GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

ZONING COMMISSION

REGULAR MEETING

MONDAY,
MAY 23, 2011

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 W. SCHLATER Vice Chairman
GREG SELFRIDGE Commissioner
PETER G. MAY Commissioner (NPS)
MICHAEL G. TURNBULL Commissioner FAIA, (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANouseK, Zoning Specialist
OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
JOEL LAWSON

DAN EMERINE
TRAVIS PARKER
STEVEN COCHRAN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
JACOB RITTING, ESQ.

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CHAIRMAN HOOD: Good evening, ladies and gentlemen. This is the May 23, 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, Commissioner May and Commissioner Turnbull.

We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, Ms. Donna Hanousek; Office of Attorney General, Mr. Ritting and Mr. Bergstein; Office of Planning, Ms. Steingasser, Ms. Thomas, Mr. Goldstein and Mr. Jackson.

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 Commission requests someone to come forward.
Please, be advised that this proceeding is being recorded by a Court Reporter and is also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room.

Please, turn off all beepers and cell phones.

Does the staff have any preliminary matters?

MS. SCHELLIN: No, sir.

CHAIRMAN HOOD: Okay. If not, I have two preliminary matters. I want to announce today that the Zoning Commission will continue its summer dress-down code, so after today, I understand it's supposed to be about 90 degrees, this goes out to everyone, Office of Attorney General, Office of Planning, Office of Zoning, Zoning Commission, naturally, and the audience.

When you come down to present in front of us, if you don't have a tie on or a
jacket, we will understand from this point forward. So that will take place beginning actually Wednesday night for us. Tonight? That's fine with me.

But anyway, so that's what we will do. We will go ahead and institute that a week early. Typically, normally, our June 1st date, but I understand it's going to be pretty hot this week and we have, I think, two more hearings this week.

Okay. The other thing, I just want to remind for the record people not to contact or attempt to contact Zoning Commission Members. We have an integrity. We try to keep our integrity. And what we do down here, we try to make the best decision possible, so I would just encourage folks who are in the audience and who are listening, not to contact any of us by other means.

And whatever we deal with in these cases, we deal with it right here within the walls of this room. So I would ask that you,
please, do not contact any Member of the Zoning Commission.

And I think I'll probably repeat that again later in the month or so.

Okay. Let's move right ahead. Final Action. Also, let me do this, the Vice Chairman is not participating on Proposed Action. I recommend, Commissioners, that we move the agenda and that we move everything up and make Proposed Action last, so the Vice Chairman can leave, if he would like, unless you want to stay here with us. Okay. Okay.

And then we want to publicly congratulate you on your newborn. Give us the name. I tried to get -- the only part I could get was Anthony. Give us the name of the newborn.

VICE CHAIRMAN SCHLATER: That was after you.

CHAIRMAN HOOD: Oh, yes, I actually mentioned that, but I don't want to take that for granted. So could you give us
the name?

VICE CHAIRMAN SCHLATER: Theodore Anthony Kabalan Schlater.

CHAIRMAN HOOD: Okay. Great. So we are going to move the agenda, so our Vice Chairman will get home and do his duties, especially since he didn't participate in the Proposed Action.

Okay. Final Action. Ms. Schellin, I think the first case I will not be participating, so I'll turn it over to the Vice Chairman, but, Ms. Schellin, if you could start us off?

MS. SCHELLIN: Sure. At Exhibit 36, we do have an NCPC report. They have said that there were no identified adverse effects to the federal interests and it would not be inconsistent with the Comp Plan for the national capital.

VICE CHAIRMAN SCHLATER: Thank you, Ms. Schellin. Does anyone have anything further on this case? In that case, I move
that we approve Zoning Case No. 10-27, 3050 R Street Partners - Map Amendment and special exception and variance at Square 1282.

COMMISSIONER TURNBULL: Second.

VICE CHAIRMAN SCHLATER: Moved and properly seconded. Let's call for the vote.

MS. SCHELLIN: Excuse me, if I could, I think that the variance was actually removed, so it is just the Map Amendment and special exception.

VICE CHAIRMAN SCHLATER: Okay. Thank you. So noted and I'll amend my motion.

COMMISSIONER TURNBULL: Well, I don't know if I can amend my second, but I'll second again.

VICE CHAIRMAN SCHLATER: With that, let's take the vote.

All in favor say aye.

ALL: Aye.

VICE CHAIRMAN SCHLATER: All in favor. Ms. Schellin?

MS. SCHELLIN: Yes.
VICE CHAIRMAN SCHLATER: Would you record the vote?

MS. SCHELLIN: Staff would record the vote 4-0-1 to approve Final Action on Zoning Commission Case No. 10-27. Commissioner Schlater moving, Commissioner Turnbull seconding, Commissioners May and Selfridge in support. Commissioner Hood not voting, having not participated.

CHAIRMAN HOOD: Okay. Thank you, Mr. Vice Chairman.

Next, Zoning Commission Case No. 10-19. This is the Office of Planning Map and Text Amendments - H Street Overlay - zoning consistency at Square 1050, et al. Ms. Schellin?

MS. SCHELLIN: Yes, sir. At Exhibit 28, we do have a request from the Office of Planning to reopen the record to accept their report, which is a request from them to defer action until our September 12th meeting.
And if the Commission is agreeable to do that, then staff would set a date to allow the Office of Planning and ANC-6A to make a later submission based on what is in the Office of Planning's report.

VICE CHAIRMAN SCHLATER: Can I ask the Office of Planning what the location of that property is?

MR. LAWSON: Yes, the property is located at the corner of 14th and Maryland. It's a fairly large piece of property and at the northwest corner of that intersection. It's not a right angle though. The two streets don't meet at a right angle, but it is kind of a bad intersection.

VICE CHAIRMAN SCHLATER: Okay. Thank you.

CHAIRMAN HOOD: Okay. Commissioners, as was stated, we have a correspondence. First, we have to open the record to allow the correspondence from the Office of Planning and I think we can do that
by general consensus.

Not seeing any objections, it basically states recently the owner of one of the large parcels in the area has requested some additional time to discuss the possible amendment to the zoning application.

A representative of ANC advised OP that they feel that Final Action on this case should be delayed to allow an opportunity for the ANC to discuss this issue. OP concurs and recommends to the Zoning Commission before taking Final Action.

They actually have a date here of September 12th.

MS. SCHELLIN: Right. That's the date of our September meeting.

CHAIRMAN HOOD: Okay.

MS. SCHELLIN: We could put it on the agenda for that date. And if the Commission decides to do that, we could leave the record open until the Tuesday before say 3:00. The Tuesday before which would be the
CHAIRMAN HOOD: Okay.

MS. SCHELLIN: And allow, if the ANC and the Office of Planning would like to provide the Commission with something further based on whether they come to some type of agreement and allow for further submissions, since the record is closed, that way it would, them an opportunity provide something further.

CHAIRMAN HOOD: Okay.

Commissioners, I would move that we accept the recommendation given to us by the Office of Planning. Any time we can better for further process, I think is good to let parties work on this. So I would move that we defer this until our September 12, 2011 meeting and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It has been moved and properly seconded. Any further discussion? Are you ready for the question?

All those in favor?
ALL: Aye.

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

MS. SCHELLIN: Yes, staff records the vote 5-0-0 to defer Final Action to September 12, 2011 in Zoning Commission Case No. 10-19. Commissioner Hood moving, Commissioner May seconding, Commissioners Schlater, Selfridge and Turnbull in support.

CHAIRMAN HOOD: Okay. Thank you.

Next, Zoning Commission Case No. 08-06, Office of Planning - Comprehensive --

MS. SCHELLIN: I'm sorry, Chairman Hood, and does that allow for the ANC and the Office of Planning to reopen the record and to allow for them to make that submission by September 6th?

CHAIRMAN HOOD: Yes.

MS. SCHELLIN: Yes, okay.

CHAIRMAN HOOD: Yes, it does, yes.

MS. SCHELLIN: Just wanted to make
CHAIRMAN HOOD: Okay. Thank you. So, okay, that's enough time, I'm sure, for them to make their submissions. Okay. Thank you, Ms. Schellin.

Zoning Commission Case No. 08-06, Office of Planning - Comprehensive Zoning Regulations Review: Production, Distribution and Repair Zones. Ms. Schellin?

MS. SCHELLIN: Yes, sir. In this case, there is a submission made by, I believe, the Office of Planning and as well as Chris Collins and maybe one other, I'm trying to find my notes here, on this -- actually, I believe it was just the Office of Planning and Chris Collins. And so we would ask the Commission to consider Final Action on this.

Also, we do have an NCPC report at Exhibit 144.

CHAIRMAN HOOD: Okay. Commissioners, if you will remember, this is the one where we asked the Office of Planning
to go back, and I think it was Mr. Lawson. I think it was you. Okay. I'm sorry.

All right, Mr. Parker. I don't know why I thought it was Mr. Lawson. But anyway, Mr. Parker, if you could just, if the parties indulge me, tell us what you found, even though I know you have it written in Exhibit 146? If you could just kindly explain that to us in a nutshell, we would greatly appreciate it.

MR. PARKER: Sure. We did some work, at your request, to sort of corroborate Mr. Collins' pricing numbers and we found a lot of different price examples and they are attached as a table to our memo. You know, but the end result was, you know, what we found is that the saturated rate of a roof system is about nearly 7 pounds per square foot and that, you know, basically, agrees exactly with what Mr. Collins had said in his memo.

Pricing, we were able to get very
little information. It is very contextual, very project-specific and so we weren't able to get any reliable data on the cost of these systems.

But, in general, you know, we ended up recommending that we have -- that we continue to have an exception down to 0.1 for the single-story warehouses, these purpose-built buildings and everything else would be the originally proposed or subsequently proposed 0.3.

CHAIRMAN HOOD: Okay. Commissioners, we have -- thank you, Mr. Parker. We have a number of issues here or a number of requests. I guess we can either take what was being proposed, what has been advertised, what has been recommended by Mr. Collins or we can take the revision.

After what the Office of Planning has done, which is dated in their May 13th letter, or we can take what is recommended after they did the review for us as a revised
language and position in proceeding with 0.3 or 0.1 GAR.

So we have a number of options in front of us. Let's open it up for discussion.

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: Yes, first of all, I want to thank the Office of Planning for the extensive research that they did. I appreciate seeing all of that information. And I agree there are some widely varying information, but -- with regard to the costs of such systems, but I do appreciate the extent of the research that you did.

I also think that the proposed change is a smart way to handle this. It was -- as I'm sure you recall, I wasn't enthusiastic about dropping the GAR number across the board and the idea that it would stay a .3 and an exception be granted for single-story warehouse buildings, I think is an acceptable compromise. So I'm in favor of
moving ahead with the language as the Office of Planning proposes it be modified.

CHAIRMAN HOOD: Okay. And, Commissioners, basically, that's, thank you, Commissioner May, what they are proposing is that the last few sentences of their report, their supplemental report, which is Exhibit No. 146. Okay. Would anyone else like to comment?

Okay. I would also agree with Commissioner May and I would make a motion that we move to adopt the revised language that the Office of Planning provided in their May 13, 2011 letter and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It has been moved and properly seconded. Any further discussion? I have some discussion. I'm not sure if we mentioned that the National Capital Planning Commission said this would not adversely affect any other identified federal interests. I'm not sure if that was
mentioned, but I wanted to make sure that was on the record.

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, staff records the vote 5-0-0 to approve Final Action on Zoning Commission Case No. 08-06 with regard to PDR as amended per OP's final report. Commissioner Hood moving, Commissioner May seconding, Commissioners Schlater, Selfridge and Turnbull in support.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. Next, Zoning Commission Case No. 06-40A. This is the Gateway Market Center, Inc. - two-year PUD time extension at Square 3587. Ms. Schellin?

MS. SCHELLIN: Yes, sir. As you
said, this is a request for a two-year PUD time extension. They are requesting this extension due to an inability to obtain financing and to find a lead tenant for the non-residential portion of the project.

At Exhibit 5, there is an OP report and at Exhibit 6, there is an ANC-6C letter in support.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. Commissioners, we have before us -- and if you look at the Office of Planning report as well as the applicant's submission, and I'm not sure -- oh, okay, my ANC letter is in here. And we also have an affidavit of Mr. Choi. I knew the last name. The first name, I don't want to butcher it, so we also have an affidavit from Mr. Choi.

We have a letter as Mrs. Schellin has already mentioned, ANC-6C voted to support the initial application. No changes. So they also support the extension as well as the Office of Planning report as well as what the
applicant has submitted, which, basically, spells out the rationale and the reasoning, litigation, some of the things we have heard market conditions, a number of other issues and that's found on page 2 and 3 of the report of the Office of Planning, as well as within the submission dated April the 8th from the applicant.

S, Commissioners, any discussion?

COMMISSIONER MAY: Mr. Chairman?

CHAIRMAN HOOD: Mr. May?

COMMISSIONER MAY: I missed the affidavit. Can you point me to it?

COMMISSIONER TURNBULL: It's Exhibit 4.

CHAIRMAN HOOD: Okay. If not, I'll share my copy with you. Do you need to see it?

COMMISSIONER MAY: I don't have an Exhibit 4.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: I have A, B, C,
D.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: It's part of this? Thank you, Mr. Chairman.

CHAIRMAN HOOD: Okay. Any further discussion? Okay. I would --

COMMISSIONER TURNBULL: Mr. Chair, I was just going to say I think Exhibits 1, 4, 5, and 6 clearly explain the situation of the applicant and in that situation, I would be in favor of granting.

CHAIRMAN HOOD: Okay. All right. Anybody else? Okay. They didn't have time certain. It's just a two-year extension. Okay. Then we will leave whatever -- whenever that is, we'll leave that up to staff and the applicant and OAG.

Anyway, I would move that we approve the two-year time extension request for Zoning Commission Case No. 06-40A, Gateway Market Center, Inc. and ask for a second.

COMMISSIONER TURNBULL: Second.
CHAIRMAN HOOD: It has 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, staff records the vote 5-0-0 to approve Final Action in Zoning Commission Case No. 06-40A. Commissioner Hood moving, Commissioner Turnbull seconding, Commissioners May, Schlater and Selfridge in support.

