GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION
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REGULAR PUBLIC MEETING
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MONDAY

NOVEMBER 29, 2010
+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD SCHLATER, Vice Chairman
GREG SELFRIDGE, Commissioner
PETER MAY, Commissioner (NPS)
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

JAMISON WEINBAUM, Director
SHARON S. SCHELLIN, Secretary
DONNA HANouseK, Zoning Specialist
ESTHER BUSHMAN, General Counsel
OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
STEPHEN MORDFIN
KAREN THOMAS
STEVEN COCHRAN
JOEL LAWSON
MICHAEL GIULIONI
TRAVIS PARKER
PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.

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CHAIRMAN HOOD: Okay. Our regularly schedule public meeting will please come to order.

Good evening, ladies and gentlemen. This is November 29th, 2010 public meeting of the Zoning Commission of the District of Columbia.

My name is Anthony Hood. Joining me are or were Vice Chairman Schlater, Commissioner Turnbull, Commissioners May and Commissioner Selfridge.

We're also joined by the Office of Zoning Staff, Director Weinbaum, Ms. Schellin, Ms. Hanousek and Ms. Bushman.

Also, the Office of Attorney General, Mr. Bergstein.

The Office of Planning, Ms. Steingasser, Mr. Lawson and the rest of the staff. Let me just say the rest of the staff. I'll just leave it at that.
Okay. 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?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. If now, let us proceed with the agenda.

First, we have, on the consent calendar, Zoning Commission Case Number 01-36A, Department of Real Estate Services - Minor Modification to a PUD at Square 5868.
Ms. Schellin.

MS. SCHELLIN: Yes, sir, this is a request from the Applicant to change the child care center to office use and we would ask the Commission to please consider this request.

CHAIRMAN HOOD: Okay. Commissioners, we have an exhibit that was submitted which is Exhibit 1 and it also mentions in the exhibit that copies of this exhibit went to ANCs 8A and 8C.

This is the request: This expansion will require a portion of the HSEMA Staff currently located elsewhere in the UCC to be relocated to the area of the public currently built as the child care center. So, they're asking to reuse that space that was previously approved for a child care center which I believe was basically built for employees only, but what I'd like to do is open it up and ask to handle this as a consent calendar item.

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

COMMISSIONER MAY: I have a question. Maybe the Office of Planning can answer and I'm wondering. You know, my recollection of this hearing, I was sitting in the chair at the opposite end. It was that long ago.

But, I was here for the hearing on this and my recollection was that there was substantial community interest in what was happening with the child care center at the time and I was actually surprised in reviewing the materials that were submitted that within the order there's not something explicit about community use of the child care center.

So, I'm wondering if there has been any conversation with the neighborhood or the ANC either about the fact that the child care center never really got off the ground or that they are proposing this change in use of this portion of the project.

MS. STEINGASSER: Well, the ANC was
notified of the proposed amendment. It was never proffered as a public benefit or amenity.

COMMISSIONER MAY: Right.

MS. STEINGASSER: So, it was always internal to the site because of the security issues at the site. I don't think there was ever an intention to expand it beyond that.

COMMISSIONER MAY: Um-hum.

MS. STEINGASSER: So, no, there's been no discussion with the ANC about using it at this point.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: Any other questions? Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: I just want to confirm that there's never been a child care center there. Because I looked at the aerial photograph and it shows the area where there is a child center and it shows play equipment outside and it looks like it's ready to be a child care center.
MS. STEINGASSER: It was built to be a child care center, but it has never operated. They've never hired an operator and there's never been any children inside the site.

COMMISSIONER MAY: Okay. Did they make much of an effort to market this to the staff or did they survey staff in advance to determine that there was a need for it? I mean that was --

MS. STEINGASSER: I believe so.

COMMISSIONER MAY: -- part of the normal process.

MS. STEINGASSER: I don't want to speak out of school, but I believe in conversations with the Applicant they did survey the staff on several occasions and there was not -- there was insufficient interest which is why it's never opened.

COMMISSIONER MAY: Um-hum. But, in advance of building it or programming, did they actually -- do you know if they surveyed?
That would be normal.

MS. STEINGASSER: I don't know.

COMMISSIONER MAY: Yes.

MS. STEINGASSER: Yes.

COMMISSIONER MAY: Okay.

MS. STEINGASSER: It was a long time ago.

COMMISSIONER MAY: All right. Yes, it was.

Well, Mr. Chairman, I'm not enamored with the idea of acting to make a change like this without some input from the ANC, but since it really was not something that was going to be a specific benefit to the community or any expectation that it would be used, I think the only concern would be the potential impacts on the community from having additional, I guess, office occupancy or whatever the use is going to be there.

And given everything else that's going to happen in that vicinity, development-wise both on the east campus and the west...
campus, you know, it's a drop in the bucket. So, I don't feel very strongly that we need to hold off for the sake of the ANC at this moment.

CHAIRMAN HOOD: Okay. Thank you, Commissioner May. Anyone else? So --

COMMISSIONER TURNBULL: I would agree with Commissioner May.

CHAIRMAN HOOD: Okay. So, Commissioner May, let me make sure I understand. So, you want to go ahead and move forward or did you want to hold off and maybe see if the ANC will respond or --

COMMISSIONER MAY: You know, I'm not -- I'm not -- I'm very much on the fence generally speaking because in circumstances like this, I would rather act with the benefit of specific input from the ANC even if it's a no comment.

But, since there really is so little potential for a negative impact on the community, if the rest of the Commission would
like to move forward and accept this minor modification right now, I'd be okay with it.

CHAIRMAN HOOD: Okay. Anyone else feel strongly enough that we should probably hold off and maybe wait for some type of response or no response and maybe allow two more weeks for the ANC. I think the ANC has had about two weeks now I believe. Correct?

MS. SCHELLIN: I believe they've had since -- they were served on the 10th I believe. So, they've had since the 10th.

CHAIRMAN HOOD: Is this the ANC -- I don't want to call them the ANC Commissioners, but normally, this ANC, believe me, they would have been here if this is -- I think this is the ANC.

COMMISSIONER TURNBULL: Mary Cuthbert.

CHAIRMAN HOOD: Yes, I don't recall her name. But, I don't think this would have just flew by night. They work real hard out there and I know Ms. Cuthbert does. So, I
would -- by me not saying, the silence is sometimes golden.

Unless, Commissioners, we have any other issues, I would move that we go ahead and accept this item. It's under Commission Case Number 01-36A, Department of Real Estate Services for the Minor Modification to PUD at Square 5868 and also take in the concerns and the comments of Commissioner May as we move forward and I ask for a second.

VICE CHAIRMAN SCHLATER: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. Any further discussion?

All those in favor.

(Ayes.)

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

MS. SCHELLIN: The staff records the vote 5 to 0 to 0 to approve final action Zoning Commission Case Number 01-36A.

Commissioner Hood moving. Commissioner
Schlater seconding. Commissioners May, Selfridge and Turnbull in support.

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

Next on the agenda, again Consent Calendar item, is Zoning Commission Case Number 05-36E. This is the K Street Developers, LLC - Minor Modification of PUD at Square 749. Ms. Schellin.

MS. SCHELLIN: Yes, sir, this is a request from the Applicant to develop the 500 unit second phase of the residential retail project in two subphases and there's a letter from ANC 6C in support at Exhibit 6 and I believe they may be requesting some reduction of parking although I'm not quite sure how that plays in there. But, I think there was some request on that.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. I think you're absolutely correct.

We had a request going from one to
one to I think one to .07, but I stand to be corrected if that's not -- maybe it was -- was it .07? What was it? 8.071. Okay. .71. Okay. All right.

But, anyway, let me say this. Let's look at page 3 and I think a lot of the -- if you look at page 3 of the submission dated October 28th from the Applicant and the submission, if you look at the second paragraph on the page and I really think that just gives the scenario exactly what we've been asked for minus the parking reference.

Let me open it up for any comments.

Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Mr. Chairman, the only question I would have is the parking request which I'm open to doesn't seem to be outlined in the actual modification requested. So, I guess the only question I would have is maybe for OP.

Is it OP's understanding that part of this request is a reduction in parking?
Has that been made clear to the ANC and others?

MR. COCHRAN: I am not familiar with discussions with the ANC. If the Commission were to act, it would seem that one of the conditions of the original order that says no fewer than 545 parking spaces would need to be modified so that it has an overall -- the condition would be an overall total of residential parking spaces not less than 0.71 space to each unit.

VICE CHAIRMAN SCHLATER: Does OP believe that a reduction from a one-to-one parking ratio down to .7 is a minor modification of the PUD?

MR. COCHRAN: Yes.

VICE CHAIRMAN SCHLATER: The only other thing I would say is it seems like we have a support letter from the ANC, but it's not clear to me that they were aware of the parking reduction situation.

So, I'm not entirely opposed to moving
it on the Consent Calendar, but I think I would want to know that the ANC was aware of that reduction and I think I would actually like the Applicant to formalize their request to us and explicitly state actually what modification is being requested with respect to the parking. Because I don't think it's clear from the plans and the application that was given to us.

COMMISSIONER MAY: If I could just note that on page 4 of their letter, there is a sentence or a paragraph that addresses it. It's not a compelling justification or a good explanation of why this is really a minor modification, but it says a second minor refinement regards the amount of parking proposed to be provided and describes it in a little bit more detail and then essentially says that based on their marketing experience and based on public policy heading in the direction of less parking rather than more parking, they think that it should be
adjusted.

Frankly, I don't find that compelling. So, I'm, I think, perfectly fine with the idea of the phased delivery of the project. I think that's a reasonable request and, you know, frankly, smart given the state of the economy and so on.

But, if we're going to reduce the amount of parking by 30 percent, I don't regard that as a minor modification and I think that there should be some public discussion of that and I think you're right.

There is -- the ANC letter is silent on the issue of parking. They don't make any explicit mention of it. They may be perfectly fine with it, but they may not and I also think that, you know, this is the sort of thing that I think would require a hearing because of its potential to impact the neighborhood.

CHAIRMAN HOOD: All right. Any other comments? Mr. Turnbull.
COMMISSIONER TURNBULL: I'm in agreement with that. I think that if the -- with the ANC being silent, it just raises a question and I think both Commissioners Schlater and May have made good points.

CHAIRMAN HOOD: Commissioner Selfridge.

COMMISSIONER SELFRIDGE: I would just agree as well. Certainly in regards to parking, that it may be justified, but there should certainly be more discussion about it.

CHAIRMAN HOOD: I guess I have a procedural question, Mr. Bergstein. It looks like everybody's -- one of the requests was the phasing. Could we actually vote on the phasing, I know it's part of the request on the Consent item, in this narrow a hearing -- narrow scope of a hearing? Is it just a parking issue?

MR. BERGSTEIN: Yes, you can. The one thing I do want to clarify is that although the paragraph that Mr. May refers to
begins by saying the second minor requirement to the plans for the second phase of the PUD regards the amount of parking that the actual flexibility that I believe is thought is for both phase one and phase two. That phase one was constructed as a one for one and that it would be both phase one and phase two that would have a reduction of parking to .71.

But, the answer to your first question is yes.

COMMISSIONER MAY: Mr. Chairman, you know, I'm open to the idea that if the Applicant wants to make a stronger case for a minor modification and bring that back to us as an argument, we could take that up at the next meeting.

You know, I'd be happy to consider it again based on the evidence presented at that time rather than moving immediately to setting down the parking issue for a hearing. Because, I mean, it may be that they don't want to go that route. I don't know.
VICE CHAIRMAN SCHLATER: Mr. Chairman, I would agree with that. I think I could be convinced based on the filing that it is indeed a minor modification and I'd like to see more on it. I'd like it clarified and just put in a very straightforward way so that everybody understands it.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: Particularly if the ANC were -- really was in favor of reducing the amount of parking.

CHAIRMAN HOOD: Okay. Does everybody understand what was suppose to be done? Okay. I think to keep it clean we won't do anything. I would take the suggestion of both of my colleagues. I think that's the way we should proceed and we will probably reschedule this for the next public meeting.

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. All right. So, we'll do that and any questions you can
see Ms. Schellin.  All right.  Thank you.

Okay.  Next, Zoning Commission Case Number 96-09A.  This is the Pope John Paul II Cultural Foundation, Inc., Square 3663.  We have a request for extinguishment of the PUD and/or a modification of the PUD to be considered and the alternative to owning a PUD is not extinguished.

Ms. Schellin.

MS. SCHELLIN:  Yes, sir, staff has nothing further to add other than what you've stated and would just ask the Commission please to consider this.

CHAIRMAN HOOD:  All right.  Let me just open that up for discussion.  We have Exhibit 1.  Actually, Exhibit 1 and 2 and also, we have Exhibit 6, the Office of Planning's report, their recommendation to us.  Extinguish the PUD and reversion of the property to the underlying 5A zone and it goes on the modification of the PUD.  The Applicant would need to demonstrate that the physical
alterations and additions to the building
would not diminish it's superior architecture,
on and on. Anyway, you have that in front of
you.

Let's take -- I think first let's
take up the issue whether we extinguish or
not. The request to extinguish, this being.
I'll just open it up.

VICE CHAIRMAN SCHLATER: Mr.
Chairman.

CHAIRMAN HOOD: Yes.

VICE CHAIRMAN SCHLATER: Can I ask
a question of OP? I couldn't tell from their
memo or report on this case whether they were
in support of extinguishment or modification.
They seemed to lay out options for us.

I was wondering if they had a
strong opinion one way or another.

MR. COCHRAN: We did not take a
position on whether you should extinguish the
PUD or whether it should be a modification.
We simply analyzed each of the options for
extinguishment. Would be more the prevalence of OAG.

If you do decide to set it down, we are prepared with testimony for tonight if you don't extinguish it.

CHAIRMAN HOOD: Mr. Bergstein, do you want to comment?

