GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

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MONDAY

MARCH 14, 2011

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The Regular 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
PETER MAY, Commissioner (NPS)
GREG SELFRIDGE, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel
JAMISON WEINBAUM, Director of Office of Zoning

OFFICE OF PLANNING STAFF PRESENT:
JENNIFER STEINGASSER
JOEL LAWSON
STEVEN COCHRAN
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Regular meeting held on March 14, 2011.
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6:38 p.m.

CHAIRMAN HOOD: Okay. We're going to go ahead and get started. This meeting will please come to order. Good evening ladies and gentlemen. This is the March 14, 2011 public meeting of the Zoning Commission of the District of Columbia. My name is Anthony Hood. Joining me are Vice-Chairman Schlater, Commissioner Selfridge, and Commissioner May. I'm going to ask, to my left, if we can have our introductions, besides the Commissioners. I'm going to start with Mr. Bergstein, and the office you represent.

MR. BERGSTEIN: My name is Alan Bergstein and I represent the Office of the Attorney General for the District of Columbia.

MS. BUSHMAN: Ester Bushman, Office of Zoning.

MS. SCHELLIN: Sharon Schellin, Office of Zoning.
DIRECTOR WEINBAUM: Jamie Weinbaum, Director of the Office of Zoning.

CHAIRMAN HOOD: Let me go to my right. Office of Planning, starting with Mr. Lawson.

MR. LAWSON: Good evening, Joel Lawson with the Office of Planning.

MR. JESICK: Mat Jesick, with the Office of Planning.

MR. COCHRAN: And Steve Cochran with the Office of Planning.

CHAIRMAN HOOD: Great. Thank you. I'm sure if you all don't like it, you'll let me hear it after this meeting. Copies of today's meeting agenda are available to you and are located in the bin near the door. We do not take any public testimony in our meetings unless the Commissioner 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 not, let's move right into the agenda. I don't think we need to move any items around, Commissioners, so let's just go right into final action on Zoning Commission Case 10-22, Office of Planning -- Map Amendment & Related Text Amendment to Allow Expansion of an Ice Rink & Construction of a Youth Baseball Academy at Ft. Dupont Park. Ms. Schellin?

MS. SCHELLIN: Yes, sir. As you will recall, the Commission took final action, actually, on this case at the February 28th meeting. However, after Staff looked at it, even though NCPC had taken action and provided their report, Staff realized that there were four days still left during the 30-day comment
period. So the action was actually taken four days early. So we would ask the Commission to retake final action this evening.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. Commissioners, you've heard the rationale why this is on the agenda again. Could I get a motion?

COMMISSIONER MAY: Mr. Chairman, I would move approval of Zoning Case No. 10-22, Map Amendment and Related Text Amendment to Allow Expansion of an Ice Rink and Construction of a Youth Baseball Academy at Ft. Dupont Park.

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

COMMISSIONER SELFRIJDE: Second.

CHAIRMAN HOOD: Okay. It's been moved and properly seconded. Any further discussion? Are you ready for the question? All those in favor, aye?

ALL: Aye.

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

MS. SCHELLIN: Yes, sir. Staff will record the vote four to zero -- excuse me, five to zero to zero. I have an absentee ballot from Commissioner Turnbull. Commissioner May moving; Commissioner Selfridge seconding; Commissioners Hood and Schlater in support; and Commissioner Turnbull in support by absentee ballot.


MS. SCHELLIN: Yes, sir. Again, we have an absentee ballot from Commissioner Turnbull. And there are several supplemental documents that came in. And we would ask the Commission to consider proposed action on this case.

CHAIRMAN HOOD: Thank you, Ms.
Commissioners, we have some submissions that are Exhibit No. 39, and also Exhibit No. 42, as well as Exhibit 40 from West End Citizens' Association. Also, we have a DDOT response, which is exhibit 41. And I think that's all we have that came in after the proposed -- for our proposed review.

Okay. Commissioners, the way I remember this case is a lot of it we ask for -- some things we asked for. And I think we asked, in particular, Vice-Chairman Schlater asked for the response from District Department of Transportation when they did the walk-through or what was presented to us as a walk-through.

If you look at -- in your readings, you would find that they -- actually, that was not a walk-through for this particular case, which is being noted to us. That was a walk-through for something totally different. And the comments of that walk-through from the authorities as the District Department of Transportation were that that was not speaking
on behalf of the Department of Transportation.

So I think we can dispel with that right away, because that was one of the issues that was dealt with. But let me open it up. Any comments? Oh, okay. Let me go to Commissioner Selfridge. I'm sorry.

COMMISSIONER SELFRIDGE: I just wanted to say that I did review the record on this case.

CHAIRMAN HOOD: Okay. Thank you, Commissioner Selfridge, who reviewed the record and will be participating in the discussion. And I guess some of the questions -- and I'm glad Mr. -- I thought I saw Mr. Jennings. I guess I didn't see him. Is Mr. Jennings here? He's hiding behind the pole, right? You didn't know I saw you, Mr. Jennings. Do you want to take your -- is there space up there?

MR. JENNINGS: Good evening.

CHAIRMAN HOOD: Okay. Have a seat. We might have some questions. And we

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might go out of the line of things because we didn't have the opportunity. We did get a response from DDOT about your position on this particular case. Mr. Jennings, I'm trying to remember. We have so many cases. Were you here the night of this particular case?

MR. JENNINGS: No, I was not.

CHAIRMAN HOOD: Okay. Okay. All right. There were some options that were -- and I also am going to be talking to my colleagues as we deliberate. And Mr. Jennings is there if we want to field a few questions to him. Option four is what? I think West End had mentioned. And I will tell you that I've read the rationale with DDOT about why they're saying not to do that option, the turns and the timing, but I would say that -- and I just want to know if any of my other colleagues concur -- I would say that I really think option four is a possibility. Now, I don't see option four as changing the design or anything. I just think it makes -- it just
makes smart sense, as far as traveling. And again, I know we depend on DDOT, like the Office of Planning report says, we depend on DDOT, they're the experts. But, from a traveling standpoint, for me, option four would be, I think, realistic. But let's just -- let me just open it up and let me hear how my colleagues want to discuss this.

COMMISSIONER SELFRIDGE: I'm sorry. Which option are you referring to as option four?

CHAIRMAN HOOD: Option four is the -- well the option that --

COMMISSIONER SELFRIDGE: Too many case, too many option.

CHAIRMAN HOOD: If you turn to -- if you look behind Tab B --

COMMISSIONER SELFRIDGE: Yes?

Okay.

CHAIRMAN HOOD: And I think it -- what is that, east to west -- west to east? But I think you enter on -- you enter on 20th
street and you go out on 21st Street. I think that's is. Let me find the West End -- is that right? Okay. And, if you look at the DDOT report, they have a lot of reasons and rationale why certain things -- why the original one is the way it is. And they actually cite traffic being more controlled. At one way, they say there's like a speed zone. But I also listened to the community when they talked about double parking in the alley, which raises a concern for me. I think Tonic Restaurant, I believe is what it's called. And I do know people do double park in the alley. And I just can -- I see a one-way being more conducive than a two-way, especially if you have people double parking. And I'm not sure. I think DDOT has the last word, at some point, when it's a public space. I think you all have the last word. I'm not sure. But it's what we approve, is what's going to be presented.

Anyway, let me just ask my
colleagues. I've done enough talking. Let me ask my colleagues, how do you feel about option four, or would you rather stay with the original option? Vice-Chairman Schlater?

VICE-CHAIRMAN SCHLATER: Mr. Chairman, option four, I think, is actually the option I had hoped would be analyzed when I asked for the study of one-way traffic. Or, if it wasn't, it's the one I meant to ask for. It's one-way alley ingress and egress, with traffic entering on 20th Street and exiting on 21st Street. I think, in the DDOT report, they basically said DDOT does not support changing the existing two-way alley operations for vehicles to a one-way, eastbound or westbound operation. You know, I think, ultimately, I would defer to DDOT on the direction of traffic within these alleys. I think that's where I come out on it. I would have like to have seen it studied, personally. But I guess I would ask DDOT is, if it was studied, would DDOT take another
look at it? Or do you -- is your mind made up on one-way alley systems?

MR. JENNINGS: I think with this particular one, we're very decided. That's the best way I can describe the agency's position. One-way versus opposite traveling traffic, in a -- you know, width of 20 feet. If it was any more narrow, perhaps that would be the way to look at it, one-way either eastbound or westbound. One of those two would weigh a little bit heavier in our minds. But having a 20 foot wide alley, safety is clearly one of the bigger pieces with vehicular travel. And others who may be using the alley, we know it's not just limited to personal passenger vehicles. We know that there are other users.

VICE-CHAIRMAN SCHLATER: Okay.

Thank you, Mr. Jennings.

CHAIRMAN HOOD: Okay. Let me open it up. Anyone else? Commissioner May?

COMMISSIONER MAY: Yes. You know,
when we had the hearing, I was very concerned because I didn't feel like the alternative of -- I guess it was Number two, as it was studied, which had an entrance off of G Street. I didn't feel that that had been given enough consideration and that DDOT was simply falling back on their standard pecking order of recommendations. You know, enter off alleys first, then secondary streets, and then primary streets. And I thought there was a case to be made that it actually shouldn't be entered off the street here. Having seen what was presented, I didn't -- I didn't find any single argument compelling. But, after having reviewed it all and looked at it all, I'm now falling into the camp of going with the original proposal, which is, you know, the two-way alley, widened to 20 feet with appropriate precautions taken at the entrances to the alley to make sure that people slow down and that pedestrians are adequately protected. Because I think that when you --
you know, what I wasn't really thinking about when I thought G Street was a viable option, was the fact that there's a lot of pedestrian traffic on G Street, and you're going to have the same kind of a crossing issue. And people are going to be coming out of a building and not coming out of an alley. So the issues of visibility are going to be as bad or worse in that circumstance. I do think that there's more that can be done at the alley entrances, to make sure that there is an unobstructed view. For example, on 20th Street, there's a series of evergreen trees that block the view of the sidewalk and of the street. And I think that's, you know, just the wrong stuff to be planted there. And I think that there's also a potential for other views to be blocked by shrubs that are planted also on 20th Street on the north side of the alley. They're low enough now, but I know how, you know, shrubs will grow and they'll get taller and taller until there's a -- there is a
safety problem. And then, finally, I think that they really do need to look at something on the 21st Street side to make sure that there is clear visibility of pedestrians coming up, you know, heading northbound on 21st Street. Because the yard of the adjacent property is high enough. It's about four feet up and, for many cars, you won't be able to see over that. I mean, fortunately, you're going to be coming out of the right side of the alley, so you've got probably ten feet -- ten or 15 feet of visibility. I think the visibility diagrams that, you know, sort of conform to DDOT standards that were presented by the Applicant are nonsensical. It shows a view line that starts 15 feet into the building. So I didn't -- I mean, that just seemed ridiculous. It was the photographs, I think, that were the most telling for me. So, at this moment, I'm inclined to go back to the original proposal, not because it's just DDOT policy and not because of the, you know, some
of the other facts that were presented, but just the fact that you're still going to wind up having to cross the sidewalk and it's unbalanced. The safest thing for pedestrians, I think, is going to be for the vehicles coming and going in a two-way 20 foot wide alley.

