, expanded to other --

21 MS. STEINGASSER: We also have  
22 Section 227 which allows for non-profit use in

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1 historic homes. It's trying to get at  
2 adaptive reuse of some of these really larger  
3 historic landmark buildings that we don't want  
4 to see cut up into apartments. They're too  
5 big. You know, a 7,000-square-foot is not for  
6 all of us. So how to get those back and into  
7 reuse.

8 CHAIRPERSON HOOD: Okay.

9 COMMISSIONER MAY: I do have a  
10 concern. I wouldn't say that it needs to be  
11 a variance, but there's something to be said  
12 for having public input when you're going to  
13 inject a non-residential use into an historic  
14 institutional building that may not be  
15 prepared to -- the building itself may not be  
16 well-suited to that use, you know, for  
17 whatever reason, for insufficient parking or  
18 for the amount of street traffic it generates  
19 at night, or I mean, any number of things.

20 MS. STEINGASSER: So maybe we  
21 could take the approach that we did take with  
22 schools, that there's a small threshold of

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1 uses that would be pre-deemed compatible and  
2 the rest would be by special exception, as  
3 opposed to a strict variance.

4 COMMISSIONER MAY: Yes.

5 MS. STEINGASSER: So we could kind  
6 of split that narrowly. Okay.

7 COMMISSIONER MAY: Yes. I'd be  
8 comfortable with that.

9 CHAIRPERSON HOOD: Yes, I actually  
10 like that. And I know we used that  
11 previously.

12 Okay. So we'll take option 1 with  
13 that caveat that Ms. Steingasser mentioned.

14 Okay. Lot control, multiple  
15 residential --

16 MR. PARKER: Option 1, right?

17 CHAIRPERSON HOOD: Colleagues?

18 Okay. Lot control, multiple  
19 residential buildings on a single lot of  
20 record.

21 MR. PARKER: So this basically  
22 says if you're in an R-4 Zone, you're allowed

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1 two lots on your property. Under the current  
2 code those two lots have to be in the same  
3 building. Even if you have a carriage house  
4 or -- I'm sorry, those two units have to be in  
5 the same building. Sorry about that. This  
6 recommendation would allow you to put the  
7 second unit that you are currently allowed in  
8 an existing carriage house or garage, or  
9 second unit. Basically, it does not change  
10 the unit density on the lot at all, just  
11 allows more flexibility with how those could  
12 be placed.

13 COMMISSIONER MAY: Is this  
14 something that could be handled as a  
15 customization of the zones, of the templates  
16 rather than being automatic?

17 MR. PARKER: So make this an  
18 option for neighborhoods to implement?

19 COMMISSIONER MAY: Yes, because I  
20 mean, and we've heard very clearly from the  
21 Capitol Hill neighborhood that they don't want  
22 this, or from the ANC 6-B, that they don't

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1 want to have this at all. They told us they  
2 want to strike 13 entirely.

3 MR. PARKER: Okay.

4 COMMISSIONER MAY: I don't have as  
5 big an issue with it as they might, but the  
6 idea of neighborhoods having some control over  
7 it, I think may be a good idea.

8 MS. STEINGASSER: Well, right now  
9 all neighborhoods are allowed to have a  
10 dwelling unit in an accessory building for  
11 domestics. And that's what's interesting  
12 about the code. Right now in the R-1 Zone you  
13 can have an accessory apartment in your home  
14 by special exception. You can have a  
15 domestic's apartment in your garage as a  
16 matter of right. And you can take on  
17 boarders. So it's possible to have up to four  
18 households in the R-1 Zones. With the  
19 exception of the domestics, you can still have  
20 that same boarder or accessory apartment  
21 dwelling. It's interesting because some of  
22 the pressure for this was coming from Capitol

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1 Hill communities trying to reuse those old  
2 carriage houses that are no longer accessible  
3 for an automobile. They're not big enough,  
4 they're not wide enough, can't get down the  
5 alley. And there's been a couple of variance  
6 cases where they had to establish a use  
7 variance to get into that.

8 So, I mean, we'd be happy to take  
9 a look at it. But that's what we're trying to  
10 get at. We're not trying to create a multi-  
11 family zone where one doesn't exist. But in  
12 the R-4, like most of Capitol Hill, you're  
13 allowed flats anyway. So you're allowed to  
14 units. And we're suggesting well maybe one of  
15 those units could be in the accessory.