MR. BERGSTEIN: I'm not going to take a position on the merits. I'll just say that I did discuss with the Applicant this procedural route. That if, in fact, they were able to proceed with development on the site under the matter-of-right zoning that the site would revert to if you did extinguish the PUD, that it would be a proper vehicle for the Applicant to consider coming to you and asking you to extinguish the PUD.

There is a covenant on this property and my main point was that I couldn't agree to the extinguishment of that covenant unless the Zoning Commission agreed to basically make the PUD order null and void
which is what this is about.

So, I don't take any position on the merits, but I think it is an appropriate request before you.

CHAIRMAN HOOD: Okay. Thank you.

Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Is OP at all -- there's a few things in the PUD order that are public amenities that were meant to last for the life of the project and it's still going to be an architecturally significant building. I don't think anybody's concerned about that.

No longer be a museum and cultural center available to all District residents. There will no longer be programs for District elementary school students. No longer a research center for charitable and volunteer organizations and they're not making space available for local civic groups.

Does OP have an opinion on whether those benefits and amenities should live on?
MR. COCHRAN: If it's not a PUD, then it would be no need for those benefits and amenities to live on. If it's modified, then there would be a need for the Applicant to address the relationship between the flexibility that is being requested in the modified PUD versus the benefits and amenities and then compare those to the previously granted flexibility and those benefits and amenities.

CHAIRMAN HOOD: Any other questions or comments? Mr. Turnbull.

COMMISSIONER TURNBULL: So, if an applicant develops a PUD, goes through the process, amenities are offered and then says I don't want to be PUD anymore, the amenities are ended?

I mean any -- we could go through any PUD process then and an applicant could say no, I don't want to do that anymore and no, I'm not going to give you any of the amenities that we talked about in the
beginning.

Is that your understanding?

MS. STEINGASSER:  Well, clearly, this is a unique case and no, we would not take the blanket position that people -- any development could go forward and get a PUD and then decide they don't want to be a PUD, but now, they've got their structure and just extinguish it.

COMMISSIONER TURNBULL:  How is it that this is a unique case?

MS. STEINGASSER:  The religious museum has already shut down. They had very little -- I think the application goes into the attendance and their ability to operate became very difficult.

So, in some ways, the amenity is the project itself. So, when the project began to not be able to operate, you know, it has a very unique relationship that we don't usually see in PUDs where an amenity may be a more tangible physical offering to the
Here the project itself was its own amenity, but it's already shut down. So, it's a very unique case.

MR. COCHRAN: The flexibility that was granted in the original PUD is certainly not among the greatest amounts of flexibility that the Commission has ever considered. It granted flexibility for an office space use in what was an underlying R5A zone.

The office use was accessory to the museum. Definitely, the museum, the cultural center, some of the outreach activities were the primary uses of the site.

When it comes to physical flexibility, the building went to 66 feet high when it would have been allowed only 40 feet in the R5A zone. So, that's the more significant of the two reliefs.

COMMISSIONER TURNBULL: Well, I guess I -- my main question is so amenities can be withdrawn from a PUD by an applicant
when they want to extinguish the PUD?

MR. BERGSTEIN: But, only if they have the option of proceeding with the same matter-of-right development in the zone that it would become reverted to if the PUD expires and I think, and OP can correct me, but my guess is 99 percent of the time a project comes to you as a PUD because that is the only option for building what they want to build and if they could have done matter of right the same size under their original zoning, they wouldn't come to you.

In this case, the original proposal required a PUD. This alternative use would not have if they had wanted to develop this back in '97 for this particular use.

So, it's unusual in that sense. There's an option available that is probably not available in the vast majority of PUDs.

COMMISSIONER TURNBULL: Okay.

Well, I just wanted to have that in my hip pocket in the future for other PUDs that are
going to relinquish. I just like to know where we're standing and if it's only for religious groups, I want to know. I think we need to know.

MR. COCHRAN: It's not.

COMMISSIONER TURNBULL: Okay.

MS. STEINGASSER: I don't think that's what we're saying at all.

COMMISSIONER TURNBULL: All right.

Well, I just want to know for the record where we go in the future on PUDs that are going to be extinguished and what is the status of amenities. That's all.

MS. STEINGASSER: Well, again at least --

MR. COCHRAN: Again, we were not trying to take an official position on this.

COMMISSIONER TURNBULL: Well, someone's got to take an official position.

CHAIRMAN HOOD: I think we're going to take it.

COMMISSIONER TURNBULL: And you're
leaving that on our shoulders. Thank you very much.

MS. STEINGASSER: I just want to be clear from the Office of Planning standpoint that we're not taking a blanket position that any PUD can vacate its amenities whenever it gets tired of being a PUD.

Just like the PUD is approved as a project specific development, so is this consideration. It's very unique. It's very specific. Our recognition of that does not blanketly transfer to any other PUD.

So, this is not a policy position for us. This is a very project specific analysis.

COMMISSIONER TURNBULL: Yes, but I bet I could make a case that every PUD is unique.

MS. STEINGASSER: Yes, that's my point. That's exactly my point. Every PUD is unique and our analysis of whether to exterminate would be --
COMMISSIONER TURNBULL: The same arguments could be used at every unique PUD.

MS. STEINGASSER: No, I disagree. I don't think they could, but --

COMMISSIONER TURNBULL: Okay. Well, we'll go down the road and we'll see what happens in years to come.

MR. BERGSTEIN: Well, in fact, the BZA addressed this issue in another PUD where George Washington University bought a PUD that was suppose to be a headquarters and they wanted to change the use of corporate headquarters under the PUD and they wanted to change the use to the Elliott School and they argued oh, we can just do that. It's a PUD. It's interchangeable and, in fact, they had no alternative to go back to matter to right.

Only on that PUD-related map amendment could they have built the building they wanted to build and the BZA found that they had to come back for a PUD modification to change that use and in fact, that happened
here.

So, again, the thing that makes this unique is that there is actually a matter-of-right alternative for the same building with the same zoning envelope.

And I think what we're saying is nine out of ten times, that's not the case. You can't just say now, I've built the building. I'm not going to provide the child care center anymore. That would be a violation of PUD or you could lose your C of O.

VICE CHAIRMAN SCHLATER: Okay.

CHAIRMAN HOOD: Okay. Commission May.

COMMISSIONER MAY: No, I was just going to add that I don't think we're really setting a dangerous precedent by considering this.

I mean when the amenities of a PUD are -- can no longer be provided for whatever reason, it seems to me that what has to happen
at that point is that the property has to revert to the underlying zoning and has to conform to the underlying zoning.

    I mean there are going to be PUD that have been built that are going to go away and when you -- the building is demolished or something like that, you start over again and, you know, it can be made into a conforming structured based on the zoning at the time.

    I think this is an unusual situation in that the building that they built is not far away from the underlying zoning in terms of what was actually constructed. So, if they change the use which takes away one of the areas of relief and if the building is considered institutional, it can be considered at a higher -- a greater height building than the existing building that was built under the PUD could be -- I mean would then be considered conforming.

    That's what's essentially being argued here. That this is -- when you make
those changes, this is now a conforming building and a PUD is not necessary.

It's not that different from if they had torn the building down and started over and tried to build a conforming project in my mind.

CHAIRMAN HOOD: Any other analysis or questions?

All right. It sounds as though we are in favor of extinguishment of the PUD in this unique situation.

COMMISSIONER MAY: Mr. Chairman.

CHAIRMAN HOOD: Yes.

COMMISSIONER MAY: Can I just ask one other question which is once again whether there had been any specific conversation with the ANC? Did the Office of Planning discuss it with the ANC at all?

MR. COCHRAN: OP did not.

COMMISSIONER MAY: Okay. So, we don't know whether they're aware of the situation with the building or that the
cultural center closed or the museum closed. Whatever.

MR. COCHRAN: I can't speak for the ANC.

COMMISSIONER MAY: Yes. I think that's the one thing that makes me hesitate. Is not knowing what the ANC is aware of.

CHAIRMAN HOOD: Do we know whether the ANC was notified? Been served?

VICE CHAIRMAN SCHLATER: It looks like they were served, Mr. Chairman, on the November 9th letter.

CHAIRMAN HOOD: Does anyone feel strong enough to wait and see if we can get a response from ANC 5C?

COMMISSIONER SELFRIDGE: I think if they've been notified and the center's already closed down, I don't see any benefit in waiting. I don't think it's going to change anything and I do think this is a unique case and, you know, it may very well be justified in this case.
CHAIRMAN HOOD: Okay. All right. Well, I will obtain a motion to extinguish. Would any of my colleagues --

VICE CHAIRMAN SCHLATER: Mr. Chairman.

CHAIRMAN HOOD: Okay. Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Let's see here. How about that we extinguish the planned unit development established by Order Number 823 for Square 3663, Lot 4.

CHAIRMAN HOOD: I will second that. It's been moved and properly seconded. Any further discussion?

Are you ready for the question? All those in favor.

(Ayes.)

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

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0 to extinguish the PUD in
Zoning Commission Case Number 96-09A.
Commissioner Schlater moving. Commissioner Hood seconding. Commissioners May, Selfridge and Turnbull in support.

CHAIRMAN HOOD: I just want to validate. I forgot which one of my colleagues said this is not setting a precedent. This is a situation -- a unique situation as discussed by Ms. Steingasser. So, hopefully, we won't see it as Mr. Turnbull said and saying this is what you did, waving this at us in about ten years.

COMMISSIONER TURNBULL: I guarantee you the order will say that.

CHAIRMAN HOOD: Okay.

COMMISSIONER TURNBULL: Can you put that in bold?

MR. BERGSTEIN: Fourteen point font. Yes.

CHAIRMAN HOOD: Okay. Let's go to final action, Zoning Commission Case Number 10-02, Horning Brothers - Text Amendment
701.4. Ms. Schellin. First one in final action.

MS. SCHELLIN: Yes. Yes, Case Number 10-02 is before the Commission for final action and the only thing that staff has to add is that we did receive an NCPC report at Exhibit 27 and NCPC had no issues.

CHAIRMAN HOOD: Okay. You've heard the report from the Zoning secretary. The amendments permit a fast-food establishment, no drive-thru to located in Square 33499 and in Square 3664 Lot 820 as a matter of right use.

Okay. Let me open it up. Any discussion? Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Mr. Chairman, I would move that we approve Zoning Commission Case Number 10-02, Horning Brothers - Text Amendment, Section 701.4(w).

CHAIRMAN HOOD: It's been moved. Can I get a second?

COMMISSIONER TURNBULL: Second.
CHAIRMAN HOOD: Moved and properly seconded. Any further discussion? Are you ready for the question? All those in favor, aye.

(Ayes.)

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

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0 to approve final action of Zoning Commission Case Number 10-02. Commissioner Schlater moving. Commissioner Turnbull seconding. Commissioner Hood, May and Selfridge in support.


MS. SCHELLIN: Yes, sir, this, too, is before the Commission for final action and again, we have an NCPC report at Exhibit 26 and again, no issues from NCPC.
CHAIRMAN HOOD: Again, this is an amendment to the Zoning Map. The National Restaurant Association at Square 160, Lot 809. Any discussion?

I would move that we approve Zoning Commission Case Number 10-17, the National Restaurant Association Map Amendment at Square -- is that Square 160? Oh, I'm sorry. Square 16 and ask for a second.

VICE CHAIRMAN SCHLATER: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. It's not square --

VICE CHAIRMAN SCHLATER: It's 160 I think.


VICE CHAIRMAN SCHLATER: One sixty.

CHAIRMAN HOOD: Okay. It's 160. We got it. Okay. So, let the record reflect Square 160. We don't want to do the wrong square. That's what's wrong. Square 160 and Lot 809. Did I call for the -- what did I do?
COMMISSIONER SELFRIDGE: You did.

COMMISSIONER TURNBULL: You did.

CHAIRMAN HOOD: Oh, can I get a second.

VICE CHAIRMAN SCHLATER: Second.

CHAIRMAN HOOD: You second. It's moved and properly seconded. Any further discussion?

Are you ready for the question?

All those in favor?

(Ayes.)

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

MS. SCHELLIN: Yes, staff would record the vote 4 to 0 to 1 to approve final action Zoning Commission Case Number 10-17. Commissioner Hood moving. Commissioner Schlater seconding. Commissioners Selfridge and Turnbull in support. Commissioner May not voting having not participated.

CHAIRMAN HOOD: Okay. Next on the
agenda, we have Zoning Commission Case Number 10-18, Office of Planning - Text Amendment: Additional Flexibility for Fast Food Establishments and Prepared Food Shops within Square 375.

MS. SCHELLIN: Yes, again, we have an NCPC report at Exhibit 14 and once again, no issues from NCPC.

CHAIRMAN HOOD: Okay. My beginning stands with what we're trying to do in this action. I would move that we approve Zoning Commission Case Number 10-18, Office of Planning Text Amendment: Additional flexibility for fast food establishment and prepared food shops within Square 375 and ask for a second.

COMMISSIONER TURNBULL: Second.

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

All those in favor.

(Ayes.)

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

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0 to approve final action of Zoning Commission Case Number 10-18. Commissioner Hood moving. Commissioner Turnbull seconding. Commissioners May, Schlater and Selfridge in support.

VICE CHAIRMAN SCHLATER: We're rolling now.

CHAIRMAN HOOD: Okay. Okay. Let's go right into hearing action. We have no proposed action tonight.

Hearing Action Zoning Commission Case Number 10-20. This is a petition by ANC 4B - Map Amendment at Square 2986.

Mr. Moy. I'm sorry. What did I say? Mordfin. I said Moy. Mr. Mordfin.

MR. MORDFIN: Good evening. I'm Stephen Mordfin with the Office of Planning.

CHAIRMAN HOOD: And I apologize, Mr. Mordfin. You know I know you.
MR. MORDFIN: Apology accepted.