CHAIRMAN HOOD: Okay. And there was also an issue about pedestrian safety. And I think, Commissioner May, you expounded on that. What gets it for me is the warning signs, the stop bar. I'm not too fond of the scored concrete. But I guess if it works, it works. But I think the stop bar and the pedestrian warning sign gives, I think, a comfort level of safety for pedestrians.

The other thing. Back on the traffic pattern into the garage and whether it should be two-way or not, in the DDOT report, it talks about DDOT does not support changing existing two-way alley operations for vehicles to a one-way eastbound or westbound operation.
One-way streets and alleys tend to contribute to increased driving speeds and all around unsafe conditions for all transportation users in the alley. Opposite traveling vehicles cause drivers to pay more attention to oncoming traffic and the surrounding environment. I understand this analysis, but I would also ask that we be considerate of what the community mentioned when they mentioned how people double bark. So I guess, hopefully, that analysis, Mr. Jennings, and you don't necessarily have to respond, but I'm hoping that analysis that you all gave us also takes that into consideration. Because we were testified to that people or cars double park in that alley. So hopefully, that's all -- that whole analysis takes that into consideration.

Okay. Anything else, Commissioners?

COMMISSIONER SELFRIDGE: Mr. Chairman?
CHAIRMAN HOOD: Commissioner Selfridge?

COMMISSIONER SELFRIDGE: Yes. I just wanted to say, I reviewed the DDOT report, as well. And it seems to me that maintaining the alley access to the garage would -- with the mitigation efforts that DDOT talked about -- would probably be the safest for the pedestrians. So I would be in favor of that, as well.

CHAIRMAN HOOD: Okay. Thank you.

Is there anything else? The only other thing, we do have a request -- and I'm not sure, I might have to lean on Mr. Bergstein on this. We have a request from West End Citizens Association who would like the opportunity to respond to the DDOT report. And I'm not sure if they -- I mean, I'm not sure how we exactly can handle that. I guess maybe we can have their response before final if we -- if this is approved. If it's not approved, we won't need it. So --
MR. BERGSTEIN: Sorry?

CHAIRMAN HOOD: No. I was just making a statement. If it's not approved, we won't need it. So I don't want to take anything for granted.

MR. BERGSTEIN: You are taking proposed action -- Sorry. You're taking proposed action for the purpose of sending this over to NCPC. You can reopen the record and allow for that supplemental response if you care to.

CHAIRMAN HOOD: Okay.

MR. BERGSTEIN: And you should either make it clear or not clear that -- or you should make it clear whether or not responses from the Applicant are permitted to that submission. So we know that either they can be submitted or they cannot be.

CHAIRMAN HOOD: Why don't we do this, unless my colleagues disagree? I think we can honor this request from Ms. Kahlow. We can have a response to the DDOT report so she
can comment on the DDOT report only, and only West End. And the Applicant can respond, if they see fit, respond to Ms. Kahlow's response to the DDOT report. And we'll leave it at that. And we'll deal with that at final. Okay. Anything else, Commissioners? Anything else, I guess, Ms. Kahlow, you can work with Staff. Anything else, Commissioners?

MS. KHALOW: Excuse me.

CHAIRMAN HOOD: We have a time schedule?

MS. SCHELLIN: We'll set one. I think, if we give two weeks from today, the 28th of March, and then the Applicant will have until April 4th.

CHAIRMAN HOOD: Okay. So we have a schedule. I think --

MS. SCHELLIN: And also, I'd like to add that the ANC would have until April 4th also, if they'd like to respond to WECA's response because we need to allow them an opportunity also.
CHAIRMAN HOOD: Okay. Okay.

Anything else, Commissioners? Any other comments? With that, I would move proposed action to approve the original design or original, as far as the traffic pattern, Zoning Commission Case No. 06-11A/06-12A, George Washington University -- Second Stage PUD at Square 103), and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It's been moved and properly seconded. Any further discussion? Any further discussion? Are you ready for the question? All those in favor, Aye.

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, so ordered. Staff, would you record the vote?

MS. SCHELLIN: Yes, sir. Staff records the vote five to zero to zero to approve proposed action in Zoning Commission Case No. 06-11A/06-12A, Commissioner Hood
moving, Commissioner May seconding, Commissioners Schlater and Selfridge in support, and Commissioner Turnbull in support by absentee ballot.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. And thank you too, Mr. Jennings. Mr. Jennings likes to hide behind that pole. We'll have to reconfigure the room so we can -- so I can see him. Okay. Let's go right into our next case. It's Zoning Commission Case No. 09-21, Office of Planning - Text and Map Amendments to Establish the Union Station North Distraction. Ms. Schellin?

MS. SCHELLIN: Yes, sir. If you will recall, this was on our agenda of February 28th, and you asked the Office of Planning to provide some additional information. And you have that at Exhibit 40.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. And I want to thank the Office of Planning for really hearing my colleagues.
and looking at it. But I don't want to put the cart before the horse. Let's wait and hear the comments. But I think that, from my standpoint, they have addressed a lot of the concerns that I've heard. But I'll let my colleagues speak for themselves. So let's open it up for any discussion. Let's -- any discussion?

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: Yes. I appreciate the further modifications that have been made by the Office of Planning to try to step back the building and -- or the potential development, as it gets closer to Union Station. And I also appreciate the further review opportunities that the Commission will have to make sure that what gets built here is appropriate. I still am uncomfortable with the notion that we are establishing the measuring point from a structure like this. And it's -- I know it's been done before, not
necessarily with the greatest results. But that was probably not a result of the measuring point. I think the thing that concerns me the most, at this point, is that if we are to move forward on this, that the exceptional circumstances in this case, the fact that there really aren't reasonably ways to have access to a ground level street, and the fact that you have so much infrastructure that's underneath it, I think are the really extenuating circumstances that could prompt a different way to measure here. I'm still not convinced that -- that the height is the right height. I know we're talking about -- I mean, we saw several different scenarios and there was the -- certainly the small, medium, large. And I was still on the medium family. So I'm not sure -- I'm interested in hearing what the other Commissioners have to say about this. But I'm -- I'm not completely sold, at this moment, on those couple of points.

CHAIRMAN HOOD: Okay. I don't
want to put you on the witness stand, Commissioner May, but I'm just curious -- and I think we had this discussion. So I'm going to ask you the same questions that we've already had. Even knowing that -- and I know I can go to what Mr. Turnbull said when we talked about this previously -- even knowing that we -- there's an option there to go the full 130, and there's an option there also to turn that down and not go to the full 130, I think it's 110 or 90, that we have that option when we do review. Does that give you a comfort level?

COMMISSIONER MAY: You know, I think that once we have the ability to go to 130 feet, measured from the top of the roadway, I don't think that the Commission is going to back away from that. I think that the -- the property owner is going to insist on it and you know, we're just not going to want to deny them all of that -- that potential. I mean, how often do we have that?
CHAIRMAN HOOD: We -- I know specifically of a case where we denied them, because my --

COMMISSIONER MAY: I know. I know. It doesn't -- it's just not that often. So I -- I'm concerned.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I would be much happier if we were measuring -- I don't know, if we were going up to 110 feet from that measure -- from that height, or that we were measuring from a lower point. But I'm not sure how to set a lower point. So it's -- it would have to be the -- you know, limiting the overall height.

CHAIRMAN HOOD: And I'll take very seriously what you and I've heard Mr. Turnbull when he -- when we talked about this previously. It seems like our meetings sometimes rewind themselves. Because you're right. Somebody's going to come in here with 130 and that's probably going to be it. We
probably won't see any development lower than that. But then again, I don't know. You know, as Vice-Chairman has already stated, you come in with a superb building, maybe it requires or deserves 130. I don't know. But, you know, let me open it up to someone else. Anybody else?

COMMISSIONER SELFRIDGE: Mr. Chairman?

CHAIRMAN HOOD: Commissioner Selfridge?

COMMISSIONER SELFRIDGE: I too would like to thank the Office of Planning and the Applicant for going back and working on this. Specifically, 2925.3 where it talks about building unit heights and their visual relationship to the surroundings and the suitable height for each building at appropriate massing relationship between proposed building units and adjacent neighborhoods. You know, I think my greatest concern was that we did give a blank check in
this. I think that this new language makes clear that there's an additional review that's going to occur and that will deal specifically with the building heights and that, if we were to approve this today, that that would not automatically allow the Applicant to go up to 130 feet.

I also think the step downs that were discussed are an improvement. I wasn't convinced that they even needed to go that far. But they're there. They were willing to do it. But you start with 190 feet -- or 90 feet, I'm sorry, from the southern property line and then 150 feet from that, you can go to 110 feet. If you can show -- if the Zoning Commission approves additional height, they can get it, but they have to prove their case.

Once again, I think that's the important part here, that we're not just giving them carte blanche to go to 130 feet, but there's another stage one review where we're going to address these issues, specifically. And that gives me
some comfort in moving this forward.

CHAIRMAN HOOD: Thank you. Very well said, Commissioner Selfridge. Are there any other comments on that issue? Vice-Chairman Schlater?

