GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

ZONING COMMISSION

SPECIAL MEETING

JULY 27, 2009

The Special Meeting of the District of Columbia Zoning Commission convened in the Office of Zoning Hearing Room at Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD Chairman
WILLIAM W. KEATING Vice Chairman
KONRAD SCHLATER Commissioner
PETER MAY Commissioner (NPS)
MICHAEL TURNBULL Commissioner
FAIA, (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN Secretary
ESTHER BUSHMAN Gen. Counsel
OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON
MAXINE BROWN-ROBERTS
PAUL GOLDSTEIN
ARLOVA JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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

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CHAIRMAN HOOD: Okay. Let me say good evening. We're ready to get started. This meeting will, please, come to order. Good evening, ladies and gentlemen. This is the July 27th Public Meeting of the Zoning Commission of the District of Columbia.

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

We are also joined by the Office of Zoning staff, Office of Attorney General and the Office of Planning.

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

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

Does the staff have any preliminary matters? If not, let us proceed with the agenda.

MS. SCHELLIN: No, sir, staff has nothing.

CHAIRMAN HOOD: I do have two preliminary matters. What I would like to do this evening is kind of move the agenda around for the sake of efficiency. Preliminary matters we will take first and I do have a preliminary matter. Consent calendar we will take second. Final action we will take third. Proposed action we will take fourth and hearing action we will take fifth.

First under preliminary matters is selection of Office of Zoning Director. As an update on the status of the Director of the
Office of Zoning, we want to thank all of the applicants who applied for this important position. Something will be going out in the mail tomorrow.

Again, we're volunteers. We're doing the best we can, so if they hear it first from this webcast live, I apologize, but hopefully the United States Postal Service will get it to you as soon as possible.

We received applications from 8 candidates from all over the country. We have worked hard and diligently in filling this position. There has been a lot of give and take in getting to where we are today.

There has been a degree of controversy about the qualifications for the position and the overall selection process. We believe that we have carried out this process in a fair and balanced way.

The Office of Zoning is an award-winning office and we are confident that this person will do everything in his power to make
sure that it continues to remain so. We have chosen someone that we believe will continue the excellence of this independent agency.

I maintained all along, including my testimony at the City Council, that we had a process in place in fulfilling this position and we have completed that process. I am joined by my fellow Commissioners to announce that Mr. Jamison Weinbaum has been selected as the new Director of the Office of Zoning.

Mr. Weinbaum is scheduled to start his new position at the end of August. At this time, I would like to thank Richard Nero for his role as Interim Director for the last 7 to 8 months or maybe even longer. Also, the Office of Zoning staff, also the Screening Panel which was put together and most of all I would like to thank the residents of the District of Columbia for giving us an opportunity to vet the process, make sure it was transparent.

And I will, at this time, open it
up to my colleagues if they wanted to say something. If not, we will do an official action and it will just be the three Mayoral-- comments can come from any one of my colleagues, but the vote will come from the three Mayoral Commissioners. Vice Chairman? Commissioner May, did you --

COMMISSIONER MAY: No thanks. I always get excited at the opportunity to comment, but I'll pass here. Thank you.

CHAIRMAN HOOD: Well, we --

VICE CHAIRMAN KEATING: I'll make a motion that we approve the selection of Jamison Weinbaum for the position of Director of the Office of Zoning.

COMMISSIONER SCHLATER: Second.

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

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Certainly not
hearing any opposition, there is only three of us and I heard everyone say aye, because they sit on the right and left side of me. Ms. Schellin, could you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 3-0-0 to approve Jamison Weinbaum as the new Director of the Office of Zoning. Commissioner Keating making the motion, Commissioner Schlater seconding, Commissioner Hood in support and none opposed.

CHAIRMAN HOOD: And I will just say this, there was a lot of give and take, a lot of discussion. My two colleagues, I want to thank you both and I appreciate the opportunity to work with you on this and I think we have a win-win actually for us and for the District as a whole. So I want to thank you both and I appreciate it.

Okay. Moving right along with our agenda. Consent calendar, Zoning Commission Case No. 07-35A, Sheridan Terrace Redevelopment, LLC & DCHA - minor modification
to PUD at Squares 5869 and 5872. Ms. Schellin?

MS. SCHELLIN: Staff has nothing further to add to this one other than to say that we did not receive a response from the ANCs in this case and I believe Commissioner Schlater has -- will not be participating in this case.

CHAIRMAN HOOD: Okay. Thank you very much. Colleagues, we have in front of us Exhibit 2, which is the formal action from the Interim Director of the Office of Zoning, Mr. Richard Nero. And I pay special attention to page 3 and their recommendation to us. It is recommended that the request for modification be granted as it is consistent with the intent of the Commission to approve its original Order No. 07-35 and does not substantially impair the intent, purpose or integrity of the Zone Plan as embodied in the Zoning Regulations and Map Amendment.

Any further discussion? And we
also have Exhibit 1 and it talks about the degrees of the modification. Apartment building flex space modification. There is one side yard adjustment. And a change in Unit D-2.

COMMISSIONER MAY: Mr. Chairman?
CHAIRMAN HOOD: Commissioner May?
COMMISSIONER MAY: Yeah. I have a number of questions, because I'm rather confused about the consistency of information. There are three areas where the project will change, albeit, I think, in minor ways, but I think the record ought to be clear.

There was a decrease in parking spaces. And what is written in the text is that it would be reduced from 65 to 55, but what shows up in the drawings is a reduction of 8 spaces. So is it 8 or is it 10? And that's one question I have.

Then I have a couple of others. Maybe --

CHAIRMAN HOOD: Okay. I'm not sure
who -- there's always someone new at every meeting. I'm not sure how we normally get the response.

MS. SCHELLIN: Well, I'm sorry, I didn't hear what his question was.

CHAIRMAN HOOD: The issue is the parking spaces. We have conflicting information.

COMMISSIONER MAY: Commissioner Keating pointed out that it says 63 to 55, not 65 to 55. There was one document I have here that says 65 to 55.

CHAIRMAN HOOD: One of them says 65 to 55 and the other one --

COMMISSIONER MAY: Okay. And that was the Office of Zoning summary, so all right, I'll -- that clarifies that question. Next is the reduction in side yard refers to Lots 5 and 14. And I did check this in both documents. And what shows up in the plans is a reference to Lot No. 16, not 5 or 14. So I -- and it's not clear that -- I mean, 16 could
actually be 14, but I don't see any indication that 5 is changing.

CHAIRMAN HOOD: Ms. Schellin, whose case is this?

MS. SCHELLIN: Ms. Giordano's.

CHAIRMAN HOOD: Ms. Giordano. I'm going to do this, Ms. Giordano, if you can come forward and give us some clarification on the record? Yes, she's here.

Ms. Giordano, we hope that your daughter is doing well. I don't want to put all that out, but I was able to watch the news.

MS. GIORDANO: She's fine. Thanks.

CHAIRMAN HOOD: Okay, good.

MS. GIORDANO: Thanks very much.

The correct reduction in parking spaces is 63 to 55 spaces.

COMMISSIONER MAY: Okay. That one was okay. It's the lots with the side yard have been reduced.

MS. GIORDANO: It's only one lot
that is affected and --

COMMISSIONER MAY: And it's Lot 16?

MS. GIORDANO: I believe so.

COMMISSIONER MAY: Okay. So all right. And then the last question I had is that, just so I'm clear on this, there are actually going to be 14 units that are going to be reduced in height by about 10 feet.

MS. GIORDANO: That's correct.

COMMISSIONER MAY: Okay. And what we have is one of those elevations shows the height after the reduction, but we don't see all of the other ones where it has been reduced.

MS. GIORDANO: I think it is one basic model.

COMMISSIONER MAY: Yeah, but it appears in a number of different locations in the project.

MS. GIORDANO: That's correct.

COMMISSIONER MAY: Right?

MS. GIORDANO: Um-hum.
COMMISSIONER MAY: So it affects potentially a number of those elevations of all those townhouses?

MS. GIORDANO: Do you want to see them all? I mean, we could submit them.

COMMISSIONER MAY: Yeah. I don't know if anybody else really wants to see that, but 14 units and all of those elevations that are very carefully composed, to me, is something that I would to see what they all look like. But I may be the only one who wants to see them.

CHAIRMAN HOOD: Well, let me handle it like this. I don't know what our requirements are, but if it gives you cause or pause, Commissioner May, we may be able to deal with this for about 5 minutes on Thursday.

MS. GIORDANO: Oh, that would be helpful, because the applicant is trying to pull the permit in early fall.

CHAIRMAN HOOD: Okay. Would
that --

COMMISSIONER MAY:  Yeah, I would
just like to see the elevation before we vote
on it, just to know what it is going to look
like.

CHAIRMAN HOOD:  Okay.

COMMISSIONER MAY:  I mean, it looks
reasonable enough in this circumstance,
because it happens at the end of a row of
similar buildings before you get to a very
different building and it looks like a fitting
kind of transition piece, but if it's in a row
of a bunch of other buildings that are exactly
the same, it's going to look like, you know,
broken --

MS. GIORDANO:  Right.

COMMISSIONER MAY:  -- teeth or
something.

MS. GIORDANO:  Can I introduce the
developer directly to --

COMMISSIONER MAY:  Yes, please.

MS. GIORDANO:  -- respond?  Matt
Engel.

MR. ENGEL: Hi, Commissioner May.

COMMISSIONER MAY: Thank you.

MR. ENGEL: We actually -- that form that you are looking at --

COMMISSIONER MAY: Yeah.

MR. ENGEL: -- repeats itself 14 times.

COMMISSIONER MAY: That exact --

MR. ENGEL: That exact --

COMMISSIONER MAY: -- so you've got three buildings --

MR. ENGEL: -- point.

COMMISSIONER MAY: -- of a similar kind of treatment and then one where it is going to drop town to two stories?