The subject application is inconsistent with the Comprehensive Plan including the future land-use map and the generalized policy map, the Upper Georgia Avenue Great Streets Redevelopment Plan and the Brightwood Upper Georgia Avenue Plan of the Neighborhood Investment Fund.

Therefore, the Office of Planning recommends that the proposed map amendment not be set down.

Thank you.

CHAIRMAN HOOD: Okay. Mr. Mordfin, let me ask. I know that the council is in process now of taking amendments or -- is this being considered? Is this like on the table or where is this? Is this in that process in the pipeline or is --

MR. MORDFIN: For the Comprehensive Plan?

CHAIRMAN HOOD: New amendments. Of the new amendments we have.
MR. MORDFIN: Of the new amendments?

CHAIRMAN HOOD: Right.

MR. MORDFIN: No, it's not.

CHAIRMAN HOOD: It's not. Okay.

Have there been discussions with this community about why it's inconsistent with the Comprehensive Plan?

MR. MORDFIN: There have been discussions with the ANC representatives that filed the application and they were aware that it was -- I made them aware that it was inconsistent with the comprehensive plan.

However, what they wanted was to make sure that they didn't get anything more than a one-story building because they thought that was more consistent with the neighborhood and so, that's why they filed the application.

CHAIRMAN HOOD: Okay. Maybe --

COMMISSIONER MAY: Were they not aware of the Comprehensive Plan discussion? I mean wasn't that -- weren't there public
meetings and discussions an ANC votes on what was in the Comprehensive Plan. Because it's pretty clear that the Comprehensive Plan was advocating four to seven stories worth of development.

MR. MORDFIN: They were made aware of all those things and I had met with them and they were aware. However, they felt that this was the course of action that they wanted to take.

COMMISSIONER MAY: Did these same folks participate in the Comp Plan process or was it a different set of commissioners or --

MR. MORDFIN: I do not know if they were the same ones that participated.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: Okay. Any other questions? Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Mr. Mordfin, what's the status of the development planning for this site? In the ANC's submission, it says potentially the addition
of over one thousand residents to the neighborhood. Is that imminent?

MR. MORDFIN: What had happened is there was a large track review for this site that had approved -- found consistent the proposal to put in 399 apartment units and ground-floor retail and that project as we understand it is not going to go forward now.

What has been proposed now for this site plus the corner site at the corner of Peabody and Georgia to incorporate that also is to propose a Walmart for that location.

VICE CHAIRMAN SCHLATER: Has the community weighed in on that proposal? Would that be consistent with the existing zoning for the site?

MR. MORDFIN: That would be consistent with the existing zoning. It has not been formally submitted to us yet. So, the community has not been notified of that application.

VICE CHAIRMAN SCHLATER: Do you
think the ANC would reconsider its request to rezone the site knowing the currently plans for the site or have you had discussions with them about that at all? About the withdrawal -- about the fact that it looks like the large track review project is not moving forward?

   MR. MORDFIN: I have not had discussions with them about it.

   VICE CHAIRMAN SCHLATER: It think it might be helpful maybe to have the ANC -- I guess potentially the facts have changed in terms of what's being planned for the site and before denying this outright as inconsistent with the Comprehensive Plan, I wonder if the ANC would reconsider given the current facts. Their request.

   CHAIRMAN HOOD: I think though as Mr. Mordfin has already mentioned, there has not been a formal request made for that site. Am I correct?

   MR. MORDFIN: That's correct.

   CHAIRMAN HOOD: So, I guess and I'm
trying to accommodate what Vice Chairman Schlater says. So, I guess what we would be doing, Commissioners, if we all agree, we would be holding off until that action happens and that may be in abeyance for awhile.

But, I don't know. The city's going to start moving fast real soon. So, I don't know.

Ms. Steingasser, could you weigh in on that?

MS. STEINGASSER: Well, part is to have such a dramatic downzoning hanging over the property could actually work to defer future investment in the property. The projects that are looking to go matter of right.

So, we request that the Commission take action on this application.

VICE CHAIRMAN SCHLATER: The only thing that I would say -- and I'm not proposing that it hang out there too long because I actually think it's a very dangerous
precedent to have people try to downzone the site in order to derail a development proposal.

I think it might be just helpful for the process so that we have a complete record to make the decision on for the ANC to weigh in on the current set of facts and potentially respond to the OP Report which speaks directly to the Comprehensive Plan. I'd like to see what the ANC has to say about the Comprehensive Plan because I think OP makes a fairly compelling case that the proposal to downzone the site is inconsistent with the Comprehensive Plan. So, I'm wondering where the ANC is coming from on this.

MS. STEINGASSER: The ANC certainly knows that the report was filed and I don't believe it has shown up here this evening which is their right whenever the Commission considers denial to speak to the Commission's action. Make sure, but no, there is no one
here from the ANC here this evening.

So, again, it's an awkward position for the Office of Planning to try to speak for the ANC which I am hearing you asking us to do.

VICE CHAIRMAN SCHLATER: I'm not asking you to do that actually. I'm just wondering if it would be beneficial to the fellow -- to the rest of the Commissioners for further information on it and I'm not talking about a long time. Maybe two weeks.

CHAIRMAN HOOD: Okay. Let's open it up. Let me hear from Commissioner Selfridge.

COMMISSION SELFridge: I think that's a good way to proceed on this. I, too, would be concerned about a precedent in terms of downzoning on projects that people don't particularly like.

But, I think it's important for ANC 4C is it or 4B to have an opportunity to comment fully on the OP report and have an
opportunity to certainly address any potential changes to the site.

I also think that by doing that we've not deferring action indefinitely. So, it does allow for some certainty on that site if we simply defer until the next meeting.

CHAIRMAN HOOD: Anyone else? Commissioner Turnbull and then we'll go to Commissioner May.

COMMISSIONER TURNBULL: I guess I'm okay going that route. I don't know what that's going to do for us. I don't know if the ANCs going to change their position and it sounds like they're pretty set in trying to go to R5B, but if the rest of the Commissioners want to defer and give the ANC another bite at the apple, that's fine.

CHAIRMAN HOOD: Commissioner May.

COMMISSIONER MAY: I do think we need to move ahead with and made a decision whether or not to set this down relatively quickly, but I don't see any harm in giving it
a couple of weeks. In fact, I see some benefit in giving the ANC another opportunity to basically answer the question of why -- I mean why do they think that this is the appropriate thing to do given that it seems pretty clear that it's contrary to the Comp Plan.

And if we hear nothing or if we hear more, that will help us make a better decision and we don't need to put it off indefinitely. But, I don't see any problem with putting it off for a meeting or two.

CHAIRMAN HOOD: Okay. Anyone else?

COMMISSIONER TURNBULL: Well, like I said, I would just add to those comments that I think as Ms. Steingasser said we don't want to leave this hanging over the site, this property too long. I think we need to get an answer fairly quickly and move on this.

CHAIRMAN HOOD: Honestly, Commissioners, and I'm all for waiting one or two weeks, I think we got the answer we're
going to get. I don't think we're going to
get anything any different than what we had
before tonight, but I also want to make sure
that we give -- afford the opportunity to the
concerns of my colleagues.

So, it's rough when you're in the
chair position. You try to even it across the
Board. So, I would do that. We would look at
two weeks.

Ms. Schellin, can you give us a
date and can somebody contact the ANC?

MS. SCHELLIN: Yes, we'll contact
them and our next meeting is December 13th.

CHAIRMAN HOOD: Is that too long,
Commissioners? December 13th. Should be do a
special public meeting?

Okay. All right. Two weeks.
December 13th. Yes, that's right. Today is
the -- okay. All right. So, December 13th,
we will do this and the Office of Zoning Staff
will contact ANC 4B. Okay.

Let's move right along with the
next item. Zoning Commission Case Number 10-25, Urban Investment Partners - Map Amendment at Square 2843.

Mr. Mordfin, again.

MS. STEINGASSER: Mr. Goldstein this time.

CHAIRMAN HOOD: Goldstein. Okay.

MS. STEINGASSER: Right.

CHAIRMAN HOOD: All right.

MR. GOLDSTEIN: Good evening, Mr. Chairman and Members of the Commission. My name is Paul Goldstein.

Urban Investment Partners has filed an application to rezone lots 810 and 808 in Square 2843 from the R4 to R5B zone. The sites are located at 1346 Park Road, N.W. and 1349 Kenyon Street, N.W. just east of 14th Street in Columbia Heights.

Both properties are improved with pre-1958 buildings, apartment buildings. At the Park Road property is a three-story, 21 unit building and at the Kenyon Street
property is a four-story, 40 unit building. The buildings are nonconforming to the applicable R4 zoning which is a zone that is generally designed for row dwellings and which places limits on apartment expansion.

In contrast, the requested R5B zone is designed to provide flexibility of residential building types including multi-family residential buildings of moderate height and density.

As stated in the application, the Applicant intends to renovate and add additional basement units within each building which would facilitate a more comprehensive upgrade. The Applicant is not proposing any physical expansion of the buildings.

A rezoning to R5B would allow the proposed unit increase as a matter of right and make the properties more conforming to its zoned district.

As described in the OP report, based on an examination of the general
guidance in the future land-use map as well as the Comp Plan text, the R5B zoning designation would not be inconsistent with the Comp Plan.

OP, therefore, recommends that the map amendment be set down for a public hearing.

Thank you and I'm available for any questions.

CHAIRMAN HOOD: Thank you, Mr. Goldstein. Commissioner Selfridge, did you want to put something on the record?

COMMISSIONER SELFRIDGE: Yes, thank you, Mr. Chairman. I'm going to recuse myself from this case. My company has done business with the Applicant before and just out of an abundance of caution, I think I'm going to sit this one out.

CHAIRMAN HOOD: Thank you very much.

Okay. Let's up it up. Any questions for the Office of Planning? Vice Chairman Schlater.
VICE CHAIRMAN SCHLATER: My understanding is this rezoning is going to be done in parallel with the historic preservation effort. Are you going to go to HPRB and designate the -- is the Applicant going to HPRB to designate these two buildings?

MR. GOLDSTEIN: My understanding is the Applicant is planning on submitting a historic landmark application.

VICE CHAIRMAN SCHLATER: And that goes to the Historic Preservation Review Board?

MR. GOLDSTEIN: I believe so, but I'm less familiar with that process.

MR. LAWSON: It would.

VICE CHAIRMAN SCHLATER: And will that process be complete before we take action on the rezoning of the property?

MR. GOLDSTEIN: That's something I can ask the Applicant to further clarify.

VICE CHAIRMAN SCHLATER: Would OP
be supportive of the rezoning of the property
even without the historic designation of the
property?

MR. GOLDSTEIN: I believe that we'd
still be supportive of a public hearing on
that. On the rezoning.

The way that the buildings are now
constructed, they would be nonconforming under
R5B for FAR. So, any expansion of the
buildings would be somewhat constrained as a
matter of right.

The Applicant is proposing the landmarking, I guess, at least in part to
alleviate any concerns from the community that
the buildings may be torn down. Whether that
ultimately is a concern of the community is
something I'm not sure has been fully fleshed
out.

We'd still be supportive of the
public hearing on this rezoning request.

VICE CHAIRMAN SCHLATER: Is the
only thing that would -- these buildings are
not in conformance with current zoning. I guess I understand that part.

Is it only the number of units that's tripping it out of conformance or is it --

MR. GOLDSTEIN: I think it's more than that. Certainly the number of units. I believe one of the properties is nonconforming to stories and height.

VICE CHAIRMAN SCHLATER: Okay.

MR. GOLDSTEIN: There may be a few other features as well.

VICE CHAIRMAN SCHLATER: Is R5B common in this area? I see the map. I don't see it anywhere else on the map.

MR. GOLDSTEIN: Just looking on the map, if you look, Newton Street has R5B. Monroe Street is R5B. R5B is not an unusual zone for moderate density residential in the Comp Plan.

VICE CHAIRMAN SCHLATER: Okay.

Thank you very much.
CHAIRMAN HOOD: Any other questions?

COMMISSIONER TURNBULL: The one building that's sort of sandwiched between these properties and the C3, that's going to stay R4. Is that an historic building?

MR. GOLDSTEIN: I just want to clarify with you. The building that you're referencing is that to the west on Park Road of the property?

COMMISSIONER TURNBULL: Right.

MR. GOLDSTEIN: That actually is in a C3A zone.

COMMISSIONER TURNBULL: Oh, that is C3A?

MR. GOLDSTEIN: Yes. Yes. It may be a little --

COMMISSIONER TURNBULL: Oh, I --

MR. GOLDSTEIN: -- less clear because the outline of the properties kind of overlap with the zoning line.

COMMISSIONER TURNBULL: Oh, okay.
So, that is C3A.

MR. GOLDSTEIN: That's correct.

COMMISSIONER TURNBULL: Okay.

Thank you.

CHAIRMAN HOOD: Any other questions?

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Commissioner May.

COMMISSIONER MAY: What is it that the owners of these properties want to do that they cannot do under the current zoning? I mean they're existing nonconforming structures. They can continue to exist as nonconforming structures. They can renovate them. Right? What can't they do?

MR. GOLDSTEIN: My understanding is that the expansion of the units in the building is what --

COMMISSIONER MAY: The number of units.

MR. GOLDSTEIN: The number of units.
COMMISSIONER MAY: So, it's cutting it up into different number of units.

MR. GOLDSTEIN: Yes, I guess there might be some under-used space in the basement. Is my understanding in the application.

COMMISSIONER MAY: Is it a basement or is it a cellar? Because it looks like a cellar from the pictures. In which case it doesn't affect FAR.

MR. GOLDSTEIN: It's references in the application as a basement. It's certainly something we can further clarify.

COMMISSIONER MAY: Yes. But, you'd still run afoul of the limit on the number of units.

MR. GOLDSTEIN: Yes, I think --

COMMISSIONER MAY: Because it's R4, you got to have that 900 feet. Okay.

MR. GOLDSTEIN: Yes, I think they're quite afoul of that at the moment.