VICE-CHAIRMAN SCHLATER: Mr. Chairman, thank you. I think, when we talk about the height and being able to go up 130 feet from the top of the bridge, we have to articulate exactly what gives us unease. And I think we heard various things at the hearing. One was, we talked about whether or not the community that lives adjacent to Union Station air rights was concerned about the heights. And I think we've heard from the ANC that there was a discussion on that and there was some concern, particularly at the northeast corner of the zone, that 130 feet heights would be too much and it would tower over the neighborhood. I think those concerns were addressed and the community came in here through the ANC, supporting the heights that
proposed, even before they had been pulled down. And then we have a lot on the record, as well -- we have a number of people and organizations making a historic preservation case that these buildings will be too large behind Union Station, which is one of our most excellent historic buildings in the District. I think everybody will agree. I'm given comfort by the fact that the State Historic Preservation Office is going to have review over any building that's built in the Union Station Air Rights zone. I'm also given comfort by the fact that the heights are going to be stepping down the closer you get to the Union Station. And, in general, I think that I'm not scared of height behind these -- behind Union Station. I'm actually more concerned about bad buildings being behind Union Station. And so I think that I'm very happy to see a more rigorous design review provision placed within the text. And I think, when these cases come through, we're
just going to have to make sure, you know, the Office of Planning and the Commission, and, you know, people who come and testify, that we hold the developer to a very high standard on the buildings. And I think the whole idea here is that you're allowed to go to 130 feet, but you're limited on your FAR and when you do that, you should be able to get more articulation in your buildings; there should be more light and air between them; and it should give the architects the ability to do something special there. And I think that's what we need to focus on is are we going to get excellent architecture as part of this zone, something that differentiates itself from the architecture we're getting in NOMA currently, where people are maxing out their FAR in a limited height situation at a ten FAR instead? I feel comfortable that we've laid the ground rules here for multiple levels of review and set up something that could be a good model for creating good buildings in the
CHAIRMAN HOOD: Okay. Any other comments on that issue?

COMMISSIONER MAY: Yes. I think, actually, that's -- you know, the way you explained this, in some ways, makes me more uneasy. Because describing this as a model, as if we're going to wind up granting greater height in other parts of the city as a way of getting better architecture. I mean, I understand the desire for better architecture. But the idea that we would actually trade off height for that is a concern. Because I think that the -- you know, there is constantly this discussion of the -- of whether the Height Act is somehow limiting the growth and development of the city, which I don't agree with. And I'm -- you know, it's one of those things where, if you don't stay vigilant and protect what we have, which is so special about this city, that we can wind up losing it in the long run. And you have to continue to protect it
constantly. So I'm not, you know -- you know, I'm almost sold on the idea of doing this in this unique circumstance, with the protections that have been put into place. And there -- my concern here is driven more by the unique circumstances and the challenge of what we're dealing with in terms of the -- you know, the site itself, the way it's -- you know, what it's surrounded by and the lack of real roadway frontage and so on. So I'm more persuaded by the exceptional circumstance here, than the idea that we really need this height to get great architecture. We shouldn't need that height for that reason. I don't know, I'm -- I may be inclined to go ahead today. But I'm -- as I said, I'm not totally convinced and I get -- you know, we do get to vote on it a second time. So I may wait and see what happens then.

CHAIRMAN HOOD: Okay. Any other comments? I also wanted to -- and I think I need to probably pose this to the Office of
Planning because I appreciate the fact of the 
change in the language about the notifications 
to the ANC. Let me just read it so I can make 
sure I understand it. The Applicant shall 
demonstrate that community outreach has 
occurred through participation in multiple 
venues and through multiple formats, including 
affected ANC and which could include but not 
limited to meetings with the community and an 
informational website, e-mails or mailed 
flyers. What about posting? And is this what 
the Applicant is going to have to do or -- the 
Applicant is going to have to mail the flyers?

MR. JESICK: That's correct. What 
we're looking for in that criteria is the 
Applicant to make lots of different efforts to 
reach out to the community, not just to the 
ANC, but all forms of communication. They 
would certainly have to post the property 
decision with any Zoning Commission case.

CHAIRMAN HOOD: Okay.

MR. JESICK: And they could also
put up their own supplemental informational postings if they feel that's appropriate.

CHAIRMAN HOOD: And the reason we left posting out is because they have to do that anyway?

MR. JESICK: Right. That's an existing requirement.

CHAIRMAN HOOD: All right. Well, I appreciate going the extra step beyond the ANC's to other community groups, as well. Because I think that way we cover everybody. Okay. Okay. Any other comments? Any other comments? Okay. Can I get a motion? Will somebody like to make a motion?

VICE-CHAIRMAN SCHLATER: Mr. Chairman. I'd like to propose that we take proposed action on Zoning Commission Case No. 09-21 Text and Map Amendments to Establish the Union Station North District.

COMMISSIONER SELFRIDGE: Second.

CHAIRMAN HOOD: Okay. It's been moved and properly seconded. Any further
discussion? Are you ready for the question? All those in favor, Aye.

    ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition -- oh, I'm sorry.

MS. STEINGASSER: Does that include as amended by the Office of Planning report?

VICE-CHAIRMAN SCHLATER: It does.

MS. STEINGASSER: Thank you.

CHAIRMAN HOOD: Okay. Did we call all those in favor? Aye. Not hearing any opposition, Ms. Schellin, would you please record the vote?

MS. SCHELLIN: The Staff records the vote five to zero to zero to approve Zoning Commission Case No. 09-21, as amended by the Office of Planning Report, for proposed actions and that was Commissioner Schlater moving; Commissioner Selfridge seconding; Commissioners Hood and May in support; Commissioner Turnbull in support by absentee
ballot.

CHAIRMAN HOOD: And thank you, Ms. Steingasser for making sure that we are clear on exactly what we are approving. Thank you.

Okay. Okay. Next on our agenda is Hearing Action. Zoning Commission Case No. 10-28 -- 901 Monroe Street, LLC - Consolidated PUD and Related Map Amendment at Square 3829. Mr. Cochran?

MR. COCHRAN: Good evening Mr. Chair and members of the Commission. In Case 10-28, the Applicant wishes to build a mixed use apartment and retail building across from the Brookland Metro Station in Northeast Washington. OP recommends that the Commission schedule a public hearing on the application for a consolidated PUD at 901 Monroe Street NE. Including a Map Amendment from the existing C1 and R2 zones, to the proposed C2B zone and relief for the number and set back of roof structures and for the length of the residential loading berth. OP also recommends
the Commission set down, in the alternative, the Associated PUD related C2A zone, rather than C2B, as well as a request for five percent FAR relief the Commission may grant under Section 2405.3, since the application is only .12 FAR shy of the limits for a C2A PUD and the future land use map shows a portion of the site as being appropriate for moderate rather than medium density housing and commercial uses.

The proposed PUD would be on the east side of WMATA's Red Line tracks, across from the historic Colonel Brooks mansion and the Brookland Metro Station, and two blocks west of 12th Street, the neighborhood's principal retail street. It would include the demolition of the neighborhood restaurant, service parking, and five houses now on the site. All but six row houses in the square would be part of the project. The project would contain 215 to 230 dwelling units, with affordable units consistent with IZ and street...
level retail on Monroe Street.

The building would be set back 14 to 16 feet from the property line and, for all but the northern most row house, would be separated from the back yards and the remaining row houses by an alley the Applicant would rebuild and by additional landscaping. The building would be 50 feet tall on Lawrence Street and 60'8" tall on the other three streets, with a one half to one set back at the 50 foot level on those streets. There would be just over one parking space for every two apartments, plus 13 retail and 68 bike parking spaces.

The Application meets Chapter 24's criteria for setting down a proposal for a public hearing. The proposed development would be, on balance, not inconsistent with the Comprehensive Plan, including its economic development, land use, and upper northeast area elements. It attempts to balance elements that support the construction of new
housing and mixed uses at higher densities, adjacent to particular Metro stops and elements that stress the importance of conserving lower density residential neighborhoods. The Application also notes that the project would strengthen street level continuity between new development the Commission approved for the Catholic University South Campus and the retail offerings on 12th Street.

The Applicant has proffered several project amenities and public benefits, summarized in Table 3 of OP's report. The Applicant is also continuing discussions with residents and OP about offering more benefits for the nearby community. These may include the provision of additional improved public recreation space or assistance to neighborhood efforts to preserve WMATA-owned green space adjacent to the Metro. The application has had a mixed reception in the Brookland neighborhood, with some residents feeling that
it would inject new life into Brookland's core
at a location that is very transit accessible,
while other residents have noted concerns
regarding the project's height and mass, the
request for the associated C2B zone, and other
matters noted on page 12 of OP's report, such
as traffic, parking, hydrology, and impact on
nearby structures. The Applicant has been
discussing these issues with the residents,
OP, and other District agencies.

OP is recommending that the
application be set down so that these
discussions can continue with more certainty
and so that the public can submit material for
the record and discuss the project at a public
hearing. OP's analysis indicates that the
application does meet the requirements for set
down. Therefore, OP recommends that the
Commission schedule a public hearing for the
application with both the requested
association of the C2B zone with the project
and, in the alternative, with the association
of C2A zoning with the PUD and five percent FAR relief. Of course, OP will continue to work with the Applicant and the community to have concerns raised by OP's report by other District agencies and by the public addressed prior to a public hearing. That concludes OP's testimony. I'd be happy to answer any questions that the Commission may have.

CHAIRMAN HOOD: Okay. Thank you, very much, Mr. Cochran. Let me just ask right off, we're also being asked to set down in the alternative the associated C2A Map Amendment. Has the Applicant agreed to that? Are they in favor of doing both?

MR. COCHRAN: The Applicant suggested that it would be up to OP if it wanted to offer that alternative.

CHAIRMAN HOOD: So, on the record, they are in agreement to us advertising the alternative?

MR. COCHRAN: I believe so.

CHAIRMAN HOOD: Okay. I saw some
strong heads move. So yes, they are in agreement. Okay. Let's open it up. Any questions or comments. And I'm going to let my colleagues go first, but I do want to talk about this proposed benefit and amenities package. But I will leave it up to -- we will open it up to my colleagues first. Any questions or comments? Commissioner May?

COMMISSIONER MAY: Yes. I didn't see a future land use map in your report or in the Applicant's case. And I'm wondering why we didn't see that and I'm also curious as what it looks like.

MR. COCHRAN: We went -- okay. There was certainly no intention to omit the land use map from OP's report. The square in which the Applicant is proposing the development shows a moderate density mixed use commercial and residential development for about a quarter of the square and low density, residential development for the remainder of the square.
COMMISSIONER MAY: So three quarters of the square is low density, residential on the land use map?

MR. COCHRAN: As shown in the land use map. Yes.

COMMISSIONER MAY: Okay. Well, I need to see that. I'm sure the other Commissioners would like to see it as well. Do you agree with the Applicant's method of calculating what's cellar space and what's not? Because, I mean, I was a little confused by it and I don't necessarily agree with it.

MR. COCHRAN: I agree with the Applicant's method of calculating the square footage that should be excluded for the ramp going down and I've seen no reason to question the Applicant's calculation of the cellar space. But I have not gone over that thoroughly because I didn't see a need to.

COMMISSIONER MAY: Okay. Well, I --

MR. COCHRAN: I'd certainly be
happy to if it were set down.