CHAIRMAN HOOD: Okay. Next is Zoning Commission Case No. 06-29B. This is the Washington Value Added I, LLC, two-year PUD time extension at Square 72. Ms. Schellin?

MS. SCHELLIN: Yes, sir. This is their second request for a two-year time extension. They are requesting this extension
because they have been unable to obtain sufficient project funding and due to the hotel market slow recovery.

At Exhibit 4, there is an OP report.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. You know, again, this is another request. Some years ago, we used to get these kind of requests and I didn't believe them then, but now with the market conditions the way things changed, so now I'm starting to think about all those ones that were before that, that was back when Mr. Herb Franklin was here, so that tells you how long ago it has been.

But if you look at -- Ms. Schellin, is that Exhibit 4?

MS. SCHELLIN: The --

CHAIRMAN HOOD: Office of Planning's report.

MS. SCHELLIN: Office of Planning's report is at Exhibit 4, yes.
CHAIRMAN HOOD: Okay. If you look at Exhibit 4 in the last page, it talks about exactly what Ms. Schellin said. And what we know now to be a custom of exactly what happens. The applicant has been unable to obtain sufficient project financing. In addition, the hotel market has slow recovery, as a result of the recent financial crisis. And it just goes on.

And it also talks about what is in Exhibit C for us to review. So I would be in favor, Commissioners, of granting this two-year time extension as well. And let me open it up for discussion. Any discussion? Anybody?

Okay. So with that I would move that we grant the two-year time extension for Zoning Commission Case No. 06-29B and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It has been moved and properly seconded.
All those in favor, aye?

ALL: Aye.

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

MS. SCHELLIN: Yes, staff records the vote 5-0-0 to grant the two-year time extension in Zoning Commission Case No. 06-29B. Commissioner Hood moving, Commissioner May seconding, Commissioners Schlater, Selfridge and Turnbull in support.

CHAIRMAN HOOD: Okay. Next is Zoning Commission Case No. 08-34. This is Center Place Holdings - 1st Stage PUD and Related Map Amendment and Consolidated PUD at Squares 564, 566 and 568. Ms. Schellin?

MS. SCHELLIN: Yes, sir. Staff has two preliminary matters on this case. First, the Office of Planning would like to address the Commission before you go into deliberations. And second, the applicant has requested the Commission to reopen the record
to accept a complete set of conforming plans.

If the Commission would do so, the applicant is prepared to hand those in this evening.

CHAIRMAN HOOD: Okay. Commissioners, first, let's deal with the reopening of the record, so we can get a complete set of plans from the applicant who is ready to present that to us this evening.

I would ask -- do we need a motion? Do we need a motion? Okay. Can we just, Commissioners, agree to open the record for the complete set of plans? Okay. So we will do that. They can bring those up.

And also, the Office of Planning would like to address us, so, at this time, Mr. Lawson?

MR. LAWSON: Thank you, Chairman Hood.

CHAIRMAN HOOD: Do we need the plans in front of us?

MR. LAWSON: You do not.
CHAIRMAN HOOD: Okay.

MR. LAWSON: Although, eventually, it may be helpful. We would just like to thank the applicant again for being so responsive to so many of the issues and discussions and we, of course, remain, you know, incredibly supportive of this application.

When we were looking through the order, we noticed one final issue that we had discussed at some length and had reached agreement with the applicant regarding -- but that had not been placed in the order.

And so we contacted the applicant and suggested that we raise this issue with the Zoning Commission for it to be added to the order, at this time. So if the Commission would like, I could read out what that -- it's a fairly minor change, but I can read out what that change that we are proposing would be. And this would be due the final order.

CHAIRMAN HOOD: Okay. Give me one
second. Okay. Commissioners, Mr. Lawson is going to read to us what now has been proposed and the applicant also is in agreement? Okay. Could you turn your mike on?

MR. LAWSON: They are. So it's a fairly minor change, but it's really just a clarification to reflect some of the discussions that we had had earlier. And it has to do with the pedestrian way down the center of the north block, so it only applies to that one section.

And the language that we have discussed with the applicant is that there will be no gate or fence restricting entry to the pedestrian way between Massachusetts Avenue and G Street, which shall remain open to the public at all times, except in association with a special event for short periods.

Now, the reason this was important to us is we wanted to make sure that that central pedestrian way does remain open to the
public and that's certainly clearly the intent of the applicant as well, that it remain open to the public.

But it also allows for the possibility for that space to be closed off if there is a special event that is being organized for the area and we think that is entirely appropriate as well.

So that's the only change that we are proposing, at this time.

CHAIRMAN HOOD: Okay. Thank you, Mr. Lawson. Commissioners, I think, at least, the Office of Planning and the applicant have agreed upon that and I actually would also like to see that happen. But let me just open it up to any comments or discussions? Do we want to accept what the Office of Planning and the applicant has already worked out? Okay. So we will do that.

Okay. Let's open it up for comments. I'm sure there are some questions and comments on this. Vice Chairman Schlater?
VICE CHAIRMAN SCHLATER: Thank you, Mr. Chairman. At Proposed Action, I had asked for clarification on a few items, including further development and explanation of the four story building that is connecting the two buildings in the north block.

And I looked at those plans and thought they were, you know, very high quality materials and it was a plan that made sense to me. I'm happy the applicant provided that information. It was helpful to me.

They also indicated that they will be providing a through lobby between the pedestrian way and 2nd Street on the eastern building on the north block and I think that is very good for the project as well.

And then there was a discussion of retail heights that was very helpful in understanding what retail heights were being proposed and the change in grade between the ground level and the actual retail space itself and also had a good discussion of, you
know, the design with respect to the retail and how it was going to, you know, be good retail design.

I was persuaded that ultimately those retail spaces are good spaces and it will be a good ground-level experience for people walking by the project.

And I think I asked for some information on the light columns included in the project and they provided that as well. So I too would just like to second the notion that I thought the applicant was very good about responding to all the issues that were raised at the hearing and I think it is a better project than the one that was submitted before us. And I'm happy to support it here tonight.

CHAIRMAN HOOD: Okay. Anything else, Commissioners? Commissioner Turnbull?

COMMISSIONER TURNBULL: Yes, Mr. Chairman. The other thing I want to point out, we do have a report from NCPC. They are,
basically, in favor of going ahead, but they
do have a couple of comments in their -- I
don't know if you want to highlight those?

CHAIRMAN HOOD: Yes, if you could
help, me?

COMMISSIONER TURNBULL: Well, one
of them was "Staff recommends that the
Commission find that the 1st Stage PUD/
Consolidated PUD and a PUD-related Zoning
Amendment for development within the air-
rights above the Center Leg Freeway I-395 in
Square 564, 566 and 568 would not be
inconsistent with the Comprehensive Plan for
the national capital nor adversely affect any
other identified federal interest."

But they do talk about further
discussions with DC on G Street, the
possibility of having both vehicular and
pedestrian. So from their standpoint, they
are still hoping that the applicant will work
with DC on looking at that.

I thought there was something
else, too. I think that was the thing that
stood out in my mind.

CHAIRMAN HOOD: Okay. Yes. I
actually was aware of that and I figured,
hopefully, what I heard from Mr. Lawson
tonight, maybe there are discussions still to
be had, because we already are leaving it open
for pedestrians. I think the NCPC had a
request.

I'm not sure how much of that is
within our jurisdiction, but I think they will
still continue to have the talk with DDOT.
So I'm glad you brought that up.

I think there were one or two more
issues that they also raised, but I'm not sure
if they were -- and I do recall reading this,
but I'm not sure if they are all within our
jurisdiction. So but it's good that we
brought it, at least for the record.

Okay. Thank you, Mr. Turnbull.

Anybody else?

COMMISSIONER MAY: I would just --
CHAIRMAN HOOD: Commissioner May?

COMMISSIONER MAY: I was just going to note that the reason G Street is -- the reopening of G Street is so complicated is because of the building that is in it, which is a federal building, and I think that fact was pointed out to NCPC.

COMMISSIONER TURNBULL: No, I know. That is a serious issue.

COMMISSIONER MAY: So I mean, it's something that hopefully is now on their agenda to address as well, because they provide guidance to GSA and others who build federal buildings.

CHAIRMAN HOOD: Okay. Anything else? Let's take our time. You know, I'm not really sure, the applicant has removed -- and maybe I'll go to Mr. Ritting to help me. The applicant is removing some of the 2nd Stage application issues that involve the center and the south blocks.

But I think they are removing it,
I guess, with the assumption that we will deal with it at the 2nd Stage, but I think our regulations allow for us to deal with it at 1st Stage. And I guess I don't know, maybe it's a question for the applicant why are we removing it? Mr. Ritting?

MR. RITTING: Well, it's slightly different than that. And they are requesting consolidated review of a little bit more than what you typically approve in a 1st Stage PUD. And what they are specifically asking for is laid out in Findings-of-Fact 55 and 58 of their draft order.

They are asking for, in addition to the approval of the entire platform and base infrastructure, also, the mix of uses, the height and density of each building in the site plan for the overall project in the consolidated aspect of the PUD.

And, basically, it's slightly different than your usual PUD procedures, but there is really no reason that you couldn't
approve it this way, if that's the way they want to do it. And given the amount of investment that they are putting in the infrastructure itself, it seems appropriate.

CHAIRMAN HOOD: Would that give us another chance at the 2nd Stage to revisit those issues? I guess it will. We will still have an opportunity to revisit?

MR. RITTING: Well, I mean, the reason they are asking for you to approve it now is they don't want you to revisit it.

CHAIRMAN HOOD: They don't want to hear it again.

MR. RITTING: But if you have examined those issues and you are comfortable with approving it now, there is no reason that you couldn't do that.

CHAIRMAN HOOD: Okay. Okay. I just wanted to mention that. Anything else, Commissioners?

I would take Mr. Ritting's suggestion -- well, not his suggestion, but I
would follow it that we would go ahead and proceed, at this point. Mr. Turnbull?

COMMISSIONER TURNBULL: Yes, I think the only thing, we had some design issues specifically with the south block. I think that was on our table to look at. And that would come with the 2nd Stage, but we had some serious issues with that.

CHAIRMAN HOOD: Okay, the design. We will be able to look at that, I'm sure, at the 2nd Stage.

MR. RITTING: That isn't included in the aspect of the project that they are asking for for approval now.

CHAIRMAN HOOD: Okay. Commissioners, anything else on this? I do want to commend the applicant for being responsive. Let's just get it done this time. I think I have been around, maybe it was a different person who had it some years ago, but let's get it done.

Okay. With that, unless there is
anything else? Mr. May?

COMMISSIONER MAY: I'm sorry, I'm just a little slow catching up. The issue of the 1st Stage and 2nd Stage review of the south blocks, center and south blocks, we are not taking anything off the table to that review in the language that we are planning to adopt? Is that right? Are we simply blessing the exact height and density of the plan for the center and south blocks?

MR. RITTING: That's correct. And you will still have the architectural review element in the 2nd Stage for the south block.

COMMISSIONER MAY: Only the architectural review in the 2nd Stage? So we are approving the full density regardless?

MR. RITTING: I'm going to have to --

COMMISSIONER MAY: I'm not sure, maybe I misunderstood what the issue is. I may have got it twisted in my head. Would you mind walking me through it again?
MR. RITTING: Sure. Give me a moment to sort of get myself acclimated before I --

COMMISSIONER MAY: Okay. Sure.

MR. RITTING: -- start speaking.

The applicant has proposed Finding-of-Fact 55 states that "The applicant includes a request for a Consolidated PUD for the following elements of the overall project:

The construction of the entire platform and base infrastructure. The mix of uses. The height and density of each building and the site plan for the overall project, which would include the south building. The north block, the construction of all below-grade parking concourse and service levels and the proposed landscaping and streetscape project for the overall project."

Finding-of-Fact 58 states that "The Consolidated PUD includes the mix of uses, height and density of each building and the site plan for the overall project. The
project requires a fully designed platform known for the project to commence. This construction is complex and expensive and incorporates significant risks and obligations not normally associated with the development in the District.

Therefore, the uses, height and density, as well as the site plan, must be finally determined prior to construction of the platform and the base infrastructure. The 2\textsuperscript{nd} Stage review of the buildings in the center and south blocks will focus on architectural design."

So to the extent your question asked whether you were going to revisit the density of the center and south blocks -- can you hear me now? I feel like the Verizon guy.

So to the extent that you want to revisit the density and height of the south block, that is off the table.

VICE CHAIRMAN SCHLATER: Does that mean it's off the table for the applicant to
revisit the height and density as well?

MR. RITTING: No.

COMMISSIONER MAY: Right. I mean, that was my question, because I think one of the things I struggled with with the south block, in particular, was their ability to build that density and wind up with a good looking building.

And, you know, I mean, we did push back a bit on that and tried to see some of the density moved around, but in the long run, if they can't come up with a building that is acceptable architecturally, at that full density, they may be forced to reexamine the density of the project. And they could do that if we are not willing to approve what they put before us.

MR. RITTING: That's true, yes.

COMMISSIONER MAY: All right.

CHAIRMAN HOOD: I just don't like the way that that was just worded. The applicant -- unless I'm missing something, we
are pushing ourselves up against the wall. But the applicant has the flexibility to make a change in height, but we don't.

I don't --

MR. RITTING: Well --

CHAIRMAN HOOD: Did I state that correctly?

COMMISSIONER MAY: I don't know. I always thought that if we have -- if an issue is decided, it means that it doesn't start out on the table, but I would think that at any 2nd Stage review we could revisit things decided in the 1st Stage at our discretion. Could we not?

MR. RITTING: I'm not so sure you can revisit them if they are in an order that you already issued. I mean, the question would be whether you would approve the 2nd Stage application that was before you and if you found it unacceptable for some reason, such as the design, then you could deny it.

COMMISSIONER MAY: Okay. Well, I
mean, in just looking at the language the way it is written here, the only thing that really gives me any heartburn is the statement that 2nd Stage review of the buildings in the center and south blocks will focus on architectural design.