COMMISSIONER MAY: Right. Okay.
CHAIRMAN HOOD: Okay. Any other questions, Commissioners? All right. Any proposals? Any motions?

VICE CHAIRMAN SCHLATER: Mr. Chairman, I move that we set down Zoning Case Number 10-25 Urban Investment Partners proposed Zoning Map amendment.

CHAIRMAN HOOD: Thank you, Vice Chairman. Can we get a second?

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: Been moved and properly seconded. Thank you, Commissioner May. Moved and properly seconded. Any further discussion?

All those in favor.

(Ayes.)

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

MS. SCHELLIN: Yes, staff will record the vote 4 to 0 to 1 to set down Zoning Commission Case Number 10-25 as a contested

CHAIRMAN HOOD: Okay. Next, Zoning Commission Case Number 10-29, Hazle II, LLC - First-Stage PUD and Related Map Amendment at Square 6162.

Did I skip one? How did I skip that? Oh, I had put them up. We had already set them down in my mind. Okay.

Zoning Commission Case Number -- I'm sorry. Thank you all.

Zoning Commission Case Number 10-26, 3321 Georgia, LLC - Consolidated PUD and Related Map Amendment at Square 3040.

Mr. Mordfin.

MR. MORDFIN: Hi. Good evening again.

The Applicant's requesting a consolidated planned unit development and PUD-related map amendment to permit a mixed-use
building consisting of residential and retail space.

The application requests flexibility to increase building height and density, modify the compact parking provisions, reduce the loading requirements, permit more than one roof structure of varying heights and construct a lot in excess of 12,000 square feet within the Georgia Avenue Overlay District.

The application also requests flexibility to modify the plans as approved so as to vary the number of residential units, vary the interior components of the building, vary the arrangement of the parking spaces and vary the final selection of the exterior materials without reducing the quality.

In exchange for this flexibility, the Applicant proposes several public benefits and amenities. These include urban design. The Applicant proposes a masonry building with store fronts directly accessible from the
street in conformance with the design provisions of the Georgia Avenue Overlay District. The Office of Planning will work with the Applicant to further define this benefit if the application is set down.

Site planning, the proposed building will eliminate outdoor parking, loading and refuse removal and incorporate these into the building away from public view.

Transportation, the application proposes to implement a transportation demand management program. The Applicant will also participate in the First Source Employment Program.

For housing and affordable housing, the application indicates that 8 percent of the residential square footage will be affordable at 80 percent of AMI which is equal to the IZ requirement. The Office of Planning will work with the Applicant to refine this request if the application is set down.

Environmental benefits, the
Applicant proposes to participate in the green community's program and uses of special value, the Applicant proposes to work with the ANC to identify benefits and amenities desired within the community. Should the Commission set down this application, the Office of Planning will work with the Applicant in addressing this list.

And this application is consistent with the provisions of the Comprehensive Plan including to stimulate high quality transit-oriented development along the Georgia Avenue corridor, to encourage continued revitalization of the lower Georgia Avenue corridor, to encourage the private sector to provide new housing to meet the needs of present and future District residents at locations consistent with the District's land-use policies and objectives and to promote mixed-use development including housing on commercially-zoned land particularly in neighborhood commercial centers.
Therefore, the Office of Planning recommends that the Commission set down the subject application.

Thank you and I'm available for questions.

CHAIRMAN HOOD: Mr. Mordfin, I have just one quick question. Is this -- I know what it says, but is this the first new development right like -- right there in that area by Georgia and Lamont and Morton? Is this the first new development right in that little area there?

MR. MORDFIN: Well, one block south and on the other side of Georgia Avenue was -- at Georgia and Lamont was a PUD about a year ago, seven stories high with ground-floor retail. This is one block up. So, they're very close to each other.

CHAIRMAN HOOD: Has anything happened with that other PUD that's a block away?

MR. MORDFIN: One of the things
that they had to do before there would be
construction was to close the public alley and
they have accomplished that. I don't know if
they've begun construction.

CHAIRMAN HOOD: Okay. All right.

Thank you.

Let me open it up. Any questions?

Comments? Commissioner May.

COMMISSIONER MAY: Yes, this
submission of this application at this point I
think still needs a lot of work before it will
actually be ready for a hearing. That's not
to say that I'm opposed to setting it down
tonight. I think maybe we can, but there
really is a lot in it that I think needs
attention and I'm sure the Office of Planning
has probably got a number of these concerns
already on their list.

I mean first of all one of the
things I don't understand, maybe Office of
Planning can shed some light on this, but why
is it that the development is all being
concentrated away from the post office structure? I mean is there some obligation that that's got to stay exactly as it is because it surely is not a very good thing from an urban design point.

MR. MORDFIN: The Applicant informed me that initially they had intended to demolish that part of the building, but that there's a long term lease that the Applicant has with the post office, it's very favorable to the post office, that they were unable to get out of and so, therefore, they instead decided to incorporate the existing post office building, reface it with the brick, reorient it's access.

And then what they saw as one of the benefits of what they got is that the south facing windows, the building could have south facing windows. Whereas, if it went all the way to the southern property line, we would have a wall that couldn't have windows unless they were at risk windows. So --
COMMISSIONER MAY: Um-hum.

MR. MORDFIN: -- it might enliven the light.

COMMISSIONER MAY: Well, it's some minor benefit to the building and really no benefit to the streetscape to have that. That's really, really unfortunate because it's -- I think that overall the building would be much better if that could be -- the post office portion of it could be incorporated into the overall design of the building. It would make the rest of the units, I think, much better.

In your report, there is analysis of the C2A and then C2B with the PUD and then the proposal, but we don't have anything that compares it to a C2A with a PUD and I'm wondering if we could provide that when we get to the hearing point because it would be helpful to understand just how much flexibility is being granted here.

One of the other major, I guess,
aesthetic downfalls of this project is the east wall which faces the neighbors which is just proposed as, I don't know, EFUS or something like that and it's all blank. There are no windows. I know they're at risk or potentially at risk because of the development next door, but I'm not sure that the development next door is ever going to rise to the full height of this building. So, something better has to happen on that wall.

And this is one of the things where because they couldn't redevelop the post office portion of the parcel, they had to stay right on the property line along the east wall -- the east property line. So, felt that they -- you know, since they had at risk windows, they weren't going to put them in.

I mean I just -- it makes that side of the building just very unattractive as it faces the neighborhood.

I think architecturally there are a few other things that need some refinement. I
mean I think overall the architecture is okay. There is certainly more attention that needs to be paid to the entrances especially the garage entrance. The top of the building is not very well developed.

And ideas like the green screen, I'm actually fairly sceptical that the green screen is going to work in that relatively narrow light shaft and given it's placement. So, I'm concerned that that gets worked out.

The benefits and amenities are nonexistent in what we've seen so far. So, I mean I think that's probably the biggest shortfall. The rest of these things are the kinds of things that we normally work out between a set down and -- rather work out by the time we actually have the hearing.

To have something come in with no discussion of the benefits and amenities is just -- I think is very unusual and it's the biggest missing portion of it.

I would also note that I'm not
convinced of the need for relief from the setback requirements for the roof structures. I can understand the need to have separate roof structures in this circumstance, but I think that a little bit more architectural creativity could solve some of the roof stair structure.

Those stairway entrances on the roof, there are other -- you know, you don't necessarily have to have a stairwell that's completely straight from the top of the building to the very bottom of the building and it is possible to shift the stairwell and then you don't have the roof structures very close to the edge of the exterior walls of the building.

Those are my comments.


VICE CHAIRMAN SCHLATER: Thank you, Mr. Chairman.
I think Commissioner May hit on the highlights there.

I think for me, from an architectural standpoint, the east wall is a big problem in that there's going to be a lot of people looking at it. I mean it's sort of the -- it's the part of the building that faces the neighborhood and I think they need to do a lot better job with it. I don't think that's a showstopper right now. I think it can be improved through the process. I hope it'll be better by the time we get to the hearing.

The thing that I am more concerned about is the list of benefits and amenities. I think it's a bad precedent to be just blowing by these benefits and amenities at set down and saying that they're going to be worked out later in the process.

I'm worried. I don't see much being offered here. I mean I think -- I think we've talked recently about affordable housing
that meets the minimum threshold shouldn't be considered an amenity to a project.

I think that the level of greening of the building is actually not terribly extraordinary by just meeting the green community's program.

I think that I'd need to see more evidence that this is a superior urban design because I don't -- I need more at the hearing. Somebody to show me what's superior about this. I think it's a perfectly good looking building, but I think it looks a lot like the boxes that are being put up all over the city right now and I wouldn't point to it and say wow, this is a lot better than those boxes that are being put up all over the city. I would just say, you know, it is.

And so, I think what we're going to be faced with again with this set of amenities is it's very thin. This is a good project. I think everybody wants to see density on Georgia Ave. I think everybody wants to see
improved retail on Georgia Ave and development of that corridor.

And I laud the Applicant for the good work that he's done along that corridor to date and I hope this project moves forward. I'm going to support it for a set down, but in terms of the benefit amenities, it needs a ton of work and I won't support it the way it is currently.

CHAIRMAN HOOD: Any comments? Mr. Selfridge.

COMMISSIONER SELFRIDGE: I would just very briefly reiterate what Vice Chairman Schlater said about the benefits and amenities and I look forward to a much more robust package as we consider this down the line.

CHAIRMAN HOOD: Anyone else? Okay.

COMMISSIONER TURNBULL: Yes, Mr. Chair, I think my fellow Commissioners have touched on, I think, the high points.

I would just reiterate what
Commissioner May and Commissioner Schlater said about the east facade. I think it's really an affront to the neighborhood. I think it's not a good neighbor. I think the EFUS and the rather plain facade -- we've had this before with other projects that seem to be -- they have their dressy side and then they have their side that we want to cut back and dumb the architecture down and this is it.

And I will not support this project unless it does something to that east facade to the neighborhood and is more inviting and becomes a good neighbor and blends in and wants to be a good neighbor. It just totally rejects the neighborhood on that facade.

I was going through the -- just looking at the -- I guess I'm just -- I guess Morton Street is a local street. It's a dead end. It's got a cul-de-sac at it and everything comes in and out and I'm not -- I'm just a little curious. It looks very tight because there's parking on both sides of the
street and it's two ways.

Now, maybe it's not going to get a lot of traffic, but I'm just concerned about - - and I'm looking at the Applicant's Exhibit 4, the traffic impact study and I'm just a little bit concerned. I'd like to get a little bit more information on how this actually works.

I see a truck. They have provided a truck pull out which seems to work, but it's -- I don't know. It just looks very tight and maybe on page 16 and 17, but when you see the on-street parking, I just don't know. I just have some questions.

As I say, once you have parking on both sides like that and again, the trucks, I guess we're planning on only 30-foot trucks coming in here. Maybe it will work. I just have a concern about some of the issues there.

But, I would echo the concerns about the architecture. I think this building really needs some work on that.
Thank you.

CHAIRMAN HOOD: Commissioner Turnbull, I want to associate myself with your comments. Especially, with dealing around Morton Street. I'm very familiar with that area and that street.

So, hopefully, if this is set down, I believe it's going to be set down, I think there's a lot of support up here to set it down, but as I've heard from my colleagues and I see that we need some additional work especially when it comes to the amenities package.

So, I think I'd like to see -- I want to see how all that's going to -- all that's going to relate with Morton Street and how the traffic pattern and everything's going to go. The circulation and how that's going to all evolve and work once we get to the hearing.

Are we ready to move forward with this? Okay.
I would move that we set down Zoning Commission Case Number 10-26, 3321 Georgia, LLC, Consolidated PUD and Related Map Amendment at Square 3040 and ask for a second.

COMMISSIONER TURNBULL: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. Any further discussion?

All those in favor.

(Ayes.)

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

MS. SCHELLIN: The staff records the vote 5 to 0 to 0 to set down Zoning Commission Case Number 10-26 as a contested case. Commissioner Hood moving. Commissioner Turnbull seconding. Commissioners May, Schlater and Selfridge in support.

CHAIRMAN HOOD: Okay. Let's move to our next case. The one I tried to go to earlier.

Zoning Commission Case Number 10-
Mr. Mordfin. Oh, Ms. Thomas.

MS. THOMAS: Good evening, Mr. Chairman, Members of the Commission. I'm Karen Thomas with the Office of Planning.

The Office of Planning is recommending set down of a first-stage PUD and related map amendment to accommodate development of a multi-story -- of a multi-family apartment building, sorry, on a vacant parcel comprised of Lots 810 and 811 in Square 6162.

The development of this lot is included in D.C. Housing Authority's Hope 6 bridge financing which is being sought by the Applicant and DCHA in conjunction for the Highlands Addition Development which was previously approved by this Commission.

While the Applicant's submission indicated a map amendment from the R2 to the R5B district, the 18,000 subject square foot
lot does not satisfy the minimum area requirement for a PUD and will also not meet the standard of Section 2401.2 which authorizes a waiver of not more than 50 percent of the minimum area by the Commission.

Therefore, OP is recommending set down in the alternative as a map amendment to the R5C district. The proposed development's size and density would remain within the moderate density limitations of the R5B PUD which will not be inconsistent with the Comp Plan and further land-use map and would be regulated by the Commission through the PUD process.

Therefore, we are proposing set down in the alternative to facilitate this important Hope 6 project.

Thank you.

CHAIRMAN HOOD: Thank you, Ms. Thomas. Commissioners, any questions of Ms. Thomas? Comments? Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: So, the
original application asked for R5B. Correct?

And the reason why OP is suggesting in the alternative R5C is because of this --

MS. THOMAS: Yes, the area requirement which for a PUD --

VICE CHAIRMAN SCHLATER: I guess my question is for OAG. Would it be possible for us just to waive that area requirement instead of -- I mean I'm a little uneasy just giving the site a higher zoning designation just to get around the PUD rules.

