

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

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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.

This transcript constitutes the minutes from the Regular Meeting held on May 23, 2011.

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

2 6:33 p.m.

3 CHAIRMAN HOOD: Good evening,
4 ladies and gentlemen. This is the May 23,
5 2011 Public Meeting of the Zoning Commission
6 of the District of Columbia.

7 My name is Anthony Hood. Joining
8 me are Vice Chairman Schlater, Commissioner
9 Selfridge, Commissioner May and Commissioner
10 Turnbull.

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

17 Copies of today's meeting agenda
18 are available to you and are located in the
19 bin near the door.

20 We do not take any public
21 testimony in our meetings, unless the
22 Commission requests someone to come forward.

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1 Please, be advised that this
2 proceeding is being recorded by a Court
3 Reporter and is also webcast live.
4 Accordingly, we must ask you to refrain from
5 any disruptive noises or actions in the
6 hearing room.

7 Please, turn off all beepers and
8 cell phones.

9 Does the staff have any
10 preliminary matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay. If not, I
13 have two preliminary matters. I want to
14 announce today that the Zoning Commission will
15 continue its summer dress-down code, so after
16 today, I understand it's supposed to be about
17 90 degrees, this goes out to everyone, Office
18 of Attorney General, Office of Planning,
19 Office of Zoning, Zoning Commission,
20 naturally, and the audience.

21 When you come down to present in
22 front of us, if you don't have a tie on or a

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1 jacket, we will understand from this point
2 forward. So that will take place beginning
3 actually Wednesday night for us. Tonight?
4 That's fine with me.

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

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

20 And whatever we deal with in these
21 cases, we deal with it right here within the
22 walls of this room. So I would ask that you,

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1 please, do not contact any Member of the
2 Zoning Commission.

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

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

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

18 VICE CHAIRMAN SCHLATER: That was
19 after you.

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

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1 the name?

2 VICE CHAIRMAN SCHLATER: Theodore
3 Anthony Kabalan Schlater.

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

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

14 MS. SCHELLIN: Sure. At Exhibit
15 36, we do have an NCPC report. They have said
16 that there were no identified adverse effects
17 to the federal interests and it would not be
18 inconsistent with the Comp Plan for the
19 national capital.

20 VICE CHAIRMAN SCHLATER: Thank
21 you, Ms. Schellin. Does anyone have anything
22 further on this case? In that case, I move

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1 that we approve Zoning Case No. 10-27, 3050 R
2 Street Partners - Map Amendment and special
3 exception and variance at Square 1282.

4 COMMISSIONER TURNBULL: Second.

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

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

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

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

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

18 All in favor say aye.

19 ALL: Aye.

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

22 MS. SCHELLIN: Yes.

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1 VICE CHAIRMAN SCHLATER: Would you
2 record the vote?

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

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

12 Next, Zoning Commission Case No.
13 10-19. This is the Office of Planning Map and
14 Text Amendments - H Street Overlay - zoning
15 consistency at Square 1050, et al. Ms.
16 Schellin?

17 MS. SCHELLIN: Yes, sir. At
18 Exhibit 28, we do have a request from the
19 Office of Planning to reopen the record to
20 accept their report, which is a request from
21 them to defer action until our September 12th
22 meeting.

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1 And if the Commission is agreeable
2 to do that, then staff would set a date to
3 allow the Office of Planning and ANC-6A to
4 make a later submission based on what is in
5 the Office of Planning's report.

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

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

16 VICE CHAIRMAN SCHLATER: Okay.
17 Thank you.

18 CHAIRMAN HOOD: Okay.
19 Commissioners, as was stated, we have a
20 correspondence. First, we have to open the
21 record to allow the correspondence from the
22 Office of Planning and I think we can do that

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1 by general consensus.

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

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

13 They actually have a date here of
14 September 12th.

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

17 CHAIRMAN HOOD: Okay.

18 MS. SCHELLIN: We could put it on
19 the agenda for that date. And if the
20 Commission decides to do that, we could leave
21 the record open until the Tuesday before say
22 3:00. The Tuesday before which would be the

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1 6th.

2 CHAIRMAN HOOD: Okay.

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

10 CHAIRMAN HOOD: Okay.

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

18 COMMISSIONER MAY: Second.

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

22 All those in favor?

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1 ALL: Aye.

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

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

11 CHAIRMAN HOOD: Okay. Thank you.

12 Next, Zoning Commission Case No.
13 08-06, Office of Planning - Comprehensive --

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

19 CHAIRMAN HOOD: Yes.

20 MS. SCHELLIN: Yes, okay.

21 CHAIRMAN HOOD: Yes, it does, yes.

22 MS. SCHELLIN: Just wanted to make

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1 sure.