MR. ENGEL: The only difference is in one case it goes to four buildings and then it drops down.

COMMISSIONER MAY: Okay.

MR. ENGEL: But it's the same.

COMMISSIONER MAY: Okay. And are
these the ones that are sort of lined up perpendicular to the parkway, the Sheridan Place or whatever?

MR. ENGEL: They are perpendicular to the parkway, that's correct.

COMMISSIONER MAY: Okay.

MR. ENGEL: Yeah.

COMMISSIONER MAY: Okay. All right. Well, that helps me a lot. I think I'm okay with that. If it's going to be the same -- essentially look the same here on all of those circumstances --

MR. ENGEL: Yeah. What I would do is I would send you 14 copies of that, which probably wouldn't be helpful to you.

COMMISSIONER MAY: No, I don't need that. Thank you. All right. That's good.

CHAIRMAN HOOD: Okay. Vice Chair Keating?

VICE CHAIRMAN KEATING: I just wanted to come back one second to this side yard issue, because I guess I'm just still not
sure. The letter, which is our Exhibit 1, dated June 29\textsuperscript{th} from Cynthia Giordano, No. 2 says Lots 5 and 14 both had side lots of 5 feet and now are proposing to reduce both yards to 2.5 feet.

And then the picture here is Lot 16. Is Lot 5 being reduced or not?

MS. GIORDANO: Just the picture.

VICE CHAIRMAN KEATING: Just -- not this?

MS. GIORDANO: Lot 16, right.

VICE CHAIRMAN KEATING: Okay. And that's going to 2.5 feet, not the 2 feet in the picture, because the picture says 2 feet.

MR. ENGEL: I believe it's 2.5 feet.

VICE CHAIRMAN KEATING: So it's a combination of the picture and the letter?

MR. ENGEL: There seems to be some discrepancy there.

VICE CHAIRMAN KEATING: Can we just clarify that?
MR. ENGEL: It's one side yard.

VICE CHAIRMAN KEATING: Okay.

MR. ENGEL: And it's going from 5 to 2.5 feet.

VICE CHAIRMAN KEATING: Okay, okay, okay.

CHAIRMAN HOOD: Here's what we're going to do, colleagues, I think, unless, Mr. Turnbull, you have something else you want to add? I think what we'll do is we'll deal with this Thursday at 6:20, this coming Thursday. And I would move that we waive our regulation of 3-005.3, which requires 4 days posting of a meeting notice, so we can deal with some clarification issues before we vote on this and we'll do it this coming Thursday, because I think this coming Thursday is the last time we'll be having a hearing until September.

VICE CHAIRMAN KEATING: Right.

CHAIRMAN HOOD: So we will move in that fashion. Ms. Giordano, will that meet your --
MS. GIORDANO: That's fine, thank you very much.

COMMISSIONER MAY: May I suggest that we get a letter clarifying that we don't need to have the multiple 14 copies of the same elevation.

CHAIRMAN HOOD: Yeah, okay.

COMMISSIONER MAY: Thanks.

CHAIRMAN HOOD: Thank you. So we will deal with this on -- the announcement -- we will deal with this Thursday at 6:20.

Okay. Final action. Moving our agenda around, we'll go to final action. Zoning Commission Case No. 02-06. This is the Neighborhood Commercial Overlay District. Ms. Schellin?

MS. SCHELLIN: Yes, I believe Mr. Bergstein will probably better lead into this, the Neighborhood Commercial Overlay District. This is a case from the past and I think he is probably better fit to lead in for this, because, Chairman Hood, as you know, you are...
the only one who was here other than Mr. May, who was here and wearing another hat actually.

CHAIRMAN HOOD: Okay. Mr. Bergstein?

MR. BERGSTEIN: Thank you, Mr. Chairman. This case concerns a petition that was actually initiated by the Office of Zoning in response to a DCRA Notice of Interpretations of the way of calculating ground floor, linear street frontage of eating and drinking establishments.

And so the Commission advertised a proposed text and after several hearings and iterations, we still have this up for final action. But at the same time recently, the Commission held a hearing in Zoning Commission Case 08-06-05, which is part of the ZRR process that concerned Commercial Zones, but specifically looked at the type of zoning tool that is, at this point, limited to the Commercial Neighborhood Overlay, which is a limitation on eating and drinking
establishments.

And as part of the ZRR process, the working group is going to look to both refine that tool and apply it as a broader tool for neighborhoods that might need to limit that and other type of uses.

So since the topic is being revisited in a larger context, I wrote a memorandum to you recommending along with the Office of Planning that you consolidate this Case 02-06 with Case No. 08-06-5. And if there is any other questions, I would be happy to answer them.

CHAIRMAN HOOD: Okay. Thank you, Mr. Bergstein. Any -- I guess we would need to -- if we decide to do that, we'll need a motion.

MR. BERGSTEIN: I would suggest a motion, sir.

CHAIRMAN HOOD: Okay, okay.

MR. BERGSTEIN: And just for the record, because this is purely procedural,
there is no limitation on participation based upon persons who did not appear, who did not hear the hearing or participated in the past meetings.

CHAIRMAN HOOD: Okay. All right. Okay. We have before us a request or rather a recommendation from the OAG and I think they have been working collaboratively that we combine two cases which are primarily the same. And what I would like to do, at this time, let me just open it up for comments. Any comments?

Okay. I would move that we consolidate Case No. 02-06, Text Amendment to Neighborhood Commercial Overlay District, a limitation for eating and drinking establishments with Zoning Commission Case 08-065, Comprehensive Zoning Regulations Rewrite, Commercial Zones, Mapping and Use Principles and ask for a second.

COMMISSIONER TURNBULL: Second.

CHAIRMAN HOOD: Any further
discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing no objection, Ms. Schellin, would you, please, record the vote?

MS. SCHELLIN: Yes, staff records the vote 5-0-0 to consolidate Zoning Commission Case 02-06 with Zoning Commission Case 08-06-5. Commissioner Hood moving, Commissioner Turnbull seconding, Commissioners Keating, May and Schlater in support.

CHAIRMAN HOOD: Okay. Let's move right along.

Zoning Commission Case No. 09-07, Scott and Kristen Franklin, Map Amendment to R-4 Zone District at 2269 Cathedral Avenue, N.W. Ms. Schellin?

MS. SCHELLIN: Yes, this case is before you for final action. We do have an NCPC report that was received at Exhibit 27. The report was received on July 16th and they
reported no adverse findings.

CHAIRMAN HOOD: Okay. Also, Ms. Schellin, I have an Office of Planning report for June 9th, Exhibit 22.

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. All right. And I think we need to -- did we do this already?

MS. SCHELLIN: Actually, that OP report was previously received. There was just for some reason an extra copy added to your package this time. But you have already seen that report.

CHAIRMAN HOOD: So we have already done the waiving.

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. Let's move on. Let me open it up for comments from my colleagues. Okay. With that, and I think we hashed a lot of this out, especially during the proposed.

I would move that we approve Zoning
Commission Case No. 09-07 and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: Moved and properly seconded. Any further discussion? I'll just so note as Ms. Schellin has already mentioned the NCPC report, no adverse impact, Exhibit No. 27.

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 4-0-1 to approve Zoning Commission Case No. 09-07. Commissioner Hood moving, Commissioner May seconding, Commissioner Schlater and Turnbull in support, Commissioner Keating not voting having not participated.

CHAIRMAN HOOD: Okay. Next, Zoning Commission Case No. 02-51C, this is Center for Strategic & International Studies, Inc., 2nd
Stage PUD at 1616 Rhode Island Avenue, N.W.
Ms. Schellin?

MS. SCHELLIN: Again, we have received an NCPC report at Exhibit 26. This report too was received on July 16th and again, they found no adverse findings.

CHAIRMAN HOOD: Okay. Let's open it up for discussion. Any discussion?

If not, I will tell you the motion and we have already talked about NCPC report, which is in the packet.

I would move approval of Zoning Commission Case No. 02-51C and ask for a second.

COMMISSIONER SCHLATER: Second.

CHAIRMAN HOOD: Moved and properly seconded, any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?
MS. SCHELLIN: Yes, staff records the vote 4-0-1 to approve Zoning Commission Case No. 02-51C. Commissioner Hood moving, Commissioner Schlater seconding, Commissioners Keating and May in support, Commissioner Turnbull not voting having not participated.

CHAIRMAN HOOD: What I would like to do, colleagues, is that we move D, E, F and G in block. All these are 2 year time extensions and I would ask when we get to the discussion, colleagues, if you have a discussion on one of those particular alphabets, that we raise the issue or concern then at that time.

So I would move Zoning Commission Case No. 06-43A, Zoning Commission Case No. 06-29A, Zoning Commission Case No. 05-17C/05-32C, Zoning Commission Case No. 06-31B, these are all 2 year time extensions, and I ask for a second.

MS. SCHELLIN: Excuse me, Chairman Hood, one of them is a 3 year, I believe -- I
take that back. They are all 2 year time extensions. I take that back.

COMMISSIONER SCHLATER: Second.

CHAIRMAN HOOD: Okay. It has been moved and properly seconded. Let's open it up. Any discussion? I would just say on the ANC -- well, I would -- you know what, I messed up.

We have -- this is the discussion. We have an ANC letter that was submitted and I think we have to waive our rules. Do we have to open the record to accept it for the ANC letter we got?

COMMISSIONER SCHLATER: 6-43A.

CHAIRMAN HOOD: Oh, 6-43A. So we're fine. Okay. All right. Well, anyway, we have a letter from ANC-3D. Also a letter--the vote was 6-2 for the time extension. And this is D. Also, we have from Single Member District Thomas M. Smith who cites his reasons in Exhibit 5, yeah, Exhibit 5, of why he thinks that we should not approve it or asking
for further clarification or more time for the community to be able to weigh in.