COMMISSIONER MAY: I need to understand that better because, I mean, it's been a while since we got into -- I've been on a case where we got into the weeds of what's cellar space and what's not. But it was -- I don't remember the solution being what's proposed here. In other words, that so long as something is -- you know, meets the definition of cellar, you know, at the -- at one end of the building, that therefore, any units that face on it meet that definition. I always thought that, you know, you take the elevation at the one side and the elevation at the other and you draw a line between them, and whatever falls on less than, you know, four feet, that four-foot threshold between the ceiling of the space and the grade, you know, whenever that line between them drops to the point where there's more than four feet of space, then that's counted in the FAR.

MR. COCHRAN: Okay. I will
explore that further if you set it down.

COMMISSIONER MAY:  I'd like to understand that better and, if they're doing it some different way and we've accepted that before, I'd like to know the circumstances of that being done before. Because again, it doesn't -- it doesn't coincide with my memory of calculating cellar space, but I don't claim that my memory is perfect.

And then I'm very interested in seeing more about what the benefits of the project might be, because given the amount of land that's being significantly upzoned here, the benefits package doesn't seem to be proportionate

CHAIRMAN HOOD:  Okay. Vice-Chairman?

VICE-CHAIRMAN SCHLATER:  Mr. Chairman, thank you. I just want to note, on the record, my general concurrence with the -- with looking at the site for C2A in the alternative. It seems like a better fit,
given that I know we did C2B across the tracks for Catholic University. But I think it allows up to 90 feet height and I don't think we want people getting in the mind set that 90 feet would be appropriate here. So I just think C2A looks like a better fit. I'm happy to set down C2B, as well, if we get to that point. Also, I would like to put in a plug for -- on these applications and the OP reports, getting to see both the generalized land use map and the future land use map. We need to see that. Otherwise, we're flying blind, so to speak. So that's something I would certainly like to see. And I'm not decided as to whether I need to see that before set down or not. But it's certainly something that should be in every application. It's fairly important.

The other thing I'm having a hard time getting my head around is we've got a small area plan for Brookland and we get snippets of it here and there in both the OP
report and in the Applicant's statement, but I don't get a good sense for what is in the small area plan. And we do read that the small area plan recommends 50 feet of height, yet this application is for 60 feet of height. It sounds fairly prescriptive, so I'd like to understand some of the context. And maybe that just means -- I don't know if I can get a copy of the small area plan or you could even send me a link and we don't have to waste the paper on it and I can read it from my computer. But it would be good to see that, just to understand what's recommended there. Because I do have some concerns about the scale of the building in relation to its surroundings. I think this is an -- this site is an excellent candidate for mixed use retail, residential, particularly on Monroe Street. But it's -- you would have to be very sensitive to the fact that there are existing row homes on that block and this building is going to be a lot taller than those row homes.
To that end, I think I'd like to see some shade studies to understand how these buildings will be impacted by having this 60 foot structure next to it. And anything -- I think anything that the Applicant and OP could provide to give us comfort to the fact that this isn't going to be an uncomfortable relationship. I mean, I read in the report that the Applicant has set back the building off the property lines significantly, and I think that's a great first step. And you can see from the plans that the last story of the building is set back even further. And I think that's a good step. But just based on what I'm seeing here, I'm left a little uncomfortable with how this building is relating to those row homes adjacent to it.

And then, one thing I'd like to understand about the benefit and amenities packages is these -- there's some mention of a study to look at undergrounding of utility lines for the properties frontage along Monroe.
Street. And it says if the analysis determines that it is economically feasible to place the utilities underground for this block of Monroe Street, the Applicant shall work with DDOT, PEPCO, and other appropriate governmental agencies to complete this task. I guess what I'd like to understand is what does economically feasible mean in this context? There's got to be a dollar value associated with that. I think we just need to know specifically -- if it costs more than X dollars, that would make it economically infeasible. Because there seems to be a lot of other alternatives within the package that are outlines or that hinge off of that. Likewise, on the affordable housing, I probably sound like a broken record. OP has to hear it all the time. But when affordable housing is required as part of the Zoning Code, I don't think you can turn around and then say that is a project amenity that you're providing, as if it's, you know, something
that you're getting to compensate for the additional density. No. It doesn't -- it actually doesn't work that way. It's just required. So I would ask that that get struck from the list, because I personally won't be considering it as an amenity.

And then the last question I had was really about the community outreach on this project. Has OP been in attendance at all of the community meetings on this project and the lead-up to this submission?

MR. COCHRAN: Several, but not all. The application had been preliminarily handles by someone else. So I wasn't at the first and longest meeting that the community had. But I've been at two -- three other meetings on the application with the community.

VICE-CHAIRMAN SCHLATER: Three? So, how many meetings were held?

MR. COCHRAN: Our Ward Planner was also there at a fourth meeting.
VICE-CHAIRMAN SCHLATER: A fourth meeting? I guess what I would say is I'm feeling a little skittish about this application, just as to whether it's ready. It sounds like there's been plenty of community outreach, although certainly not community consensus on this. I like the building. I like how it relates to Monroe Street. I like the idea of putting housing adjacent to a Metro and transit oriented development. I think the architecture is excellent. I think the quality of the materials in sort of an emerging neighborhood like Brookland for real estate development to be willing to create a building of quality on all sides is something that's to be commended. And there's a lot of good parts about this project. And I want to support it. I'm just wondering if we're there yet.

CHAIRMAN HOOD: Commissioner Selfridge?

COMMISSIONER SELFridge: Thank
you, Mr. Chairman. I think Vice-Chairman Schlater covered a very wide berth of issues with his comments. So I would simply say that C2A, as an alternative, makes a lot of sense to me. I also think shade studies are appropriate, considering the size of the building and its proximity to the row homes. And then we would also, of course, look for this benefit and amenity plan to be beefed up, if this were to go to a hearing stage. I know we're just at set down, but I think we'd like to probably see more and understand, I think, the idea of the value on undergrounding the utility lines. I think it makes a lot of sense, so we can really evaluate this as part of that package.

CHAIRMAN HOOD: Okay. One of the things I would like to see, if we set it down, is a perspective. I want to see how -- exactly how this building is going to fit. This is a very quiet neighborhood and now we're getting ready to put a large building
there and I'd like to see how it actually is going to fit. And what I mean by that, I mean I want to see a perspective. And I've looked through here a number of times in the submission, trying to see exactly how that's going to fit. I need to see, if I'm going -- and this is actually for the Applicant -- if I am standing at Brookland Station, looking that way, looking towards the site, how is that -- how is all that going to relate? How am I going to -- how is that going to fit? You know, I'd like to see it in relationship to the houses and to the school and what's behind it. I need to see different angles of how it's going to fit. Now, I think we tried to accomplish it in your submissions. But, actually, that didn't do it for me. I need to see a perspective of how it's going to exactly fit. And I will tell you that I looked through your submissions and none of them did it for me so I can see how that's going to fit. That's the first thing.
The second thing is, when I look at amenities, the amenities package, and I don't want to undo what the neighborhood has done, but I've been here long enough to know and I've said this in many other cases and I'm going to say it in this one, when you're looking at amenities packages, you're looking at stuff for the life of the project. You know, some of these amenities -- and not just here, but I've seen amenities over the years where the project's still there and the amenity lasted ten minutes and is gone. Now, you're kind of getting there when you talk about this underground -- the power lines being dug underground. But again, it goes back to the Vice-Chairman's statement, these feasibility issue. And there are a number of things, I think, that can be -- I'm not going to necessarily say beefed up, but can really be attributes in contributions to the community, besides some of the things I see here. But I don't want to undo what has been
done thus far. But I can tell you that this definitely needs some work. And also, how it's going actually be done and carried out, and that's one of the things we're doing in our ZRR, is looking to see exactly how this is going to be done. Case in point, a financial contribution to the Turkey Thicket Recreation Center for specific purposes as determined by the Applicant and the Brookland Neighborhood Civic Association. We need to know what that is, dollar amount, exactly how it is going to be carried out. And I just think we want to make sure that this is not a missed opportunity.

Another think that puzzled me was -- and I'll be really looking forward to hearing about this at the hearing, if we set it down, was car sharing. I think right across the street, and I will stand to be corrected, but right across the street is Brookland Station. And I think they have some car sharing over there. But maybe this was
negotiated for a reason. And I'm looking forward to hearing the rationale. Because I think, you know, I'm not trying to undo the amenities package, I'm just trying to make sure that this community gets exactly what they have negotiated to get and make sure that some of this lasts the life of the project. And it is substantial to the community. So, enough said of that. Again, I'm not trying to undo it. I just think that -- and I've always said that, and I'm sure that my colleagues who are down here and the Office of Planning and Office of Zoning and all who come regularly hear me say this quite a bit, not just in this Ward, the ward in which I live, but all over the city. It needs to be something that is going to sustain the project.

Okay. I think that's pretty much all I had. Let me ask, Mr. Cochran, I'm asking like this, would you say that the support of this project, does it vary 50/50 or is it more support, less supported and
problems with the -- and I know you are new at this, so I'm just trying to get a reference point.

MR. COCHRAN: I honestly can't give you a numerical ratio on that. If we're talking about volume, both of e-mails and volume period, there seems to be more concern expressed by those opposed to the project. But I was surprised to see the amount of support that came at one of the community-wide meetings. The level of opposition is stronger, the closer you get to the project boundaries. For people who live in parts of Brookland that are more than a block away from the project, you hear more support for the project. But there have been probably more e-mail exchanges on this, prior to a set down, than on almost any project I can think of, that I've been involved with.

CHAIRMAN HOOD: Okay. And then, also, thank you, Mr. Cochran. Also, we want to make sure -- and I'm going back to the
amenities package -- we want to make sure that Applicant will enter the First Source Employment Agreement with the Department of Employment Services. We need to make sure, and I'm not just picking this Applicant because I've said it for years, we need to make sure that these things have some teeth in them; make sure that it's done; and not only -- not just enter into an agreement, but actually make it happen. And I think what I'm going to do again is to ask the Office of Planning, like we did some years ago, and I'm not going to stop with this one. In a few weeks or so from now, I'm going to start asking the Office of Planning, when applicants come down -- I may start it with this one, for those who have track records of doing PUDs in the city, what has been their -- and I'm not necessarily saying for this particular Applicant, but for some of those that we see here quite a bit -- we need a statement on their track record on the DOES and the CBE.
That's one of the things we need to start seeing again. We did that some years ago, and it's about time. It's been about eight years ago and now it's about time for us to start looking at that again.

Okay. Commissioners, any other questions? Commissioner May?