2 CHAIRMAN HOOD: Okay. Thank you.

3 So, okay, that's enough time, I'm sure, for
4 them to make their submissions. Okay. Thank
5 you, Ms. Schellin.

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

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

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

20 CHAIRMAN HOOD: Okay.
21 Commissioners, if you will remember, this is
22 the one where we asked the Office of Planning

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1 to go back, and I think it was Mr. Lawson. I
2 think it was you. Okay. I'm sorry.

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

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

22 Pricing, we were able to get very

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

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

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

19 After what the Office of Planning
20 has done, which is dated in their May 13th
21 letter, or we can take what is recommended
22 after they did the review for us as a revised

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1 language and position in proceeding with 0.3
2 or 0.1 GAR.

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

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRMAN HOOD: Commissioner May?

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

15 I also think that the proposed
16 change is a smart way to handle this. It was
17 -- as I'm sure you recall, I wasn't
18 enthusiastic about dropping the GAR number
19 across the board and the idea that it would
20 stay a .3 and an exception be granted for
21 single-story warehouse buildings, I think is
22 an acceptable compromise. So I'm in favor of

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1 moving ahead with the language as the Office
2 of Planning proposes it be modified.

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

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

15 COMMISSIONER MAY: Second.

16 CHAIRMAN HOOD: It has been moved
17 and properly seconded. Any further
18 discussion? I have some discussion. I'm not
19 sure if we mentioned that the National Capital
20 Planning Commission said this would not
21 adversely affect any other identified federal
22 interests. I'm not sure if that was

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1 mentioned, but I wanted to make sure that was
2 on the record.

3 Any further discussion? Are you
4 ready for the question?

5 All those in favor, aye?

6 ALL: Aye.

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

10 MS. SCHELLIN: Yes, staff records
11 the vote 5-0-0 to approve Final Action on
12 Zoning Commission Case No. 08-06 with regard
13 to PDR as amended per OP's final report.
14 Commissioner Hood moving, Commissioner May
15 seconding, Commissioners Schlater, Selfridge
16 and Turnbull in support.

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

22 MS. SCHELLIN: Yes, sir. As you

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1 said, this is a request for a two-year PUD
2 time extension. They are requesting this
3 extension due to an inability to obtain
4 financing and to find a lead tenant for the
5 non-residential portion of the project.

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

9 CHAIRMAN HOOD: Okay. Thank you,
10 Ms. Schellin. Commissioners, we have before
11 us -- and if you look at the Office of
12 Planning report as well as the applicant's
13 submission, and I'm not sure -- oh, okay, my
14 ANC letter is in here. And we also have an
15 affidavit of Mr. Choi. I knew the last name.

16 The first name, I don't want to butcher it,
17 so we also have an affidavit from Mr. Choi.

18 We have a letter as Mrs. Schellin
19 has already mentioned, ANC-6C voted to support
20 the initial application. No changes. So they
21 also support the extension as well as the
22 Office of Planning report as well as what the

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1 applicant has submitted, which, basically,
2 spells out the rationale and the reasoning,
3 litigation, some of the things we have heard
4 market conditions, a number of other issues
5 and that's found on page 2 and 3 of the report
6 of the Office of Planning, as well as within
7 the submission dated April the 8th from the
8 applicant.

9 S, Commissioners, any discussion?

10 COMMISSIONER MAY: Mr. Chairman?

11 CHAIRMAN HOOD: Mr. May?

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

14 COMMISSIONER TURNBULL: It's
15 Exhibit 4.

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

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

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: I have A, B, C,

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1 D.

2 CHAIRMAN HOOD: Okay.

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

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

7 COMMISSIONER TURNBULL: Mr. Chair,
8 I was just going to say I think Exhibits 1, 4,
9 5, and 6 clearly explain the situation of the
10 applicant and in that situation, I would be in
11 favor of granting.

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

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

22 COMMISSIONER TURNBULL: Second.

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

4 All those in favor, aye?

5 ALL: Aye.

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

9 MS. SCHELLIN: Yes, staff records
10 the vote 5-0-0 to approve Final Action in
11 Zoning Commission Case No. 06-40A.
12 Commissioner Hood moving, Commissioner
13 Turnbull seconding, Commissioners May,
14 Schlater and Selfridge in support.

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

20 MS. SCHELLIN: Yes, sir. This is
21 their second request for a two-year time
22 extension. They are requesting this extension

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1 because they have been unable to obtain
2 sufficient project funding and due to the
3 hotel market slow recovery.

4 At Exhibit 4, there is an OP
5 report.

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

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

18 MS. SCHELLIN: The --

19 CHAIRMAN HOOD: Office of
20 Planning's report.

21 MS. SCHELLIN: Office of
22 Planning's report is at Exhibit 4, yes.

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1 CHAIRMAN HOOD: Okay. If you look
2 at Exhibit 4 in the last page, it talks about
3 exactly what Ms. Schellin said. And what we
4 know now to be a custom of exactly what
5 happens. The applicant has been unable to
6 obtain sufficient project financing. In
7 addition, the hotel market has slow recovery,
8 as a result of the recent financial crisis.
9 And it just goes on.