I think that, from my standpoint, the ANC as a whole voted and more credence 6-2. I think that they would -- I would -- my vote is going to be in favor of the time extension, because of what is noted on Exhibit No. 4.

And basically, when I look at page 3, the inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control, as we have said in the past, we're starting to see a lot of that. The applicant is asking for the Commission to extend the period, time frame to construct their approved project due to the unprecedent negative economic circumstances. And I think that gets it for me.

Any other discussion on any of them?

COMMISSIONER MAY: Mr. Chairman?
CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: 06-43A, I would just note that the ANC's approval 6-2 did include a caveat that there be -- that the contribution of the increased traffic be included in the campus plan. I think that would result from this building being constructed.

And I think it is pretty reasonable to expect that all of the traffic implications of the campus will be addressed when the plan comes up for review in the future. I don't -- and I also don't think it is necessarily appropriate to make that some sort of a condition of whatever we decide today. But I certainly expect that we will delve into that issue deeply when it comes time to approve the campus plan.

With regard to one of the other cases where we have concerns addressed by the community, it is 06-31B, I think is the one. Forgive me while I fumble through and find the
right piece of paper and I'm not sure I'm finding it.

Oh, yeah, there was a concern that the benefits package associated with it has been more or less overtaken by events that it was somewhat out of date. And I think that that's -- while that is understandable, it may need to be addressed at some point in the future as the project moves forward. That's not really what is before us today.

The question is whether the real meat of the project has changed in any substantive way, which it has not, and is there a good reason for the extension and there is. And so therefore, I'm comfortable moving ahead.

CHAIRMAN HOOD: Okay. And also on --

COMMISSIONER MAY: Was that the right one? That was the right one. Yeah, it was the right project. Sorry.

CHAIRMAN HOOD: Let me also add,
what number was that you were just doing?

COMMISSIONER MAY: That was 06-31B.

CHAIRMAN HOOD: Oh, okay. Anyone else? Anything else? I just wanted to comment. We left out two items from the Council Member of Ward 3, Council Member Cheh, also endorsing the PUD extension for 06-31. And also, we have a letter from Neighbors for Liveable Community, they actually are supporting one of the Commissioners who we received a letter from who was in opposition of this moving forward.

And with all of that, I would stand on what I spoke about previously, which was submitted by the applicant about the negative economic impacts at this point in time.

Okay. Anything else?

COMMISSIONER SCHLATER: I have a--

CHAIRMAN HOOD: Commissioner Schlater?

COMMISSIONER SCHLATER: -- quick question of either the Secretary or OAG. How
far in advance before the expiration of the
order can you ask for the time request? Is it
as soon as it gets approval you can say there
is economic hardship?

MR. BERGSTEIN: There's nothing in
the regulations that governs that.

COMMISSIONER SCHLATER: Because I
just will note that some of these were just
approved last year and still have another year
of effectiveness under the orders. That may
be something to think about in the future. I
have no objection to granting the approvals
right now.

CHAIRMAN HOOD: That's a very good
point. But anyway, we will deal with that as
we get to that point, but I would agree that
they still have some more time typically, but
I don't know. Just for me, the merits,
Commissioner Schlater, the record was
complete. It's a very compelling story. I
will tell you I have not always believed that,
but here recently in the last few months or
so, I definitely believe the economic hardships. Okay.

VICE CHAIRMAN KEATING: Can I just get a point of clarification then, based on --

CHAIRMAN HOOD: Yes.

VICE CHAIRMAN KEATING: When does the clock start ticking for the 2 year extension? Is it today or is it from the time in which their initial approval ends?

MR. BERGSTEIN: Well, the extension is from -- the 2 year starts from the effective date of the order, unless there is an appeal, in which case the applicant could choose to toll the 2 year period until the completion of the appeal process. Is that the question you are asking?

VICE CHAIRMAN KEATING: Yes.

MR. BERGSTEIN: And so the extension is from the expiration date of the order. It doesn't begin upon the vote.

CHAIRMAN HOOD: Anything else?

Someone ready on this? Okay. It has been
moved and properly seconded. Any further discussion?

All those in favor on time extensions on D, E, F and G? Okay. Any further discussion on that? Okay.

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: The staff records the vote 5-0-0 to approve the time extensions requested in Zoning Commission Case Nos. 06-43A, 06-29A, 05-17C/05-32C and 06-31B. Commissioner Hood moving, Commissioner Keating seconding, Commissioners May, Schlater and Turnbull in support.

CHAIRMAN HOOD: I shouldn't expose myself, but never come out and try to Chair a hearing with three agendas with something different written on all of them.

Let me go back to final action, Ms.
Schellin. Did we -- when we recorded those votes, there were some Commissioners that were not participating. I'm sure you picked all that up?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. Good. Thank you. Okay. Let's go into proposed action. As I stated I'm going to move Zoning Commission Case No. 08-33, which is the Conference Center first, and we will do Zoning Commission Case No. 08-21, the Athena Group, second.

Zoning Commission Case No. 08-33, Conference Center Associates, LLC, Consolidated PUD 1st Stage PUD and Related Map Amendment in Parcels 121 and 31. Ms. Schellin?

MS. SCHELLIN: Staff has nothing further to add to this one, other than to advise that Commissioner Keating did not participate on this case.

CHAIRMAN HOOD: Okay. Colleagues,
as you see, we have some submittals. We have Exhibit 35, 36 and 37 and I think, for me, while I know the applicant supplied us with some information that we asked, if we look at Exhibit 36, we will see some of the things that were requested possibly by us, some things that we needed further clarification from.

But let me just comment on the letter from Council Member Ward 5, who is again reiterating his support for the Conference Center. And after so many years, he is glad to see this moving forward, since 1986. The team has been working on this project since 1986.

Okay. Exhibit 36, I would like for us to just look at it. We have some submittals in the applicant's submission, revised roof plan, additional analysis regarding the proposed treatment of Michigan Avenue and also it comes with that 37, which is DDOT's report.
Discussion of the applicant's commitment to satisfying the applicable Inclusionary Zoning requirements. I'm not sure who asked for what. And then an update on discussion between applicant and representatives of the Urban Forestry Administration.

Okay. With that, I'll open it up for comments. I will tell you that there are some things -- you know what, let me open it up for comments. Any comments?

COMMISSIONER MAY: Mr. Chairman, I would just note that one of the issues that I had taken a particular interest in which was the configuration of the penthouse and how far it was setback from the exterior walls, particularly the walls facing on Michigan Avenue and it looks like that has been addressed relatively well.

We certainly see it in plan that it has been pushed back to a minimum of 17.6 inch setback over most of Michigan Avenue. And the
height was reduced to 17.6. So it meets the 1:1 requirement, which I think is important.

And then there is a small section at the point where the two wings of the building come together, sort of the T-shape, where it narrows down to 10.6, but I think that's probably not too bad a thing, although it's a little hard to tell without having a new version of those beautiful renderings that had been done.

And so it might be worthwhile to see that, depending on what other action the Commission decides to take today. But I do see that there has been significant change on that front. And that's what I would choose to comment on. I think others have comments.

CHAIRMAN HOOD: Okay. Is that an item that we could possibly look at for final?

COMMISSIONER MAY: Absolutely. I would be comfortable just looking at that at final or just seeing that rendering again.

CHAIRMAN HOOD: Okay. Anybody
else? Commissioner Turnbull?

COMMISSIONER TURNBULL: I would just agree with Commissioner May. I think the thing about the 10 foot 6 is that it's a pinch point.

CHAIRMAN HOOD: Yeah.

COMMISSIONER TURNBULL: And it has a bigger area on one side and then it opens up a bit, so it's -- I wouldn't -- that wouldn't really bother me that much. But I can see the concern about it though.

CHAIRMAN HOOD: Commissioner Schlater?

COMMISSIONER SCHLATER: Um, I would say that I would reiterate my comments from last time that I think this is an excellent project for the neighborhood. I'm looking forward to seeing it move forward.

I will say that there was one thing that we're hoping to get maybe a little bit more information on, and I'm not sure exactly what we asked for at the time of the hearing,
but I seem to recollect asking for some new renderings of the Michigan Avenue facade of the structured parking garage.

And while I certainly support this PUD moving forward and want to see it move forward as quickly as possible, I would like to see, you know, a rendering of how they are planning to improve that facade and not just leave it up to the architect's devices as they move forward to construction drawings.

So I would make a recommendation that we move this PUD today and then when it comes back -- before it comes back for final action, maybe we could get proposed -- revised renderings.

CHAIRMAN HOOD: Okay. I'll second that. So you moved and I'm going to second it. But further discussion? Let me just acknowledge the DDOT report and I'll call off a few issues.

And I think, if I remember correctly, Commissioner Schlater mentioned
that some of this will be dealt with during the public review process -- Public Space. You actually mentioned that at the hearing, if I recall. See it was recent enough, we can remember.

But I will tell you that -- let's just look at Exhibit 37. Let's just kind of walk through this letter. I have a few places highlighted if anyone wants to comment or move on it or see what we need to do to further along the cause.

DDOT firmly believes that right-in, right-out restrictions for the Michigan Avenue access point is the safest and most appropriate vehicle turn movement for the proposed site. The restrictions can be encompassed by building a cartway infrastructure to supporting the turn movements.

I'm not sure where my colleagues stand with that. I do know that we have a design or some type of design. I don't know
what -- it's the second page of Exhibit 37. If it moves you, must speak up. These are some of the things that I highlighted.

The applicant's proposal is shown in Exhibit B. It does not meet DDOT's standards for intersection redesign and the use of stop signs at the signalized intersection as proposed is prohibited. And I know that the applicant is going to have to get some sign-offs, I think, later from DDOT.

The other one that -- the applicant has suggested that it can require the Washington Hospital Center employees who currently park at the existing parking lot to use the signalized Irving Street entrance once the traffic signal has been installed.