I mean, that kind of goes without saying, so I would just as soon not say it.

MR. RITTING: That's true.

COMMISSIONER TURNBULL: Well, I would like to know if that limits us to setbacks or wanting more setbacks or just the design?

MR. RITTING: You know, I mean, I think that the, as we have sort of fleshed out here, applicant has to prove that they can build a building of that density and make it a good looking building. And it has to be good looking enough to get our approval.

If they do not do that and we resist approving it, they will come back and point to this order and say well, you are
really only focusing on the architectural design and, therefore, you should not be pushing back on something that would actually affect density.

So I mean, I would rather not have that sentence in there and everyone, I think, here knows that they will have to pass mustard with the Commission the second time, at the 2nd Stage and we will be looking for a very good building. And if they can do it and get their density, great. And if they can't, then they need to be thinking about all their options.

CHAIRMAN HOOD: So the sentence that we are looking at that we would like to have removed is the mix of uses, the height and density of each building? Is that the sentence?

COMMISSIONER MAY: No. It's the 2nd Stage review of the buildings in the center and south blocks will focus on architectural design.
CHAIRMAN HOOD: Which findings?

COMMISSIONER MAY: It's at the very end of 58.

CHAIRMAN HOOD: Therefore, the use, height and density -- is this "Therefore, the use, height and density, as well as the site plan must be finally returned prior to construction or platform or base infrastructure. The 2nd Stage review of the buildings in the center and south blocks will focus on architectural design."

COMMISSIONER MAY: Just that last sentence there.

COMMISSIONER TURNBULL: Yes. Commissioner May, I mean, my feeling is we still need to give this a comprehensive review when it comes before us. I think you have got a good point there. I'm just -- I just don't want to get us -- I think you are right. I don't think we should be locked in to just one item.

I think the Zoning Commission
needs to perform its due diligence and review the next stage as we normally would.

COMMISSIONER MAY: I agree. And also, I agree that that the -- with the applicant's intent, which is that they need to have certainty to be able to move forward and invest in that entire infrastructure, so I think that -- I mean, that's why I'm comfortable with the sentence before it, because, you know, they need to make -- they do need to make certain determinations in order to move forward.

But they also, I mean, I think at this point, should be well-aware of the concerns that the Commission had about the overall density. And while, you know, we are giving them the ability to try to build it out completely, they still need to come back for that 2nd Stage review and it's not to say that we are going to explicitly reserve the right to reduce the density at the 2nd Stage review.

It may be one of the few tools
that the applicant has to work with in order
to get the final approval. Anyway, for me it
all boils down to that one last sentence. I
would be happier just striking that last
sentence.

CHAIRMAN HOOD: And I'm not sure
if we -- you know, maybe I'm reading it too
much, because I have actually read it a few
times. I'm not sure if we exactly -- are we
achieving what we are trying to get by just
taking out that last sentence?

COMMISSIONER TURNBULL: I would
like to ask, OAG, what's your feeling on our
position with this?

MR. RITTING: Well, I mean, if you
strike that last sentence, you are still
leaving in all of Finding-of-Fact 55, which
includes the approval of a mix of uses, the
height and density of each building and the
site plan for the overall project, which is in
keeping with what 1st Stage approval is.

I mean, it seems perfectly
appropriate to include that in there. If you just strike that last sentence, I don't really see it having much of a significance at all really.

I mean, if it gives you pause, then I would be happy to strike it.

CHAIRMAN HOOD: I mean, let's be realistic. What are we doing? Nothing. I mean, we can strike it.

COMMISSIONER MAY: Well, I mean, the alternative is for us to say in the order what we have just said on the dias, which is that it is -- while this density has been approved by this order, the, you know, applicant may choose to reduce the density in order to effect a more successful design in the 2nd Stage review.

MR. RITTING: I think that would be appropriate to include and would be completely legally sufficient to do so.

CHAIRMAN HOOD: What did you say? I'm sorry.
COMMISSIONER MAY: I don't know, what did I say?

CHAIRMAN HOOD: I was still reading the sentence again.

MR. RITTING: Hopefully the Court Reporter is still recording this and I'll be happy to review it before I issue it.

COMMISSIONER MAY: Okay. I mean, the gist of it was that the applicant -- you know, while the Zoning Commission was approving the maximum -- or approving this specific density, the applicant has the flexibility to use less density in order to create a more effective design for the building in order to get the approval at the 2nd Stage.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: So just stating specifically that they can make it a little bit smaller and do setbacks and things like that to make the design approvable.

MR. RITTING: Is this limited to
the south block or does it include the center block?

COMMISSIONER MAY: The center and south, I would say.

CHAIRMAN HOOD: So are we still striking the sentence that doesn't really do anything or are we going to leave that in?

MR. RITTING: Yes. I would strike the one which limits our review to architectural design.

CHAIRMAN HOOD: Okay. I'll go along with that, but I'm not sure if I agree whole -- in totality, but let's see what happens.

COMMISSIONER TURNBULL: Mr. Chair, are you unsure of the strength of the language in the orders?

CHAIRMAN HOOD: I just think that -- I just don't like to be backed up against the wall. And I go by something I heard by you, Mr. Turnbull, even though you probably think I don't listen, is he is telling us that
somebody is going to come in here and try to lower the density.

And as you stated previously, you know, it might not have even been in this case, everybody always comes in with the maximum, with the most and I don't know. I'll just wait and see, you know.

COMMISSIONER MAY: Well, I fully expect them to come in with something that is the maximum density, but, again, it has to be a good building. And if they can't get to the good building without shaving off a little bit more here or there, then, you know, so be it. I think it needs to be explicit that we think that that's still on the table for the applicant.

But, you know, they, I'm sure, will hire very talented people and will come up with a very good design no matter what.

CHAIRMAN HOOD: Which kind of goes back to what the Vice Chairman said a while back. I think -- does that -- I don't want to
put words in your mouth, but you were talking about the density design and being able to build to the maximum point.

I think that kind of goes back to what you -- I know you guys don't think I pay you all attention, but I actually do.

Okay. So I don't know where we are. I guess are you going to try to put something together for us, Mr. Ritting?

MR. RITTING: Yes, I'll revise the draft order and circulate to you before we send it out.

CHAIRMAN HOOD: But you know what we want? I think we can still go ahead and move forward, unless somebody has some unreadiness. Is there anything else? Anything else? Okay. Would somebody like to make a motion? I'm not going to touch this one.

Okay. I would move approval of Zoning Commission Case No. 08-34, Center Place Holdings, 1st Stage PUD and Related Map
Amendment and Consolidated PUD at Squares 564, 566 and 568, taking into consideration our discussion that was just happening on the dias and ask for a second.

COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It has 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, staff would record the vote 5-0-0 to approve Final Action in Zoning Commission Case No. 08-34 as amended. Commissioner Hood moving, Commissioner May seconding, Commissioners Schlater, Selfridge and Turnbull in support.

CHAIRMAN HOOD: Okay. We are going to go over -- we are going to skip Proposed Action for the time and we will go to
Hearing Action. Yes, Hearing Action, Zoning Commission Case No. 11-09, Duball Petworth, LLC, Consolidated PUD and Related Map Amendment at Square 2905. Mr. Cochran?

MR. COCHRAN: Good evening, Mr. Chair and Members of the Commission. Duball Petworth has applied for approval of a PUD and Related Map Amendment on the west side of Georgia Avenue between Quincy and Randolph Streets, N.W.

The location is about a block north of the Georgia Avenue-Petworth Metro Station on Metro's Green and Yellow Lines.

The site is Zoned Georgia Avenue Overlay, C-3-A, along the Georgia Avenue portion of it. Towards the interior of the block, beginning with part of the alley for which the applicant has filed a closure request, the land is Zoned R-4.

The applicant has requested a chance in the R-4 Zoning as part of the PUD, so that the entire acre and a half site would
be Zoned Georgia Avenue, C-3-A.

Right now, the site contains a 23,000 square foot Safeway, a parking lot and a short section of alley. If it were developed as a matter-of-right, the section fronting Georgia Avenue could be developed to a full .0 FAR and 90 feet in height.

The interlock section could not be developed for its R-4 Zone uses without zoning relief, due to alley dwelling restrictions.

The proposed PUD would be a 306,000 square foot 4.5 FAR mixed-use building rising 80 feet on Georgia Avenue and 21 feet in the interior. It would contain a 63,000 square foot Safeway, that's about 40,000 square feet bigger than the one there now, with 220 apartments above it and underground parking and loading.

The relief requested includes the rezoning of the R-4 portion and relief from retail parking requirements, open court width, numbers and setbacks of penthouses and
features of the Georgia Avenue Overlay, including those governing the average distance between exterior doors and the height of the back of house areas ceiling.

The proposal is not inconsistent with the Comprehensive Plan. The Future Land Use Map shows the Georgia Avenue C-3-A portion of the site as appropriate for moderate density commercial and medium density residential uses.

The Generalized Policy Map shows the entire site, including the portion now zoned R-4 as part of the Georgia Avenue Main Street Mixed-Use Corridor.

OP's report describes how the project would not be inconsistent with written elements in the Comprehensive Plan. The project would also be congruent with the objectives of the PUD Regulations. It would further transit-oriented development being located a block from a Metro Station.

Its design is superior. The
requested relief is not, obviously, out of line with the projects benefits, which would include one of special value to the neighborhood, the Safeway, one which Chapter 24 highlights as a public benefit, the additional housing, and the first source, but not an LSDBE agreement.

So far, Petworth residents have been generally favorable. OP, the ANC and the applicant would work on refinements to the benefits package should the application be set down.

Speaking of which, OP recommends the Commission set down this PUD for a public hearing. That concludes the testimony.

CHAIRMAN HOOD: Thank you, Mr. Cochran. Commissioners, any questions of the Office of Planning?

COMMISSIONER TURNBULL: Yes, Mr. Chair?

CHAIRMAN HOOD: Mr. Turnbull?

COMMISSIONER TURNBULL: Thank you.
Mr. Cochran, I just had looking at page G-09, the turning radiuses in the alley for the trucks, I would like to see them develop a bigger, more accurate -- it looks like on the one on the right hand side, that it really -- maybe the way it is -- again, maybe it's an element of the drawing, it does come very close to the end of the wall there.

I guess, I would like to see something a little bit clearer as to exactly how it is really going to work. I'm also concerned about whether -- I would like to see them have either -- some kind of a dock management plan. We have gone through this before with a large grocery store and trucks coming in and I'm concerned about noise, exhaust from the trucks, idling trucks out in the alley right by this apartment complex.

Do you have --

MR. COCHRAN: Mr. Chair, I just want to point out that all of that would occur below-grade. It's all underground.
COMMISSIONER TURNBULL: Well, they are going in on the alley though, right, from what I'm seeing? The trucks are going in on the alley off the --

MR. COCHRAN: They go in off of an alley and down a ramp, yes.

COMMISSIONER TURNBULL: But I'm just wondering if there is a wait and they have trucks waiting up in the alley --

MR. COCHRAN: I know.

COMMISSIONER TURNBULL: -- idling.

MR. COCHRAN: I'll certainly take that to the applicant.

COMMISSIONER TURNBULL: Yes. I'm just concerned. We had this before on another one and just concerned about how they are going to -- we don't want trucks idling out there 10 minutes before somebody opens the door and a truck goes down for 20 minutes.

But I would like to see a better picture on how that really works and what they -- how they plan to manage this.
I would also like to see some better elevations of those sections on the alleys where the garage is, I believe, where they have grills. I think there is grills. I can't tell. I would like to know what those grills look like.

Is there going to be light? How much light will be spilling out from behind them? Are there going to be something to diminish the effect on the neighborhood? So I would like to see a little bit more of the characteristics architecturally of how they are planning to deal with these open grills on the garages.

I mean, it appears to me that there is brick all around the first floor, first two floors. It looks like brick is the material that I'm seeing. But I would like to see some -- on those areas where -- the drawings we have now are very small. I would like to see a blow-up of how they are going to articulate that brick.
Is there going to be any relief to it? Is it just a brick wall? Something on it? But I know you are working with them on that.

MR. COCHRAN: Yes.

COMMISSIONER TURNBULL: Okay. The roof plan, it looks like it's just a white roof membrane. I couldn't really tell from the -- except on the second floor.

MR. COCHRAN: Correct. It is not a green roof, per se. It's a reflective roof.

COMMISSIONER TURNBULL: Okay.

MR. COCHRAN: They call it a cool roof.

COMMISSIONER TURNBULL: Cool roof. But it's still LEED? Okay. The sixth floor terrace, I'm not sure what that was. I saw a little box designating a sixth floor terrace. I don't know what is going on there. Just a place to come out, I'm assuming.

Just to remind them about resumes for their expert witnesses that they carefully
document the experience, so we don't have to rehash it up here.

MR. COCHRAN: Okay.

COMMISSIONER TURNBULL: I guess I thought that some of the amenities might be a little light, other than -- I mean, from what they are proffering. I mean, the city is closing -- is going to close an alley if this thing goes ahead. I was just looking for maybe a little bit more from them on that.

I would like to see a perspective or some kind of a view of the cafe area just off of Georgia looking down the street, at what that really is going to look like.

I think I might be interested also in a shadow study showing the impact of the height of the building on the adjacent buildings, what kind of a -- what that would really look like.

There is also a -- in the plan, there shows a garage exhaust shaft. And it doesn't seem to go up to the roof, it just
sort of seems like it ends and it looks like it is on one of the alleys. I'm just concerned about exhaust, garage exhaust emptying out into the alley with people going by. I need a little -- I think we need a little bit more information on that.

And I think those are most of my questions. Thank you.

CHAIRMAN HOOD: Thank you, Mr. Turnbull. Any other questions of the Office of Planning? Vice Chairman?

VICE CHAIRMAN SCHLATER: Thank you, Mr. Chairman. I think this is an exciting project. It will be great for Georgia Ave. to have a new Safeway and to have the residential above it. There are a few things that we are going to have to work through as we go through the process.

The portion of the building that concerns me from a design standpoint is the tongue in the back. I don't know what that -- if you want to call that the loading area. It
seems like with the change in grade on the site, that that loading area actually gets pretty tall as it backs up to the adjacent townhomes.