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

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

20 COMMISSIONER MAY: Second.

21 CHAIRMAN HOOD: It has been moved
22 and properly seconded.

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1 All those in favor, aye?

2 ALL: Aye.

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

6 MS. SCHELLIN: Yes, staff records
7 the vote 5-0-0 to grant the two-year time
8 extension in Zoning Commission Case No. 06-
9 29B. Commissioner Hood moving, Commissioner
10 May seconding, Commissioners Schlater,
11 Selfridge and Turnbull in support.

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

17 MS. SCHELLIN: Yes, sir. Staff
18 has two preliminary matters on this case.
19 First, the Office of Planning would like to
20 address the Commission before you go into
21 deliberations. And second, the applicant has
22 requested the Commission to reopen the record

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1 to accept a complete set of conforming plans.

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

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

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

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

18 MR. LAWSON: Thank you, Chairman
19 Hood.

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

22 MR. LAWSON: You do not.

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1 CHAIRMAN HOOD: Okay.

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

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

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

22 CHAIRMAN HOOD: Okay. Give me one

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1 second. Okay. Commissioners, Mr. Lawson is
2 going to read to us what now has been proposed
3 and the applicant also is in agreement? Okay.

4 Could you turn your mike on?

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

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

20 Now, the reason this was important
21 to us is we wanted to make sure that that
22 central pedestrian way does remain open to the

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1 public and that's certainly clearly the intent
2 of the applicant as well, that it remain open
3 to the public.

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

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

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

20 Okay. Let's open it up for
21 comments. I'm sure there are some questions
22 and comments on this. Vice Chairman Schlater?

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1 VICE CHAIRMAN SCHLATER: Thank
2 you, Mr. Chairman. At Proposed Action, I had
3 asked for clarification on a few items,
4 including further development and explanation
5 of the four story building that is connecting
6 the two buildings in the north block.

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

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

17 And then there was a discussion of
18 retail heights that was very helpful in
19 understanding what retail heights were being
20 proposed and the change in grade between the
21 ground level and the actual retail space
22 itself and also had a good discussion of, you

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1 know, the design with respect to the retail
2 and how it was going to, you know, be good
3 retail design.

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

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

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

20 COMMISSIONER TURNBULL: Yes, Mr.
21 Chairman. The other thing I want to point
22 out, we do have a report from NCPC. They are,

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1 basically, in favor of going ahead, but they
2 do have a couple of comments in their -- I
3 don't know if you want to highlight those?

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

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

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

22 I thought there was something

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1 else, too. I think that was the thing that
2 stood out in my mind.

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

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

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

20 Okay. Thank you, Mr. Turnbull.
21 Anybody else?

22 COMMISSIONER MAY: I would just --

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1 CHAIRMAN HOOD: Commissioner May?

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

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

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

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

22 But I think they are removing it,

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1 I guess, with the assumption that we will deal
2 with it at the 2nd Stage, but I think our
3 regulations allow for us to deal with it at
4 1st Stage. And I guess I don't know, maybe
5 it's a question for the applicant why are we
6 removing it? Mr. Ritting?

7 MR. RITTING: Well, it's slightly
8 different than that. And they are requesting
9 consolidated review of a little bit more than
10 what you typically approve in a 1st Stage PUD.

11 And what they are specifically asking for is
12 laid out in Findings-of-Fact 55 and 58 of
13 their draft order.

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

20 And, basically, it's slightly
21 different than your usual PUD procedures, but
22 there is really no reason that you couldn't

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1 approve it this way, if that's the way they
2 want to do it. And given the amount of
3 investment that they are putting in the
4 infrastructure itself, it seems appropriate.

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

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

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

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

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

21 I would take Mr. Ritting's
22 suggestion -- well, not his suggestion, but I

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1 would follow it that we would go ahead and
2 proceed, at this point. Mr. Turnbull?

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

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

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

15 CHAIRMAN HOOD: Okay.
16 Commissioners, anything else on this? I do
17 want to commend the applicant for being
18 responsive. Let's just get it done this time.

19 I think I have been around, maybe it was a
20 different person who had it some years ago,
21 but let's get it done.

22 Okay. With that, unless there is

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1 anything else? Mr. May?

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

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

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

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

19 COMMISSIONER MAY: I'm not sure,
20 maybe I misunderstood what the issue is. I
21 may have got it twisted in my head. Would you
22 mind walking me through it again?