DDOT believes this is an action item that should be made part of our Zoning Order. I think we can actually condition that and we can do that if -- unless my colleagues object.

No, I'm sorry. And then DDOT
believes that key fob controlled entrance/exit near the Irving Street point of access will serve as the best means to gain access to the Washington Hospital Center employee parking. I'm not sure if that came up at the hearing. I would just ask that at least those four points that we have some kind of response from the applicant before we take final.

It seems as though everything that we have requested, I think we can get at final. And also, I would just -- yeah, before we get final, yeah.

COMMISSIONER MAY: I would agree with that. I think that there has clearly been some further discussions with DDOT to resolve what we think are some potentially problematic automobile movements and they are making progress. They just haven't quite finished it. There are certain things that we can incorporate in the order that we know about, at this point, but with a little bit more work hopefully we can get it all
finalized before it comes to us for final.

CHAIRMAN HOOD: And I think that there is, obviously, still some ongoing dialogue with the applicant. I think, yeah, this is the right case. There is some ongoing dialogue with the applicant and DDOT, even as we sit here today. They are still having discussions.

So unless there is anything else, I would move that we approve Zoning Commission Case No. 08-33, the Conference Center Associates, LLC and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: And I would just add to my motion that the things that we discussed before final be given to us before final action. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, staff would you record the vote with those who participated?
MS. SCHELLIN: Yes. Staff records the vote 4-0-1 to approve the proposed action in Zoning Commission Case No. 08-33 with the items due by final action, as discussed on the dias. Commissioner Hood moving, Commissioner May seconding, Commissioners Schlater and Turnbull in support, Commissioner Keating not voting having not participated.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. Let's move right along with the agenda. Let's go to Zoning Commission Case No. 08-21, The Athena Group, Consolidated PUD and Related Map Amendment at 4460 MacArthur Boulevard, N.W. Ms. Schellin?

MS. SCHELLIN: Yes, a couple of things. The first thing just to confirm on the record that Commissioner Schlater was provided with the full record of this case and to confirm that he has read the record and will be participating in this case.

COMMISSIONER SCHLATER: I have and I will.
MS. SCHELLIN: Okay. And then we did receive -- we have three exhibits that were received after the record closed. If the Commission desires to reopen the record to accept them, they were Exhibits 91, 97 and 98.

CHAIRMAN HOOD: I would move that we open the record and accept Exhibits 91, 97 -- I mean, 97 and 98 and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: Moved and properly seconded. Further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any objection, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 5-0-0 to reopen the record to accept Exhibits 91, 97 and 98. Commissioner Hood moving, Commissioner May seconding, Commissioners Keating, Schlater and Turnbull in support.
CHAIRMAN HOOD: Okay. Okay. We have -- we asked for a lot of refining. To go back, we asked the applicant to go back and look at a lot of things. I will tell you that even in some of the letters I saw, there was mention of significant changes. I'm not going to say improvement, but changes. I'm sure the applicant would probably say improvement and changes and the community will probably say we're getting there.

But I think it's evident that the applicant has been working. While they have not -- the community, from what I have reviewed, has not fully agreed with what is before us tonight. I think this applicant has done a lot to get at least closer to where my colleagues would like to be.

So with that, I would just say that we have asked for -- we have Exhibits 87 through 98 are some of the things we asked for through the tailend of the process. And what I would like to do is to open it up for any...
comments or concerns that you have and have they been addressed? Do we need further submissions from the applicant?

And I would just like to open it up and let's have a discussion. Commissioner May?

COMMISSIONER MAY: Yes. Mr. Chairman, I would like to echo that the -- what you said before about the reports that we got in here that a number of letters cited the changes have been made to the project. In fact, when I read the very first one and it sounded so very positive, I was getting my hopes up really high and then by the second paragraph, I was a little disappointed again.

But I think it is significant, there has been, I think, some substantial improvement in the project. I think that the elimination of the fourth floor on one of the buildings was an improvement. And the changes to the affordable units is also a significant improvement.
I think that the final -- oh, and the reduced -- the reduction of the number of units by another two units also an improvement. And I think this project has improved significantly.

I think the area where there -- well, the biggest area where it doesn't seem like we are going to reach a full conclusion or a satisfactory conclusion for the neighborhood is on the issue of the height and the absolute need to reduce the heights of buildings to three stories on every single building.

I'm not sure I totally agree with that position, but I certainly understand where it is coming from.

There is, I think, however, another issue that I do feel does need to be addressed and I'm not sure how best to address it and that is the issue of the FAR and the -- you know, whether the private streets can be counted in the overall lot area when
calculating the FAR.

And having studied this issue now since the last hearing and based on the submissions that we have gotten, I pretty firmly believe that we need to subtract the public -- or the public -- sorry, the private streets from the calculation of the total lot area, which effectively pushes the FAR over 1.0. We don't have an exact calculation of how far over it is.

As I understand it, based on some past cases, but also the sort of inherent logic of how shared driveways are treated in zoning cases, it is possible to treat the alleyway between Buildings 1 and 2 as part of the overall lot calculation, because shared driveways can be considered in that overall lot size.

But even with that calculation, it is still not likely to bring it down below 1.0. So I think there is still a little bit of -- well, first of all, we need to have a
really firm calculation of what the numbers are. But also, I think it needs to get down to where we can approve it, which is 1.0 plus whatever flexibility we have under the PUD rules.

I don't think that we can -- that it is appropriate for us to grant flexibility in the area of how this is calculated. I think that how we calculate it has to be consistent for all projects. And it is just common sense that we shouldn't include the roadways in the overall lot area, even if they are privately owned. I just think it's nonsensical to me.

CHAIRMAN HOOD: Okay. I would say this, Commissioner May, I think you bring up a good point and I know we have grappled in the past with that. I'm not sure exactly how we can proceed, but I would suggest that we deal with the other issues, because, for me, that is the sticking point, because if it's over that flexibility, then I think we are out of
compliance with our own regulations and we can't do that.

I don't know whether I asked for a briefing. Now, I look to Mr. Bergstein on that issue, maybe we asked for the calculations on the briefing paper or whatever from the applicant. And I think we would have to give the parties a chance to do that. I'm not sure.

MR. BERGSTEIN: Well, the parties should get an opportunity to respond to whatever you asked the applicant to submit. But as I hear it, the question is what is the -- how is the FAR calculated for the 1.0 cap? Is it the FAR that excludes the streets, which is the 2516 standard or is it a different calculation assuming that the 2516 standard is not complied with, but there is a degree of flexibility?

So what you would be asking for is for the applicant to provide the FAR computation for the record lot excluding the

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private streets, as if they were public streets. And then you could allow the opposition to respond to the accuracy of the calculation.

CHAIRMAN HOOD: Okay. Thank you, Mr. Bergstein, for helping me simplify that. That's one of the things, I think, that we will -- I don't know if we could get that before Thursday, but let me see what else we have on the docket. Let's see what else we have pertaining to that on the docket.

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Yes?

COMMISSIONER MAY: I would also point out the way we request the calculation, that we have some very clear diagrams of what is included in the calculation and what is not, because there are some things like the parallel parking spaces which, you know, on a normal public street are part of the street, but maybe in this circumstance they are not really, because they are often in the private.
property.

I don't know, but I think that there ought to be -- it ought to be very clear what's in and what's out. And you know, I think that there may be some room for discussion about what should be in and what should be out, but I think the basic streets that are the public ways ought to be out of the calculation.

CHAIRMAN HOOD: Okay. Commissioner Schlater?

COMMISSIONER SCHLATER: I just have a quick question of OAG. Mr. Bergstein, looking at the applicant's post-hearing submission, they reference their method of calculation for the FAR. And they say "This method was used by the Zoning Commission in St. Paul's College PUD, Stanton Square PUD, Fort Lincoln Townhouse PUD and the 6000 New Hampshire Avenue PUD, to name a few." Is that true?

MR. BERGSTEIN: I believe it likely
is true. I read what I think in those cases, the applicant did provide the Zoning Commission numbers, but I think I found the cases that were all involved. And indeed, they all were applications like this and involved theoretical lots brought under 2516, but none of the decisions, that I read when zoning flexibility was discussed, mentioned the inclusion of the private streets as the zoning flex -- as part of zoning flexibility sought.

And therefore, the computation occurred including the land or the streets without specifically calling it out. So there is nothing that I read in the orders that would make me think that the Zoning Commission was aware that, in fact, one of the prerequisites, one of the computational devices used in 2516 was not being used by the applicants in that case.

But I stand to be corrected, because all I did was briefly read the orders
and look at the zoning flexibility that was being requested.

COMMISSIONER SCHLATER: I wonder if at the same time if we do ask for this calculation of the applicant, whether the Office of Planning can go back and look at those referenced PUDs, find out what the FAR would have been relative to what they were allowed? If that other standard had been applied. Is that possible?

MS. STEINGASSER: It's certainly possible for us to go back and check and see how they were calculated. Whether we can actually recalculate an FAR, but we will give it our best shot. We will absolutely.

COMMISSIONER SCHLATER: Well, I guess what just my concern is is that we are very late in the process here in analyzing this PUD. And we may be raising a standard that hasn't been applied to other cases and to some, that might be viewed as unfair.

I would like to know what -- I
would like the information. I would like reliable information on what the actual calculations are, so I definitely support Commissioner May in that request. But likewise, I would just like to know how the standard has been applied in the past and I don't want to necessarily start new precedent with this case.

COMMISSIONER MAY: You know, I think I appreciate that concern, but I also think that if we have made a mistake in the past, we shouldn't keep repeating it simply because we didn't notice it before. And so I think that there -- I mean, it would be interesting to know what has been done in the past, but I don't think that we should be afraid of looking at -- you know, trying to look at the regulations and determining ourselves what is the right way from this point forward and deciding it on that basis.