COMMISSIONER MAY: I just want to go back to one issue that was raised, which, to me, goes to the heart of whether we're really ready to set this down tonight, which is the land use maps question. And hearing the response that three quarters of the square is -- in the land use map is designated for low density residential and, in fact, what's being proposed here is three quarters of the square being developed at moderate or more and mixed use. I mean, I'm not sure how I see how it fits. So I think I'd need to understand that a little bit better from the Office of Planning, seeing the map and seeing why, if it's -- if it differs from the map, why it's
appropriate. Maybe it goes to the Small Area
Plan, I don't know. But I just don't -- I
don't feel totally comfortable given that
divergence from what we know of the
Comprehensive Plan. I don't know. That's my
thought.

CHAIRMAN HOOD: Okay. Anybody
else? Commissioner Selfridge? Anybody else
feel strongly on that? Vice-Chairman?

VICE-CHAIRMAN SCHLATER: I'd like
to see it, as well. I think it would just be
helpful to have all the facts in front of us
before we make the set down decision. So, if
we have the map that we could look at, that
would be helpful. But I think, you know, if
we want -- hold on one second. I think that's
right. So, Mr. Chairman, here's what I would
propose. We've got another meeting this
month, in two weeks. I don't think it's going
to cause a significant delay to the approval
process here if we wait two weeks; get some
additional information for us to look at,
before we make our set down decision. And
then we can work to get a hearing scheduled if
we do set it down, as quickly as possible.

CHAIRMAN HOOD: Okay. Anybody
else? Commissioner Selfridge?

COMMISSIONER SELFRIDGE: I think
that makes a lot of sense. There's a lot of
outstanding items; specifically, this map.
And we could certainly revisit this in two
weeks and allow time to collect that
information.

CHAIRMAN HOOD: Okay. So, I
guess, if we were to set it down, we would be
zoning in the blind. So what we need to do is
ask for the map. Anything else we need to
request?

COMMISSIONER MAY: No. I think
anything else that supports -- I mean, the
Office of Planning obviously believes that
this is consistent with the Comprehensive
Plan. And I think that a little more
information along those lines -- you know,
Vice-Chairman Schlater pointed out the Small Area Plan and how we didn't have quite as much information about that as we probably would like. So I think further information on that would be helpful, as well.

CHAIRMAN HOOD: Okay. So anything else that can contribute to us moving forward to set this down in this particular area, Small Area Plan, the Comp Plan, and the land use map -- anything pertaining to the Brookland area would be helpful. And I think that way we would cover all our bases. And we will set this -- well, I don't know what's going to happen. We will entertain this, I think, again in two weeks. Ms. Schellin, can you give us the schedule?

MS. SCHELLIN: Yes. If we could have those additional filings by the 21st at 3:00 p.m., then we can take this up at our March 28th meeting.

CHAIRMAN HOOD: Okay. I don't think we need to have anyone come forward,
because we are not denying anyone. We are just putting it off for two weeks for additional information. Okay. Anything else on this, Ms. Schellin?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. Thank you.

Let's move right along with our agenda. ZRR Guidance -- Zoning Commission Case No. 08-06-15, Office of Planning - ZRR: Administration Enforcement, and Procedures. Who's going to take us through this? Director Weinbaum, are you?

DIRECTOR WEINBAUM: I can take you through the first seven. And then, if Matt wants to take over after that, is that okay?

MS. STEINGASSER: That's fine.

CHAIRMAN HOOD: Okay.

DIRECTOR WEINBAUM: All right. Sure. I'm looking at the worksheet. Is that correct, Chairman?

CHAIRMAN HOOD: Yes. We all have the worksheet in front of us and we're ready
DIRECTOR WEINBAUM: Okay. Sure.

The first topic was, if you recall, Recommendation One, Selection of a Chairperson, and there's a joint OP/OZ recommendation that we create a requirement that the chairperson of the Zoning Commission (ZC) and BZA be one of the three District Resident Mayoral Appointees of each body. Option two on here is to not create additional rules for chairperson selection.

CHAIRMAN HOOD: Okay. Commissioners, I think it's always been in the past that the chairperson of the Zoning Commission and the BZA has been a Mayoral Appointee. And I think this will, for a change, finally has it somewhere in writing, as opposed to being passed down. So any issues? Now, Chairperson, it didn't say vice-chair. It said chairperson. Any issues? Okay. Are we fine with option one?

COMMISSIONER MAY: Fine.
CHAIRMAN HOOD: Commissioner May, would you like to add something?

COMMISSIONER MAY: No, I don't.

That's okay.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I'm all right with that.

CHAIRMAN HOOD: All right. So we'll go with option one, Director.

DIRECTOR WEINBAUM: Okay. Duly noted. Recommendation Number two, respecting Testimony for ZC and BZA Cases. Option one is to not require individuals wishing to testify in a ZC or BZA case where public testimony is permitted to identify their position prior to speaking. Option two is to allow individuals wishing to testify to identify themselves as "in favor," "in opposition", or "undeclared."

And option three is to retain the existing system in which those testifying can either -- must either select "In favor" or "in opposition."
CHAIRMAN HOOD: Okay. We have the three proposals in front of us. Now which one is the recommendation from the Office of -- there's no recommendation from --

DIRECTOR WEINBAUM: There wasn't a recommendation. I will tell you what we went out with, initially, was option one, which was not requiring them to state it at all. But once, you know, I heard from you all, we're -- I would say, from speaking at the representative of the Office of Zoning, we're comfortable with option one or two. I don't want to speak for the Office of Planning.

CHAIRMAN HOOD: Okay.

MS. STEINGASSER: We're also comfortable with option one or two.

CHAIRMAN HOOD: One or two? Okay. So, Commissioners, can we just do away with three?

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Okay. Let's do away with three and let's look at one and two.
I'm more comfortable with two than one. I think we get some benefit from having a panel of people in favor or in opposition. And having, you know, them all there and having a discussion with them, as a group.

CHAIRMAN HOOD: Okay. And then that other caveat or undeclared.

COMMISSIONER MAY: Absolutely. Yes.

CHAIRMAN HOOD: Undecided or opposition would -- whatever you want to call it -- opposition is --

COMMISSIONER MAY: Undeclared.

DIRECTOR WEINBAUM: Undeclared.

CHAIRMAN HOOD: Undeclared, in support, or -- okay. Undeclared. Some people may want to be in support with a few concerns. And, you know, that's how it always works -- boils down. But I think, for the sake of this exercise, it can be undeclared. Anybody else, option two? Option two? Option two, it is.

DIRECTOR WEINBAUM: Okay. We'll
Our third recommendation is clarifying that the Zoning Commission can determine, at its sole discretion, to hear any case the BZA can hear. As you know, that's certainly something that exists, but it hasn't been something that's been clarified in the Zoning Regulations. Option two here is to not put that in the Zoning Regulations.

CHAIRMAN HOOD: Okay. I think this basically spells it out somewhere, because we can do it anyway. So -- and I've heard -- I've seen Ms. MacWood's and Ms. Kahlow's and I think I also saw Ms. Simon's comments on a lot of these issues. But, Commissioners, I would be in favor of clarifying that the Zoning Commission can determine, at its sole discretion, to hear any case that the BZA can hear. I'm sure that we won't be going out of our way to be doing anything like that. But at least it is there if it ever need be. But let me open it up.
Commissioner May?

COMMISSIONER MAY: You know, the authority exists. I don't necessarily see a reason to codify it, except to, in effect, encourage people to try to get their cases heard by the Zoning Commission instead of the BZA, for whatever reason. So I just don't -- I don't see a particular need to fix this perceived problem. But I wouldn't feel very strongly about it. So if the balance of the Commission feels differently, I'd at least wait and see what the -- how it turns out in text form.

CHAIRMAN HOOD: Okay. Anybody else? Vice-Chairman?

VICE-CHAIRMAN SCHLATER: I think my only concern with this proposal is that it would ever give an opportunity for applicants to basically shop for a jurisdiction. So whatever we can do to draft the text in such a way that it makes it very clear that, you know, BZA cases go to BZA and, you know --
reason why the Zoning Commission would pick up a BZA case is usually in the course of a PUD process.

DIRECTOR WEINBAUM: Right.

VICE-CHAIRMAN SCHLATER: And I don't know if we're going to limit it to that. Is that the idea?

DIRECTOR WEINBAUM: Well, no. Or, I think it's a map amendment where there might be an associated -- let's say a variance, I guess, or a special exception that would probably be more likely.

VICE-CHAIRMAN SCHLATER: I think, in that limited circumstances, I'm comfortable with that.

CHAIRMAN HOOD: And some of that shopping around actually goes on now. But I think that the Staff handles it very well, in dealing with that. So, I think that I would be in agreement. I think we're all in agreement with -- okay.

DIRECTOR WEINBAUM: Okay? So
we'll go forward with that option one.

CHAIRMAN HOOD: Okay.

DIRECTOR WEINBAUM: The next recommendation is the one that, I think, got the most feedback. This is the ANC Set Down Form recommendation. And this is -- OZ doesn't take a position between option one and two, but OP does. Option one is that we allow affected ANCs to submit an ANC set down form prior to the set down meeting in contested cases other than stand alone map amendments, in which the ANCs can provide comments on particular items related to the proposed project. Option two is to allow affected ANCs to submit an ANC set down form prior to set down in all contested cases, including map amendments, in which the ANCs can provide comments. Option three would be to continue the current practice of limiting documents before the Commission at set down to those provided by the applicant/petitioner, the Office of Planning, and the Office of the
Attorney General. And, I think, again OP is recommending option one. Office of Zoning is comfortable with option one or two.

CHAIRMAN HOOD: Okay. I just had a question on that. During the hearing, it was mentioned that, at one time, the Zoning Commission used to have comments, other than from Office of Planning and from the applicant. And I think I asked for that. And I didn't see it in any submissions that I got. Was that actually done? I just don't remember it ever being done.

MR. BERGSTEIN: It hasn't been done since I've been involved, which is since 1999. I know there was no customary ANC report that was submitted in any set down that I can remember since I've been involved with the Commission. I have no idea what happened before 1999.

CHAIRMAN HOOD: Well, I know it hasn't happened since 1998, because that's how long I've been here. So I was just trying to
-- and I haven't heard any of the predecessors every talk about it. It's always been this way. And I was kind of leaning towards the people who testify to let us know. Because I was just curious of how that worked. But obviously, I'm not sure if that even -- even transpired at all. Because one of the comments that was used was a comment I made in 2002. And I know I didn't say that at a set down hearing. I don't believe I said that at a set down hearing. But anyway, let's -- colleagues, we have options. We have option one, option two, and option three.

VICE-CHAIRMAN SCHLATER: Mr. Chairman?

CHAIRMAN HOOD: Vice-Chairman?