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1 MR. RITTING: Sure. Give me a
2 moment to sort of get myself acclimated before
3 I --

4 COMMISSIONER MAY: Okay. Sure.

5 MR. RITTING: -- start speaking.
6 The applicant has proposed Finding-of-Fact 55
7 states that "The applicant includes a request
8 for a Consolidated PUD for the following
9 elements of the overall project:

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

19 Finding-of-Fact 58 states that
20 "The Consolidated PUD includes the mix of
21 uses, height and density of each building and
22 the site plan for the overall project. The

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1 project requires a fully designed platform
2 known for the project to commence. This
3 construction is complex and expensive and
4 incorporates significant risks and obligations
5 not normally associated with the development
6 in the District.

7 Therefore, the uses, height and
8 density, as well as the site plan, must be
9 finally determined prior to construction of
10 the platform and the base infrastructure. The
11 2nd Stage review of the buildings in the
12 center and south blocks will focus on
13 architectural design."

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

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

21 VICE CHAIRMAN SCHLATER: Does that
22 mean it's off the table for the applicant to

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1 revisit the height and density as well?

2 MR. RITTING: No.

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

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

18 MR. RITTING: That's true, yes.

19 COMMISSIONER MAY: All right.

20 CHAIRMAN HOOD: I just don't like
21 the way that that was just worded. The
22 applicant -- unless I'm missing something, we

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1 are pushing ourselves up against the wall.
2 But the applicant has the flexibility to make
3 a change in height, but we don't.

4 I don't --

5 MR. RITTING: Well --

6 CHAIRMAN HOOD: Did I state that
7 correctly?

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

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

22 COMMISSIONER MAY: Okay. Well, I

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1 mean, in just looking at the language the way
2 it is written here, the only thing that really
3 gives me any heartburn is the statement that
4 2nd Stage review of the buildings in the
5 center and south blocks will focus on
6 architectural design.

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

9 MR. RITTING: That's true.

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

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

20 If they do not do that and we
21 resist approving it, they will come back and
22 point to this order and say well, you are

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1 really only focusing on the architectural
2 design and, therefore, you should not be
3 pushing back on something that would actually
4 affect density.

5 So I mean, I would rather not have
6 that sentence in there and everyone, I think,
7 here knows that they will have to pass mustard
8 with the Commission the second time, at the
9 2nd Stage and we will be looking for a very
10 good building. And if they can do it and get
11 their density, great. And if they can't, then
12 they need to be thinking about all their
13 options.

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

19 COMMISSIONER MAY: No. It's the
20 2nd Stage review of the buildings in the
21 center and south blocks will focus on
22 architectural design.

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1 CHAIRMAN HOOD: Which findings?

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

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

12 COMMISSIONER MAY: Just that last
13 sentence there.

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

22 I think the Zoning Commission

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1 needs to perform its due diligence and review
2 the next stage as we normally would.

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

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

22 It may be one of the few tools

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1 that the applicant has to work with in order
2 to get the final approval. Anyway, for me it
3 all boils down to that one last sentence. I
4 would be happier just striking that last
5 sentence.

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

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

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

22 I mean, it seems perfectly

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

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

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

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

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

21 CHAIRMAN HOOD: What did you say?
22 I'm sorry.

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1 COMMISSIONER MAY: I don't know,
2 what did I say?

3 CHAIRMAN HOOD: I was still
4 reading the sentence again.

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

8 COMMISSIONER MAY: Okay. I mean,
9 the gist of it was that the applicant -- you
10 know, while the Zoning Commission was
11 approving the maximum -- or approving this
12 specific density, the applicant has the
13 flexibility to use less density in order to
14 create a more effective design for the
15 building in order to get the approval at the
16 2nd Stage.

17 CHAIRMAN HOOD: Okay.

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

22 MR. RITTING: Is this limited to

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1 the south block or does it include the center
2 block?

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

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

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

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

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

18 CHAIRMAN HOOD: I just think that
19 -- I just don't like to be backed up against
20 the wall. And I go by something I heard by
21 you, Mr. Turnbull, even though you probably
22 think I don't listen, is he is telling us that

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1 somebody is going to come in here and try to
2 lower the density.

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

8 COMMISSIONER MAY: Well, I fully
9 expect them to come in with something that is
10 the maximum density, but, again, it has to be
11 a good building. And if they can't get to the
12 good building without shaving off a little bit
13 more here or there, then, you know, so be it.

14 I think it needs to be explicit that we think
15 that that's still on the table for the
16 applicant.

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

20 CHAIRMAN HOOD: Which kind of goes
21 back to what the Vice Chairman said a while
22 back. I think -- does that -- I don't want to

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1 put words in your mouth, but you were talking
2 about the density design and being able to
3 build to the maximum point.

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

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

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

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

20 Okay. I would move approval of
21 Zoning Commission Case No. 08-34, Center Place
22 Holdings, 1st Stage PUD and Related Map

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1 Amendment and Consolidated PUD at Squares 564,
2 566 and 568, taking into consideration our
3 discussion that was just happening on the dias
4 and ask for a second.