COMMISSIONER TURNBULL: Mr. Chair, I would go along with both Commissioner May
and Commissioner Schlater. I think we need to do this analysis. We need to develop a consistency, so that this Commission doesn't get stuck in the same position again. I think it would be good for us to know exactly what has been done in the past and what should be going ahead in the future.

I think at the applicant -- an applicant coming before this Commission needs to deal with consistency. Just like it does before the BZA. I think they have to know this is what is going to happen. We know they are going to look at it like this. So I would echo Commissioner May's concern, but also Commissioner Schlater, so excellent point on being late in the game here.

CHAIRMAN HOOD: Uh, okay. So we will put that in the parking lot if there are enough spaces. We'll hold off on that. Let's see if there are some other issues that we had. And you know, I looked at some of the opposition and Mr. Tucker's letter really
popped out at me, not that I didn't look at Palisades and the ANC, but he goes on to talk about this.

He seems to think with more time, he says "Time constraints have not allowed for full resolution and execution of a tentative agreement. The conclusion of a satisfactory agreement with Athena is an essential condition."

We don't get into the -- it's not our position to push agreements between the community and the applicant. But it looks like -- and I'm not sure if Mr. Tucker is also speaking for everyone in opposition or just for the president -- I mean, for the Canal View Homeowners Association. It looks like discussions are taking place.

It looks like the -- they are still working together from the way I read the submittal, unless somebody reads it differently. And it looks like that's an opportune time. But I will say from what I
have reviewed and I said this early on, it looks like the applicant has made a lot of changes in trying to come closer to what the community has requested.

Are we going to get there fully? I'm not sure. And I just wanted to know if anyone wanted to encourage that, what was written in Exhibit 93, that's another side bar. I mean another parking lot issue.

Any other issues that -- so it would be predictable when Athena, the applicant and the community come back. And, Ms. Schellin, I will say that we cannot do Thursday, because after I thought about it, today is Monday and we want to make sure they get responses back for the FAR computations. So that's out of the question. That's not going to work. You know that's not going to work already.

Anything else?

COMMISSIONER SCHLATER: Is it possible to get the computations and the
analysis before final action, if we were to go that route?

COMMISSIONER MAY: Mr. Chairman, can I respond to that? I think the thing that makes me uncomfortable there is that if the project as it exists right now can't be calculated at an FAR that is approvable, in other words 1.05 or less, you know, we don't really know what it is. And so potentially, we could be voting to approve something that we don't -- that is beyond our authority to approve.

So I think we need to know for sure that this -- we need to take a stand about how it is measured and then we need to know that it is 1.05 or less before we take a vote. That would be my take on the matter.

COMMISSIONER SCHLATER: Um, I understand Commissioner May's position. I just think the case has been dragging on for a long time and I don't know. It's certainly not a new issue. And I would like to see if--
well, I'll just say I have had the benefit of reading the record, the entire record fresh, seeing where it is -- where it began and where it ends.

I know there are concerns in the community about height. I know there are concerns in the community about density. But I think a lot of those concerns have been addressed over time. And I think overall when you look at the total context of this development, it is a development that is going to be -- it's going to reflect very well upon the neighborhood. And it is going to represent very high quality development and that's something we are certainly here to support.

And so reading the case, it has just been -- it has been well over a year since it started and it has been dragging along. So I would just look to the other Commissioners to see if there is any way to see if we can move it forward, because it is a
case that -- assuming we can get through this one issue on the FAR limitation, that I would like to see move forward.

MR. BERGSTEIN: Can I just address a procedural issue? Proposed action, the purpose of proposed action is really to satisfy the charter requirement that when there is a proposed change in the Zoning Map, as is being requested here, it must be sent to NCPC for a period of review. That's why when you do special exceptions there is only one vote.

So when you take proposed action, you are not really approving the project in its entirety, but you are saying the project is at a point now where NCPC can provide us its advice concerning whether or not the proposed Map Amendment is consistent with the federal elements of the Comprehensive Plan.

It really has no other procedural or precedential effect than that. And I just wanted to share at least my view of what
proposed action is with you.

CHAIRMAN HOOD: Let me open it up
and hear from my other colleagues. Apparently
we have two issues at hand. I just wanted to
hear from -- what Commissioner May is saying
is if we're over the FAR and we essentially
approve something that we are not authorized
even to approve anyway, because we go by
flexibility, which is what .5 or whatever it
is or .05.

But anyway, Commissioner Schlater
and also Mr. Bergstein, I think, echoed a lot
of that saying the proposed means not actually
-- I have always thought that proposed meant
you send a strong signal that you're getting
ready to approve something.

Tonight I learned that proposed
doesn't mean that. So like I say, it's always
something different every night.

COMMISSIONER MAY: Yeah, proposed
now means good enough for NCPC is what it
means.
CHAIRMAN HOOD: Yeah. So let me open it up to my other colleagues and see which -- before I give my position, I would like to hear from either Mr. Turnbull or Mr. Keating. If not, I think --

COMMISSIONER MAY: See, I think, I believe that in the course of trying to address the FAR issue, it is possible that the project might change in some substantive way. I mean, they might wind up having to reduce the size of some of the buildings and I'm -- I mean, I just don't know. I mean, if there is a real rush to do it today, because otherwise, you know, the world falls apart, I don't know. I mean, we are dealing with all these other PUDs where they are asking for 2 more years, so that they can get financing. What's the -- you know, what is the urgency of doing it absolutely today? I don't know. I don't want to make it drag on any farther than it needs to, but I also want to know what we are voting on, frankly.
CHAIRMAN HOOD: We are getting ready to close it down. Commissioner Schlater, did you want to add to it? I was looking for to either hear from Commissioner Turnbull or Vice Chair Keating.

COMMISSIONER TURNBULL: Well, I'm not opposed with going ahead and voting approval of this in proposed action and getting everything that we need in final. The FAR, I think, I have seen a calculation that shows that they are awfully close to this at 1.05, so I don't know if it's going to be that much of an egregious work for the applicant to produce that number.

I mean, I don't know how fine a calculation you get this down to. There is always a little wiggle room when you do these calculations, so I guess it depends upon how the applicant is measuring. I mean, actually, you know, I could do a calculation and Chairman Hood you could come back and it would be totally different.
So I guess there is going to be a fine point on this, but right now, I think the applicant, you know, going back, they had 41 units. They were all at 4 stories. Now, less than half the units are 4 stories. And they got all the rest are at 3 stories. They have cut back the gross floor area of the units from 120 back down to 108.

There has been significant movement here. I think the applicant is trying to create an environment that will fit in with the neighborhood and be compatible. We're not going to please everybody everywhere, but I think that they have made a significant contribution with this PUD.

CHAIRMAN HOOD: Commissioner Vice Chair?

VICE CHAIRMAN KEATING: Yeah, no, I would have to agree with that. I'm impressed with what I'm seeing here and saw before the meeting this evening. But I do think we need to get that question answered. And so I'm not
opposed, if I'm understanding the process right, and I understand what proposed action is at this point, with moving forward and approving that, but also getting this question answered.

I understand OP can do their work pretty quickly and if we can do the rest of the other pieces, we need to do those before we get to final action, I'm okay with moving forward tonight. But I do want the -- I would like to get that question answered, because I do believe we need to be consistent and need to set a standard for ourselves in what we do.

COMMISSIONER TURNBULL: I would concur 100 percent. And when we get to final action, if we don't like something, we don't have to approve it.

CHAIRMAN HOOD: Let me see if I can just go back. And I heard three of my colleagues say let's move forward with the proposal tonight. But let me just put this back on the table. One thing I try to do, I
always try to give a full compliment of 5. I
don't know how the Chairman of the Council
gets 13, because sometimes it's hard to get 5.

But I will say that while I concur
as Vice Chair Keating there with Commissioner
May's comments, I wonder what really are we
losing? Because for me, proposed actions
means that basically with a little fine tuning
or whatever, you pretty much endorse this
project.

So I mean, what are we really
losing? And I think it would be good -- you
said it has been a year. I don't think it has
been a year, but it might have been. Has it
been a year? Oh, okay. My how time flies.

But I will tell you that I have to
agree with Commissioner May, what is the rush?
Again, they are closing the loop was from Mr.
Tucker. Maybe that may continue to happen.
And I think that if we set this for September,
our first meeting in September, I really don't
see -- you know, and I think we can make time
up. But I really don't see the significance of us moving ahead with that FAR issue still out there and being brief and allowing time for both the opposing parties to briefly brief us on the issue with the FAR computation.

So I would just ask my colleagues, three who I think are ready to do proposal tonight, if we could just reconsider and do this in September with all the necessary information, so we can have a full compliment of Commissioners voting? Even though I know that is not the -- it's a democratic process. You know, everybody has a vote, but I just think that -- I would just like to see all -- we're not far off.

And I think if we move tonight and propose, I'm not sure what the outcome will be, but I would just think that a little more time is not going to hurt anything else. Is anybody open to that? Vice Chairman Keating?

VICE CHAIRMAN KEATING: Well, just my only concern would be I think we do lose 30
days or so in the process, because if we come back in September we will be voting on proposed at that point and then it goes to NCPC for their review and then we get back to final sometime in October now, based on the calendar, as opposed we might be able to get the final in September. No, maybe, possibly?

Okay.

MS. SCHELLIN: Yeah, if you take proposed tonight, you would have final in September, that's correct.

CHAIRMAN HOOD: So is --

VICE CHAIRMAN KEATING: That's what I was thinking. And given that, you know, just, you know, think about the economy, if they -- if we are moving forward here and it's -- you know, I don't know if we ever asked the question about financing in place on this project or not, but, you know, there is a risk that things change in 30 or 60 days or investors get cold feet or something changes.

I just feel like we kind of can
move this thing forward.

CHAIRMAN HOOD: Okay. Anyone else? Did I change anybody else's mind? Ms. Schellin, let me ask, is NCPC going to deal with this in August?