MR. BERGSTEIN: The problem is the regulations themselves set up a limit on -- they already give you an opportunity to waive it and I don't think you have the opportunity to waive a waiver.

VICE CHAIRMAN SCHLATER: But, there are regulations.

MR. BERGSTEIN: I'm sorry.

VICE CHAIRMAN SCHLATER: Are you saying we would have to amend the regulations?

MR. BERGSTEIN: You'd have to amend
the regulation.

VICE CHAIRMAN SCHLATER: Do a map amendment and text amendment associated with the PUD?

MR. BERGSTEIN: Well --

MS. STEINGASSER: If I could weigh in.

VICE CHAIRMAN SCHLATER: Go ahead.

MS. STEINGASSER: The Commission has a long precedent of doing this kind of combination of a map amendment with a PUD in order to get a project that's considered important into the PUD process.

The one I can think of right off the top of my head is the original Historic Field School that wanted to do a condominium. It was zoned R2. We brought an R5D onto it so that it could convert to condominiums. Everybody was in support. There's several like that.

MR. BERGSTEIN: And Albermarie.

MS. STEINGASSER: Pardon?
MR. BERGSTEIN: Albermarie.

MS. STEINGASSER: Albermarie was the same.

CHAIRMAN HOOD: Going way back now.

MS. STEINGASSER: Rather than do waivers where there are no standards, this allows the zoning to stay -- the integrity of the Zone Plan to stay in effect and then the PUD itself, of course, nails the project down.

VICE CHAIRMAN SCHLATER: Okay. Well, I think we need to talk to Mr. Parker about that when we get back to the PUDs and we'll revisit that question. So, I don't have anything -- any inherent problem with R5C as opposed to R5B.

One question I would have I don't know if you can answer this. Maybe it's up to the Applicant.

Do you know if they intend to provide more detailed plans for the project at the hearing?

MS. THOMAS: Yes. Yes, we are
hoping that they do. We would be working with them to do that as a stage one PUD. We decided we would accept this because it's part of the Hope 6 financing which had to go through pretty quickly.

VICE CHAIRMAN SCHLATER: So, for this particular building, they would have to come back with a stage two approval. Is that the way this has been structured?

MS. THOMAS: Absolutely. Yes.

VICE CHAIRMAN SCHLATER: Interesting. Now, how far is this site from the PUD site?

MS. THOMAS: It's just right across the -- almost across the street from the Highlands Addition PUD.

VICE CHAIRMAN SCHLATER: Is it across the street? That's what I was trying to --

MS. THOMAS: I'm sorry.

VICE CHAIRMAN SCHLATER: -- determine.
MS. THOMAS: Well, hold on.

VICE CHAIRMAN SCHLATER: Well, it's that R4. It's right across Barnaby Street?

MS. THOMAS: Across Barnaby Street.

No. No, the Highlands Addition PUD has not been developed as yet. I can provide a better map at the stage two process.

VICE CHAIRMAN SCHLATER: I'm just curious. The precedent. How far away can you go on a -- does it have to be immediately adjacent to the PUD site to be included in the PUD?

MS. STEINGASSER: This is not an extension or amendment of that original PUD. This is a second PUD that we're working --

VICE CHAIRMAN SCHLATER: This is a standalone PUD.

MS. STEINGASSER: This is a standalone which is --

VICE CHAIRMAN SCHLATER: It has nothing to do with --

MS. STEINGASSER: It has to with
the original PUD in terms of financing and the
ability to go forward for Hope 6.

VICE CHAIRMAN SCHLATER: Right.

MS. STEINGASSER: But, it is not an
amendment to that PUD.

VICE CHAIRMAN SCHLATER: So, that
it's benefit and amenities package has to
stand on its own.

MS. STEINGASSER: Stand on its own.

MS. THOMAS: That's correct.

VICE CHAIRMAN SCHLATER: I think I
understand what's going on here. People are,
you know, trying to -- based on what I read in
the application, there's a Hope 6 application.
They're trying to get their entitlements for
the project so that they can get their funding
for the Hope 6 and I certainly want to be
supportive of that.

But, the application is extremely
thin and light and it makes it very difficult
to push it forward and if it were for anything
other than the Housing Authority trying to get
a Hope 6 approval, I can't imagine that the Commission would approve and set this down.

So, I'm going to support setting it down just because of the urgency of it, but I think it's thin and I think we need a lot more information once we get to the hearing on amenities, on site planning and design.

That's it for now.


COMMISSIONER MAY: I would just agree with Commissioner Schlater that this is a really, really thin application. This is -- and the only reason -- actually, two reasons why it might be passable. One is the fact that it is only a stage one and so, we don't need to have the same level of detail that we would normally expect for a consolidated PUD and the vast majority of cases we see are consolidated PUDs.

And then the fact that it's the Housing Authority and we have a tendency I
think to let the projects that are coming into the Housing Authority -- give them a little bit more slack perhaps.

But, it really is very, very thin and I hope that a lot of work goes on between now and when the hearing occurs because this is just -- you know, the amount of information that we have here is just -- well, it's minimal and it's not even worth trying to comment specifically on the architecture or anything else.

I mean there is risk associated with this because, you know, with a submission that's not very mature by the time you get to the actual hearing, it may be a harder hearing and it may be a harder decision making and it may take longer in the long run to get this thing done because it's so underdeveloped at this moment.

So, I really do hope that there's a lot more work that goes on and I would trust the Office of Planning to guide it in the
right direction.

CHAIRMAN HOOD: Okay. Any other comments? Someone like to put a motion forward.

And I think we're being asked, Ms. Thomas, also to set down the alternative as well as what the Applicant's proposing.

MS. THOMAS: That's correct.

CHAIRMAN HOOD: Okay. So, Mr. Bergstein, I guess we'll be advertising both.

Is that --

MR. BERGSTEIN: I guess so. I mean technically it doesn't meet the requirements for -- the R5B doesn't meet the requirements for a PUD.

I suppose you could set it down, but ultimately, you can never grant it.

COMMISSIONER MAY: We don't have to set down what they've requested.

MR. BERGSTEIN: I don't know you can. I mean it's --

COMMISSIONER MAY: But, we could
just set down R5C. Right?

MR. BERGSTEIN: Right. Because in a way you're giving them more than what they've requested, but it doesn't meet the area requirements for a PUD under the requested map amendment. So, I don't know how you can set it down.

If OP has a different view, I'd like to hear it, but it's an absolute requirement.

MS. STEINGASSER: Now, we concur which is why we've proposed the alternative.

CHAIRMAN HOOD: Okay. I was just trying to accommodate. Again, being the accommodating person I am, but I think we can set down the R5C. Okay. So, we'll do that. We'll set down the alternative as opposed to what was proposed by the Applicant, the R5B.

Are we all in agreement? Okay. Good.

Okay. Can I get a motion?

COMMISSIONER TURNBULL: Mr. Chair,
I would move that we set down that Zoning Case Number 10-29, Hazle II, LLC for a first-stage PUD and related map amendment, R5C, for property located at Atlantic and Barnaby Street, S.E., Lots 810 and 811 in Square 6162 and ask for a second.

COMMISSIONER SELFRIDGE: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. Thank you, Mr. Turnbull and Mr. Selfridge. It's been moved and properly seconded. Any further discussion?

All those in favor.

(Ayes.)

CHAIRMAN HOOD: Not hearing an opposition, Ms. Schellin, would please record the vote.

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0 to set down Zoning Commission Case Number 10-29 as a contested case. Commissioner Turnbull moving. Commissioner Selfridge seconding. Commissioners Hood, May and Schlater in
CHAIRMAN HOOD: Okay. Next we have Zoning Commission Case Number 08-06. This is the Office of Planning Comprehensive Zoning Regulations Reviews: Subtitle J: Production and Distribution and Repair.

Mr. Parker.

MR. PARKER: Good evening, Mr. Chairman, Members of the Commission. My name's Travis Parker with the D.C. Office of Planning.

We're here tonight to seek set down of draft text for new Subtitle J of Title 11 which is the production, distribution and repair or industrial zones.

I'm going to basically talk in three pieces tonight. First, I'm going to go through, you know, the organization of this chapter. Sort of how it works. Because this chapter is basically the template for all of the other land-use subtitles that you're going to see, residential, commercial, downtown and...
so, the way this one works is the way that all
the other ones will work and so, it's kind of
important to sort of understand that.

Secondly, then I'm going to go and
talk through the naming structure because this
is the first one that you'll see zone names
and all of the other zone names will work in a
similar fashion based on that organization.

And thirdly, I'm going to talk
about what's changed in this chapter from the
existing industrial zones. So, the policy
changes that we've talked about in the past
and how they have manifested here.

So, I think the most important
thing -- do all of you have your text in front
of you. The most important thing in starting
with any of these land-use subtitles is going
to be right up front.

Right after the introduction on
page 2.1, you will see something called the
Zone Reference Table. This table is going to
be the starting place for everybody looking
for information on PDR zones and in the other subtitles, residential, commercial, this table will always be the first place people go. This table contains references to every regulation -- it's intended to contain a reference to every regulation applicable to any particular zone.

So, for argument's sake, I'm going to run through -- let's pick the P3A zone, P3A1 zone. For argument's sake, I'm going to run through that zone today and we'll see how basically the subtitle is laid out.

So, under the P3A1 zone, you will see a series of references based on the different things that we're regulating. So, starting with zone purpose, if you want to know the purpose of the P3A1 zone, you go to Section J301.2 which is on the very next page. That contains the purpose of this zone.

Development regulations for that zone are going -- and I'm going to jump back and forth to the table in 201.1.
Development regulations for that zone are in 402.4. So, if you jump to 402.4, excuse me. Did I read wrong? And we have our first reference mistake of many I'm sure.

The P3 is in 402.3. A codification there, but you'll see in 402.3 a development table. So, this table then contains for that zone all of the development standards, height, FAR. PR zones don't have rear yards, side yards, lot occupancy, but for the zones that do, those will be in this table as well as GAR. So, again, all that information is referenced in this table from the table in the front.

Going back to 201.1, you can then reference the use permissions and those are located in Section 502.1. Section 502.1 is the use table that you've seen before and this contains all of the use permissions for PDR zones.

So, in our P3A1 zone, you'll see the left-hand column contains the permissions.
You know, the not permitted, the conditional, the special exception uses for every type of use that exists in the code.

Subsequently to that, your reference to zone-to-zone transitions. This is basically buffering between PDR and residential zones in Chapter 6 and if you follow that reference, it takes you to another table that tells you what sort of buffer you have to have if you're abutting a residential zone from a PDR zone.

And then the subsequent references in that table in 201.1 are to parking. PDR does not have any particular parking requirements. There are no minimums. So, Chapter 7 basically just says there are no minimums in PDR zones.

And for bicycle parking and loading, you're sent back to Subtitle B because bicycle parking and loading are universal and don't change by zone.

So, basically, this structure and
this organization should become intuitive as people use it, but it's very simple. You basically just jump from table to table and this is the organization that you will see in future subtitles assuming that we don't make great changes as we go through and we may.

The second thing I want to talk about has to do with those zone names and if you'll look now in your set down report on the third page, you'll see the existing list of industrial zones and overlays starting with the CM1 ending with the M Fort Totten Overlay.

Each of these then has been transcribed into a new zone name and the zone names have meanings.

Basically, the P points you to the PDR chapter. Similar to if your zone currently starts to a C, it points you to the commercial chapter.

The second digit points you to your development standards table. So, those tables in Chapter 4 of the proposed text that have
your height, your lot occupancy, your rear yards, your FAR, that table is indicated by the second digit. So, all zones in which the second digit are the same have the exact same standards and go to the exact same table.

The third digit --

COMMISSIONER MAY: I'm sorry. Which table is it?

MR. PARKER: Your table's in Chapter 4. So, 402.1 --

COMMISSIONER MAY: 402.1, 2, 3.

MR. PARKER: -- 2, 3. Exactly.

COMMISSIONER MAY: Okay.

MR. PARKER: And so, you can see the statements in front -- on the top of those table. The following development standards table applies to zones beginning with P1 and the next one says beginning in P2 and beginning in P3. So, each table reflects or each digit reflects a table.

The third digit is your use code and if you go to your use chapter, excuse me,
502.1, the table there with the uses. All of the zones with an A in the third digit use the A column, use the first column there. All of the zones with a B use the B column and C, C column and so on and so forth.

So, if the third digit is the same between two zones, you know that the use permissions are the same between two zones.

And finally, the final digit basically encompasses all the other changes. There aren't any other changes in PDR zones. All the PDR zones have the same standards for buffering, but things like buffer zones and street frontage regulations and other regulations that aren't use or development standards would be encompassed in those zones.

If there's differences, we'd have a 2 there or a 3 there or a 4 there.

So, basically, in these four digits, you're conveying all of the information about the zones and it should become intuitive that when you follow digit
two or digit three, you're going to a particular table or a particular place in a table.

The weakness of this system compared to our current one is that these things are necessarily progressive. So, a 2 is not necessarily bigger or greater than a 1 and a D is not necessary more permissive in uses than a C.

So, it just points you where to go in the code. It's doesn't necessarily indicate a progression.

So, that's the coding system and I'll take questions on that as well in a minute, but first, I wanted to -- well, actually I'll stop here before I get into what's changed in the PDR. Are there questions on the coding system itself or how the organization of the chapter works?

CHAIRMAN HOOD: Can you just restate what you said about the progression? One doesn't mean -- like the CMI, you have --
more uses are allowed in the CM2 as opposed to the CM1. CM1 is more restrictive. Can you tell me is --

MR. PARKER: Sure. Let's look at, for example, the P5C and P6C. P5C is the existing M zone and P6C is the M zone with the Fort Totten Overlay.

The Fort Totten Overlay actually lowers the height. It doesn't lower, but it says if it's 65 feet or greater, it has to go through special review. So, the matter of right height is lower in the P6 than in the P5.