And it is right now designed as a blank brick wall. So I guess one of my first concerns is what you have got there now is a parking lot, surface lot. And if I go to one of the sections, it looks like that tongue goes up, you know, 2.5 stories almost.

So I think some attention needs to be paid to that. And also on that area, there is the mechanical penthouse for the grocery store and I know that, you know, with all the refrigeration that goes on and all the cooking that goes on in grocery stores these days, that those can be very loud units and they can create a lot of smells as well. And that is located very close to the apartment building, right across what looks to be a 20 foot public alley.

And I know that if I had an
apartment, I wouldn't want, you know, the mechanical equipment of a Safeway 20 feet away. It is entirely possible that, you know, it is better than the current situation out there as well.

So I think we will be willing to explore that further, but it would be certainly a concern of mine is the proximity of that mechanical equipment.

And then one of the waivers that is being asked for is on the court requirements. And I just don't know if there is much to be done here. And we have discussed these court requirements in the ZRR process. And this particular court isn't going to be impacting anybody else's light and air, but I do note that it is a closed court and it is less than 40 feet wide. That seems like it would be pretty well closed in.

I don't know if there is much the applicant can do about it. But I also would note that the -- in the benefits and amenity
section, we have got this portable housing proffered here and in our regulations, affordable housing is actually required in this zone.

And I don't think the applicant is doing anything to exceed those requirements. So, from my standpoint, I would scratch that for my consideration of the balancing test. I think that's it for now. Thank you.

CHAIRMAN HOOD: Okay. Anything else? Commissioner May?

COMMISSIONER MAY: Yes, just a couple of quick things. I appreciate the Vice Chairman and Commissioner Turnbull's questions and I look forward to seeing the answers or hearing the answers to a lot of that when the hearing comes around.

And most of my questions I'll save for the hearing, because, for the most part, this is, I think, a project that is off to a good start.

I do have a concern though. It
seems from the drawings that I see that there is -- I don't know if I'm understanding the drawings correctly, but the base masonry at the front of the building, which is -- which alternates between a smooth course and a rough course, rough-textured course, it looks like it's some sort of concrete block, according to the image that we have here.

And I would be very, very concerned if this building, the base of this building, were just a concrete block of some sort, no matter how good you make the concrete block look, it's not going to look very good. I mean, if it were precast or something like that and I'm just reading it incorrectly, that would be a different thing.

And then the other concern I have with regard to materials is the use of fiber cement panels in the upper floors of the main building in the fronts. I'm not convinced that that's such a great idea.

I mean, it's primarily a brick
building, maybe it will look fine as an
offsetting color, I don't know, or offsetting
material, but I understand completely fiber
cement panels in the courtyard basis, but on
the main facade of the building where
everything else is masonry, you've got precast
and brick and hopefully a handsome block or
handsome masonry unit at the lower levels.

The fiber cement panels in the
upper level seem kind of out of place. But I
just note that as a question and the applicant
can try to make the case or consider
alternatives. Thanks.

CHAIRMAN HOOD: Okay.

Commissioner Selfridge?

COMMISSIONER SELFRIDGE: Thank
you, Mr. Chairman. I would agree with what
Vice Chairman Schlater said about an exciting
project. Certainly, the neighborhood will
benefit from the new Safeway, something that
is more modern and updated.

But I did have a couple of the
same concerns of Mr. Turnbull. One would be the benefits and amenities packages, as well, I thought that was a little bit light, particularly in light of what the Vice Chairman says about affordable housing. And then how that new 80 foot building will relate to the existing rowhouses and some shadow studies to maybe understand that a little bit better. That would be all for me.

CHAIRMAN HOOD: Okay. Let me just ask this, Mr. Cochran, is the, and this goes back to Vice Chairman Schlater mentioning about what is required in the affordable housing, applicant proffering or intent on doing more than what is required?

MR. COCHRAN: If the --

MS. STEINGASSER: I just want to set a context and maybe a work session amongst us all, so that we understand how we are all looking at this affordable housing issue would be advantageous in a non-case-specific type of discussion.
The PUDs require a comparison of matter-of-right versus the PUD product. So when we look at the affordable housing issues, we look at what is required as a matter-of-right. And if the PUD enables more housing or more affordable housing, we consider that a benefit, not necessarily a proffer, but a benefit.

So there is a distinction made between both the matter-of-right, the benefits and the amenities. And historically, the Commission has accepted that realm in cases like this where you are in a Commercial Zone when they use density that could otherwise be used for non-residential, we also consider that a benefit and that's the case here.

So there is a delta of affordable housing that is in excess of what would be required as a matter-of-right. And that's why we checked it both as a benefit and as required.

CHAIRMAN HOOD: And I think we
have been down that road before and I hear what you are saying. Okay. Let me just ask this. This is probably -- I'm not going to say it's not appropriate, I just want to ask, is this Safeway the one that came from Ward 5 or was already up there in that area? I'm just curious.

MR. COCHRAN: The Safeway is already there.

CHAIRMAN HOOD: Okay. Good. Okay. All right. Any other questions? All right. Would somebody like to make a motion?

COMMISSIONER TURNBULL: Mr. Chair, I would make a motion that we set down Zoning Commission Case No. 11-09, Consolidated PUD and Related Map Amendment at Square 2905, 3830 Georgia Avenue, N.W., and ask for a second.

CHAIRMAN HOOD: I'll second it. Okay. It has been moved and properly seconded. Any further discussion?

All those in favor, aye?

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

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

CHAIRMAN HOOD: Ms. Schellin, I also would like to ask that for our training sessions that what Ms. Steingasser just mentioned about a work group, maybe that be added to the training session. Okay. So keeping in context.

MS. STEINGASSER: And that OP would be invited.

CHAIRMAN HOOD: Huh?

MS. STEINGASSER: And that OP would be invited.

CHAIRMAN HOOD: And that OP would be invited. We're keeping everything an open
meeting. So we can just make sure we understand it within the context and anyone else. Okay.

MS. SCHELLIN: Are you referring to the Zoning Commission BZA training?

CHAIRMAN HOOD: Wherever we can fit it in, yes.

MS. SCHELLIN: Okay.

CHAIRMAN HOOD: Yes.

MS. STEINGASSER: Okay.

CHAIRMAN HOOD: Just for that, wherever we can fit it in, yes. Okay. Where am I? Oh, Correspondence, we need to do that before you leave. Okay.

Zoning Commission Case No. 05-28, Parkside Residential, LLC - letter from Zoning Administrator re: Notification 2nd Stage approval not necessary for Block D. Ms. Schellin?

MS. SCHELLIN: Yes, sir, this was just a letter from the ZA advising of action that they took in this case. It does not
require any action from the Commission.

CHAIRMAN HOOD: Okay. No action requested. Any questions?

COMMISSIONER MAY: Well, I was hoping we might have some discussion. I'm not so sure that I agree. You know, the idea that there shouldn't be 2nd Stage review of a landscaped area simply because there is no structure on it, I mean, I know there are other subtleties to the order and so on, but I'm -- I don't know.

I would prefer that we see something like this than let it simply go on a 1st Stage alone. Now, maybe what that means is that when we get a 1st Stage and it includes a landscaped area, that there be an explicit sort of 2nd Stage approval of the landscape and I think that has been done. That may have been what we just did with Center Place Holdings.

MR. RITTING: That was a discussion of the site plan of the PUD which
includes the landscaping, but also includes its relationship to buildings.

COMMISSIONER MAY: Right.

MR. RITTING: Which is a possible distinction you could make between --

COMMISSIONER MAY: Yes.

MR. RITTING: -- them.

COMMISSIONER MAY: I just think, you know, we need to -- well, like I said, I think that our 2\textsuperscript{nd} Stage review should apply to landscape spaces and not simply buildings.

VICE CHAIRMAN SCHLATER: I tend to agree. I also wonder whether the landscape plans in this case were different from what was on the plans that were originally put forward in front of the Commission?

MR. RITTING: I'm not sure. I haven't really had a chance to review it. I just saw this letter coming in today. I haven't compared them, but I could report back to you at a date certain, if that's what you are interested in.
COMMISSIONER MAY: Well, I think that is certainly one of the issues. I mean, if what the plan has to be built-out varies at all from what was approved, you know, that's one issue. But I think that it would be -- well, what I would like to see is that we write a letter back to the Zoning Administrator saying that we believe 2nd Stage approvals are necessary for landscape spaces, unless the 1st Stage explicitly gives a final approval of some sort. That's my thought.

CHAIRMAN HOOD: Does anybody else agree with -- well, either way, I think we still should respond back, because he is exercising his flexibility here, I believe, at least from what I gather.

So, I guess, what are we trying to do? Further clarification? What is it?

COMMISSIONER MAY: I'm not seeking clarification nor am I seeking that, at this point, his decision be reversed in any way. I just think that it should be clarified to the
Zoning Administrator that absence of -- I mean, the mere fact that there are no structures on the site does not mean that it should not be seen for 2nd Stage approval. And that it is possible for something to go forward after a 1st Stage review only if the Zoning Commission states in the order from the 1st Stage approval that the landscapes have, in effect, a 2nd Stage approval.

CHAIRMAN HOOD: Okay. So why don't we do this? As Mr. Ritting said, you would look at this a little more?

MR. RITTING: Yes, I really haven't studied the issue in a detailed way to be able to give you an answer right now about whether landscaping alone requires a 2nd Stage approval. I just haven't considered that.

COMMISSIONER MAY: Well, and, I mean, I think there is an understandable, I think, kind of technical argument as to why a 2nd Stage approval was not necessary. But I
don't view this as a technical matter. I view this as more of a matter of principle that we should, you know, see the final version of the landscape plan.

And maybe we did at the 1st Stage, but if we did, the approval should be explicit.

CHAIRMAN HOOD: Well, let's do this, Commissioner May and Mr. Ritting, let's let Mr. Ritting have some time. I would ask Ms. Schellin to put, even though we are not seeking clarification, but we still want some clarification, this on our June, the first meeting in June, 13th?

MS. SCHELLIN: June 13th.

CHAIRMAN HOOD: That way that will give Mr. Ritting some time to be able to expound and articulate more to us to see which path or direction we should proceed. Is that okay, Mr. Ritting?

MR. RITTING: Yes.

CHAIRMAN HOOD: Okay. Okay.
Let's see, okay, the next correspondence is Zoning Commission Case No. 07-02, Columbia Heights Ventures Parcel 26, LLC - letter from the Zoning Administrator pursuant to ' 2409.8.

Ms. Schellin?

MS. SCHELLIN: Yes. This was also a letter from the ZA and I'm afraid to say that no action is required, so I'm going to leave that up to you guys.

CHAIRMAN HOOD: Oh, this is the one I was thinking about. Okay. Okay. Any questions? Vice Chairman Schlater?

VICE CHAIRMAN SCHLATER: This one raises a couple of questions. Most importantly, we just had the case before us, I want to say, time flies up here, but it was a couple of months back, and I feel like it was after -- these plans are date -- the plans that the Zoning Administrator is basing this opinion on are dated January 10, 2011.

I believe that the case, I could be wrong about this, but I think, that we had
on this building, Phase 2 of Highland Park, was after January 10, 2011.

COMMISSIONER MAY: Where are you getting January? I see March.

CHAIRMAN HOOD: March 2nd.

VICE CHAIRMAN SCHLATER: Oh, I see in the paragraph before that. "After reviewing the new elevation drawings by GTM Architects, dated 1/10/2011, I find that the revisions do not change any of the zoning parameters for the project."

So I don't know. I don't have any --

COMMISSIONER MAY: So it's between January 10th and March 2nd it changed?

VICE CHAIRMAN SCHLATER: Okay. However, it just seems odd that, you know, they had the plans in front of us recently. I don't have any problem with the Zoning Administrator using his --

CHAIRMAN HOOD: Flexibility.

VICE CHAIRMAN SCHLATER: --
authority to approve the flexibility in the
plan. It seems like an odd fact there.

CHAIRMAN HOOD: Do we want further
clarification on that one, too?

COMMISSIONER MAY: I would
actually like to speak to the issue of what
was approved. You know, I don't recall this
design, in particular, but the idea that a
project had Juliet balconies on a couple of
floors before and they added them on the rest
of the building, I'm not sure that that is
really the right decision.

And, you know, we do get into the
weeds on these things and look at the design
of the building very carefully. And, you
know, I'm not sure that this is really within
the realm of the Zoning Administrator's
flexibility.

I mean, the flexibility that the
Zoning Administrator has, isn't that defined
by the order that we write? Because I don't
remember, you know, having any discussion
about how many Juliet balconies there would be.

CHAIRMAN HOOD: I thought we gave them the option to do all of that.

VICE CHAIRMAN SCHLATER:

COMMISSIONER MAY: Well, I don't know, maybe we did. If we did do that, then I'm wrong and I take it back. But I just, you know, don't know. I want to be fairly particular when we approve something as a PUD when it comes to the architecture. And I think that we will grant flexibility on things like color of brick within a certain range or what have you.

But the idea of adding, you know, physical features like balconies, I'm not sure that we would necessarily --

MR. RITTING: Yes, if I could interject here? There is a regulation. If you have your regulations in front of you, it's 2409.6, which provides what the Zoning Administrator's authority is in granting
flexibility. And it mentions four things.

   It doesn't explicitly mention changing balconies, that's for sure. There is another section after that, which is what the Zoning Administrator relied on in his letter, he cited in his letter, which refers to that earlier section.

   So there is at least an argument that his authority is limited to just those four things. They are, generally speaking, change in height, lot occupancy and gross floor area, changing the number of residential units or gross floor area to be used for commercial or accessory uses, change not to exceed 2 percent of the number of parking or loading spaces, the relocation of any building within 5 feet of its approved location in order to retain flexibility of design for reasons of unforeseen subsoil conditions or adverse topography.

   So none of them really speak to the types of design changes that are in play
here.

VICE CHAIRMAN SCHLATER: Wouldn't we have to reference the order though, where we also usually have a few lines in the order that speak to the flexibility?