5 COMMISSIONER MAY: Second.

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

9 All those in favor, aye?

10 ALL: Aye.

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

14 MS. SCHELLIN: Yes, staff would
15 record the vote 5-0-0 to approve Final Action
16 in Zoning Commission Case No. 08-34 as
17 amended. Commissioner Hood moving,
18 Commissioner May seconding, Commissioners
19 Schlater, Selfridge and Turnbull in support.

20 CHAIRMAN HOOD: Okay. We are
21 going to go over -- we are going to skip
22 Proposed Action for the time and we will go to

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1 Hearing Action. Yes, Hearing Action, Zoning
2 Commission Case No. 11-09, Duball Petworth,
3 LLC, Consolidated PUD and Related Map
4 Amendment at Square 2905. Mr. Cochran?

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

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

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

20 The applicant has requested a
21 change in the R-4 Zoning as part of the PUD,
22 so that the entire acre and a half site would

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1 be Zoned Georgia Avenue, C-3-A.

2 Right now, the site contains a
3 23,000 square foot Safeway, a parking lot and
4 a short section of alley. If it were
5 developed as a matter-of-right, the section
6 fronting Georgia Avenue could be developed to
7 a full .0 FAR and 90 feet in height.

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

11 The proposed PUD would be a
12 306,000 square foot 4.5 FAR mixed-use building
13 rising 80 feet on Georgia Avenue and 21 feet
14 in the interior. It would contain a 63,000
15 square foot Safeway, that's about 40,000
16 square feet bigger than the one there now,
17 with 220 apartments above it and underground
18 parking and loading.

19 The relief requested includes the
20 rezoning of the R-4 portion and relief from
21 retail parking requirements, open court width,
22 numbers and setbacks of penthouses and

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1 features of the Georgia Avenue Overlay,
2 including those governing the average distance
3 between exterior doors and the height of the
4 back of house areas ceiling.

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

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

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

22 Its design is superior. The

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1 requested relief is not, obviously, out of
2 line with the projects benefits, which would
3 include one of special value to the
4 neighborhood, the Safeway, one which Chapter
5 24 highlights as a public benefit, the
6 additional housing, and the first source, but
7 not an LSDBE agreement.

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

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

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

19 COMMISSIONER TURNBULL: Yes, Mr.
20 Chair?

21 CHAIRMAN HOOD: Mr. Turnbull?

22 COMMISSIONER TURNBULL: Thank you.

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

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

19 Do you have --

20 MR. COCHRAN: Mr. Chair, I just
21 want to point out that all of that would occur
22 below-grade. It's all underground.

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1 COMMISSIONER TURNBULL: Well, they
2 are going in on the alley though, right, from
3 what I'm seeing? The trucks are going in on
4 the alley off the --

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

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

10 MR. COCHRAN: I know.

11 COMMISSIONER TURNBULL: -- idling.

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

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

20 But I would like to see a better
21 picture on how that really works and what they
22 -- how they plan to manage this.

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1 I would also like to see some
2 better elevations of those sections on the
3 alleys where the garage is, I believe, where
4 they have grills. I think there is grills. I
5 can't tell. I would like to know what those
6 grills look like.

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

15 I mean, it appears to me that
16 there is brick all around the first floor,
17 first two floors. It looks like brick is the
18 material that I'm seeing. But I would like to
19 see some -- on those areas where -- the
20 drawings we have now are very small. I would
21 like to see a blow-up of how they are going to
22 articulate that brick.

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1 Is there going to be any relief to
2 it? Is it just a brick wall? Something on
3 it? But I know you are working with them on
4 that.

5 MR. COCHRAN: Yes.

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

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

12 COMMISSIONER TURNBULL: Okay.

13 MR. COCHRAN: They call it a cool
14 roof.

15 COMMISSIONER TURNBULL: Cool roof.

16 But it's still LEED? Okay. The sixth floor
17 terrace, I'm not sure what that was. I saw a
18 little box designating a sixth floor terrace.

19 I don't know what is going on there. Just a
20 place to come out, I'm assuming.

21 Just to remind them about resumes
22 for their expert witnesses that they carefully

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1 document the experience, so we don't have to
2 rehash it up here.

3 MR. COCHRAN: Okay.

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

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

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

20 There is also a -- in the plan,
21 there shows a garage exhaust shaft. And it
22 doesn't seem to go up to the roof, it just

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1 sort of seems like it ends and it looks like
2 it is on one of the alleys. I'm just
3 concerned about exhaust, garage exhaust
4 emptying out into the alley with people going
5 by. I need a little -- I think we need a
6 little bit more information on that.

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

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

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

19 The portion of the building that
20 concerns me from a design standpoint is the
21 tongue in the back. I don't know what that --
22 if you want to call that the loading area. It

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1 seems like with the change in grade on the
2 site, that that loading area actually gets
3 pretty tall as it backs up to the adjacent
4 townhomes.