And subsequently, if we create new zones, if we take the P1A and we split it up and we change the height from the, you know, 40 feet to 25 feet, we wouldn't bump all these up a zone. We'd create a new table. It would be Table 7 and, you know, that new P1A would become P7A.

So, the numbers are necessarily in order. They just tell you where to look.
CHAIRMAN HOOD: So, if I look at --
when I eventually fine P5C1 because this is --
you know, I don't know if this is going to be
more complicated, but I'm more than going down
the new system. But, when I eventually find
P5C1, I'll see that the uses in P5C1 and I'm
using existing code versus the new one. Also,
I'm combining them. But, anyway, P5C1 will
show me that the -- when I flip over and find
out what's going on in that particular zone,
the P6C1 at the end of the day is going to
show me that the P6C1 is actually more
restrictive than the P5C1.

MR. PARKER: Not in uses. Both of
those allow the exact same uses, but you
notice that the 5 and 6 are different. So,
the development standards, the height, the
side yards, that sort of thing are different.

CHAIRMAN HOOD: So, something is
more restrictive though. Even -- okay.

MR. PARKER: Yes.

CHAIRMAN HOOD: Okay.
MR. PARKER: Yes.

CHAIRMAN HOOD: Okay. Gotcha. All right. When I figure that out, maybe I'll understand it better. All right. Okay.

Any other comments or questions?

MR. PARKER: I'll then go on to talk about what's actually substantively different in this chapter from the current code based on recommendations from 2008.

First, something new to industrial zones. Based on your guidance, we've limited the non-PDR or nonindustrial FAR. So, all of these zones have a maximum total FAR and the FAR for nonindustrial related uses is limited to a number below that. Similar to in commercial zones, we limit the nonresidential FAR. It's the same sort of thing here. So, for example, the M zone has a total FAR of 6 and in the future, non-PDR uses will be limited to 1. So, PDR uses can go to 6. Other uses can go to 1.

We've standardized the buffer
requirements. You can see we're down now to six PDR zones where before we had eight. That's the result of taking the Langdon Overlay and the buffers that are required there and making those universal. So, there's actually no need for that separate Langdon Overlay because the buffering that was instituted through that overlay has been applied across the board.

Thirdly, we have removed from this code the standards of external effects that were part of the original 1958 code. Largely because that '58 code predated more up-to-date requirements that have been put in DCMR and are currently addressed by DDOE and there's a table in the report that shows, you know, what's regulated in the industrial chapter right now in zoning, has been, you know, supplanted by a lot of regulations in Title 20 of the code and is currently no longer regulated really through zoning, but is regulated by DDOE.
And finally, in this chapter in the Development Standards Table, you will see a proposed requirement for a GAR number. We've got a hearing scheduled on GAR in the month of December. This is the first time you'll see and in each subsequent set of draft text, you know, for residential or commercial zones, you'll see a proposed GAR standard for this and basically, I'll walk through briefly how we recommended that standard and what it means.

In the report, you'll see that we did an analysis of existing land cover in PDR zones and determined an average existing GAR score. So, if you calculated GAR based on all the PDR lands in the city, you'd come out with an existing score of about .137.

So, based on the assumption that we wanted to set something higher than the existing average in order to actually, you know, promote a positive impact, we then looked at, you know, what the potential upper
limits of a GAR requirement would be.

We found that in PDR areas achieving a score of about 0.4 gets difficult as you reach 100 percent lot occupancy and there are a lot of lots in the PDR zones that are at 100 percent. Your options in achieving your GAR go down as you get up to 100 percent.

So, with that mind, we looked at scores between .137 and .4 to set the score and we ran the potential costs of complying with GAR and based on that cost, we narrowed down our range from .2 to .3 of where we'd like to set our proposed GAR requirement in the PDR zones. All of those came up with numbers for compliance that were less than 1 percent of construction costs in these zones.

But, in an abundance of caution and since this is a new system, people aren't used to it, we've opted to propose a limit of .2 which is on the lower scale of the probable numbers that we were looking at.

And we're more than interested in
talking with you more about the methodology. We wanted to get this to you to see sort of how we're going to propose numbers in the various zones so that we'll have that -- you'll have that additional information for our December 20th hearing on GAR.

CHAIRMAN HOOD: Okay. Anything else? Any questions for Mr. Parker? Can we have a request to set this down? Commissioner May.

COMMISSIONER MAY: Yes, with the GAR, what's the range of scores that you can get for that?

MR. PARKER: It's designed to be 0 to 1.

COMMISSIONER MAY: Um-hum.

MR. PARKER: But, there are instances where you can actually -- you could actually go above 1. But, as I said, the average scores in our PDR zones right now are about 0.1.

COMMISSIONER MAY: Okay. In other
zones, you -- are you expecting -- I mean what would be a one?

MR. PARKER: Oh.

COMMISSIONER MAY: Can you actually achieve a 1 and what would it be?

MR. PARKER: You can. A 1 -- you can achieve 1 with, you know, a vegetated lot. A fully vegetated lot with some trees on it. You could also achieve a 1 with a --

COMMISSIONER MAY: So, parks are 1.

MR. PARKER: The parks are a 1 or higher even. If they've got enough trees, they're above 1 actually.

You could theoretically achieve a 1 with a full green roof on half or less of the lot and then fully vegetated and treed on the rest of the lot. It's hard to do.

COMMISSIONER MAY: Um-hum.

MR. PARKER: It's hard to achieve a 1.

COMMISSIONER MAY: Okay. And it's really not an area ratio though. Right? I
mean we're calling it GAR, but it really
doesn't relate specifically to the area.

    MR. PARKER: It does. Actually,
    the ratio is -- the denominator is the area of
    the lot.

    COMMISSIONER MAY: Is the area of
    the lot.

    MR. PARKER: Um-hum.

    COMMISSIONER MAY: Okay. So, it's
    how much green over the --

    MR. PARKER: It's a weighted factor
    of green.

    COMMISSIONER MAY: But, it's not a
    -- yes.

    MR. PARKER: Over the area of the
    lot.

    COMMISSIONER MAY: Okay. As
    opposed to it's not a multiplier the way FAR
    is. That's why it sort of throws me. It's
    thinking of FAR and GAR. FAR is a multiplier
    of the lot. It's --

    MR. PARKER: Well, if you look at
it in one way. It you look at it in the other way, it's the area of the building divided by the area of the lot.

COMMISSIONER MAY: Yes. Okay. All right. That helps.

I think there are also some references that are incorrect in your development standards tables.

MR. PARKER: I wouldn't doubt it.

COMMISSIONER MAY: The zone conditions look like those references are based on a previous iteration of the draft text.

So, I think like, for example, it goes to --

MR. PARKER: It should be 403.2.

COMMISSIONER MAY: The P2 is 403.2. Is one I noted, but those obviously have to be checked.

When will we see the graphics that are associated with Section 6, Chapter 6?

MR. PARKER: I believe we can have
those to you by the hearing.

COMMISSIONER MAY: So, that means they wouldn't be published with the --

MR. PARKER: Oh, we'll work to get them published. But, yes, if at all possible, we will.

COMMISSIONER MAY: Okay. I wonder if that's a requirement. I mean do we need to have -- maybe Mr. Bergstein can answer that.

Can we advertise this without the graphics being published?

MR. BERGSTEIN: Mr. Parker, correct me, but the graphics actually in this chapter are they like -- are they controlling? In the case, they would be more specific or are they more illustrated for this chapter?

MR. PARKER: I think in general we're intending them to be, you know, as controlling as text. So --

MR. BERGSTEIN: So, you know, in a perfect world, if the illustrations are at the same level of substance as text, then it would
probably be wiser to wait until that's done because then the next opportunity to really comment on them won't be until notice of proposed rulemaking.

MR. PARKER: We'll work to get them included.

COMMISSIONER MAY: For non-PDR uses, I mean that's any non-PDR use whatsoever. Is that right? Or it's controlled by the chart.

MR. PARKER: Actually, not. If you will look -- PDR is actually category. One of our 30 categories is PDR, but for the purposes of this, we have actually included some other uses as PDR and so, let me -- give me one second.

If you look in one of those tables, it's the maximum FAR for selected uses and if you jump down to 404.1, it lists what the selected uses are.

So, it's not just PDR, but also basic utilities, large-scale government and
waste related. So, it's PDR-like uses.

   COMMISSIONER MAY: All right. Now, I'm really confused. So, the uses that are in 404.1 are the only ones that are the non--

   MR. PARKER: They're the only ones that can achieve the maximum FAR for selected uses.

   COMMISSIONER MAY: For selected uses and the FAR for all other uses can be anything.

   MR. PARKER: Correct. Anything that's permitted in the zone.

   COMMISSIONER MAY: And that permission in the zone is controlled by your first chart.

   MR. PARKER: Correct. For 502.1.

   COMMISSIONER MAY: I'm sorry. Whatever. 502.1. Got it. Okay. So, education is permitted and residential is permitted, but only as an accessory use for example.

   MR. PARKER: Correct.
COMMISSIONER MAY: Okay. All right. Maybe I'll eventually get the hang of this system. Thanks.

CHAIRMAN HOOD: Mr. Parker, I'm just curious. 404.1, waste related services, is that taking the place of case in point maybe trash transfer stations?

MR. PARKER: Um-hum.

CHAIRMAN HOOD: Oh. Okay. And that's permitted. Right now, that's -- it doesn't really say where it's permitted, but PDR -- is that PDR 1A1?

MR. PARKER: In any PDR zone, waste related is still a special exception if you look in the use chart and there are conditions for the special exception and that's based on current permissions in our existing code.

CHAIRMAN HOOD: Okay. I may have some other questions later. Any other questions? Vice Chairman Schlater.

VICE CHAIRMAN SCHLATER: Mr. Parker, you'll have to excuse me. I'm not
even sure if I was here for the guidance on this hearing. They all blend together, but I don't think I was and so, I'm going to ask some maybe more basic questions.

MR. PARKER: That's fine.

VICE CHAIRMAN SCHLATER: With respect to the changes in the allowable FAR in these various zones, it appears that in three out of the six PDR zones, the allowable FAR is going up by half an FAR.

Can you just talk to me about the rationale for increasing -- well, actually, in the same answer, it would appear to be your allowed FAR for non-PDR uses goes down.

MR. PARKER: Um-hum.

VICE CHAIRMAN SCHLATER: So, just walk me through that logic again and then I might have some follow-up questions.

MR. PARKER: Well, the logic for making the non-PDR uses go down goes back to the Comp Plan and the Industrial Land-Use Study in preserving development capacity for
industrial uses in D.C. There's a very limited amount of industrial land period. A lot less that is developable or vacant. So, you know, there are policies in the Comp Plan and in the Industrial Land-Use Plan to limit non-industrial uses in these zones. There was talk about different ways to do that through our working group.

Ultimately, it was decided not to just, you know, put an all out prohibition on office and commercial uses in these zones because there's a place for that, but to adopt a strategy similar to that we use in commercial zones for residential and just limit the amount of non-residential or, excuse me, non-PDR. So that in order to take full advantage of the development potential some PDR uses would have to be included or there's always some development potential for PDR uses.

Then in making that recommendation and in working with various industrial
stakeholders, the discussion was around offsetting that balance a little bit. If we're lowering for all non-PDR uses, we talked about a slight increase and I think you're right. It was .5 FAR for PDR uses and that was just, you know, to balance the reduction that was happening in the non-PDR uses.

VICE CHAIRMAN SCHLATER: Okay. So, here's the follow-up question. On these uses like a -- well, let's just talk about the selected uses, basic utilities, large scale government, PDR and waste related services. Is it very often that you're going to get multi-story buildings that have significant FAR for those kinds of uses?

It seems like in the whole PDR zones what you're looking at a lot of times is one-story warehouse levels. So, I'm just wondering. It just doesn't -- maybe in New York City I can imagine areas where you have high-density PDR, but I can't conjure it up in my mind in D.C. where you have higher density.
PDR uses. So, I'm not sure whether this is actually going to have any impacts.

MR. PARKER: It's certainly true that it would have less an impact than just an all-out limitation on non-PDR uses. I think working with the working group and the Zoning Commission, it just wasn't seen as palatable to go to that extreme in limiting all non-PDR uses just because there are areas that already have significant amounts of investment in terms of office and commercial and other types of use.

But, this was a compromise position. That, you know, we did look a lot into the possibility for mixed use, the possibility for buildings that had PDR components be they storage or manufacturing along with other types of buildings and it is done. It is possible. As well as building space that's convertible. That, you know, may be used as office now, but could be used in the future for PDR space.
So, both of those were possibilities. That's one that we didn't end up adopting requiring that space be built as convertible space.

VICE CHAIRMAN SCHLATER: Um-hum.

MR. PARKER: Just because of, you know, further difficulties in doing that, but --

VICE CHAIRMAN SCHLATER: So, in P1, P2, P3, what are we getting for increasing the FAR, the proposed maximum FAR in those zones by the .5 FAR? I mean why are we doing that?

It's the compromise. I heard that part.

MR. PARKER: Sure.

VICE CHAIRMAN SCHLATER: It's a compromise because you're lowering the --

MR. PARKER: Sure.

CHAIRMAN HOOD: -- non-PDR uses.

MR. PARKER: Basically, we're preserving 12 FAR in the P1 zone for PDR uses.

So, there is always -- even if someone builds an office building at 2 FAR, there's always
development potential around, on top of, within that structure for -- there's additional development potential for PDR uses.

VICE CHAIRMAN SCHLATER: And do you think that list of selected uses will expand over time? I mean I guess that would be one concern. Right?

MR. PARKER: I mean that would ultimately be at your discretion.

VICE CHAIRMAN SCHLATER: Hold on. A couple of other quick questions.

One thing just on the checking of the references, how are we ultimately going to have confidence when we're approving the text that it is tight and we're not going to come back with a hundred required text amendments with various references being wrong?