VICE-CHAIRMAN SCHLATER: I think, at this point, I've not been convinced that we need to change the set down process. I think that the ANCs have the opportunity to participate fully in the hearings and we have the hearings to fill the case record. And I'm
just not -- I don't think -- I think that the applicant deserves to have, in my opinion, an opportunity to put the application before you and see whether it passes the smell test. And I don't think you need a full record in order to determine whether it passes the smell test. And I -- my bias it towards keeping the system the way it is. I'm concerned that the process that's been described in ZRR is one that would likely slow things down. I mean, by definition, there is a chance that it will be slowing down some of these projects. And I'm also concerned, if we get to the point where it's set down and the ANC has not weighed in with their form, that we're going to have a bias towards waiting for the ANC to submit that form. Or, if they haven't been able to have, you know, a meeting in the intervening period in which to discuss it, that we'll have a bias to slow it down. So it seems like we're adding a layer of review that I'm not sure is adding a terrible amount of
value. Because we're having a set down; we're looking at the application; we're setting it down on its merits; and then, once we set it down, we have a full public hearing, at which point the ANC is automatically a party and can present its case. It can cross examine applicants. I don't think they're being limited in any way, in the current process, from having their voice heard. And I don't think that set down needs to be used as just another -- I don't think we need to set the hurdle higher, necessarily.

CHAIRMAN HOOD: Okay. Anybody else? Commissioner May?

COMMISSIONER MAY: Yes. I am inclined to go with option one or two. I'm not sure which. And I frankly don't recall why there's a difference -- why we made that or were considering that distinction. Yes. If we can get some clarity on that, that would be good. But I -- I don't know. I think that it would be helpful. I mean, one of the
things that -- the pieces of information that I often feel is lacking at set down is understanding something about how the community is reacting to a given proposal. I don't think that it's going to -- I mean, if a given community is, you know, not happy with a particular proposal, but it's -- but the Office of Planning makes the case that it's consistent with the Comprehensive Plan and it's appropriate, then you know, then you know, we go forward and we hear it all out at the hearing stage. But hearing something directly, I think, is helpful. And it's a piece of information that I -- as I said, I often feel is lacking when we're considering cases at set down.

CHAIRMAN HOOD: Commissioner Selfridge?

COMMISSIONER SELFRIDGE: Maybe if Director Weinbaum could start by touching on option one and option two, that would be helpful.
DIRECTOR WEINBAUM: Sure. I would say, what we heard from -- just to respond to a couple of the comments -- what we heard from the community, in response to what you're saying, is that they did feel that there wasn't a vehicle and there had been times when there were maybe clarifications or things that could be pointed out in, you know, a very simple ANC report that they didn't feel were making into what OP was putting before you. I think that was a point. But, in terms of the timing, as I mentioned during the guidance hearing, the way we had structured it was that in no instance would set down be less than 35 days from when a case was filed; therefore, allowing the 30-day window for the ANCs to meet. So there are instances, based on our analysis, where there were cases set down in less than 34 days. And so you're right in that instance, it would potentially slow the process down. What we did also talk about writing in is very clearly that, in no
instance, would the lack of an ANC set down form be, you know, grounds for not providing set down, you know, or not -- not granting set down or not going forward with the case. So that would be something, if you wanted to do that, we would certainly write in that they have this window. But after that, we go forward. And if the ANC didn't meet, you know, the Commission would proceed and wouldn't be, in any way, limited there.

But, in terms of your question, Commissioner Selfridge, the difference here, I -- I'm going to let OP talk about it as well -- is OP didn't feel comfortable with map amendments being included here. What we tried to do was say contested cases, as opposed to rule making. So we looked at the contested map amendments and, you know, usually -- and we know what's going to be a contested map amendment, as opposed to a rule making larger map amendment. We were comfortable with all contested cases, including map amendments.
And, I don't know, Jennifer, if you want to speak about why map amendments was problematic?

MS. STEINGASSER: Yes. A lot of it has to do with the timing, because many map amendments that come before the Commission -- and there's not a lot but of those -- they move very quickly. And, often times, they're filed at the minimum date possible and they're set down, and then referred over to the ANC. Now, they would be held back, as well as PUD modifications that come before the Commission. But you would not see, and where many times the Applicant requests a minor modification and the Commission can set it down at that hearing, it's now required to go into a 35-day referral back to the ANC before the Zoning Commission can consider it for set down. We were also concerned about what happens in August. If an application is filed after the last meeting of an ANC in July, they're not going to get a hearing until October because...
they're going to have to wait for the ANC to even convene in September. So there's -- and then there's the holidays. So there's all kinds of scheduling issues that come up where the 35 days is not automatic, because the ANCs don't meet the same week of the same month and they don't meet every month of every year. So we were concerned about that. The map amendments, often times, aren't determined contested until they get to the Commission. And it's the Commission that determined whether something is a contested case. So there was the confusion of well, what happens if the map amendment is filed and the Commission decides it's contested; then it goes back? You know, there's kind of a looping that just seems to keep a lot of these smaller projects in limbo for what we felt was an inordinate amount of time. So we felt, through the changes that the ZRR has made to the PUD process, where we've required documentation of community outreach prior to
set down, that that captured the bulk --
amost 95 percent of the Zoning Commission cases. And it left the Commission then with
map amendments, PUD modification requests, and
the smaller projects were left to the
discretion of the Zoning Commission to move
more quickly.

COMMISSIONER MAY: That doesn't
sound like a ringing endorsement of option one.

MS. STEINGASSER: Option one
dresses mostly the ZRR changes -- the ZRR
changes to the PUD process will capture the
bulk of that.

COMMISSIONER MAY: I see. Okay.

MS. STEINGASSER: So that's how it
comes in.

COMMISSIONER SELFRIIDGE: Thank
you, Ms. Steingasser. You know, when we first
reviewed this, I was concerned about the
delays as well, that either option one or
option two would have on the process. I think

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we saw some statistics that only 20 percent of the projects though, that came before the Commission within 35 days of filing. So it seemed like it was a relatively small amount. So I think I could get comfortable with option one or option two. But option one seems fine. But I would think that the language that Director Weinbaum suggested regarding the non-filing of a ANC set down form or the -- not filing the ANC set down form would not be sufficient reason to delay the set down. So, to me, that would be important. Because I think the idea of keeping the process moving -- 35 days seems like -- particularly, considering only 20 percent of the cases get to us in that period of time -- it doesn't seem like a huge burden. But I would want to have comfort that this does not become the first in many delays for an application to get to set down.

CHAIRMAN HOOD: Okay. I would agree, to a point. But I will tell you, when
I looked at this, actually what let me know that we needed to either, you know, at least start with the form for the ANCs to weigh in was when I read Mr. Sher's -- and I'm sorry he's not here - when I read Mr. Sher's comments. That made it even more. There's a question I ask at every set down, pretty much. It's the question I asked tonight. That will give me a kind of reference point of exactly where it is now. The issue for me, though, is whether it's option one or two, and I heard Ms. Steingasser's -- although that small amount, in dealing with map amendments, I believe is what she mentioned. That small amount, which would cause a tremendous delay, I probably would be -- after hearing that, I would be in reference -- in support of option one. But, it depends on it being a small amount. I will tell you that it's very important, to me, and for this Commission, is to make sure that the communities weigh in, especially the ANCs. Now, we also have some,
I think Ms. Kahlo and Ms. MacWood. They alluded to how we should expand it. And I said the same thing at the hearing. I just don't see how we can expand it to civic associations. And again, let me say the caveat. I'm a president of a civic association. So I know. I just don't see how we can expand it to civic associations. And I think Ms. Simon is mentioned in there. She actually quoted what we said, why deal with -- what did she say? Don't worry about who's going to be responsible. But I think the ANC -- they're an elected body; there is some continuity; and they are the officials. But I will ask this, Director Weinbaum. Are they going to have to have a -- it needs to be a quorum present? The same rules that apply for this? Or just a single member district can willy nilly just bring it in here?

DIRECTOR WEINBAUM: No. It's the same rules as an ANC report.

Vice-Chairman Schlater: Are we
obligated to give the ANC great weight?

   DIRECTOR WEINBAUM: No. The form
is not entitled to great weight, was our
review when we talked to our attorney about
that. Alan?

   MR. BERGSTEIN: That's correct, that it's going to distinguish between -- this
is not going to be the ANC report that is
allowed for under the ANC Act and has the
separate requirement for great weight. This
is simply going to be an opportunity that's
going to be provided as administrative -- as
an administrative instrument from the Office
of Zoning, to permit the ANC to complete this
form. And it's an entirely separate process.

   VICE-CHAIRMAN SCHLATER: My
understanding, also, from I think our
conversation, is that the OP report also, at
set down, is not entitled to great weight
because there isn't a case. If it's later the
same report, than it is. Is that what we
said?
MR. BERGSTEIN: Yes. Well the great weight goes to the fact that you can't make your final decision until the 30-day period is completed. Set down is an interlocutory decision. It's a procedural requirement. And so the ANC Act doesn't apply to that. We're providing an opportunity, really, for the ANCs to put in input before the normal time when great weight would be given, which is at the time of the actual decision to go forward with the zoning change.

CHAIRMAN HOOD: Yes. I just want to make it clear, I'm not getting into the great weight issue. That's a whole other issue. You know, but I'm not -- my question was just focused on making sure that they give a form, prior to being able to weight in.

MR. BERGSTEIN: Yes.

CHAIRMAN HOOD: So it gives us a reference, so we'll know what to expect. I think this is a start. I will tell you, for the little -- the time that I'm going to be
around, I may be looking to maybe see how we can touch on what Ms. Simon mentioned. But, right now, I think this is fresh out of the gate. This is a start. This is more than what we've done in the past. So I think -- but the issue, for me though, I think, is option one. And hearing from you, Ms. Steingasser, I would also probably want to look at option two, at some point, also. You know, I just like to discover new things -- new adventures, because I think -- I think that, you know, at some point, it may work or it may not work. But at least this is a starting point. ANCs have never been able to give us any form or anything, other than waiting until the hearing starts. And I agree, to some degree, with Commissioner Schlater. But again, it gives us a reference point. So option one or two or three?

VICE-CHAIRMAN SCHLATER: I have a question, if that's okay.

CHAIRMAN HOOD: Sure. Vice-
Chairman, sure.

VICE-CHAIRMAN SCHLATER: The form, itself, that's going to be developed, what is the ANC weighing in on? Whether they support the project or whether they think the project is consistent with the Comprehensive Plan?

DIRECTOR WEINBAUM: I believe we had -- and anyway, I'm happy to draft up the form when we go to the text hearing and show that to you as well. But I believe we said they would be weighing in on -- do you know what the three areas were? I think we did say whether it was consistent; whether it should be set down as a rule making or a contested case; and if they had any other comments about -- that should be raised at set down. So I think we did it as a form, rather than asking for a report, so it was kind of a pre-populated thing an we would just have one sheet for your to review and, you know, get out concerns in a brief manner.