MS. SCHELLIN: No, they would take it up at their September 3rd meeting. September 3rd.

CHAIRMAN HOOD: Okay. But what I would ask for is that some of the things that Commissioner May -- well, the main FAR computation would be briefly briefed by the applicant. We will work out a schedule for that.

Also, I would ask that -- taking what Mr. Tucker said in Exhibit 93 about how again -- and I know I don't want to put it all on the applicant, but the community has got to give some leeway, too, to try to come a little closer together and maybe the ANC and Palisades and the rest of the opposition groups can join in.
And I'm only just asking. I'm not directing. I can't do that. It's not within my authority. But I'm only asking because at the end of the day, I realize if the folks who live in that ANC area and live in that Canal View Park and Palisades, in those areas, are the ones who are going to be affected. So the closer you all can get together, I know you're getting there, but let's continue to get there.

It takes a little give and take on both as I opened this meeting up when we were talking about the -- hiring the director. But anyway that's where we are.

MS. SCHELLIN: Commissioner?

CHAIRMAN HOOD: What I'll do is open it up for a motion. Ms. Schellin?

MS. SCHELLIN: Chairman Hood, could we go ahead and set a schedule for the due dates now, so that -- since the parties are here, so they would have those dates?

CHAIRMAN HOOD: Sure.
MS. SCHELLIN: Allow the applicant two weeks and then the parties two weeks after that to file their responses. So the applicant would have until August 10th and the parties would then file their responses by August 24th.

CHAIRMAN HOOD: Okay. Okay. Is that fine? Everybody is fine with that? Okay. I will obtain a motion. Okay. You know what, I would move approval of Zoning Commission Case No. 08-21, The Athena Group, Consolidated PUD and Related Map Amendment for 4460 MacArthur Boulevard, N.W., and I would also put in my motion that this proposed approval is not to be any sign that final would be approved, also that Commissioner May's comments be incorporated in what the schedule was just set and we get that before final and also my comments about working together again with the community and applicant trying to close the gap a little more to see how we can address the issues.
And I will say on the record and also in my motion that I think the applicant has made that gap smaller. I would just ask that the community do the same thing, because at the end of the day, the community is going to be the one that lives there.

So anything else, Commissioner May, you would like to add to that motion, even though I don't know where you -- which way you are going to come out on this?

COMMISSIONER MAY: No, I'm inclined to vote against it just on the principle that I would like to have it verified.

CHAIRMAN HOOD: Do you want to put in -- but anything you want to put in that motion? Something you would like to say?

COMMISSIONER MAY: No, I think we've covered what we need to see. And it needs to be substantive. I think we're not looking for another explanation of why we don't need to worry about the streets issue or something like that. We're not looking for
that kind of an explanation. We are looking for a solid calculation and something that shows on the plan what areas are calculated -- are included in which calculations and what the areas are of things like, you know, the streets and the driveways or to the extent they are involved. Those sorts of things.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: But you know, I have another question. What happens -- maybe Mr. -- yeah, okay. I was just sitting here thinking what happens if we find out that we are over and we have sent it to the NCPC? Then what happens then? We will be retracting. At some point, we're going to have to retract it.

MR. BERGSTEIN: No, because again, I view NCPC's role in the PUD process as more limited than what we normally get from NCPC, because really they are looking at it for the purposes of the Map Amendment only and not as
a project-specific issue. But certainly even when you send things to NCPC, the project might evolve between when you send it to them and final action.

You often see changes from proposed to final that doesn't require a resubmission. Again, this all comes down to the charter requirement that says that before the Zoning Commission may take any action to approve any amendment to the Text or Map, it shall, after hearing, send a proposed change to NCPC for a 30 day period of comment.

That is what you are doing. And unless you vote for a different Map Amendment or, frankly, I don't see any reason why you would need to revise your submittal if the project itself changes in some way in terms of its design or units or whatever.

CHAIRMAN HOOD: All right. Thank you, Mr. Bergstein. Okay. It has been moved and seconded.

COMMISSIONER TURNBULL: Mr. Chair,
I would just say that the applicant should, for consistency sake, meet with the Office of Planning and make sure that the calculation of the FAR is exactly what we think it's going to -- how it's going to be calculated.

CHAIRMAN HOOD: Okay. I think they heard you loud and clear, Mr. Turnbull. And I hope some coordination, Mr. Feola, I think that's your case, I didn't mean to call your name, but I saw you. Okay, Mr. Feola, I hope there's some coordination.

And also, I'm sure it's all served on the ANC and all that stuff will happen. Okay. Ms. Schellin, did you want to say something?

MS. SCHELLIN: I did not hear anyone second this. Did someone second that motion?

COMMISSIONER SCHLATER: I will second the motion.

MS. SCHELLIN: Okay.

CHAIRMAN HOOD: Okay. Any further
discussion?

    All those in favor?

    VICE CHAIRMAN KEATING: Aye.

    CHAIRMAN HOOD: Aye.

    COMMISSIONER SCHLATER: Aye.

    COMMISSIONER TURNBULL: Aye.

    CHAIRMAN HOOD: Any opposition?

Any --

    COMMISSIONER MAY: Opposed.

    CHAIRMAN HOOD: Okay. Ms. Schellin, we have one person opposed. Could
you record the vote?

    MS. SCHELLIN: Yes. Staff records

the vote 4-1-0 to approve Zoning Commission

Case No. 08-21 for proposed action with the

conditions as stated. Commissioner Hood

moving, Commissioner Schlater seconding,

Commissioners Keating and Turnbull in support,

Commissioner May opposed.

    CHAIRMAN HOOD: Let's move right

along. Hearing action. Zoning Commission

Case No. 09-10. This is the Office of
Planning Text Amendment to allow the establishment of a water tower of the St. Elizabeth's Campus. Ms. Jackson? Take your time, Ms. Jackson.

MS. JACKSON: Good evening, Chair Hood and Commissioners. For the record, my name is Arlova Jackson and I'm a Development Review Specialist in the D.C. Office of Planning.

The case before you is a Text Amendment brought forth by the Office of Planning that would allow the establishment of a D.C. Water and Sewer Authority water tower on the east campus of St. Elizabeth's Hospital.

The St. Elizabeth's site is a 336 acre area divided by Martin Luther King Drive and to its east and west campus is a designated Historic District and contains several contributing buildings.

The east campus which the District took control over in 1987 has now been
subdivided into record lots and zoning is not in place for the majority of the area. WASA would like to install a new water tower on-site enabling them to improve fire protection, address poor water pressure, maintain existing water quality and support future development in the area.

Currently, this Zoning Regulations prohibit the issuance of a building permit for any property that does not have a Zone District or is not located on a lot of record. The proposed amendments to sections 106.7 and 3202 would allow the issuance of a building permit specifically for the establishment of a WASA water tower on the east campus of St. Elizabeth's.

The proposed new section 3206 allowed for an advisory review by the Office of Planning. This review would consist of an analysis of the proposed location and design for consistency with adopted plans for the site and provide time for communication.
between OP and the Zoning Administrator prior to the issuance of a building permit.

A similar process is currently used for antennas and for projects in the DD Overlay.

Additionally, a provision to refer projects to the BZA for review as a special exception request has been suggested by the Office of the Attorney General as a way to address the proposal that is found to be inconsistent with relevant planning policies and adopted plans.

The 2006 Comprehensive Plan supports the amendment particularly with regard to the land use, urban design and infrastructure elements and the proposed amendment would also further a relevant policy of the Forest Southeast/Southwest Area Element by helping provide the infrastructure necessary to allow for the redevelopment of St. Elizabeth's East Campus.

The most recently adopted plan for
the subject property, the St. Elizabeth's East Redevelopment Framework Plan anticipated the construction of a new water tower on-site both to support the future development envisioned in the plan as well as to meet the needs of existing residents.

The requested Text Amendment is not inconsistent with this plan or the 2006 Comprehensive Plan as it will allow for the immediate development of a water tower needed to serve the current and future residents of Ward 8.

OP recommends that the requested Text Amendment be set down for public hearing and will continue to work with the Office of the Attorney General on refining the text prior to the public hearing. Thank you and I'll take any questions you have, at this time.

CHAIRMAN HOOD: Thank you very much, Ms. Jackson. Let's open it up. Any questions for Ms. Jackson? Commissioner May?
COMMISSIONER MAY: Yeah. Um, I'm just looking at the site plan for St. Elizabeth's. I don't recall when the evidence warehouse got zoned in or got -- was that a modification of the UCC PUD that occurred some time ago or what's that?

MS. JACKSON: That's simply a proposed location that OPM was considering.

COMMISSIONER MAY: Oh, so it's not been zoned?

MS. JACKSON: It has not been, no.

COMMISSIONER MAY: Oh, okay, okay.

MS. JACKSON: No.

COMMISSIONER MAY: I thought maybe it had been. And is that going to be coming some time or is that going to -- are we waiting for the -- are we really actually going to get the full plan and the Master Plan of the zoning for the whole site before that happens?

MS. JACKSON: Our intention is to bring forward the Master Plan in zoning for
the site. However, we won't have the subdivisions and the street layouts in the lot of records for quite some time, depending on the development scenario.

COMMISSIONER MAY: Okay. The -- I mean, the only hurdle that we can really clear though is the zoning itself. I mean, there are -- well, we will call it back. I guess I know you are sensitive to the lingering concern that the Commission has had since the first PUDs were done for the hospital and for the UCC and there was a fair bit of angst about moving ahead with those as PUDs and not moving the whole campus.

So I personally would feel a lot more comfortable trying to move anything forward if we knew more about the direction that the overall plan for the development of the site was moving and the way the zoning might take shape. And are you going to try to do this sort of foreign-based zoning thing that happened on Reservation 13 or, you know,
any of those sorts of --

MS. JACKSON: No.