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

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

22 And I know that if I had an

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1 apartment, I wouldn't want, you know, the
2 mechanical equipment of a Safeway 20 feet
3 away. It is entirely possible that, you know,
4 it is better than the current situation out
5 there as well.

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

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

20 I don't know if there is much the
21 applicant can do about it. But I also would
22 note that the -- in the benefits and amenity

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1 section, we have got this portable housing
2 proffered here and in our regulations,
3 affordable housing is actually required in
4 this zone.

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

10 CHAIRMAN HOOD: Okay. Anything
11 else? Commissioner May?

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

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

22 I do have a concern though. It

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

9 And I would be very, very
10 concerned if this building, the base of this
11 building, were just a concrete block of some
12 sort, no matter how good you make the concrete
13 block look, it's not going to look very good.

14 I mean, if it were precast or
15 something like that and I'm just reading it
16 incorrectly, that would be a different thing.

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

22 I mean, it's primarily a brick

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

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

14 CHAIRMAN HOOD: Okay.
15 Commissioner Selfridge?

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

22 But I did have a couple of the

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

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

16 MR. COCHRAN: If the --

17 MS. STEINGASSER: I just want to
18 set a context and maybe a work session amongst
19 us all, so that we understand how we are all
20 looking at this affordable housing issue would
21 be advantageous in a non-case-specific type of
22 discussion.

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1 The PUDs require a comparison of
2 matter-of-right versus the PUD product. So
3 when we look at the affordable housing issues,
4 we look at what is required as a matter-of-
5 right. And if the PUD enables more housing or
6 more affordable housing, we consider that a
7 benefit, not necessarily a proffer, but a
8 benefit.

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

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

22 CHAIRMAN HOOD: And I think we

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

8 MR. COCHRAN: The Safeway is
9 already there.

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

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

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

21 All those in favor, aye?

22 ALL: Aye.

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

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

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

16 MS. STEINGASSER: And that OP
17 would be invited.

18 CHAIRMAN HOOD: Huh?

19 MS. STEINGASSER: And that OP
20 would be invited.

21 CHAIRMAN HOOD: And that OP would
22 be invited. We're keeping everything an open

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1 meeting. So we can just make sure we
2 understand it within the context and anyone
3 else. Okay.

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

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

8 MS. SCHELLIN: Okay.

9 CHAIRMAN HOOD: Yes.

10 MS. STEINGASSER: Okay.

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

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

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

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1 require any action from the Commission.

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

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

12 I would prefer that we see
13 something like this than let it simply go on a
14 1st Stage alone. Now, maybe what that means
15 is that when we get a 1st Stage and it
16 includes a landscaped area, that there be an
17 explicit sort of 2nd Stage approval of the
18 landscape and I think that has been done.
19 That may have been what we just did with
20 Center Place Holdings.

21 MR. RITTING: That was a
22 discussion of the site plan of the PUD which

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1 includes the landscaping, but also includes
2 its relationship to buildings.

3 COMMISSIONER MAY: Right.

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

6 COMMISSIONER MAY: Yes.

7 MR. RITTING: -- them.

8 COMMISSIONER MAY: I just think,
9 you know, we need to -- well, like I said, I
10 think that our 2nd Stage review should apply
11 to landscape spaces and not simply buildings.

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

17 MR. RITTING: I'm not sure. I
18 haven't really had a chance to review it. I
19 just saw this letter coming in today. I
20 haven't compared them, but I could report back
21 to you at a date certain, if that's what you
22 are interested in.

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1 COMMISSIONER MAY: Well, I think
2 that is certainly one of the issues. I mean,
3 if what the plan has to be built-out varies at
4 all from what was approved, you know, that's
5 one issue. But I think that it would be --
6 well, what I would like to see is that we
7 write a letter back to the Zoning
8 Administrator saying that we believe 2nd Stage
9 approvals are necessary for landscape spaces,
10 unless the 1st Stage explicitly gives a final
11 approval of some sort. That's my thought.

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

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

19 COMMISSIONER MAY: I'm not seeking
20 clarification nor am I seeking that, at this
21 point, his decision be reversed in any way. I
22 just think that it should be clarified to the

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1 Zoning Administrator that absence of -- I
2 mean, the mere fact that there are no
3 structures on the site does not mean that it
4 should not be seen for 2nd Stage approval.

5 And that it is possible for
6 something to go forward after a 1st Stage
7 review only if the Zoning Commission states in
8 the order from the 1st Stage approval that the
9 landscapes have, in effect, a 2nd Stage
10 approval.

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

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

19 COMMISSIONER MAY: Well, and, I
20 mean, I think there is an understandable, I
21 think, kind of technical argument as to why a
22 2nd Stage approval was not necessary. But I

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1 don't view this as a technical matter. I view
2 this as more of a matter of principle that we
3 should, you know, see the final version of the
4 landscape plan.