MR. PARKER: You are --

VICE CHAIRMAN SCHLATER: What's the quality control?

MR. PARKER: There will be multiple iterations. We've already started talking
about the audits that will take place. I mean right now we're trying to get the basics right. We're trying to make sure that everything from the existing code is in here that will need to be in here. Everything that's been approved before is in here and there's a lot of moving around.

I mean the broken references now are from the fact that there's a lot of moving around to make sure that everything that's suppose to be in here is in here.

Once we've crossed that hurdle and we know that everything is in here that's suppose to be in here and that it all does what it's suppose to do, there are going to be several audits. We're going to audit for references probably last, but first, we're going to audit for terms that need to be defined. We're going to audit to make sure that all of the language that we use is consistent and the same. You know, spelling, grammar, punctuation. We've got a series of
audits to do over the course of next summer. First, we want to make sure everything's in place.

VICE CHAIRMAN SCHLATER: Well, I think it's an excellent first cut. So, I don't want to be critical. I just want to understand the process going forward.

MR. PARKER: Absolutely.

VICE CHAIRMAN SCHLATER: The last question is just one thing that I'm concerned about and I want you to alleviate my concern. From the guidance that the Commission gave you to the standards that are in this text, have there been any policy evolutions that we should be made aware of?

The one thing I didn't have time to do last night when I was going through my text was there's all sorts of different standards in terms of animal boarding within 200 feet of a residential zone. You know, limit of 300 persons in an emergency shelter. Are all those standards the same as they are in the
existing text and just put forward in a
different way or are we changing some of those
standards?

MR. PARKER: Changes, if any, are
virtually nonexistent. I think I can safety
say that every condition or requirement in the
code for PDR zones is referenced in this
table. I won't say that throughout all the
code. I know there are changes that will have
to be made as we go through this process in
different zones.

For example, you know, we have
hundreds of different retail uses in our
current code and sometimes the permissions of
those vary within a zone and if we have just
one retail, that gets more difficult. That
wasn't a problem in PDR because most
everything is allowed in PDR.

So, as we get to commercial and
residential, there might be a little of what
you're talking about, but in this chapter, I'm
fairly confident that it's all there.
VICE CHAIRMAN SCHLATER: The last comment I would have would go back to that initial question on the FAR. It seems like among the biggest pressures on these PDR zones is retail development. You know, there's not a lot of places in the District where you can put big box retail and my read of this policy prescription for preserving PDR use says that this doesn't really do a lot because you'd still be able to develop. You know, there's very few big box retail sites that are going to be over a .5 FAR.

MR. PARKER: Um-hum.

VICE CHAIRMAN SCHLATER: And we're not really addressing that. So, I don't think we should have any illusions up here that we are -- we may be nudging PDR in a certain direction, but we're not going to be stemming the tide of development of these PDR zones into other uses I don't think.

CHAIRMAN HOOD: Okay. Anybody else?
All right. We have before us a request to set down for hearing action Zoning Commission Case Number 08-06, Office of Planning - Comprehensive Zoning Regulations Review: Subtitle J: Production, Distribution and Repair. I move that we set that down and ask for a second.

COMMISSIONER SELFRIDGE: Second.

CHAIRMAN HOOD: Properly seconded.

Any further discussion?

All those in favor.

(Ayes.)

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

MS. SCHELLIN: Yes, staff records the vote 5 to 0 to 0 to set down Zoning Commission Case Number 08-06 with regard to Subtitle J. This will be set down as a rulemaking case. Commissioner Hood moving. Commissioner Selfridge seconding. Commissioners May, Schlater and Turnbull in support.
CHAIRMAN HOOD: Okay. Thank you very much, Ms. Schellin.

ZRR Guidance, Zoning Commission Case Number 08-06-13, Office of Planning- ZRR: Mixed-Use Zones; Setbacks.

Mr. Parker and Mr. Giulioni.

MR. PARKER: Good evening. I'll think we'll just walk through these one at a time?

CHAIRMAN HOOD: That's how we usually do unless -- let's get through it.

MR. PARKER: Absolutely. The first one's very simple. Changing the definition of lot line. Right now, the existing definition makes, you know, the cardinal sin of definitions and just repeats the words right back at you. The definition of lot line is the line bounding a lot.

So, we propose a little more lengthy definition. A single straight or curved line segment between two vertices of any angle forming a boundary of a lot.
CHAIRMAN HOOD: I think your proposal is the one that's in parentheses.

MR. PARKER: The proposed.

VICE CHAIRMAN SCHLATER: I have a comment about this.

CHAIRMAN HOOD: Sure.

VICE CHAIRMAN SCHLATER: I think it's clear. I think it's a good definition. I don't know if there's any less technical way of saying between two vertices of an angle, but I think if we're trying to, you know, make this simpler and easier for people to understand, it would be better if we could come up with a better phrase.

MR. GIULIONI: Less technical.

VICE CHAIRMAN SCHLATER: I think so. So, I agree with the intent of the language, but maybe not the wording.

CHAIRMAN HOOD: Okay. I think I see a lot of heads nodding. So.

MR. PARKER: Just one question, are you particularly referring to the word
vertices? Is that maybe the offender here?

VICE CHAIRMAN SCHLATER: You would
think people would understand. I don't
understand. Maybe this is where I'm getting
hung up. Is I'm not smart enough to
understand what between two vertices of any
angle means.

MR. PARKER: Okay. Fair enough.

VICE CHAIRMAN SCHLATER: Because I
didn't study hard enough in geometry.

CHAIRMAN HOOD: To well myself.

MR. PARKER: We'll work on that
phrase.

COMMISSIONER MAY: Do you want to
have my kids explain that to you?

CHAIRMAN HOOD: Yes, just tell them
to come to the hearing. We'll them to help
us.

Okay. Mr. Parker, I'll just let
you go with it.

MR. PARKER: Okay. Sorry. So,
guidance for option 1 with that proviso? Oh.
CHAIRMAN HOOD: Kind of ease -- maybe ease the language some.

MR. PARKER: Fair enough.

CHAIRMAN HOOD: Okay.

MR. PARKER: So, number 2, street lot line. The existing definition is there in front of you and it has a lot of, you know, excessive language in there. In the front, you know, it's not a choice. Basically, every lot line that abuts a street is a street lot line rather than the existing terms street frontage.

CHAIRMAN HOOD: Okay. We're fine with that. Okay. We'll keep moving.

MR. PARKER: Option 1?

CHAIRMAN HOOD: I think what we'll do is if you don't hear anything --

MR. PARKER: You're going with option 1?

CHAIRMAN HOOD: -- we'll accept your recommendation.

MR. PARKER: All right. Okay.
Number 3, side and rear lot lines. Option 1, a side lot line would be a lot line that intersects a street lot line. A rear lot line would be a lot line that does not intersect a street lot line and is not one.

Any questions or concerns?

Number 4, setback definitions. We want to create specific definitions that don't exist now for setbacks.

VICE CHAIRMAN SCHLATER: All right. Mr. Parker, just go back. I don't think that this is a problem, but when you say a lot line that intersects with a street lot line, you just mean that touches a street lot line? Is that the intent?

MR. PARKER: Yes, that runs into. That ends in --

VICE CHAIRMAN SCHLATER: It doesn't have to go through it.

MR. PARKER: Does not have to go through it.

VICE CHAIRMAN SCHLATER: Okay.
MR. PARKER: All right. Number 4, setback definitions. So, a setback would be a distance required between a building and a lot line or a building and another point as defined in this title.

A site setback would be a set back from a side lot line. Rear from a rear lot line. Front from a street lot line.

Questions or concerns?

All right. Number 5, yard definitions. So, we would establish a definition of front yard and this is distinguished from a setback. A setback is what is required. A yard is what results. So, the yard, you know, could be equal. It could be greater if you're set back further than your required setback. But, a yard is the exterior space from the ground that's between the building facade and the street lot lines. There will be graphics with these as well.

Side yard, we'd change the
definition to an exterior space between a side lot line and a building facade.

And rear yard, the same. An exterior space open from that ground between a rear lot line and the nearest building facade.

VICE CHAIRMAN SCHLATER: Mr. Parker, why do you need the yard definition if the setback itself is the requirement?

MR. PARKER: Because there are other regulations that directly relate to the yard. For example, no parking in a front yard. Your front yard might be greater than your required set back. So, we need a definition and also, there are things about how much of your rear yard you can fill with accessory structures. That applies to full rear yard even if it's more than what's required.

VICE CHAIRMAN SCHLATER: Okay.

Thank you.

MR. PARKER: Yes.

COMMISSIONER MAY: Did we get to
rear yard?

MR. PARKER: Yes.

COMMISSIONER MAY: Okay. The proposed definition of rear yard defines it as the space between the rear lot line and the nearest building facade. So, if there is a free-standing garage that's abutting the rear property line, that means there's no rear yard?

MR. PARKER: No, that's a great question. We should say nearest building facade of the primary building.

COMMISSIONER MAY: Okay.

MR. PARKER: Yes.

COMMISSIONER MAY: Okay.

MR. PARKER: Okay. Number 6, right now, we have definitions of corner and triangular lots in the code. With the addition of all of these definitions of what different lot lines are, we no longer need those. In other words, there's nothing that's regulated differently or separately about
corner or triangular lots that we need those definitions to exist.

So, in the interest of, you know, not having them cause interpretative problems, we would just remove those definitions.

Number 7 has to do with interior and through lots. We do need a definition of these. Mainly because in low-density residential zones, we've talked about doing side yards by a ratio of the building width and so, for that reason, it's important to identify what interior lots and through lots are because that applies to those types of lots.

So, the proposed definition of interior lot would be a lot that abuts one street and the proposed definition of a through lot would be -- and this again is helped by graphics, but it's a lot with at least four distinct points where the side lot lines intersect street lot lines.

Yes.
VICE CHAIRMAN SCHLATER: Can you distinguish between streets and alleys?

MR. PARKER: Yes, we do.

VICE CHAIRMAN SCHLATER: Okay. So, this is only streets?

MR. PARKER: Streets. So, alleys will, yes, either be side or rear lot lines. Okay.

Number 8, side setbacks. Right now, no side setbacks are required in commercial zones, but where one is provided, it has to be -- you know, it varies by zone and it varies by the height of the building. We propose removing those variations and if a side setback is provided by choice, it has to be at least four feet. In that we define the side setback to apply to any portion of the building that's set back. So, what now would be called a court where portions of building is set back would be a side setback.

COMMISSIONER MAY: I would just say the -- I know we talked about four feet.
MR. PARKER: Um-hum.

COMMISSIONER MAY: And I know that everything is still open until we actually take a couple of votes on this, but the idea of it being only 4 feet is still sort of an open issue for me and when we get to the hearing on the actual text, I want to make sure we explore that again fully.

MR. PARKER: I wonder if you could give us your thoughts on what your concerns are.

COMMISSIONER MAY: Unfortunately, I could not find my notes from the hearing, but I remember hearing -- I mean just from the hearing whether it was based on the specific testimony or my own reactions to it, that it just -- I'm not totally convinced that 4 feet is the right number. I mean 8 feet I don't think is the right number. Six feet is not the right number for commercial zones or whatever it was.

Is four feet? I don't know. I
MR. PARKER: And we will have some information that we'll present at the hearing as well. We'll address that. We also have some information that we'll present about the building code and how that regulates that interaction as well.

COMMISSIONER MAY: Right. And there are other aspects of the building code that I'm hoping we will have demonstration of.

MR. PARKER: Courts as well and other things.

COMMISSIONER MAY: Right. Yes, because I know I have concerns about that.

MR. PARKER: Okay.

COMMISSIONER MAY: Thanks.

MR. PARKER: So, rear setbacks. The first option here is to cut down on the number of ways that we do it and standardize eight rear yard setbacks into four and you'll see them graphically depicted as A, B, C and D
and this, you know, basically, makes the angle
for C and D the same across all zones where
that applies, standardizes in B and D that
it's a 25-foot exemption or a two-story
exemption where those zones would apply and,
you know, avoids different setback standards
in the same zone where the use is changed.

Option 2 in this one is just to
have two models. Use only C and D for all
zones and not have even four.

So, I actually look to your -- our
guidance had been option 1, but I am
interested in an affirmative statement on this
one.

VICE CHAIRMAN SCHLATER: In terms
of usability and understandability --

MR. PARKER: Um-hum.

VICE CHAIRMAN SCHLATER: -- are you
at all concerned that the 78, you know, degree
angular plane starting above 25 feet, you
know, could create some confusion among the
laypeople?
MR. PARKER: The laypeople aren't designing a lot of buildings, but I'll let Mike speak to that as well.

MR. GIULIONI: I guess, you know, when you look at the options, the potential of maintaining four options is that were a person to look at, you know, the simplest version, it's a real easy interpretation and that applies in most instances where buildings are in zones with lower height limits and things like that.

So, when you're getting to a larger scale site, the measure becomes harder because it is now in the DD and other larger scale areas of the city.

So, practically speaking, what you'd be doing is presenting somebody a rule in C and D that may never apply to them. So, that angle, it's more matter of -- as they apply it, they're like oh, this doesn't apply to me because my building's under the 56 feet in height.
So, it's just a little bit extra text to make it a little simpler I guess.

VICE CHAIRMAN SCHLATER: How does the 78 percent angular plane relate to the 1 foot for every X feet in height standard that we're --

MR. GIULIONI: It replicates the 22 inch per foot standard that currently exists in the zones.

VICE CHAIRMAN SCHLATER: But, it's not changing anything.

MR. GIULIONI: No, it's just reframing it.

VICE CHAIRMAN SCHLATER: It's just saying it in a different way.

MR. GIULIONI: Yes. Yes.

VICE CHAIRMAN SCHLATER: Okay. Well, in that case, I think I'm okay with option 1.

MR. PARKER: Okay.