COMMISSIONER MAY: -- any of that?

You're not going to do that again?

MS. JACKSON: No.

COMMISSIONER MAY: Okay.

MS. JACKSON: We're happy at the public hearing to give you a presentation and a copy of the plan.

COMMISSIONER MAY: Okay.

MS. JACKSON: The plan --

COMMISSIONER MAY: I think that would help a lot, because the angst about this is that it could be happening more piecemeal than we would like and we do want to make sure that it happens in a comprehensive way.

I think that's about it for my concerns.

CHAIRMAN HOOD: Okay. Thank you, Commissioner May. Any others? Commissioner Turnbull?

COMMISSIONER TURNBULL: Thank you,
Mr. Chair. Is the proposed location one that has been fixed for a while? I mean, is that in all the plans, future plans?

MS. JACKSON: The -- no, it has not been fixed. There is a series of public input that needs to go forward first, the section 106 under the National Historic Preservation Act would be in play. That's been initiated this month. But there are a couple of sites that are being considered.

The fact that it's on St. Elizabeth's has been pretty much determined, but where on the site exactly has not been.

COMMISSIONER TURNBULL: Okay. I just -- is it because it is -- I mean, it sort of looks like it's centralized on the map.

MS. JACKSON: That's its current location. There is a little gray dot right in the center.

COMMISSIONER TURNBULL: Yeah, right.

MS. JACKSON: That's the current
location of it and that's the high ground, so that's why they would like to be there.

COMMISSIONER TURNBULL: But that's basically replacing it in kind only bigger?

MS. JACKSON: Only bigger and it's large enough and it's engineering is advanced enough since the original that it can be placed in other locations and they are looking at another couple of sites over adjacent to the mental health -- the new hospital to the east.

COMMISSIONER TURNBULL: Okay. Thank you.

COMMISSIONER MAY: I think it might also be helpful to get some sense of just how big this thing is going to be compared to the existing one.

MS. JACKSON: Um-hum.

COMMISSIONER MAY: Is it going to be bigger? I mean, the one right now, you -- if you -- I mean, I have been there several times and I know I have seen it and I still
can't remember anything about where it is or where you can see it from. It's that sort of discrete in the way it is placed.

MS. JACKSON: Well, the section 106 process has begun to look at these alternatives and their impact on the historic resources on the site. The site is covered by a Memorandum of Agreement with the Council.

COMMISSIONER MAY: Advisory Council on Historic --

MS. JACKSON: Advisory Council on Historic Preservation. So all that will be taken into consideration, those viewsheds and its appearance will be resolved as part of that. So we will be happy to have that presentation for you as well.

COMMISSIONER MAY: Thanks.

COMMISSIONER SCHLATER: Quick question. So I'm just looking at the Text Amendment itself and it says that, basically, the Zoning Administrator can approve the building permit until there has been a report
issued by the Director of Office of Planning.

MS. JACKSON: That's correct.

COMMISSIONER SCHLATER: Such report
will contain criteria and information to
determine whether the tower is -- complies
with the Comprehensive Plans, Small Area Plans
or other adopted planning studies on the site.

Is that typical? Is that something that we
have seen before that structure? Do sometimes
the structure come back to the Zoning
Commission to make that determination?

MS. JACKSON: It hasn't. The
intent is that it not have to come back. This
is the language that we have been working with
OAG to refine and rephrase. They were
concerned about the having specific criteria
that is not enumerated in the text and also
about what is the appeal.

In this case, what we have worked
out with OAG is that should OP's report
conclude that it is inconsistent with the
Small Area Plan, that it would be referred to
the BZA as a special exception.

MR. BERGSTEIN: Basically, in the other instances where this has happened, which is -- and 10 is in DD, those two regulatory schemes are so complex and technical that the idea was to, basically, have the Office of Planning come in as an expert to assist the Zoning Administrator and that was the purpose of their report.

Because the standard here is really a much broader standard that wouldn't actually allow the Zoning Administrator to deny a building permit that is inconsistency with the planning of studies in the Comp Plan, he can deny a permit if it is too high or whatever, that was my suggestion that we have to have a consequence if the Office of Planning finds, in fact, it is the location or size or its relationship to our structures would be inconsistent with the planning goals for St. E's.

At that point, it could say let's
refer this for special exception and, in essence, a design review. So that was my suggestion as how we're going to adjust the text accordingly.

COMMISSIONER SCHLATER: So it's not coming back to the Zoning Commission because the process is so complicated on the other side?

MR. BERGSTEIN: Oh, it -- you can have it. I mean, one is to make this as --

COMMISSIONER SCHLATER: I'm sorry. I mean, you call it easily --

MR. BERGSTEIN: One option is to make this a special exception and have like you have in certain aspects of CG that anything that gets built comes to you for design review and for review consistency with the purposes of the overlay and things like that.

This is sort of a hybrid where hopefully through the entire 106 process and involvement, the right choice will be made and
OP will be able to say that in the report. But if something goes wrong, it's sort of a way of bringing it back. And one issue is does the Zoning Commission want to do that special exception or would it prefer to have the BZA and if you want to provide guidance to us on that, at this point, it's the BZA by default unless you say otherwise.

COMMISSIONER SCHLATER: My hazy recollection of this project from when I was back in Government was that this water tower is going to serve a large portion of east of the river.

MS. JACKSON: Yes.

COMMISSIONER SCHLATER: And it's located at one of the high points east of the river. And there is going to be a very prominent architectural feature of the redevelopment of St. E's. And there is a lot of interest in it. So I'll leave it up to my colleagues to decide whether it is something they wish to weigh in on, but it certainly is
a big project.

CHAIRMAN HOOD: I didn't know all that information, but I will tell you that, you know, I never have a problem with setting anything down. But I do have -- I'm waiting to hear some more discussion on 3206, 3206.1, 3206.2, 3206.3. I would just like to maybe -- maybe my questions and answers will be evolved or come to me as we have the hearing process. I don't have any problems with setting this down.

What I do share some of what I heard you say, I just -- to me, I need to investigate a little more and maybe hear some of the people maybe coming to provide some information you just gave me at the hearing. So let me open it up. Any other discussion?

COMMISSIONER SCHLATER: I think that that sounds good.

CHAIRMAN HOOD: All right.

COMMISSIONER SCHLATER: Sorry about that. I move Zoning Commission Case No. 09-10
Text Amendment to allow establishment of a water tower on the St. Elizabeth's Campus for set down.

COMMISSIONER TURNBULL: Second.

CHAIRMAN HOOD: Okay. It has been moved and properly seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Yes. Staff records the vote 5-0-0 to set down Zoning Commission Case No. 09-10 as a rulemaking case. Commissioner Schlater moving, Commissioner Turnbull seconding, Commissioners Hood, Keating and May in support.

CHAIRMAN HOOD: Okay. Let's -- next is Zoning Commission Case No. 09-11, a proposed Zoning Text Amendment to permit retail and service uses by special exception
in SP-2 Districts. Hold on one second. Mr. Goldstein?

MS. SCHELLIN: Good evening.

CHAIRMAN HOOD: It is Goldstein, right?

MR. GOLDSTEIN: Yes, you got it.

CHAIRMAN HOOD: Thank you. I finally got something right.

MS. SCHELLIN: I was going -- I was listening to Mr. Turnbull, so we got -- we were going back and forth. I had to call him out, because we were going back and forth.

CHAIRMAN HOOD: Oh, sorry.

MR. GOLDSTEIN: Oh, sure. Good evening, Mr. Chairman and Members of the Commission. For the record, my name is Paul Goldstein and I'm a Development Review Specialist with the Office of Planning.

The Office of Planning proposes a text amendment to allow by special exception a wider range of principal ground floor retail and service uses in Special Purpose 2
Districts. The Amendment would apply exclusively to SP-2 Districts located south of M Street, N.W. and N.E., would allow by special exception certain uses permitted by right in C-1 neighborhood shopping districts.

As background, SP-2 Districts were crafted to be transition zones between commercial and residential areas among other intents. They are chiefly mapped on the periphery of the Central Business District in Northwest Washington.

A noble feature of SP Districts is they are near prohibition of active principal ground floor retail and service uses, which is a limitation that was adopted in the 1958 Zoning Regulations.

This constraint was recently highlighted in three requests for zoning relief, two of which have been approved, that sought to secure active ground floor retail uses in SP-2 Districts. The Amendment aims to permit ground floor retail and service uses in
locations where their operation would not be
harmful to neighboring properties.

The proposed Text Amendment has the
following defining features: First, it is
dezignically limited to SP-2 Districts south
of M Street, N.W. and N.E. The affected areas
primarily include SP-2 Districts in Foggy
Bottom, along 16th Street, in Judiciary Square
and east of the Capitol.

The Amendment aims to capture
properties that are essentially in core
commercial and mixed-use areas. Additionally,
nearly every SP-2 District property below M
Street is located in an Historic District and
areas subject to condition of fine arts review
or both. And as such, the design and
appearance of any proposed use will be subject
to additional reviews.

Second, the proposal would allow
only C-1 uses listed in section 701.1 through
701.5 to be located on or below a building's
ground floor. Such uses would only be
permitted if they satisfy the conditions of the special exception test, meaning that they are shown to not be likely to become objectionable to neighboring properties because of noise, traffic or other conditions.

Although not raised in OP's report, to address possible parking issues, OP would propose an amendment to Chapter 21 that would include an appropriate parking standard to be included in the notification.

The proposed Text Amendment would be in harmony with several Comprehensive Plan policies, including the promotion of commercial centers, encouraging active street life, mixed use development and expanding the retail sector in central Washington.

At the same time, the Amendment seeks to respect Comprehensive Plan guidance through the uses of the special exception process to ensure that new development is in concert with its surroundings and these identified transition Districts.
To conclude, the Text Amendment would not be inconsistent with the Comprehensive Plan. The Office of Planning recommends that the proposed Text Amendment be set down for public hearing and I am now available for any additional questions. Thank you.