16 Okay. Not buying? Just had to  
17 pitch. Had to pitch.

18 COMMISSIONER MAY: No, I mean, I  
19 understand the principle and I'm not saying  
20 it's inappropriate. I'm just saying that  
21 it's, you know, maybe something that we do  
22 want to allow to be customizable.

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1 MS. STEINGASSER: Okay. And can  
2 we look at a special exception option instead  
3 of the variance option?

4 COMMISSIONER MAY: Yes.

5 CHAIRPERSON HOOD: Okay. So we're  
6 going to go ahead, we're still going to do  
7 option 1 with that caveat.

8 MR. PARKER: Actually, that's sort  
9 of a new option. Shall we call that option  
10 one-and-a-half?

11 CHAIRPERSON HOOD: One-and-a-half.

12 MR. PARKER: And we'll write that  
13 us as we heard it. Okay?

14 CHAIRPERSON HOOD: Okay. The last  
15 one, 14, waiver of loading for historic  
16 structures.

17 MR. PARKER: This is just a follow  
18 up to a case of a year or two ago where we  
19 updated the parking standards for historic  
20 structures. This would do the same thing for  
21 loading. And obviously you'll see language  
22 similar to what you saw for parking.

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1 CHAIRPERSON HOOD: Okay. Any  
2 other comments on this?

3 Okay. We'll accept option 1.

4 Let me just ask this last question  
5 that I have. I was looking at submissions  
6 from 6-B, 5-A-11. And the one from Ms.  
7 Zartman, I think we discussed this previously.  
8 It seems though that there's again -- well,  
9 from Ms. Zartman, I think you all did an  
10 exercise and I think we talked about this  
11 before. I'm just trying to get clear. An  
12 exercise to see if something would really  
13 work, because she mentions, "We recently met  
14 with Travis Parker and some of his staff to  
15 review maps that they had prepared with a  
16 great investment of staff time to demonstrate  
17 how the facts on the ground in Georgetown mesh  
18 with the OZ zoning proposals." And again, she  
19 says, "In fact, we believe the proposed  
20 changes could affect the historic integrity of  
21 Georgetown, the only national historic  
22 landmark neighborhood in the District."

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1 I think this was the pilot that  
2 you all were working on?

3 MR. PARKER: Well, yes.

4 Georgetown is one of those neighborhoods  
5 that's very concerned about the transition  
6 period that Mr. May had talked about. They're  
7 concerned that there will be unintended  
8 consequences from changing this system. And  
9 if you change this system, they want to be  
10 early through the gate with customizable  
11 changes.

12 So we've agreed to meet with them,  
13 you know, over the next months and years to  
14 ensure that, you know, once this in place  
15 we'll be ready to work with them to institute  
16 or help them submit their proposed changes.  
17 We're, you know, certainly as time permits  
18 going to be working with other neighborhoods  
19 that make that request as well. But we've  
20 already started meeting with Georgetown to  
21 find out what their issues are and what  
22 customizable changes they might want to make.

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1 CHAIRPERSON HOOD: Okay. And  
2 also, I think it was 6-B who mentioned that  
3 the work sheet I guess was not timely to them,  
4 so they didn't have ample time to respond.  
5 And we want to try to address that because we  
6 don't want Vice-Chair Keating to be drilled by  
7 the council the next time on trying to address  
8 that. So we don't want to put him in the hot  
9 seat along with me, because I'm going to sure  
10 bring him in on it. But we want to do all we  
11 can do to accommodate so we won't have that  
12 issue.

13 MR. PARKER: Yes, we get both  
14 sides actually. We get neighborhoods that ask  
15 us to delay our report so that they can get us  
16 comments first, and neighborhoods that want  
17 our report in early so they can get comments  
18 in on that. We're going to try and do more of  
19 both, just get information out earlier in the  
20 process for people to read and review and then  
21 get our report in earlier before the public  
22 hearing so there's more time to respond.

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1                   Our process is getting slowly but  
2 surely longer, but we'll keep at it.

3                   CHAIRPERSON HOOD: Okay. Well  
4 again, as we always say, this is a work in  
5 progress, so we will continue to keep working  
6 at it.

7                   Okay. Anything else?

8                   Okay. Do we have anything else on  
9 the agenda?

10                  MS. SCHELLIN: Nothing. We're  
11 done.

12                  CHAIRPERSON HOOD: We don't have  
13 an OP status report? We don't need one  
14 either.

15                  Okay. With that, I want to thank  
16 everyone for their participation tonight, and  
17 this meeting is adjourned.

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

20  
21  
22

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