MR. RITTING: That's also true. And I don't know what this particular order says about that.

COMMISSIONER MAY: Well, this may well be within the range of things that were defined in the order, in terms of flexibility, and if so, then I'm perfectly fine with this. But I think we need to know that more specifically, and I would appreciate it if we could just get that clarified.

And if it is, in fact, beyond what was specified in the order, then I think a response would be in order.

CHAIRMAN HOOD: And I would agree, because when I look at the regulations, Mr. Ritting, I don't see where it says I think they changed the color of the brick. Well, I
know that's not a major issue, but we look at materials. And we look at how the character of that building or facade of it is going to mix into the character of the rest of the neighborhood.

And when I look at the regulation you cited, I don't see that in his flexibility, unless I'm overlooking it, but I don't see it. So I think this is another one that we need to go back to.

MR. RITTING: Okay. What I propose to do is I would review the order that has been issued and I'll review the regulations and report back to you about what I think the interplay is between the changes that they are requesting here and the regulations giving the Zoning Administrator the authority to make changes in that that is contained within the order and get back to you in time --

CHAIRMAN HOOD: Okay.

MR. RITTING: -- for a date that
you will tell me, I assume, now.

CHAIRMAN HOOD: Is that -- we
might as well do all of them. If we can do
all of them at our next meeting, is that too
much?

MR. RITTING: No.

CHAIRMAN HOOD: Okay. So we will
do that. We will follow suit with that.
Thank you. All right.

Let's move right along with the
agenda.

VICE CHAIRMAN SCHLATER: Mr.
Chairman, I just want to thank you for
restructuring the agenda tonight.

CHAIRMAN HOOD: We have one more.

VICE CHAIRMAN SCHLATER: Oh, do we
have?

CHAIRMAN HOOD: Yes, we have one
more Correspondence.

VICE CHAIRMAN SCHLATER: We do?

CHAIRMAN HOOD: I know you are
ready to cut out.
VICE CHAIRMAN SCHLATER: I'm out.
CHAIRMAN HOOD: But this won't take but a second.
VICE CHAIRMAN SCHLATER: Okay.
CHAIRMAN HOOD: Unless you are out? Okay.
MS. SCHELLIN: I think he's out.
VICE CHAIRMAN SCHLATER: I actually didn't attend that hearing, so --
CHAIRMAN HOOD: Oh, well, no wonder.
VICE CHAIRMAN SCHLATER: -- I may --
MS. SCHELLIN: Did you do the first Proposed Action item? Were you not on that first case?
VICE CHAIRMAN SCHLATER: I might have been there, but not after that.
MS. SCHELLIN: The first one, yes.
VICE CHAIRMAN SCHLATER: Fair enough.
MS. SCHELLIN: I spoiled it for
CHAIRMAN HOOD: We're going to get you right out of here. Okay.

Next, we have a request, Commissioners, this is Exhibit No. 14, in consideration of a lack of objection to the above-matter, this is a meeting we had on, actually, last Thursday.

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: The waiver. Asking that we waive, the Commission waive, the requirements of '3125.3 the Findings of Fact and Conclusions of Law and they are asking for a summary order. Do we need a vote on that?

MS. SCHELLIN: Yes, or at least --

CHAIRMAN HOOD: The case that only lasted us about --

MS. SCHELLIN: -- by consensus.

CHAIRMAN HOOD: -- two minutes.

MS. SCHELLIN: Right. They just forgot to ask at the end of the hearing and so
without the Commission agreeing -- or
authorizing it, they can't do it.

CHAIRMAN HOOD: I think with the
way that that case went with no objection,
everybody was able to go do something else
that evening, it had plenty of support,
especially with this case, George Washington,
it had plenty of support, so you know all the
Is were dotted and Ts were crossed.

I don't think we -- I don't see a
problem us granting a summary order. Any
objection? Okay. Ms. Schellin, no objection
to a summary order.

MS. SCHELLIN: Okay. Next, so we
can get the Vice Chairman out of here. First
in Proposed Action, Zoning Commission Case No.
11-01, Office of Planning - Text Amendment at
' 2116, the location of parking spaces. Ms.
Schellin?

MS. SCHELLIN: Yes, sir. OP
provided some supplemental information that
the Commission requested that is at Exhibit
14.

CHAIRMAN HOOD: Okay.

Commissioners, we have in front of us -- we also have a letter from ANC-3 -- give me a second. We also have a submission from ANC-3D, which actually coincides with what was relayed to us by Mrs. Gates representing the Committee of 100. And I think as a result of that, and let me just ask -- who is that, Mr. Mordfin? Is that your case?

MS. SCHELLIN: Mr. Emerine.

CHAIRMAN HOOD: Mr. Emerine, okay.

Okay. So, Mr. Emerine, has the Committee of 100 and the ANC had a chance to look at what has been proposed, the new language?

MR. EMERINE: The supplemental memo that we sent was sent to the Committee of 100 and everyone else who testified at the hearing that night. I don't know if the ANC-3D has seen it or not.

CHAIRMAN HOOD: Okay. Do you know what the response was from the Committee of
MR. EMERINE: We haven't received a formal response from the Committee of 100. We did have some discussions and I believe, I don't want to speak for them, but, we talked in particular about the clarification of the private garage issue and I think that addressed the concern that they had on that issue. But that's kind of the extent of what we were able to resolve in conversation with them.

CHAIRMAN HOOD: Okay. Because as a result, which was expressed to us, what we had written first before what you had revised, would impact the whole neighborhood and would cause some difficulties. But, Commissioners, there has been revision as Mr. Emerine has mentioned that he has tried to deal with, at least the issue, that I remember, that was given from the Committee of 100.

And even that, it depends on how we move, there is still a 30 day comment
period in which we would still be able to receive comments. People would still have a chance to comment to the Committee. We would be able to find out exactly where we are with this in that 30 day comment period.

Let me open it up for discussion.

Any further discussion? Mr. Selfridge?

COMMISSIONER SELFridge: Mr. Chairman, I think it would be interesting to hear from the Committee of 100 what their take on this new language is, but, as you mentioned, there is an opportunity to do it between Proposed and Final Action, so, you know, I think that would allow us to discuss in a little greater detail at Final Action, so we'll look forward to receiving that.

CHAIRMAN HOOD: Anybody else?

Commissioner May?

COMMISSIONER MAY: Yes, I just had a question regarding the ANC-3D letter. And, I mean, basically, it sounds like the concern, just so I understand this, I thought we had
some discussion of this at the hearing, is it seems that they want to be able to preserve a right that does not now exist when it comes to driveways. Is that correct?

MR. EMERINE: I haven't had a chance to see the 3D letter, but --

COMMISSIONER MAY: Okay. And so many homes within ANC-3D have driveways in the side yard that are used by homeowners for parking.

MR. EMERINE: Yes.

COMMISSIONER MAY: The proposed Text Amendment would limit the ability of residents to replace their driveways and garages in the future or construct space in a side yard for parking. I mean, well, I guess I don't know whether this regulation changes that.

MR. EMERINE: It doesn't. Only with respect to corner lots.

COMMISSIONER MAY: Yes.

MR. EMERINE: You know, there is
sort of an issue on corner lots if you are defining, you know, both yards that abut the streets as two front yards or a front yard and a side yard.

COMMISSIONER MAY: Right.

MR. EMERINE: And there is a lack of clarity right now, which this Text Amendment is trying to provide clarity to. So I don't know if that is the specific issue that is --

COMMISSIONER MAY: Well, if there were a side yard in a corner lot --

MR. EMERINE: Yes.

COMMISSIONER MAY: -- under the current regulations, you might actually be able to have a driveway, add a driveway?

MR. EMERINE: It's actually unclear.

COMMISSIONER MAY: Okay.

MR. EMERINE: But I think under certain interpretations, that could be possible.
COMMISSIONER MAY: Yes. And the scene that was described at the hearing where someone might have a driveway that is to the side of the house --

MR. EMERINE: Yes.

COMMISSIONER MAY: -- but actually ends before it gets to the side of the house --

MR. EMERINE: Yes.

COMMISSIONER MAY: -- and so the actual parking is occurring in that front yard space, that's not legal now.

MR. EMERINE: That's correct.

COMMISSIONER MAY: And where it exists, it is grandfathered?

MR. EMERINE: That's right.

COMMISSIONER MAY: And this regulation would have no change, have no affect on that?

MR. EMERINE: That's my understanding, yes.

COMMISSIONER MAY: Right. Okay.

Okay. I look forward to hearing further
comments when we take action.

CHAIRMAN HOOD: Any other questions? Well, since we have another comment period, Commissioners, I would move that we approve with the amendments as revised by the Office of Planning in Zoning Commission Case No. 11-01, taking a note that we are looking for comments, if we receive comments in this next 30 day comment period, and ask for a second.

COMMISSIONER SELFRIDGE: Second.

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

All those in favor?

ALL: Aye.

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

MS. SCHELLIN: Yes, staff records the vote 5-0-0 to approve Proposed Action in Zoning Commission Case No. 11-01, as amended.
Commissioner Hood moving, Commissioner Selfridge seconding, Commissioners May, Schlater and Turnbull in support.

CHAIRMAN HOOD: Okay. Mr. Vice Chairman, thank you.

VICE CHAIRMAN SCHLATER: Thank you.

CHAIRMAN HOOD: Have a nice evening. Okay. Next we have Proposed Action in Zoning Commission Case No. 05-28E, Lano Parcel 12, LLC and D.C. Primary Care Association - PUD Modification at Square 5055.

MS. SCHELLIN: Yes, sir. If you will recall, we deferred action from this case, I believe it was our last meeting to tonight, so staff would just ask the Commission to consider Proposed Action on this case.

CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. Commissioners, I know some of these cases may run altogether, because we had
55E, B and C. Was it B and C? But anyway, tonight right now we are dealing with 55E, which is a request by the applicant to modify an existing 1st Stage PUD to convert a portion of the approved residential use of an office and institutional uses.

We would also modify permitted building heights as well. Also, we are looking at youth substitute or health center for a residential building and substitute a university building for a residential -- from a residential building.

So that's putting it in context. I believe that the -- for me, and I wasn't sure, because, you know, some of these cases all ran together for me, but when I look at -- you know, I was trying to consider, for me, the use for a health center and I listened to the argument from residential, from a university building, from a residential.

And, for me, I was trying to figure out impacts. And that's one of the
things that we are governed to look at. And also, in Chapter 24 in our 1st Stage proceedings, it tells us -- it really guides us in the way we should proceed.

For example, let's see, and I understand there are certain things that we should look for in the 1st Stage. Hold on one second. In the report, the suitability, the compatibility to the community and consistent with the Comprehensive Plan, you know, as far as when I first looked -- and I'm just trying to get the discussion started, because what we do in this case will affect the other two cases.

I believe that, you know, when I looked at it, I think that the use that is going from the -- and actually, I went both ways on this. The use that's going from the health center to the residential, earlier I was thinking that the health center would be more of an impact use and I was trying to figure out why the community was so much
against the health center.

But then, I thought the residential would be less impact on that community, at first. But then I reversed it, the residential, I believe, would be less impacted versus the health center, because I think the issue for me was, what I heard from the community was, the traffic, the transitness, the coming in and going out, which, as we know, basically, is not easy.

I mean, something is going to be built there. But I think the use is an important piece of it. I'm just -- you know, let's kind of get the ball rolling, but I want to hear from my colleagues what they think about especially the change in the uses in the 1st Stage. And then we will talk about building height next. Commissioner May?

COMMISSIONER MAY: Well, I knew what I was going to say until you said at the end there we will talk about building height next.
CHAIRMAN HOOD: Okay. You want to start with building height?

COMMISSIONER MAY: Well, there needs to be -- they are connected for me.

CHAIRMAN HOOD: Okay.

COMMISSIONER MAY: The --

CHAIRMAN HOOD: They are connected.

COMMISSIONER MAY: I think that the idea of changing some of the residential use to the university use makes a lot of sense in a lot of ways. And the density is similar. And I think in terms of the impact, it is very difficult to say that, you know, in light of all the testimony that we heard, it's very difficult for me to come to a solid conclusion that it is going to -- that that change of use and tweaking of the building mass and so on would really result in an objectionable condition for the neighbors.

I mean, there is definitely still some open questions about that, because of the
uncertainty in the reporting that we got from
DDOT. I mean, even today, the latest report
that we have from them does not give me great
certainty that the traffic situation there is
going to be resolved.

It's not a report we are seeing
today, but it's the one that we are looking at
in our hands today. It was in our package.
The health care facility, I think, is a misfit
in terms of the plan of the development. You
know, the massing of it doesn't fit.

The use of it, I can see fitting
and, frankly, you know, the thing that would
make sense to me is if this were on the first
couple of floors of a bigger building and then
you would see the whole plan built-out.

I understand that's not in the
cards, so, you know, I'm not going to keep
hoping for that.

And then the last thing about this
that makes me rather uncomfortable is the idea
that well, now that we are trimming off some
of the density at the north end of the site, and so, you know, you are pushing that down and the other end of the block is popping up.

And it is popping up to a level that the Office of Planning did not recommend initially, you know, the 130 feet. And I, frankly, have to agree with that. I think that's too tall.

So I think that -- I mean, to sort of sum things up, the change to the university, I think I'm comfortable with. The change to the health care, to have the health care facility, I think I can see my way clear to that one. It's not great, because it is not like it's even a great building architecturally.

I mean, it has gotten to the point where it is okay, but it's not a real star. And then there is the, I think, additional density, much of which is actually commercial density and I think that has impact. So they are losing a lot of residential as a result of
all of this changing and they are getting a lot more commercial.

So I think all things considered, it is not a great -- it is certainly not an improvement on the previous plan and, in many ways, it is -- it does damage to the original plan. Like I said, the specific projects for which we are going to be voting on 2nd Stage applications, I could probably see my way clear on both of those. But the resulting increase in density on the balance of the site, I'm not sold on.

CHAIRMAN HOOD: Okay. Any other comments? Commissioner Turnbull?

COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair. I would agree with Commissioner May's comments. I think when we heard the presentation about the impacts and the traffic, I really don't think there would be any greater impact by either of these two facilities being on the site.