CHAIRMAN HOOD: Thank you, Mr. Goldstein. Any questions for Mr. Goldstein? Commissioner May?

COMMISSIONER MAY: Yeah, what's magic about M Street? Is that just to protect the Dupont Circle area?

MR. GOLDSTEIN: In part. It seemed to us to be a clean break between areas that are essentially more commercial and mixed-use from areas that are more predominately residential, which is what you get into as you head north of M Street.

COMMISSIONER MAY: Did you give any consideration to sort of establishing a southern limit on it, because it seems like
the only thing that is south of -- well, south
of M Street, S.E. and S.W., is the ARC. Is
that what that property is?

MR. GOLDSTEIN: Yes, I believe so.
And that would be an SP-1 Zoned area.

COMMISSIONER MAY: Okay.

MR. GOLDSTEIN: It just wasn't
captured actually by the SP-2.

COMMISSIONER MAY: So it's not SP-
because it shows up on the map, that's what
threw me. Okay. You know, I think I will
have some concerns about its application in
close proximity to the mall, the Elipse, the
river. Not that I'm predisposed against it,
but when we are that close to such prominent
national parkland, there is definitely going
to be more of a concern on our part.

I don't know what they all are, but
I'm -- I've got to look at it more carefully.

Thanks.

CHAIRMAN HOOD: Any other
questions? Okay. I would move that we set
down Zoning Commission Case No. 09-11 and ask
for a second.

COMMISSIONER SCHLATER: Second.

CHAIRMAN HOOD: Okay. Commissioner
Schlater seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any
opposition, Ms. Schellin, would you record the
vote?

MS. SCHELLIN: Staff records the
vote 5-0-0 to set down Zoning Commission Case
No. 09-11 as a rulemaking case. Commissioner
Hood moving, Commissioner Schlater seconding,
Commissioners Keating, May and Turnbull in
support.

CHAIRMAN HOOD: Okay. Next is
Zoning Commission Case No. 09-13, Office of
Planning Text Amendment to explicitly allow
for a BZA Consent Calendar. Ms. Steingasser?

MS. STEINGASSER: Mr. Chair,
Commissioners, Office of Planning is recommending this Text be set down. It explicitly allows for a consent calendar for use by the Board of Zoning Adjustment, the intent of which is to both reduce the flow of cases and backlog on hearings before the BZA and reduce the cost to the applicants of such a weight in having to have their architects and lawyers attend hearings that have no opposition.

The consent calendar is called for both in the Zucker report, which is a report sponsored by the Office of Planning and paid for by the City Council. It was called for in the Comprehensive Plan to look at the option for a Planning Commission. As part of that, it also looked at the entire development process.

It is Recommendation 24 called for the use of the consent calendar by the BZA. The Office of Zoning concurrently commissioned a plan -- a study that looked at the
development processes through White and Smith, LLC and they also concluded that the use of a consent calendar would be efficient for moving forward the BZA procedure.

We have proposed that the cases that are eligible for consent calendar be limited. Right now, we are proposing only sections 223, which make up, approximately, 24 percent of all BZA cases over the last 5 years. They are typically noncontroversial. They are a special exception that look only at limited amounts of relief in terms of lot occupancy, rear yard, front yard and side yards and courts.

We have also proposed that it include section 209.1, which allows for private organizations, parks, playgrounds, swimming pools and recreation facilities. We tried to go through and choose those that we felt were the least controversial and would have the biggest bang for the buck with the calendar right now.
As the -- as time moves forward, we can add future sections to the consent calendar, but we felt the calendar had to be limited, otherwise it would become just a parallel log jam of people trying to request consent knowing that they wouldn't get it and then get just jumping to the front of the line.

So we felt it was -- the best way to do it was to control it by what could be on there.

We think that the Text is not inconsistent with the Comp Plan. It updates land use controls. It minimizes the cost and time associated with housing. It allows for transparency in decisions and it continues to allow for public input and due diligence as any notified party or ANC may request its removal as well as a Board Member or the City Council.

We are working with the Office of Attorney General to refine the language for
the public hearing notice. I believe they circulated that to you in a memo last week and that you got in your packet. And our language in the public hearing notice will reflect those changes.

CHAIRMAN HOOD: Thank you, Ms. Steingasser. I will say that I support this consent calendar. This is something that we talked about I know for a while. But one of the things that -- you know, some of the things that came across my mind, I was thinking well, why not wait until the ZRR, but that's not going to work.

Some of the ways that I thought that we already do things efficiently was to rest on the record. You know, I think this consent calendar idea, I think, will be more efficient in helping to move the processes along within the BZA.

It will give them a tool to kind of do like we did tonight. We moved things in block, even though we had a discussion to help
us get through some of the things that we had
to discuss, especially if it's nothing to
discuss.

So I will also -- and I'm glad to
hear you say, Ms. Steingasser, that there were
other type of case that eventually we're going
to look at. I know the 223 is out there, but
I know there is some other types of cases that
we look at.

The only other question that I
would ask and I will probably go to the Office
of Zoning is to ask the Chair possibly of the
BZA, and maybe we can ask one or two chairs,
because I know we have -- other than maybe Mr.
Turnbull, when you are in and out of BZA all
the time, we would really like to hear their
comments on what we're getting ready to move
forward with, so I don't know if Chairperson--
Chairman Loud would be available.

I don't know, Mr. Bergstein, I
think I can do that. I asked --

MR. BERGSTEIN: I forwarded the
most recent Text to Mr. Moy and I assume that he forwarded it to the Board.

    MS. BUSHMAN: I can speak to that.
I forwarded the language with Mr. Moy's assent to the Commission -- to the Board Members and I do believe that they will be taking a look at it and be very happy to provide comment.

    CHAIRMAN HOOD: Thank you very much. I want to make a formal request from the dias asking that if the time permits, they can come down and we will get them right in. We will treat them like Council Members. We'll get them right in and hear from them and get them out of here, because I know they spend a lot of time here on Tuesday and we appreciate all they do.

    And they are the experts as far as I'm concerned. Even though we -- other than Mr. Turnbull, we are here every so often. He is usually every week. But so anyway, I'm glad to see this moving forward.
I totally endorse it. We may have to tweak it or do some fine tuning, but I'm glad to see this moving forward.

MS. STEINGASSER: I believe, and OAG can confirm, it's a rulemaking case and not a contest case, so we can work with the BZA prior to the hearing.

MR. BERGSTEIN: Oh, absolutely.

CHAIRMAN HOOD: Oh, well, I'll just call them myself and tell them I expect to see them here. Okay. Any other comments on this? Any other comments, colleagues? Okay.

With that, I would move that we set down Zoning Commission Case No. 09-13 and ask for a second.

COMMISSIONER TURNBULL: Second.

CHAIRMAN HOOD: Everybody must like the consent calendar. I think I heard three seconds.

MS. SCHELLIN: Keating and --

CHAIRMAN HOOD: Yeah, put them all down as seconding. All right. It's moved and
properly seconded by three Members.

Ms. Schellin, put all three of them down for seconding.

COMMISSIONER MAY: I think Mr. Turnbull should have the privilege.

CHAIRMAN HOOD: Yeah, Mr. Turnbull, could you second it?

COMMISSIONER TURNBULL: Second.

CHAIRMAN HOOD: Okay. So Mr. Turnbull seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you record the vote?

MS. SCHELLIN: Staff records the vote 5-0-0 to set down Zoning Commission Case No. 09-13 as a rulemaking case. Commissioner Hood moving, Commissioner Turnbull seconding, Commissioners Keating, May and Schlater in support.

CHAIRMAN HOOD: Okay. Next, we
will do our status report. Ms. Steingasser?

MS. STEINGASSER: Chairman, Commissioners, the status report is before you. The one thing I wanted to point out to you that you are going to see start coming forward now are different Text Amendments that are going to begin to implement part of the zoning review recommendations.

The consent calendar is one. Part of moving that forward allows us, once it is complete, to help guide how we write future text that may be coming.

We are also going to be moving forward the Campus Plan Text Amendment. And the reason we are moving that one now is there are several Text Amendments—several Campus Plans, excuse me, that are going to be coming due in 2010 and we want to have the new regulations in place so that as they go through that process, they are working with the most current regs.

So you will be seeing that most
likely in September. That will come to you for set down. And that's all we have.

CHAIRMAN HOOD: Any questions of Ms. Steingasser? Okay. Do we have anything else before us?

We have a hearing on Thursday, but this is our last meeting. We get the whole month off, whoopty-do, but anyway, I want to thank everyone for making my colleagues and I very ready for these meetings and for the hearings.

I appreciate the Office of Zoning staff and our direct connection to the Office of Zoning staff to Ms. Sharon Schellin. I think she does a fabulous job. And also with the assistance of Ms. Bushman and all those who help her and Mr. Nero and everyone.

And also the Office of Attorney General, we appreciate all the guidance and the legal advice that we get from the Office of Attorney General. They definitely help make our lives a lot easier.
And also the reports that we get from the Office of Planning. We appreciate the in depth research that goes into it to help us make an educated and informed decision for the best interest of the city.

And I do not want to forget all those participants, the residents and also applicants who present cases and the citizens. Sometimes we may not always agree or it may not be the outcome, but we appreciate the participation, because I will tell you, and I think my colleagues would agree, the way we grapple sometimes and try to balance things it's like trying to balance for a win/win for all neighborhoods.

So that's all I have. With that, I hope everyone has a safe month off. But don't forget to come back Thursday now.

COMMISSIONER TURNBULL: No.

CHAIRMAN HOOD: Don't forget. No, don't forget to come back Thursday. We have a hearing Thursday. And I think that will be
it. Okay. So with that, this meeting is adjourned.

(Whereupon, the Special Meeting was concluded at 8:41 p.m.)