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

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

15 MS. SCHELLIN: June 13th.

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

21 MR. RITTING: Yes.

22 CHAIRMAN HOOD: Okay. Okay.

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1 Let's see, okay, the next correspondence is
2 Zoning Commission Case No. 07-02, Columbia
3 Heights Ventures Parcel 26, LLC - letter from
4 the Zoning Administrator pursuant to ' 2409.8.
5 Ms. Schellin?

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

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

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

21 I believe that the case, I could
22 be wrong about this, but I think, that we had

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1 on this building, Phase 2 of Highland Park,
2 was after January 10, 2011.

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

5 CHAIRMAN HOOD: March 2nd.

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

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

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

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

21 CHAIRMAN HOOD: Flexibility.

22 VICE CHAIRMAN SCHLATER: --

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1 authority to approve the flexibility in the
2 plan. It seems like an odd fact there.

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

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

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

19 I mean, the flexibility that the
20 Zoning Administrator has, isn't that defined
21 by the order that we write? Because I don't
22 remember, you know, having any discussion

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1 about how many Juliet balconies there would
2 be.

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

5 VICE CHAIRMAN SCHLATER:

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

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

18 MR. RITTING: Yes, if I could
19 interject here? There is a regulation. If
20 you have your regulations in front of you,
21 it's 2409.6, which provides what the Zoning
22 Administrator's authority is in granting

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1 flexibility. And it mentions four things.

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

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

21 So none of them really speak to
22 the types of design changes that are in play

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1 here.

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

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

9 COMMISSIONER MAY: Well, this may
10 well be within the range of things that were
11 defined in the order, in terms of flexibility,
12 and if so, then I'm perfectly fine with this.

13 But I think we need to know that more
14 specifically, and I would appreciate it if we
15 could just get that clarified.

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

19 CHAIRMAN HOOD: And I would agree,
20 because when I look at the regulations, Mr.
21 Ritting, I don't see where it says I think
22 they changed the color of the brick. Well, I

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1 know that's not a major issue, but we look at
2 materials. And we look at how the character
3 of that building or facade of it is going to
4 mix into the character of the rest of the
5 neighborhood.

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

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

21 CHAIRMAN HOOD: Okay.

22 MR. RITTING: -- for a date that

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1 you will tell me, I assume, now.

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

6 MR. RITTING: No.

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

10 Let's move right along with the
11 agenda.

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

15 CHAIRMAN HOOD: We have one more.

16 VICE CHAIRMAN SCHLATER: Oh, do we
17 have?

18 CHAIRMAN HOOD: Yes, we have one
19 more Correspondence.

20 VICE CHAIRMAN SCHLATER: We do?

21 CHAIRMAN HOOD: I know you are
22 ready to cut out.

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1 VICE CHAIRMAN SCHLATER: I'm out.

2 CHAIRMAN HOOD: But this won't
3 take but a second.

4 VICE CHAIRMAN SCHLATER: Okay.

5 CHAIRMAN HOOD: Unless you are
6 out? Okay.

7 MS. SCHELLIN: I think he's out.

8 VICE CHAIRMAN SCHLATER: I
9 actually didn't attend that hearing, so --

10 CHAIRMAN HOOD: Oh, well, no
11 wonder.

12 VICE CHAIRMAN SCHLATER: -- I
13 may --

14 MS. SCHELLIN: Did you do the
15 first Proposed Action item? Were you not on
16 that first case?

17 VICE CHAIRMAN SCHLATER: I might
18 have been there, but not after that.

19 MS. SCHELLIN: The first one, yes.

20 VICE CHAIRMAN SCHLATER: Fair
21 enough.

22 MS. SCHELLIN: I spoiled it for

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1 you.

2 CHAIRMAN HOOD: We're going to get
3 you right out of here. Okay.

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

9 MS. SCHELLIN: Yes.

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

16 MS. SCHELLIN: Yes, or at least --

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

19 MS. SCHELLIN: -- by consensus.

20 CHAIRMAN HOOD: -- two minutes.

21 MS. SCHELLIN: Right. They just
22 forgot to ask at the end of the hearing and so

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1 without the Commission agreeing -- or
2 authorizing it, they can't do it.

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

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

14 MS. SCHELLIN: Okay. Next, so we
15 can get the Vice Chairman out of here. First
16 in Proposed Action, Zoning Commission Case No.
17 11-01, Office of Planning - Text Amendment at
18 ' 2116, the location of parking spaces. Ms.
19 Schellin?

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

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1 14.

2 CHAIRMAN HOOD: Okay.
3 Commissioners, we have in front of us -- we
4 also have a letter from ANC-3 -- give me a
5 second. We also have a submission from ANC-
6 3D, which actually coincides with what was
7 relayed to us by Mrs. Gates representing the
8 Committee of 100. And I think as a result of
9 that, and let me just ask -- who is that, Mr.
10 Mordfin? Is that your case?