I think traffic would still be or
probably be more of an impact maybe with the residential. I'm not really sure. I think there was a toss-up on that, I mean, if there is underground parking for both of them.

But I don't think there is any greater impact by having either of these two facilities. I mean, there are a lot of impassioned comments made by a lot of the people who were opposed and I think they had misunderstood about people parking in the neighborhood and I think there was some confusion about where people would go.

And I think that is -- I'm not sure if they got it right. I think they were just so impassioned about it. And again, the ones who were more impassioned were further down in the next neighborhood. And there is still going to be an issue. There still will be an issue with people getting in and out. I think that's going to be a problem that this project has to still, at some point, come to deal with.
But I don't think these two buildings, in any way, impact the current relationship to such an effect, to such an area where we would reject it.

I do agree with Commissioner May also that the other end of the project suffers now from this imbalance with higher structures and it just makes it look a little strange from an urban planning standpoint.

But I think the biggest issue we are going to have is to people getting in and out of the project and getting to where they want to go.

CHAIRMAN HOOD: Commissioner Selfridge, do you want to add something?

COMMISSIONER SELFRIDGE: Mr. Chairman, I would just echo Commissioner Turnbull's comments. I think overall traffic is going to be an issue at this site. I don't know that changing the use and the way that this modification is set up is going to actually have a major impact for what has been
approved already.

So I think it is going to be problematic period. And whether they are stuck with residential or move to the health center, I'm not sure that that is going to have a huge impact on that.

I was reviewing my notes and maybe I heard somebody wrong, but I think the density remains the same. The FAR remains the same on the site, regardless, so I don't think we have additional density. So I think, in that respect, that is not going to have a major impact.

So, I guess, I don't think that the change in use is going to have a lot of overall impact, but overall, I remain concerned with the traffic, but I don't believe that we are able to address that. That may have been part of the initial PUD.

CHAIRMAN HOOD: And I think aren't we changing the height? Isn't it a height request also in front of us on the 1st Stage?
Okay. So we are changing the height. We're going from, what is it? We're coming from 110 to 130, am I correct? Right? Okay.

I just, you know, believe, and it was stated, I think, in the Office of Planning report, these uses are very important, I think, to that community. But I will tell you, I question the effort and I know that they presented -- what they presented to UDC, everybody in this city is trying to get the community college in some form or fashion.

I question that. While I think that the DCPA is a legitimate use, for me, if I had to lesser the impact or deal with the impact, it would be for something of that nature. I just question it. I have a serious reservation.

Even though we got a letter from the university, I have a serious reservation whether that is even going to happen or not. And I don't know if it's appropriate for me to ask that at the hearing Wednesday, but I just
-- you know, I think the community -- even though I heard the testimony of Ms. Thornhill, I heard the testimony of -- and I also received a letter, Mr. Feola and the applicant submitted a letter.

But I really question, and I will ask that of the Campus Plan of UDC and I'll tell you why. Because everybody is trying to do that and the community college is not going to be able to go everywhere.

We are going to end up making an approval of something that -- even though we got a letter, and that's all it was was a letter, but anyway, that's where I am.

And the other thing for me is I know something has got to go there, but, at some point in time, the citizens got to lighten the burden and then it's not within our jurisdiction, but as the Zoning Commission, do we just continue to put adverse impacts on a community because we are stuck, because there is no other way out?
That's just the way I got out of that and witnessing myself. Yes, the university would be a good use. I have heard all those arguments, but at the end of the day, I'm not there going through it.

So I just don't know. I will tell you, I have been around and about on this, back and forth. I came in one time and I said, Mark, we need to move one way, but I've just been going back and forth. So I just don't know.

Is it right to continue to put a burden on the community because we have no other alternative? That's where I am, you know.

COMMISSIONER MAY: Chairman Hood, obviously, I'm interested to hear that comment, because I really didn't regard the Community College of the District as a burden the way many other facilities that we deal with, you know, would be regarded as a burden.

I mean, I certainly understand
questioning the -- you know, is the use appropriate or does the use have unacceptable impact or something like that, but I would never sort of thought of the project as a whole as a burden.

You know, I, certainly, would be more comfortable if what we were looking at was the Community College of the District of Columbia as one of the commercial buildings in this development, rather than as, you know, displacing one of the residential buildings. It certainly would fit within the original PUD, if that's what we were talking about.

It would also, you know, fit for me if what we saw in the overall development was maybe, you know, some offsetting loss, you know, maybe not -- maybe the universe or sort of the community college needed to go into -- if it couldn't go into one of the buildings that was slated to be commercial, if it was going to go into the blocks that was going to be residential, then maybe one of the
commercial blocks needed to go residential to offset that.

Because, you know, the use as a community college in that location seemed, to me, to be fairly compatible with the overall mixed-use nature of that development. You know, maybe there was an issue of balance that there was going to be too much commercial and the university at the same time, but I thought that the mix was, in principle, okay.

CHAIRMAN HOOD: Let me clarify, Commissioner May. When I saw a burden by the college, I'm not necessarily saying the college. I think the residential piece, which was in the 1st Stage PUD would have been more of an impact.

What I'm saying is we're getting ready to approve or disapprove, we are getting ready to put something in place for some uses. And I will tell you, I'm just not confident. And I know the letter was -- I'm just not confident that the community college is going
to even materialize. And, for me, that's what I would be approving and I'll tell you why.

Because most people go to the community -- most not all, who go to the community college are younger people, that's why I think the community was talking about the bridge and everything accessing, because those people are going to probably use public transportation.

Whereas, DCPA will be driving. I'm not going to catch the subway if I'm not feeling good. I can guarantee you I'm going to drive to the site and try to find somewhere to park and even if it's in the neighborhood. And I think that's what the community was concerned about.

So I'm not saying it's a burden in that respect. I'm saying it's a burden in respect because of the infrastructure, which is not really within our jurisdiction, is a problem. It's a problem over there and I just don't know if it's right to just compound a
problem on top of a problem because we are in that situation.

And I don't like having my back up against the wall. I never have.

COMMISSIONER MAY: Yes, I understand that. You know, one of the things that makes me uncomfortable is the notion though that we might -- that any uncertainty about the community college being built there would actually be, you know, a factor in the decision making.

I mean, we really -- you know, if it has been represented to us that the University of the District of Columbia intends to put the community college here, I'm not sure what -- you know, how we can disregard that. And I also don't know that that is enough basis for me to say I don't want to vote for it.

I think I want to vote for it on the hope that it actually is realized there. And it is important to some of the other
aspects of the development of this, this portion of the community, the continuum of schools that the developer and the community have been trying to develop here, you know, I think that's an important part of this.

And I'm willing to take the chance that the community college will be realized.

CHAIRMAN HOOD: I'm actually not. So I will go out on the DCPA property, but unless I hear another persuasion, I will be -- that's why I will probably do this vote in part. I will be voting against in part.

I will be voting for DCPA and voting against the university piece. Let me hear what others have to say.

COMMISSIONER TURNBULL: Do you think that the community college is not going to go ahead then, that there is not going to be the money or the funding for it?

CHAIRMAN HOOD: I just didn't see -- and that's why I asked for the letter. I just didn't see a whole lot. And I know Ms.
Thornhill and I know Mr. Feola then presented the letter, but I just didn't see -- something is not right with that with me. And it's -- I don't know what it is.

COMMISSIONER SELFRIDGE: Mr. Chairman, wouldn't they have to come back to the Commission anyway to change the use again down the road? So if we were to approve a community college and for whatever reason that didn't materialize and they went back to residential or office, which would be a particularly heavy lift, I think, in this site, wouldn't they have to come back to the Commission for approval anyway?

CHAIRMAN HOOD: I think that -- well, we are going to be dealing with that in the next, in the very next, case, if I'm not mistaken. C, whatever it is, C.

MR. RITTING: I'm not sure about that, but to answer Mr. Selfridge's question, if they are going to change the use in such a major way, that would require a PUD
modification, yes.

CHAIRMAN HOOD: You said in a major way. So it could be a minor modification? It could be institutional use. It doesn't have to be the community college. It could be Burke School, because it's still the same institutional use.

MR. RITTING: Well, I mean, I think you are approving a certain set of uses with the 1st Stage PUD. If they are changing that use in a non-minor way, as is defined in the Chapter 30 of your Regulations, which means a use of literal or no consequence or something similar like that, I would say that a drastic change in use would be more than a minor modification and would require a PUD modification application, yes.

COMMISSIONER SELFRIDGE: And we would have to approve a minor modification as well, correct?

COMMISSIONER MAY: Right.

CHAIRMAN HOOD: Minor
modification --

MR. RITTING: If your question is do you have to approve a minor modification, in general, yes. Whether this case would be a minor modification, it would depend on what the request is. But --

COMMISSIONER SELFRIDGE: It sounds like we would see it either way, I guess, is my point.

MR. RITTING: Yes.

CHAIRMAN HOOD: But the issue though for me, Commissioner Selfridge, is how do you see it? If you are -- and I'm not being hard on the university, I'm a -- well, a graduate of the university, so I'm not being hard. I just think that there needs to be some predictability.

If the -- I have heard the community loud and clear and, actually, I don't even think I'm taking the same course as the community, because I think a lot of them may have been against the DCPA part. But I
think that's a vital use of that community and, to me, that is a risk of the impacts, which we heard.

I'm just talking about the university -- well, the community college of the university is what I'm looking at. And if they come back and say they want to put charter schools in there, Mr. Ritting, I think if the -- the way we are going to view it and look at it is going to be similar, because it's the community college.

Because it's still the same type of use. It's an institution.

COMMISSIONER MAY: Mr. Chairman, I would disagree. I mean, changing from a community college to any kind of, you know, high school, middle school and any other kind of school is going to be a different set of impacts, because you are talking about students who have to be transported to school versus students who can make their own way there.
And it is a completely different set of impacts. And I am pretty confident that we would never regard that as a minor modification. And there would be a hearing and all that sort.

CHAIRMAN HOOD: So do my colleagues feel as though that what is proposed -- I'm not going to belabor it and, you know what, at this point, I'm not going to even vote against it. If everybody is -- I'm going to go with it.

If I'm here when it comes back, then we will deal with it at that point. I just have strong reservations. I just don't feel good about that.

COMMISSIONER SELFRIDGE: Well, I think that we are going to see E and B today, correct? 05-28E and B?

CHAIRMAN HOOD: E.

MS. SCHELLIN: E and B.

COMMISSIONER SELFRIDGE: So we are still going to take -- we are still going to
deal with community college at another meeting, so I think that we could approve 05-28E today, so stop me if I'm getting my letters wrong, but still revisit this community college issue, which I think is, you know, a very important issue and could be handled at a later date, but still move forward on 05-28E.

CHAIRMAN HOOD: Yes, actually, if we deal with E today and it's up, we vote it up, we would also be dealing with B, which I actually don't have a problem with. I'm just trying to figure out how to get from E to B. But I think --

COMMISSIONER SELFRIDGE: But C can be -- which is community college can still be addressed separate from DCPA in whichever meeting that comes before us.

COMMISSIONER MAY: But the use as the community college will have been decided in the 1st Stage?

CHAIRMAN HOOD: Right. Because
that's why I'm raising the issue now.

COMMISSIONER MAY: All right.

CHAIRMAN HOOD: Because by that time --

COMMISSIONER SELFRIDGE: Yes.

COMMISSIONER MAY: Can I ask another question of Mr. Ritting? We may have enough comfort to proceed on the change to the health care facility and we may have enough comfort to proceed with the change to the university building from residential, I still have great anxiety about the change in height.

Can we take an action that, in a sense, accepts part of what is being proposed, but not all of it?

MR. RITTING: Well, it depends on how you break it up into parts. I think the 1st Stage approval does include both height and use. And if you are trying to break up your 1st Stage approval into just a use and not a height, I don't think that is permissible.
COMMISSIONER MAY: Right.

MR. RITTING: However, if you wanted to break up the 1st Stage approval into different parts, into different parcels, if you will --

COMMISSIONER MAY: Yes.

MR. RITTING: -- say approve the health care facility piece of the 1st Stage application and not approve some other piece, that would be acceptable.

COMMISSIONER MAY: Could we take an action that would, essentially, say we are okay with those two building use changes, but we want to limit the height to 110 feet?

MR. RITTING: If you are talking about just this particular parcel and only approving the use, but not the height, no, you can't do that. I think you have to vote the 1st Stage application up or down, one way or the other.

If you believe that the height is excessive, but you want to give the applicant
an opportunity to reevaluate the project --

    COMMISSIONER MAY: Yes.

    MR. RITTING: -- in light of your comments, it would be acceptable to state that and to defer that aspect of the 1st Stage application.

    COMMISSIONER MAY: So we could, in theory, lop off these couple of blocks where we have the DCPCA and the CCDC buildings and say, okay, we will approve these changes in uses and massing density or whatever for these two blocks and the applicant will have to come back to us to revisit any other changes?

    MR. RITTING: Yes, that's right. I think that's okay.

    COMMISSIONER MAY: We wouldn't necessarily even have to vote on both of those changes of use tonight? We could handle just the one?

    MR. RITTING: If you are talking about dividing it up into the DCPA and the --

    COMMISSIONER MAY: CCDC.
MR. RITTING: -- community -- yes.
You could choose to take action on one and
not the other, yes.

COMMISSIONER MAY: Okay.

CHAIRMAN HOOD: So if you did
that, wouldn't you have to, because it's
together, they came in together, in part
approve one and deny the other part? You have
to approve one part and deny the other part of
it, because they are together.

But you know what, that's not even
an issue no more. So I'll go along with my
colleagues.

MR. RITTING: I don't see any
reason that that would be a problem. If you
want to approve the 1st Stage application for
the health care facility and take no action or
defer some other portion of the 1st Stage
application, that would be fine.

CHAIRMAN HOOD: Mr. May, you got
something you want to read?

COMMISSIONER MAY: Yes.
COMMISSIONER SELFRIDGE: Mike.

COMMISSIONER MAY: Paragraph 2407.8 in the Regulations, "The Commission shall either approve, deny or modify the application." And this is with regard to processing a 1st Stage PUD application.