VICE CHAIRMAN SCHLATER: Except you might want to also say 1 foot per every 22
feet.

MR. PARKER: I think the difference is --

VICE CHAIRMAN SCHLATER: Because it's --

MR. PARKER: The difference is right now you're drawing a line 2 inches per foot, but then when you reach the height of your building, you're going straight down from there.

In the future, you could have a building that steps down at this angle. That's the difference that we've proposed in that and that's why it's now a line drawn at 78 degrees.

I suppose you could say that no point of the building should be -- yes, the distance between any point of the -- it's just gets complicated to say it when you're not defining a line for the whole building. Rather you're defining a --

VICE CHAIRMAN SCHLATER: You're
trying to encourage --

MR. PARKER: Not necessarily encourage, but allow for.

VICE CHAIRMAN SCHLATER: Allow for.

COMMISSIONER MAY: I think the idea of including the equivalent 22 inch per foot description of what 78 degrees means would be useful for anybody who's designing it.

MR. GIULIONI: I'm going to speak from a position of somebody who used to interpret a code which used this method. It's actually much easier because it's simply a matter --

COMMISSIONER MAY: It's not easier to design that way.

MR. GIULIONI: Well --

COMMISSIONER MAY: Have you designed buildings that way?

MR. GIULIONI: Yes, because what you can do is you can simply read the requirement and apply the standard and design with that envelope. The --
COMMISSIONER MAY: Right. Let me just tell you. Having been on the design side of this, too, that when you're designing things in a certain number of inches per foot, it's a very common way for designers to think.

When you're thinking about an ADA ramp, it's one in 12. If you're thinking about one without hand rails, it's one in 20. So, 22 inches per foot, you know rise and run and roofs, it's a very common way that designers think.

So, I think not just saying 78, but saying 22 inches per foot is good.

MR. GIULIONI: So, sorry. Okay. So, I'm clear. What we're talking about is not -- we're not talking about -- we're talking about restating it in another manner in line with the text.

COMMISSIONER MAY: Right. I'm not saying that instead of 78.

MR. GIULIONI: Okay. Excuse me.

COMMISSIONER MAY: I'm saying that
it just would be -- explaining where the 78 comes from --

MR. GIULIONI: Understood.

COMMISSIONER MAY: -- is all I would suggest.

MR. PARKER: Okay. We can do that.

So, option 1 and we'll state it both ways.

Number 10 is courts. Our proposed option is removing court requirements and regulating courts through setback requirements as discussed in number 8 and we can provide more discussion about building code and that at the hearing as well.

Okay. Number 11 --

VICE CHAIRMAN SCHLATER: I'm sorry. I'm not sure on this one I guess is what my vote would be. Is I haven't been convinced one way or another. I know that it's been stated that the building code covers you on this, but I haven't been convinced of that and I know courts have been an important part of Zoning Codes for a long time. So, I'm not
willing to just say be done with it yet.

MR. PARKER: Okay.

CHAIRMAN HOOD: Okay. Does anybody else share Vice Chairman Schlater's option on that?

COMMISSIONER MAY: I have a similar concern, but, you know, when we had the hearing, we had some discussion of this and I was willing to be convinced that relying on building codes as the method of making sure that the courts are adequate was a reasonable path, but there were gaps in that discussion and I think we asked for some additional information and so, I'm hopeful that whence we -- I other words --

VICE CHAIRMAN SCHLATER: I don't think I disagree with you. I think we're in the same place.

COMMISSIONER MAY: Yes.

VICE CHAIRMAN SCHLATER: I just don't want there to be an impression when we get down the road that we've said oh --
COMMISSIONER MAY: Yes, we'll be let's get rid of courts. No.

VICE CHAIRMAN SCHLATER: We all said no courts anymore.

MR. PARKER: On this one, we will go into greater detail on the relationship with the building code.

CHAIRMAN HOOD: Okay.

MR. PARKER: All right. Number 11, floor area ratio limits in commercial uses. This has two components: existing buildings and new construction.

For existing buildings, we proposed allowing existing buildings that contain commercial use to do commercial use on the full first and second story even if the result is greater than 1.5 FAR.

For new construction, allowing this, you know, this two-story exemption as a matter of right on mixed-use buildings. So, buildings with a residential component and as a special exception for commercial-only
buildings.

I can talk about the reasons or would you like me to go into the background of this one? Okay.

This is really a function of looking at a lot of the variances that we've seen over the last, you know, ten years. One of the problems with a straight limitation on commercial FAR of 1.5 is that unless your lot occupancy's exactly 75 percent which would mean two stories of commercial, you're left with some remainder and for existing buildings especially row buildings or smaller commercial buildings, it's difficult to do partial floors. You know, partial floor commercial and residential.

So, if you're 1.5 at 80 percent lot occupancy, allow something like 2 or 1 and 4/5ths of a floor to be commercial. So, you are technically allowed to use most of your second story as commercial, but not all of it and it really creates an awkward position
where people have to come in for variances for that second floor.

We want to encourage that use in general and so, the thought is avoiding those simple variances where you have existing buildings that aren't exactly 75 percent lot occupancy.

VICE CHAIRMAN SCHLATER: In C2A and C2B zones, the allowable commercial FAR is 1.5 in both?

MR. PARKER: Correct.

VICE CHAIRMAN SCHLATER: Okay. I don't think I have a problem.

MR. PARKER: Okay. Number 12, residential lot occupancy in mixed-use zones. In these zones, there is no required lot occupancy for commercial stories. So, if you have a multi-story commercial building, it can all be 100 percent.

If some of those stories are residential, the residential portions are limited to 60 or 75 or 80 percent depending on
the zone.

   This conflicts with a few problems that we found. First, a general principle that we've tried to push in the new code is not having different building standards based on use. So, when an existing commercial building is being redone as residential, it has to get variances for, you know, residential within that building that wasn't designed at some percentage lot occupancy.

   But, more importantly, this is something that again was designed in an earlier time through the Zoning Code, but is now handled through protections in the building code in terms of protection of light and air to the existing residence.

   In terms of protection to the surrounding area, that's handled through side setbacks, FAR controls and transition buffers. It actually isn't accomplished by lot occupancy because lot occupancy can be built anywhere in the lot.
So, Zoning controls and other ways handle surrounding properties. Building code handles light and air to the building. So, this is not a standard that is necessary as distinct from, you know, having a distinct lot occupancy for residential versus commercial.

Okay. Number 13, zone-to-zone transition regulations. Right now, the ARTS Overlay has transition regulations. Basically height transitions where you shift from a residential zone into one of the ARTS Overlay commercial zones.

We talked about standardizing those rules and making them available city-wide. So, we wouldn't implement them anywhere, but it would become one of our general Subtitle B chapters, would be applied, you know, automatically where it is applied now in the ARTS and would be available in other zones and it involves some minor transitions to how you measure that boundary. But, in general, it's taking the existing transition.
Okay. Number 14, plaza requirements. Right now, this is done in the CR zone. It's not called plaza. It's called open space, but it doesn't necessarily result in open space because you can meet it in a lot of different ways. So, we've called it plaza requirement.

We're retained the standard except in the ARTS Overlay where it conflicts with other requirement. ARTS Overlay requires, you know, a certain amount of street frontage and this CR requirement requires that a bunch of that be open space. So, you've got conflicting requirements.

So, taking it out of the ARTS, we would recommend retaining it elsewhere, but modifying it a bit, requiring it only on large lots, reducing it from 10 to 8 percent, reducing the ability to count arcades and a few other minor things.

VICE CHAIRMAN SCHLATER: Why are we reducing the requirement from 10 to 8 percent?
MR. PARKER: Because as you get to these larger lots, that 8 percent does result in a usable plaza space. The 10 percent was certainly a necessity on smaller lots in order for it to be a worthwhile space, but 8 percent on a 10,000 square foot lot is an 800 square foot, you know, open space or plaza area.

VICE CHAIRMAN SCHLATER: But, it could be 1,000 square feet. I just don't understand why it's changing.

MR. PARKER: I would have to remind myself of that. It's been awhile since we wrote these. I could go back to the report.

Yes, if you give us a second, we'll --

VICE CHAIRMAN SCHLATER: I think the rest of it is -- I think having the design requirements is a good idea, remove the ability to count arcades for the public space requirement and to limit it to lots that are greater than 10,000 square feet to make it a usable space.
But, it seems like if the goal is to make usable space, then you would probably want the plaza to be bigger and not smaller.

MR. PARKER: The argument that we gave in the report was that this was a counterbalance to removing the flexibility of arcades and we've removed the opportunity to provide these through arcades and we've removed some of the other things that count towards this. So, this was intended as flexibility to counterbalance the lack of ways you are allowed to provide this space.

MS. STEINGASSER: The staff actually went out and surveyed every plaza built in this zone and calculated that which was covered by arcade and that which was truly open space and the effective open space was the 8 percent and since we had already through text amendments several years ago allowed for the enclosure of the arcades, this was the effect of -- the result of what's actually on the ground and effective.
VICE CHAIRMAN SCHLATEN: But, we've subsequently changed the regulations so that you can't -- so that the arcades are no longer encouraged. Correct? In the CR zone.

MS. STEINGASSER: That's correct.

VICE CHAIRMAN SCHLATEN: So, as it stands now, they're not encouraged, but they would count towards your 10 percent requirement now.

MR. PARKER: They would.

VICE CHAIRMAN SCHLATEN: Count towards your 10 percent requirement right now.

MR. PARKER: Correct.

VICE CHAIRMAN SCHLATEN: We didn't catch that.

MR. PARKER: So, as written?

VICE CHAIRMAN SCHLATEN: I'd like to see it at 10 percent.

MR. PARKER: At 10 percent. Is that --

CHAIRMAN HOOD: Does everybody say
COMMISSIONER MAY: I'm flexible. I mean some of these things it's just -- it's okay for us to have some flexibility. I think when we get to see the actual language, we can make decisions at that point. So, I mean --

MR. PARKER: Well, this one's pretty set. It's either going to say 8 or it's going to say 10.

CHAIRMAN HOOD: Let's not start the argument, the 30-minute argument, about maybe 9 percent. Let's not do that.

COMMISSIONER MAY: No. I mean my tendency on these sorts of things is to -- us to note where we might have some disagreement and if they want to -- if you want to propose text that has 8 percent and we know it's an issue, we just say to the Office of Planning you really got to prove the 8 percent. Otherwise, we're going to want to push to 10.

CHAIRMAN HOOD: Well, we already have a request to push it to 10.
COMMISSIONER MAY: Well, I'm --

CHAIRMAN HOOD: Either way we look at it when we get the text. I mean, you know --

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: -- we're not going to go 30 minutes.

COMMISSIONER MAY: Well, okay. I mean we can do it at 10 and let them make the argument to cut it to 8 at the hearing.

MR. PARKER: I think we're looking for your guidance. I don't think we have a strong feeling.

CHAIRMAN HOOD: Okay. So.

COMMISSIONER MAY: All right. Well --

CHAIRMAN HOOD: We'd rather put that in the parking lot and when we get to that point, somebody may remember.

MS. STEINGASSER: If we advertise it at 10, 10 would be more restrictive. So, we could always back down to 8 without any
additional hearing. If we advertise at 8, we'd have to --

COMMISSIONER MAY: I'm convinced.

CHAIRMAN HOOD: Okay. Thank you, Ms. Steingasser. You saved us about 20 minutes.

MR. PARKER: Onto the last one. On this one, you actually have two options. So, again, we'll need some affirmative action on your part.

Option 1, this is use concentration. So, basically, the 25 percent restaurant limitation that's in our neighborhood commercial zones. Option 1 is to create a series of new rules that clarify how that works. So, similar to what we did.

Similar, but even more exact than what we did in the ARTS Overlay recently. Precise delineation that this applies to food and alcohol service uses, limiting the geographic scope from an entire corridor to a block-by-block measure, clear guidance on how
we measure street frontage and what's measured, requirement encouraging the creation of maintenance of a database, occupancy rights.

That's what we didn't establish in the ARTS. You know, what vests and what doesn't vest and providing for the divesting of occupancy rights if the use is abandoned.

So, option 1 is to do all of that and leave the restrictions in place.

Option 2 is to put the onus on OP and yourselves to just, you know, determine now which is over 25 percent and under 25 and just make it a special exception where it's over and non-special exception.

So, it take the onus off the Zoning Administrator to make a calculation in every instance and we just say special exception in this area and non-special exception in another area and update it over time.

COMMISSIONER MAY: Can I just note that I think that based on the records that I
have here, we had specifically asked the record to be left open because ANC 2F wanted to comment and they commented on this specific point and recommended option 1 over option 2 in summary. It's a 22 page recommendation, but it's a reasoned argument they make.

And I think since they've lived this issue, there's some good advice.

VICE CHAIRMAN SCHLATER: And we just had a very long hearing and approvals process on that revised methodology and I think we reaffirmed it in many ways. So, I would advocate applying those standards more broadly.

CHAIRMAN HOOD: I think they also mentioned that in their letter about the hearing and the exhaustive discussion that was had. So, are we all in agreement with -- okay.

MR. PARKER: Okay.

CHAIRMAN HOOD: Do you have anything else, Mr. Parker?

MR. PARKER: Thank you very much.
CHAIRMAN HOOD: Well, thank you for helping us get through that in 30 minutes. We greatly appreciate that.

MR. PARKER: You're very welcome.

CHAIRMAN HOOD: Also, Ms. Steingasser and Mr. Giulioni and Mr. Lawson. We appreciate all your work you all are doing on this ZRR.

Ms. Hanousek, do we have anything else before us tonight?

MS. HANOUSEK: No.

CHAIRMAN HOOD: Does the Office of Planning want to do the status report?

MS. STEINGASSER: No, sir.

CHAIRMAN HOOD: Okay. Good.

MS. STEINGASSER: That was it.

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

(Whereupon, at 9:13 p.m., the meeting was concluded.)