CHAIRMAN HOOD: And I think it's
going to be a lot of an educational process. Don't tell us why you don't think it should or should not be there. You know, get into the merits of the case. I think that's going to be incumbent upon us to do an educational piece for the ANCs across the city. DIRECTOR WEINBAUM: Yes. We can absolutely do that. CHAIRMAN HOOD: Okay. Okay. But the issue is still remains, one, two or three. Commissioners, I think I'm hearing most people are looking at one and two. COMMISSIONER SELFRIDGE: I would be comfortable with option one, at this point. CHAIRMAN HOOD: Okay. COMMISSIONER MAY: I'm fine with option one. CHAIRMAN HOOD: Okay. VICE-CHAIRMAN SCHLATER: I'm fine with option three. CHAIRMAN HOOD: Okay. So we've got two -- and I really don't have to break a
tie. But I'm fine with option one. So we'll do that. Okay.

DIRECTOR WEINBAUM: Okay. Option one, it is. Our next recommendation, recommendation five, is with respect to an Affidavit of Maintenance of Posting. Option one, which is a joint recommendation from the Office of Zoning and Office of Planning, is to require applicants in Zoning Commission cases to submit an Affidavit of Maintenance of Posting between two and six calendar days prior to the Zoning Commission hearing. Option two would be to continue to only require the applicant or petitioner to swear or affirm to its weekly maintenance at the Zoning Commission hearing.

CHAIRMAN HOOD: Okay. Option two is what we do now.

DIRECTOR WEINBAUM: Yes.

CHAIRMAN HOOD: And I think we have a joint recommendation from OP and OZ.

DIRECTOR WEINBAUM: Correct.
CHAIRMAN HOOD: And, from my standpoint, they're the ones who handle a lot of our administrative work. And this is both a joint recommendation. So can I speak for all of us and say option one to save us some time? Okay.

DIRECTOR WEINBAUM: Okay. All right. Great. Moving on. Recommendation six is again a joint OP/OZ recommendation that we add language to the Zoning Regulations regarding existing ethical requirements of Commissioners and Board Members which are stated in other codes, and put them into our code to strengthen it. Option two would be to not refer to anything further on that.

CHAIRMAN HOOD: Okay. Commissioners? Commissioner May, do you want to add something?

COMMISSIONER MAY: No.

CHAIRMAN HOOD: Okay.

DIRECTOR WEINBAUM: Okay. We'll go forward with option one. The last of my
group is recommendation seven, which is a joint OP/OZ recommendation to clarify the ability of the Zoning Commission and BZA to stay a final decision pending appeal. Option two would be to not clarify those rules in the zoning text.

CHAIRMAN HOOD: Okay. Any comments? We'll take the OZ/OP recommendation.

DIRECTOR WEINBAUM: Okay. We'll go forward with that. Thank you. I'll turn it over to OP.

CHAIRMAN HOOD: Thank you, Director. Let's go to Ms. Steingasser.

MS. STEINGASSER: Recommendation number eight is the organization of the chapter on nonconformities, Chapter 20. We're recommending that Chapter 20 be separated into two sections, one dealing with nonconforming use and one dealing with nonconforming structures. Option two would be to leave Chapter 20 in its current form.
CHAIRMAN HOOD: Okay. Option one.

MS. STEINGASSER: Recommendation nine is additions to nonconforming structures. Right now, there's a prohibition against any addition to nonconforming structures when the existing building has nonconforming lot occupancies. We're seeing an abundance of variance requests before the Zoning Commission to PUDs and before the Board of Zoning Adjustment. And we're recommending that that prohibition be deleted. Option two would be to require that it remain the same.


VICE-CHAIRMAN SCHLATER: Mr. Chairman, I'd just point out that we did get a letter -- let's see who it was from -- from Nancy MacWood, outlining why she's in opposition to this particular proposal. I read this. I guess I wouldn't mind getting a response from the Office of Planning on that specific point.
CHAIRMAN HOOD: About what Ms. MacWood raised?

VICE-CHAIRMAN SCHLATER: Yes.

CHAIRMAN HOOD: Okay.

MS. STEINGASSER: I'm sorry. I don't think we have that point.

CHAIRMAN HOOD: You don't have it? Could you tell her what page we're on here?

VICE-CHAIRMAN SCHLATER: Exhibit 10, page three. I guess here's the part of it. I can read it. "There's an outrageous presumption underpinning this recommendation that more building should be facilitated at the expense of an adjoining neighbor, who would no longer be allowed to demonstrate how such a building would envelop valued open space and negatively impact quality of life."

MS. STEINGASSER: I think it's a misunderstanding. We're not recommending it be allowed as a matter of right. You would still go forward with the variance. But it would just no longer be a prohibition. Right
now, an applicant has to get a variance to the prohibition, just to request the variance for the addition. So we're just reducing that time.

VICE-CHAIRMAN SCHLATER: That makes a lot of sense. Thank you.

CHAIRMAN HOOD: Okay. What number was that? Eight?

MS. STEINGASSER: That was number nine.

CHAIRMAN HOOD: Number nine, I'm sorry. No, I don't want to go that way. Okay. Number nine. Is option one everybody's choice? Okay. Thank you, Ms. Steingasser.

MS. STEINGASSER: Recommendation ten, we're recommending that any change from one nonconforming use to another nonconforming use continue to get approval by the Board of Zoning Adjustment, but that it be allowed more flexibility in the hierarchy of those uses. Right now, it's limited to a -- it's allowed to change to a use in the same category as
first permitted. And we're recommending a little bit more flexibility on that. That often comes to us in a case of residential and retail, where retail use is existing. But the way the code now lists all the retail uses, some are allowed in some zones and some are not allowed in another zone, so it creates a lot of confusion. So we're recommending that that be a little bit more flexible.

CHAIRMAN HOOD: Okay. Any comments, Commissioners? Okay.

COMMISSIONER MAY: Yes. I'm just getting -- I got a little confused by it.

MS. STEINGASSER: The way we're changing the Zoning Regs now, we're putting them into use categories in the new ZRR.

COMMISSIONER MAY: Right. Broader categories, and focusing on the impacts.

MS. STEINGASSER: Right. And this would allow that change of use to be consistent with that format, still requiring
BZA approval.

COMMISSIONER MAY: Yes.

MS. STEINGASSER: It would change slightly, the criteria.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: Okay. So we're good with option one? Okay. Thanks, Ms. Steingasser.

MS. STEINGASSER: Number 11 is non-expandable conforming uses. This is to allow, basically, a new type of category that recognizes conforming uses that are permitted in many zones, but they're also restricted from expanding.

VICE-CHAIRMAN SCHLATER: So, currently, these uses are nonconforming uses and we're --

MS. STEINGASSER: Well, they're conforming uses, but they have limitations that are unique from the other uses that would be permitted in that zone. Hotels in the R5 zones are the best example. Also, industrial
uses in the CRR District -- I'm sorry, in the
CG overlay are allowed to continue as a matter
of right, they cannot expand. So their matter
of right uses, they're conforming into the
zone, but they have limitations that keep them
from being recognized similar -- in the same
manner as the other matter of right uses.
They can be rebuilt. Whereas, a nonconforming
use cannot be rebuilt. So it's just kind of
recognizing that they are a little bit of a
hybrid and that they have their own unique
characteristics.

VICE-CHAIRMAN SCHLATER: So this
isn't changing the --

MS. STEINGASSER: No. It's just
clarification.

VICE-CHAIRMAN SCHLATER: Okay.

CHAIRMAN HOOD: Any comments?
Okay. Thank you, Ms. Steingasser.

MS. STEINGASSER: Number 12 is
alley lots. In this recommendation, we're
recommending that an alley lot be required to
have a tax lot before it can get a building permit. Right now, we're seeing all kinds of building permits being issued, which have triggered all kinds of problems for the Board of Zoning Adjustment, as well as the property owners, where the building permits are being issues on record lots -- on tax lots, rather tax lots, rather than record lots. And then, when they're in the alley, they don't become conforming. So we're recommending that it be clarified that alley lots must be record lots.

VICE-CHAIRMAN SCHLATER: Again, on this one, the law is that you have to have a record lot, correct?

MS. STEINGASSER: The law is that you have to have a record lot. But our surveys and research, to date, have shown unbelievable combinations of lots overlying lots where a property owner has done a tax lot for the back half of their lot. They've sold those rights, much like a condominium. Someone's gone and gotten a building permit
for the entire record lot, and been able then to get to the BZA to get a variance to have a second lot -- a second principal structure on a primary lot. There's any number of hybrids that we've seen. So we want to clarify that, in order to have a structure -- residential structure, an alley lot has to have a record lot.

VICE-CHAIRMAN SCHLATER: I think I was more interested in the modified Section 401.6 to state that any record lot created on a alley must meet minimum frontage standards on the alley. What's going on there?

MR. JESICK: Right now, Section 401.6 states that any record lot must front on a public street. This would just expand that so, if the lot meets all the other area width requirements, etc., it could front on an alley instead of a public street.

VICE-CHAIRMAN SCHLATER: Very good.

COMMISSIONER MAY: So, if I
understand this correctly, you're going to clarify that tax lots aren't going to be good enough. You have to have a record lot, but it's going to be easier to get a record lot?

MS. STEINGASSER: Well, right now, you're allowed to have alley lots.

COMMISSIONER MAY: Right.

MS. STEINGASSER: We want to make sure that the record lot provision also recognizes that if you have the alley lot, you have permission, provided you meet these requirements.

COMMISSIONER MAY: Okay. Thanks.

CHAIRMAN HOOD: Okay. Thank you, Ms. Steingassser. We can go to the next -- oh, option one? Okay.

MS. STEINGASSER: Recommendation 13 is a modification for a dwelling inside a theoretical lot sub-division. Right now, Section 2516 allows for the creation of theoretical lots. In many cases, it's just five or six or a dozen town houses or single
family houses on a private drive. In other cases, such as Fort Lincoln, you have hundreds of row houses all within one theoretical lot. And, if one home owner wants to get a variance to put a deck on, they've got to get some kind of signature recognizing all of the home owners in all of that. So we're recommending that there be permission created that allows an individual home owner to apply for that.

CHAIRMAN HOOD: Okay. Commissioners? Consideration of option one and option two is do not allow. But, after that explanation, I think we all will agree with option one.