So we have the authority to modify the application.

CHAIRMAN HOOD: You are dealing with just the height. You don't have a problem with the use?

COMMISSIONER MAY: Yes, the height I have anxiety over. And going with that, I mean, the height is driven by the need to maintain a certain amount of density. And much of that density is now becoming commercial, rather than residential as a result.

So there is a requisite increase in commercial as a proportion of the whole project that goes with it. And I'm not comfortable with that, either. I mean, I
could probably go along with that if we were dealing with only 110 feet.

CHAIRMAN HOOD: You are having a problem with, is it, H? I'm sorry, what is it I-2 or whatever that is? What is that? Oh, you're having a problem with H?

COMMISSIONER MAY: I don't remember. Is that -- are you talking about a block number?

CHAIRMAN HOOD: Well, they call those the blocks.

COMMISSIONER SELFRIDGE: I think it was the center two office towers that were now proposed to be 130 feet.

CHAIRMAN HOOD: Yes. So H, so you don't have a problem with the height of the DCPA and the community college? The community college, I think, is 130, too, isn't it? Okay. It's 110. All right.

COMMISSIONER TURNBULL: What is the community college?

CHAIRMAN HOOD: 110.
COMMISSIONER TURNBULL: 110 now?

CHAIRMAN HOOD: Right. Well, yes, what is being proposed 110 and DCPA is 42, I believe, correct?

MS. SCHELLIN: Yes.

CHAIRMAN HOOD: Okay. Or at least that's the handout that was given to us. Okay. Commissioners?

COMMISSIONER SELFRIDGE: Mr. Chairman, I guess I would just weigh in on the use, leaving the height issue aside. I think D.C. Community College is an appropriate use on this site. I think it is near the Metro, which is what we want to encourage. Whether it gets built or not, I think is beyond our control.

I do think we have established that in the event that there is a proposed change of use, whether it be minor or major, Commissioner May thought any change in use would be major, it will come before this Commission again and need our approval.
So, in that respect, I think that
I'm comfortable moving forward with the
change of use for the Community College of
D.C. and I think if it does end up in this
neighborhood, and hopefully it does, I think
it will be a great benefit to the area.

So I just want to be clear on that
from a use standpoint.

CHAIRMAN HOOD: Yes, and I just
want to add, for me, because I noted the area
is already under lockdown at certain points in
time, and I -- you know, while I noted the
people who were closer, basically, to the site
were more supportive, including the ANC
Commissioner.

But I also know what the residents
of Eastland Garden and others have mentioned.
To me, that bridge and those other factors
are going to be very important to the success,
I believe, of this. And I just hate to sit
here and create something, create a problem,
because the charge that I took when I was
sworn in was to protect the residents of the District of Columbia, which -- well, you and I both took that.

I don't think you federal guys had to do that, but, maybe that's why it's easy, I still just think that there are just so many uncertainties, but, you know what, I probably, if I could predict that, what is going to happen, wouldn't be here, because I would hit the number.

So after hearing my colleagues, you know, and hearing that we will have another bite at the apple, I'm not going to belabor it. If somebody wants to make a motion, I will reluctantly --

COMMISSIONER TURNBULL: I just want to clarify. I thought that on Kenilworth Place, and I don't have the -- any of my plans in front of me, I thought the applicant was trying to maintain 110 foot line. There were some setbacks that went up to 130, but the initial impact was 110 feet along Kenilworth
Place. I thought they were trying to maintain that.

Now, we still may have some angst about the 130 feet and maybe at the end of the block, some issues about how that really works out, but I thought they were trying to maintain 110 feet that would match up with the college, community college.

CHAIRMAN HOOD: I think you are exactly right. I'm looking here, I don't know what page this is, but I think you are exactly right, it was 110 on the Kenilworth side. So, apparently, it must be -- you're right. There is a setback. Commissioner May, did you see that on the Kenilworth side?

COMMISSIONER MAY: Yes. I'm aware there was a setback.

CHAIRMAN HOOD: Okay. All right. So anything else, Commissioners?

COMMISSIONER MAY: Well, are you prepared to make a motion about this?

CHAIRMAN HOOD: Oh, no, I'm not,
COMMISSIONER MAY: Anybody else got a motion formulated? Because I certainly don't, at this point.

CHAIRMAN HOOD: I've got one if you want it. No, I'm --

COMMISSIONER SELFRIDGE: Are we still working on the height issue?

COMMISSIONER MAY: Well, I mean, does anybody else share my anxiety about 130 feet?

COMMISSIONER TURNBULL: The 130 feet for where?

COMMISSIONER MAY: Anywhere.

COMMISSIONER TURNBULL: Well, no, I understand --

COMMISSIONER MAY: 110 maximum is what I'm feeling.

COMMISSIONER TURNBULL: But even with a setback and then bumping up. So even you are concerned totally about the extra 20 feet?
COMMISSIONER MAY: Yes.

COMMISSIONER TURNBULL: Whether it is setback or not?

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Mr. Feola must know we're getting ready to turn him down, because he wants to speak. The only time you can speak --

COMMISSIONER MAY: You know, if Mr. Feola has any suggestions that might help us through our deliberations, I would be interested in hearing them.

CHAIRMAN HOOD: I don't think we usually have the applicant while deliberating. Is there a specific question?

COMMISSIONER MAY: Well, I'm --

COMMISSIONER SELFRIDGE: I think that's a good point. If there is something factually that we have missed up here, it certainly would be helpful to have it clarified. But I'm not sure that we would want to open it back up for further
deliberation or arguing at this point. So unless we are factually wrong on something--

COMMISSIONER MAY: I'm not looking for a debate, but, you know, maybe there is a fact we are missing.

CHAIRMAN HOOD: I think if something would be missing, I think it should be in the record, because if we open that back up, we may have to open other things back up and have a small narrow scope of a hearing. And I have been through that once before and I don't want to go through that again.

COMMISSIONER SELFRIDGE: You know, I think, just to go ahead and prime the conversation on height with the setback and just in my short time as Commissioner, I have seen this approved 130 feet in height. So I'm okay with it. I think that to some degree, we have seen the shadow studies and I don't think there is a major impact.

I think we have -- the applicant has tried to address it with the setback. And
I'm okay with 130 feet the way that it is designed.

CHAIRMAN HOOD: You know what, just knowing about it being near a Metro Station, the Metro is across the highway. I mean, come on. I mean, that's, you know, just why, you know, we're talking about building more density around Metro Stations and I know that there is probably some book out there with transit ordered development what considers being around a Metro Station, but that's why I think that those bridges that run across 295 are very important.

And it's just so many more things to this equation. While I too -- if I'm going to do this community college piece, I don't necessarily have a problem with the height.

COMMISSIONER TURNBULL: Well, the community college is at 110.

CHAIRMAN HOOD: Yes.

COMMISSIONER TURNBULL: We have established that.
CHAIRMAN HOOD: I'm saying if I'm going to agree to that piece, I don't have a problem with the 130. I don't have a problem with the rest of it.

COMMISSIONER SELFRIDGE: Or being asked to approve the increase in height as well, correct?

CHAIRMAN HOOD: Yes, that's part of it, yes. And Commissioner May's issue is he has an issue with the Block H, I believe.

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: Does anybody have -- does anybody else have an issue with Block H?

COMMISSIONER TURNBULL: Well, I think when we first saw it, I would agree, too, that it looks -- when you look at this whole project, it looks a little top heavy down at the far end. It just doesn't seem to be a balance to the plan. You've got the other mid-rise building across the street, I think.
I know they stepped down. I think they may have stepped down twice. I can't remember. But I can't say without having those drawings in front of me, it's hard for me to remember. But it seems to me they made the step from 130 to 110 and then I think there was another step down.

CHAIRMAN HOOD: So, Commissioner Turnbull, I guess, not to put you on the spot, you have a problem with the 130?

COMMISSIONER TURNBULL: I don't have. I just would like to see it handled a little more gracefully. And I think those buildings need to be designed somehow -- I mean, I think your comment was -- I was reading that the other day about the Atlantic City look along Kenilworth. And I think that's a great deal and I think the applicant mentioned that the architecture needs work and they were going to work on it.

So I think that is a great aspect of this case. I mean, that there is some work
to be done on these other buildings.

COMMISSIONER SELFRIDGE: You know, we just had a discussion about an earlier case today where, although we are approving height or density, there is still a 2nd Stage. And so there is an opportunity for the Commission to weigh in. And they still need to get Commission approval down the road.

And I don't think that this is the last word on this. Whether you agree with it or not, it's a separate issue. But this idea that it is gone and we will never see it again, I just don't buy that. I mean, it's not true.

COMMISSIONER MAY: See, you know, we have the specific issues of these couple of changes in buildings. The UDC building or the CCDC building, the DCPCA, but again going along with that, there is this overall change in the amount of commercial development.

I mean, it used to be that there were, basically, two commercial buildings in
the H Block and then two large residential buildings. And the way they are pictured, they are large apartment buildings. And, you know, just going from the images that we have in the Stage 1 application.

And now, we are talking about the H-1 buildings being a little bit tighter and being taller. And then there is another building squeezed in just to the south that is going to be all office use. And I don't know whether that is driven by market forces or rethinking the project or the fact that they are stuck with a footprint that only works with office space. I don't know what is driving that in particular.

And then you have got at the end one remaining residential building. So it was a situation where, I don't know, 60 or 70 percent of that whole block was residential and now, you know, maybe 20 percent of it is going to be residential.

And, you know, I mean, I'm picking
on the height, in particular, but I think it is also, you know, with that is that swing of residential. And I have been sort of fumbling around trying to find the exact numbers on the change of, you know, how much the percentage of office building changed, because it grew tremendously with all of these changes.

You know, I think the most telling thing about this project and if you look at it and think about it, it may help us understand why we had neighborhood groups who were fervent supporters of this project at Stage 1. Have they now become opposition?

And it is -- a lot of it just has to do with the look of these buildings. I mean, if you look at the approved Stage 1 PUD, what we have are sort of grand looking apartment buildings with pitched roofs and brick facades and columns and balconies and all of that stuff and it evokes an image of other parts of the city, you know, like Connecticut Avenue with the grand apartment
buildings.

And then next to that, even the commercial office building has got some articulation to it. I mean, granted this is just Stage 1 and we weren't expecting the architecture to be exactly this, but even the commercial buildings had some touch and feel to them.

And then the north block where we are now talking about UDC and DCPCA, you had another set of these grand apartment buildings. And instead, what we have is a very square modern downtown-like feel and that's -- you know, we kept seeing these references to a mini-New York City or something like that.

It didn't have to do with the height, I realize now, it had to do with the feel of these, you know, hard-edged glass boxes. And that's what we are seeing here. And there is no reason why -- I mean, you can say that the architecture is going to come to
us in the 2nd Stage and we are going to get a better look at it then, but, you know what, the architecture that we are seeing in the 2nd Stage, for the two sites right now, are both very modern and very different from the character of what is there.

So, you know, this difference that is shown on this one slide, I think, sort of sums up why we have opposition from the neighborhood, as much as anything else. It is --

CHAIRMAN HOOD: They also mentioned, and I would agree with you, but also what we heard, and I looked, reviewing some of what I had up here, they also had issues with how this was -- how this applicant, I guess, didn't spend as much time as was done previously. And that came over in shining colors.

But, you know what, looking at this, it's ironic, Commissioner May, you and I happen to be on the same page, I looked down
to see where you were, because I was looking
at the exact thing. I was looking at what was
approved first versus what is approved now.

And it's a little rough around the
edges, but let's get back and see if we can
kind of close this down.

Did we ever find out -- did you
have a problem with the height?

COMMISSIONER TURNBULL: Of course
you call me when I just stuck something in my
mouth, but --

CHAIRMAN HOOD: You're like the
rest of us. I talk all the time with food in
my mouth, I just do like this.

COMMISSIONER TURNBULL: I was
trying to be very stealth in my movements, but
I was caught. No, I think I heard the
opponents loud and clear that they were --
well, the height was something that they
didn't like, that it was getting to be too
big. It was getting to be too commercial
looking. And that they wanted something lower
in scale.

They had no problem with the old buildings, the old residential buildings at 110 and the office buildings at 110. I think they felt that at 130, rightfully or wrong, I mean, again, a lot of this is just personal perception from they, it was getting to be way too high, way too commercial and being to look like, as Commissioner May said, something from downtown, even though it's by a Metro.

I mean, I think there might be a way to handle it, but I think that my idea of setbacks and stepping down by the time you get down to it, there might not be anything left then of that. It may not make sense to go up to 130 feet by the time you step back enough.

You get a floor plate up there that is really -- can't be sold.

CHAIRMAN HOOD: So what do we want? It seems like nobody is going along with my idea, so let's go with Commissioner May. Still you never know what I might do,
but, Commissioner May, the height is an issue. Would you rather for the applicant to revisit that 1st Stage PUD height or do you want to go ahead and propose a motion or what do you all propose?

COMMISSIONER MAY: You know, honestly, I don't know. I mean, looking at this project, I was willing to go so far as to making the change for the DCPCA and the CCDC buildings. But beyond that, I'm not convinced of the proposed changes. And it has to do with height. It has to do with change of use as well.

I don't know that getting an approval of those two development sites as they are is sufficient for the applicant or not. I would actually be interested in asking that, would they rather have an approval of those two sites as they have been presented with no further changes to the PUD, would that be preferable to them or to not get an approval?
CHAIRMAN HOOD: And you know what, Commissioner May, I think that was something I thought about also. And I can go along with that.

COMMISSIONER MAY: Yes.

CHAIRMAN HOOD: I can go along with that.

COMMISSIONER MAY: Yes. And I think that the applicant would still be free to come back and suggest further modifications to the Stage 1, you know. Yes, further modifications to the Stage 1 as they deal with Block H and G, but I just can't buy into the whole thing yet.

CHAIRMAN HOOD: Okay. I can agree with that. Mr. Ritting, let me ask you a question. If I call the applicant up, at this point, I'm going to ask you just bluntly, do I have to have another hearing?