MS. STEINGASSER: Recommendation 14 is recognizing institutional and educational uses and giving them permissions under 2516 if they've already received special exception approval and a campus plan -- or, I'm sorry, or a campus plan approval. Which allows them to have multiple buildings on a
CHAIRMAN HOOD: I'm not sure about that one.

MS. STEINGASSER: Okay.

CHAIRMAN HOOD: I -- so, initially, Ms. Steingasser, what are we doing here?

MS. STEINGASSER: Right now, a campus plan -- a property or an institution -- say a hospital -- let's take Sibley, which is a specific example, would have multiple buildings on a single lot. If they went through a special exception under the new process for an institutional use, for a campus plan for the hospital, they would still be required, under the 2516 provisions, to come back and get special exception for multiple buildings. We're recommending that those provisions be linked together so that it's only one public hearing and all criteria would be addressed simultaneously.

CHAIRMAN HOOD: Okay. Any other
comments? Is everybody fine with option one?

COMMISSIONER MAY: I just want to say, this is another one where we had gotten comments from Nancy MacWood. And her statement was, "It's hardly onerous for the institution -- private clubs, private libraries, etc., -- to include a request for a waiver form Section 2516 as part of its special exception application." I mean, that's essentially what you're saying though, right?

MS. STEINGASSER: That is what we're saying. And we can -- we can use that language if it makes people more comfortable, that an applicant can request that waiver as part of the special exception. I mean, that gives people more comfort.

COMMISSIONER MAY: Yes. I think that might be better.

CHAIRMAN HOOD: Okay. Well, thank Ms. MacWood. Okay. So we're basically saying option one, with the language that Peter just
read from Ms. Nancy MacWood. Okay. Make a note. We did adopt -- that's one thing. I'm going to start keeping a tally of things that we adopt from the task force. Because we adopted that.

MS. STEINGASSER: Many of these are from the task force.

CHAIRMAN HOOD: Oh, okay. Excuse me. I'm sorry.

MS. STEINGASSER: Yes. Many are.

CHAIRMAN HOOD: I stand to be corrected.

MS. STEINGASSER: Number 15 is the FAR calculation. This one came directly from the Zoning Commission. As you may recall, a PUD would apply for a simultaneous consideration of the Section 2516, which is the multiple buildings on a single lot, which would then remove the access way from the FAR calculation, driving the FAR artificially down. The Zoning Commission made that very clear in a case about three years ago, that
they wanted that clarified; that any access roads or alleys public or private, needed to be removed from the FAR calculations. This is what that does.

CHAIRMAN HOOD: Okay. So I think I remember that also, Commissioners. So I think option one just became our recommendation. I probably should say ZC's recommendation. But anyway.

MS. STEINGASSER: I think everybody agreed with you because the neighborhoods were frustrated, trying to do multiple calculations on every project. On 16, we're actually requesting, this evening, that the Commission not take a position on this one. We're working with DDOT on the narrow streets legislation and we're trying to bring those two together so the recommendations will come back to you in a different form at a different time. So we're stepping over that one.

CHAIRMAN HOOD: Okay. So we'll
MS. STEINGASSER: Matt, do you want to take 17?

MR. JESICK: Recommendation 17 is to clarify and consolidate the Zoning Administrator flexibility provisions in the Regulations. It would be a sort of a three-part recommendation. Part one would just be to consolidate the Zoning Administrator flexibility standards into one location within the Zoning Regs, to the greatest extent possible.

Part two would be to establish consistency in the Zoning Administrator flexibility across different types of orders, including BZA orders and, three, to further define the criteria by which the Zoning Administrator judges whether flexibility is appropriate or not. Option two would be to require different standards that those that we've suggested in our previous report. And option three would be not allow the
flexibility that the Zoning Administrator already has the power to grant.

CHAIRMAN HOOD: Okay.

VICE-CHAIRMAN SCHLATER: Sorry. I don't have the previous report in front of me. The level of flexibility that's being granted, is it different from the current standards?

MR. JESICK: We would not be changing the degrees to which the Zoning Administrator could grant flexibility. There are various numerical standards that he has the power to do that for. Lot width, lot area, etc. That would all be staying the same. What we would be clarifying is the criteria by which he judges whether flexibility is appropriate.

Right now, I believe the only language states that the flexibility must be in keeping with the intent of the regulations. If we can further define that somehow by referencing neighbor's access to light and air.
and that sort of thing -- other impacts that
the flexibility could cause, that request was
from the Zoning Administrator. So we thought
that would be a helpful clarification in the
regulations.

VICE-CHAIRMAN SCHLATER: Very
good. Thank you.

CHAIRMAN HOOD: Okay,
Commissioners. Any issues or should we go
with option one? Okay. Option one is fine.
Should we go to 18?

MR. JESICK: Recommendation 18 is
to institute a two-year sunset clause for set
downs. And option two would be to not
institute a sunset clause for set downs.

CHAIRMAN HOOD: Do we institute a
two-year sunset clause for set downs? That
means, once we set something down, it needs to
be acted on within two years?

MR. JESICK: Correct.

CHAIRMAN HOOD: Do we have a lot
of -- we don't have much of that now, do we?
I think we've only had one.

MS. STEINGASSER: I'll turn to Ms. Schellin, but we've had some that have been out there for many years.

MS. SCHELLIN: There have been a couple of -- it's mainly, as she said, for the map amendments. Because, once you set it down, the more restrictive is then in place. So -- but there have been a couple that have been set down that have been out there for a while. So --


MR. JESICK: OP's recommendation here is to specifically define which building permits would vest the zoning regulations on a property, should that zoning change after the building permit is acquired. And you can see there the four types of permits that we are
proposing. Option two is to allow vesting of zoning on a property by other building permits or other non-building permits such as sheeting and shoring.

CHAIRMAN HOOD: Okay. Any comments? Do you want to take time to look through some of the responses? I don't think --

COMMISSIONER MAY: I mean, right now, the vesting is broader, is it not?

MR. JESICK: Vesting just references building permits. And there are about 12 or 13 different types of building permits in the building code.

COMMISSIONER MAY: Right. So any one of them -- any one of those 13, and we're limiting it to these four?

MR. JESICK: Right. Because some of them are extremely minor things.

COMMISSIONER MAY: Right. Right.

Okay.

CHAIRMAN HOOD: Okay, option one?
Okay. Thank you. Is that it? Okay. Let me thank Office of Planning and Office of Zoning for going through that exercise with us. Ms. Schellin, do we have anything else? Oh.

MS. SCHELLIN: Yes. We have one other item under other business.

CHAIRMAN HOOD: Yes. We have the ZRR process. Let me just say that we have taken the task to try to further move the ZRR process to make sure that everyone is engaged and make sure that the participation gets back to where it was when we first started off. And what we are planning on doing, thanks to the Office of Zoning who helped facilitate this with the Office of Planning and others and the Office of the Attorney General, we're planning to attend the task force meeting on March 30, at 6:30 p.m. Could you give us the location?

MS. SCHELLIN: That's going to be in the Office that -- or in the building that the Office of Planning is located at. I
believe that's -- is that 1100 4th Street, SW.
It's on the Green Line.

CHAIRMAN HOOD: 11 4th Street, SW, on the Green Line, on March 30 --

MS. SCHELLIN: Waterfront Station.

CHAIRMAN HOOD: Waterfront Station. I think that's on a Wednesday. All of my colleagues have consented to be there. We're going to do our best to be there. And, if someone can't make it, we will make sure that they will get the full effect of what happens at the meeting.

And one of the things that we want to do is we've heard, while people may not think that the Zoning Commission listens, we listen very attentitively. And we've heard from a number of residents who feel like there's some flaws in the process. One of the things that we would not be doing is going back over all the stuff we've done over the past two or three years or however long it's been.
But what we're trying to do is look at that and revisit that and see how we can make sure we encompass input from the community; make sure that there's a -- that we can forge a better working relationship between task force -- no, let me not leave out the work groups, and I'm not sure if that's just about final, but the task force, the work groups, all interested parties in the ZRR process, as well as the Office of Planning and us, the Zoning Commission. We're trying to forge that relationship the way we work together.

Because, at the end of the day, the way I see it, even though there may be some disagreement, disagreement does not mean we need to throw away the process. Disagreement just means we need to try to find some finality to make it work. Now, we're not going to agree 100 percent. I mean, nobody does. But what we want to make sure that we do do is engage everyone in the process. I
know for a fact that there were members that were representing Council Members. I'm not sure some of it has fallen off for various reasons.

We need to find out why. We need people to be engaged, because, at the end of the day, when the cold is done, we want to make sure that everyone has had an input. But I can tell you now, we're not going to get 100 percent. But, for those who are interested, we want to do our best to make sure that we move this process forward. And, at the end of the day, it would be nice if everybody goes in front of Council and we all adopt -- and we're all singing together. But I doubt if that happens. But I want to make sure and my colleagues agree with me that we want to make sure we have exhausted everything -- as much outreach as possible. I think the Office of Planning, thus far, and the Office of Zoning, has already done a great deal of outreach.
And I know personally, I have went to different meetings and asked people to get involved in the ZRR process. But we've heard a number of different things. And I think, for us, on March 30, it's going to be a listening tour. We want to come and see and listen and then see how we can revamp, if we need to revamp, or whatever we need to do to make sure that people feel like they're involved with the process. I don't have all the answers. I don't think anyone does.

But I think together, the task force, the work group, Office of Planning, the Zoning Commission, the Office of Zoning, together, I think, at the end of the day, we can at least come up with a volume that I think people would appreciate and would want to use. And I've heard and seen -- I'm on the task force's e-mails and I saw one person, which I agree with, say how do we make it easier. We actually started off that way.

You know, at the end of the day,
I'm hoping that's what we're doing. And I think we are. For those who are not always involved with the zoning process, who are not down here every week, and for those who just show up for one case that may come in their neighborhood in five years, they want to make sure that code is easy for them to understand. And that's one of the things that we started off when we first started this process some years ago. So that's enough said on that. We will be there on March 30, for the listening tour, at 6:30 to 8:30, and then we will go from there.

So stay tuned. I'm looking forward to seeing everyone. And for those who know other task force members who have not been attending, please ask them to come to this meeting. Just please ask them. You can tell them that the Commission asked them to come to this meeting because we will be there.

Okay. Anybody else want to comment on that? Ms. Steingasser, did you
want to add anything, or Office of Planning? Office of Zoning? Mr. Weinbaum? Okay. Ms. Schellin, anybody? Okay. All right. Ms. Schellin do we have anything else?

MS. SCHELLIN: That's it.

CHAIRMAN HOOD: I want to thank everyone for their participation in this meeting tonight. And this meeting is adjourned.

(Whereupon, the meeting was adjourned at 8:30 p.m.)