MR. RITTING: I think if you are just asking him a procedural question and a matter of process, which I think is Mr. May's
question, there is no need to reopen a hearing.

CHAIRMAN HOOD: Okay.

COMMISSIONER SELFRIDGE: Mr. Chairman, before we go there, I just want to make sure we get everything on the table. So is it the additional change of use further down the -- if we -- is it an option for the applicant to accept 110 feet and get an approval of the whole site or do we want to just lop off the two parcels under consideration for CCDC and DCPCA, because I wonder if the 130 feet is critical to this project as well or if --

COMMISSIONER MAY: Well, it may well be.

COMMISSIONER SELFRIDGE: -- they have that option as well?

COMMISSIONER MAY: 130 feet may well be critical, that's why we need to ask the applicant the question. But, you know, again, all I'm suggesting is that we approve
the modification to allow these two particular developments and that, you know, we not take any action with regard to a change of height or change of use for the balance of the project.

And there are changes of use associated with the balance of the project.

CHAIRMAN HOOD: And also something else that we don't -- I don't mean to lose sight, when I think about the traffic impacts, previously in the 1st Stage PUD, one of the tenants that were being offered, and I asked this at the hearing, was the Government Printing Office and I know they have quite a bit of traffic.

But anyway, let me ask Mr. Feola or whoever can respond, if you could come up? You have heard the discussion and what we are proposing.

MR. FEOLA: Thank you, Mr. Chairman. For the record, Phil Feola, Goulston and Storrs for the applicant.
The applicant can accept a partial approval of the 1st Stage application before you that approves only the DCPCA piece and the CCDC piece, as it has been proposed and hold in abeyance for a future application for the remainder of Parcel 12.

CHAIRMAN HOOD: Okay.

Commissioners, do we have --

COMMISSIONER MAY: I would be inclined to move in that direction.

CHAIRMAN HOOD: I will join you. I feel better that way. May we can try to sum this up, is everybody on board?

All right. In that case, let's see how I'm going to do this. I will move approval of, I think, is this I2? I1 and I2, which is the DCPCA and the CCDC, Community College of the District of Columbia, in Case 05-28E, as a 1st Stage application as proposed with the heights.

COMMISSIONER MAY: All I'm suggesting -- all I was suggesting was that we
approve those two sites with no -- I mean, as they have been approved. I mean, as they have been proposed.

CHAIRMAN HOOD: Previously --

COMMISSIONER MAY: As they have been proposed with no further modifications to Block H or Block G.

CHAIRMAN HOOD: Right. But are we approving --

COMMISSIONER MAY: Yes, the height of the CCDC building and the height of the DCPCA building.

CHAIRMAN HOOD: So with that, I would approve -- I would move approval of the CCDC and the DCPCA buildings as proposed only in the 1st Stage PUD and ask for a second.

COMMISSIONER MAY: Second.

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

COMMISSIONER MAY: I just have a question. This is a modification of a PUD.
There is only a single vote on this, right, or are there two?

CHAIRMAN HOOD: Two.

COMMISSIONER MAY: There are two votes. Okay.

CHAIRMAN HOOD: Mr. Ritting?

MR. RITTING: There is two votes.

CHAIRMAN HOOD: Was that motion adequate?

MR. RITTING: As I heard it, yes, it was.

CHAIRMAN HOOD: Okay. It has been moved --

MR. RITTING: There is one question that I would like to ask after you have considered the question and voted.

CHAIRMAN HOOD: Tell me now?

MR. RITTING: No.

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

All those in favor?
ALL: Aye.

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

MS. SCHELLIN: Yes, staff records the vote 4-0-1 to approve Zoning Commission Case No. 05-28E with regard to DCPA and CCDC only. Commissioner Hood moving, Commissioner May seconding, Commissioners Selfridge and Turnbull in support. Commissioner Schlater not voting having recused himself.

CHAIRMAN HOOD: Okay. Mr. Ritting, you had a question?

MR. RITTING: Yes. I was just going to ask what process do you suggest that the applicant follow for the remainder of the 1st Stage modification? What do you have in mind?

CHAIRMAN HOOD: Well, I know height is, obviously, you know, height.

MR. RITTING: If you -- since you are deferring your decision on that portion,
it would be helpful, I think, to the applicant
to tell them what you have in mind for further
process.

COMMISSIONER MAY: I have my own
personal thoughts on this, which is that I
think that the applicant should do a little
bit more outreach with the community and try
to recapture some of the attraction of that
first PUD that, you know, persuaded the groups
who are now in opposition to support it.

And I think that it is possible.
I think that there may be ways for the
applicant to get the density that they are
looking for. But again, I think that there
was -- something was lost in the heart of this
PUD that I think can be recaptured if there is
a little bit more discussion with the
community and maybe a little bit -- you know,
maybe they need to do another design charrette
and talk about how to further modify this.

I'm not sure what the right
process is, but I believe that, you know, the
developer was quite successful in bringing this to an approval at the 1st Stage. I would think that they could go back and kind of work their way through it a second time around.

CHAIRMAN HOOD: I would just concur with what I heard. The applicant go back and engage the community for the second part.

Before I move any further with comments, well, it's not really a second part, because it's a part that was not approved.

Do we need to do a motion for the part that was not approved?

MR. RITTING: If you are simply deferring it, I think that the fact that you broke that part out and you have stated that you are deferring your action on that, that's sufficient.

CHAIRMAN HOOD: Okay. Okay. And I just want to associate myself with the comments of Commissioner May, the applicant engage and see what kind of avenue we can go
down to try to lessen the impacts of things that we have heard that the community felt like it -- and I know it's like 50/50, but see if we can look at ways to lessen impact, because the first 1st Stage you came in with overwhelming support.

The 2nd Stage, you came in with a whole lot of opposition, even though you had some support in certain areas. But see if you can get people engaged, find out what is the less impact and stuff that they don't want to have to endure.

I just think that's what needs to happen over there. But that's where I am. Anybody else? Any other comments? Okay.

All right. So next, so we're straight? Did you record the vote?

MS. SCHELLIN: I did. We're just -- just for clarification, you guys are deferring action on the other part or were you denying it? Were you expecting them to come back later with a whole new case or bring in

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this same case back?

CHAIRMAN HOOD: Not like -- not in the same form.

MS. SCHELLIN: So you are expecting them to file a whole new case?

CHAIRMAN HOOD: So we --

MS. SCHELLIN: So therefore, you do need to deny the other portion, yes.

MR. RITTING: Yes, I misunderstood your motion.

CHAIRMAN HOOD: Well --

MS. SCHELLIN: You need another vote.

CHAIRMAN HOOD: We're asking them -- I don't know.

MS. SCHELLIN: Because this case is going to have an order. And we need to finalize everything they asked for, so we need to have another vote for the rest of this case.

CHAIRMAN HOOD: Even if we ask them to rework and revisit? But that's what
is being told.

MS. SCHELLIN: We're going to issue an order on this case.

MR. RITTING: Yes, I think that is --

MS. SCHELLIN: So we need to finalize everything.

CHAIRMAN HOOD: Okay. So I would move that we deny -- well, let me find out.

COMMISSIONER MAY: Portions.


COMMISSIONER MAY: Second.

CHAIRMAN HOOD: It has been moved and properly seconded. Did we cover everything?

MS. SCHELLIN: I'm not keeping --

CHAIRMAN HOOD: And anything I left out.

MS. SCHELLIN: I'm watching the
applicant. They are shaking yes and if they agree, then I agree.

CHAIRMAN HOOD: Not that I don't trust Mr. Feola, but anything I left out that we deny, G-1, G-2 and the office, H. And ask for a second.

COMMISSIONER MAY: Second.

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

MR. RITTING: I have a question. I just want to clarify. You are denying this without prejudice to allow them to refile at any time. Is that correct?

CHAIRMAN HOOD: Yes, yes. Yes, that's fine. Thank you, Mr. Ritting. Okay. It has been moved and properly seconded. Any further discussion?

All those in favor?

ALL: Aye.

CHAIRMAN HOOD: Not hearing any opposition, Ms. Schellin, would you, please, record the vote?
MS. SCHELLIN: Yes, staff records the vote 4-0-1 to deny without prejudice Blocks H, G-1 and G-2 of Zoning Commission Case No. 05-28E. Commissioner Hood moving, Commissioner May seconding, Commissioners Selfridge and Turnbull in support. And Commissioner Schlater not voting having recused himself.

CHAIRMAN HOOD: Okay. Next, Zoning Commission Case No. 05-28B, D.C. Primary Care Association - 2nd Stage PUD and Related Map Amendment at Square 5055. Ms. Schellin?

MS. SCHELLIN: Yes, sir. This one is just ready for you guys to consider Proposed Action on. And if you do proceed with Proposed Action, staff does have a procedural order to issue this evening.

CHAIRMAN HOOD: Okay. Commissioners, any comments on the 2nd Stage PUD of D.C. Primary Care Association, 2nd Stage? Any comments? Commissioner May?
COMMISSIONER MAY: Yes. You know, I think we have had extensive conversation on this one and I am -- you know, while I'm still not quite a big fan of the architecture of the building, it has improved and I think it is approvable as it is.

I did have a question and that had to do, and I think this applies to the previous case, and I'm hoping maybe we, between now and Final Action in both cases, could get further information from DDOT on this. But we did receive a report from DDOT dated April 18th, which is inconclusive.

It went to the issue of the signal timings and the, you know, loops that were in the roadway, you know, pavement markings, etcetera, etcetera, etcetera.

The final sentence of it says "The ongoing work associated with the signal timing changes, new signs and new intersection pavement markings will demand time for review by the DDOT Operations staff."
And I would like to hear from them and know that -- what the result of this is and whether, in fact, they can make some of the improvements that the applicant's traffic expert believed could be realized.

Does anybody agree?

CHAIRMAN HOOD: I wasn't paying you any attention. I was reading something. Could you repeat that?

COMMISSIONER MAY: Okay. I was concerned about the DDOT report that we had. I mentioned this earlier tonight. This affects the case we just approved. But it has to do with unfinished, I guess, analysis by DDOT.

You know, I'll jump straight to the conclusion which says "The ongoing work associated with the signal timing changes, new signs and new intersection pavement markings will demand time for review by DDOT Operations staff."

So I'm hoping that maybe between
now and Final, we can get an additional report from DDOT that shows the results of their review by the operation staff to know that, in fact, we are going to see some of the improvements that the applicant's traffic expert believed were possible.

CHAIRMAN HOOD: Let me ask you this, was that in E or was that in this particular one?

COMMISSIONER MAY: It was submitted in E.

CHAIRMAN HOOD: E, okay.

COMMISSIONER MAY: But it affects everything.

CHAIRMAN HOOD: Yes, it affects the whole thing. Okay. I think that's an appropriate request. Hopefully we can notify DDOT that we would like to see that before Final Action.

Okay. Anything else?

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

COMMISSIONER SELFRIDGE: We talked about the parking lot over at DCPCA. And one of the things I had a lot of trouble with was the ratio of parking spaces for the employees. It seemed counter-intuitive that the employees would need all the parking and the patients would be expected to find other modes of transportation.

I think by the time we got to the end, there had been a supplement where they agreed to allocate 10 of the 69 spaces, which I still think is too low, so I would like to examine getting more of those spaces for the patients. I think that would be appropriate and I remain concerned that people are going to be driving around that block looking for parking or for drop-offs and I just didn't like the way that was set up. So I don't know if anyone else felt that way.

CHAIRMAN HOOD: So let me ask.
You want to see that before we deal with it at Final or --

COMMISSIONER SELFRIDGE: Maybe before we see the final, that's fine.

CHAIRMAN HOOD: Okay. Unless you want -- did you want to -- you didn't want to hold up?

COMMISSIONER SELFRIDGE: I don't think I want to hold it up, but I would like to have it addressed in some way or another. I personally -- I would like to hear what the other Commissioners think. I know there is a robust discussion about it, but I personally didn't think 10 spaces was enough.

And, you know, I think there were examples. There is a Ward 1 facility. And I found it difficult to believe they could tell us the exact proportion of people who were going to drive as patients to the facility that is not yet built, but the one that is in existence, they had no idea.

So in that respect, I wasn't sure
that I bought the argument. So maybe that's something that we could revisit between now and Final Action, and see if we can get to a ratio that is maybe a little bit more equitable. I think that would be appropriate, but that's just me.

CHAIRMAN HOOD: Okay. I don't see a problem with that.

COMMISSIONER TURNBULL: I would back Commissioner Selfridge's comments on that.

COMMISSIONER MAY: I agree.

CHAIRMAN HOOD: Okay. So we will ask for that. Commissioner May, did you want to weigh in?

COMMISSIONER MAY: No, I agree. That's it.

CHAIRMAN HOOD: Sounds good. I would echo it. Okay. Any other issues with DCPA, B?

Would somebody like to propose a motion?
COMMISSIONER MAY: I would move approval of Zoning Commission Case No. 05-28B, D.C. Primary Care Association, 2nd Stage PUD and Map Amendment at Square 5055.

CHAIRMAN HOOD: It has been moved. Can we get a second?

COMMISSIONER SELFRIDGE: Second.

COMMISSIONER TURNBULL: Second.

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

All those in favor?

ALL: Aye.

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

MS. SCHELLIN: Yes, staff records the vote 4-0-1 to approve Proposed Action in Zoning Commission Case No. 05-28B. Commissioner May moving, Commissioner Selfridge seconding, Commissioners Hood and Turnbull in favor. Commissioner Schlater not
voting having recused himself.

And I'll have the procedural order in a few minutes. We are waiting for the copier to wake up.

CHAIRMAN HOOD: Ms. Schellin, do we have anything else before us?

MS. SCHELLIN: That's it.

CHAIRMAN HOOD: Okay. Office of Planning, a status report?

MS. STEINGASSER: No.

CHAIRMAN HOOD: All right. I want to thank everyone for their participation tonight. Remember, Commissioners, we do have a meeting Wednesday at 6:30.

And also, our summer attire is in progress, in process at this point.

Okay. Anything else? With that, this meeting is adjourned.

(Whereupon, the Regular Meeting was concluded at 9:05 p.m.)