11 MS. SCHELLIN: Mr. Emerine.

12 CHAIRMAN HOOD: Mr. Emerine, okay.
13 Okay. So, Mr. Emerine, has the Committee of
14 100 and the ANC had a chance to look at what
15 has been proposed, the new language?

16 MR. EMERINE: The supplemental
17 memo that we sent was sent to the Committee of
18 100 and everyone else who testified at the
19 hearing that night. I don't know if the ANC-
20 3D has seen it or not.

21 CHAIRMAN HOOD: Okay. Do you know
22 what the response was from the Committee of

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1 100?

2 MR. EMERINE: We haven't received
3 a formal response from the Committee of 100.
4 We did have some discussions and I believe, I
5 don't want to speak for them, but, we talked
6 in particular about the clarification of the
7 private garage issue and I think that
8 addressed the concern that they had on that
9 issue. But that's kind of the extent of what
10 we were able to resolve in conversation with
11 them.

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

21 And even that, it depends on how
22 we move, there is still a 30 day comment

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1 period in which we would still be able to
2 receive comments. People would still have a
3 chance to comment to the Committee. We would
4 be able to find out exactly where we are with
5 this in that 30 day comment period.

6 Let me open it up for discussion.

7 Any further discussion? Mr. Selfridge?

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

17 CHAIRMAN HOOD: Anybody else?
18 Commissioner May?

19 COMMISSIONER MAY: Yes, I just had
20 a question regarding the ANC-3D letter. And,
21 I mean, basically, it sounds like the concern,
22 just so I understand this, I thought we had

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1 some discussion of this at the hearing, is it
2 seems that they want to be able to preserve a
3 right that does not now exist when it comes to
4 driveways. Is that correct?

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

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

11 MR. EMERINE: Yes.

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

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

21 COMMISSIONER MAY: Yes.

22 MR. EMERINE: You know, there is

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1 sort of an issue on corner lots if you are
2 defining, you know, both yards that abut the
3 streets as two front yards or a front yard and
4 a side yard.

5 COMMISSIONER MAY: Right.

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

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

13 MR. EMERINE: Yes.

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

17 MR. EMERINE: It's actually
18 unclear.

19 COMMISSIONER MAY: Okay.

20 MR. EMERINE: But I think under
21 certain interpretations, that could be
22 possible.

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1 COMMISSIONER MAY: Yes. And the
2 scene that was described at the hearing where
3 someone might have a driveway that is to the
4 side of the house --

5 MR. EMERINE: Yes.

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

8 MR. EMERINE: Yes.

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

12 MR. EMERINE: That's correct.

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

15 MR. EMERINE: That's right.

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

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

21 COMMISSIONER MAY: Right. Okay.
22 Okay. I look forward to hearing further

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1 comments when we take action.

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

11 COMMISSIONER SELFRIDGE: Second.

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

15 All those in favor?

16 ALL: Aye.

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

20 MS. SCHELLIN: Yes, staff records
21 the vote 5-0-0 to approve Proposed Action in
22 Zoning Commission Case No. 11-01, as amended.

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

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

6 VICE CHAIRMAN SCHLATER: Thank
7 you.

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

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

20 CHAIRMAN HOOD: Okay. Thank you,
21 Ms. Schellin. Commissioners, I know some of
22 these cases may run altogether, because we had

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1 55E, B and C. Was it B and C? But anyway,
2 tonight right now we are dealing with 55E,
3 which is a request by the applicant to modify
4 an existing 1st Stage PUD to convert a portion
5 of the approved residential use of an office
6 and institutional uses.

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

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

21 And, for me, I was trying to
22 figure out impacts. And that's one of the

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1 things that we are governed to look at. And
2 also, in Chapter 24 in our 1st Stage
3 proceedings, it tells us -- it really guides
4 us in the way we should proceed.

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

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

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1 against the health center.

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

11 I mean, something is going to be
12 built there. But I think the use is an
13 important piece of it. I'm just -- you know,
14 let's kind of get the ball rolling, but I want
15 to hear from my colleagues what they think
16 about especially the change in the uses in the
17 1st Stage. And then we will talk about
18 building height next. Commissioner May?

19 COMMISSIONER MAY: Well, I knew
20 what I was going to say until you said at the
21 end there we will talk about building height
22 next.

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1 CHAIRMAN HOOD: Okay. You want to
2 start with building height?

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

5 CHAIRMAN HOOD: Okay.

6 COMMISSIONER MAY: The --

7 CHAIRMAN HOOD: They are
8 connected.

9 COMMISSIONER MAY: I think that
10 the idea of changing some of the residential
11 use to the university use makes a lot of sense
12 in a lot of ways. And the density is similar.

13 And I think in terms of the impact, it is
14 very difficult to say that, you know, in light
15 of all the testimony that we heard, it's very
16 difficult for me to come to a solid conclusion
17 that it is going to -- that that change of use
18 and tweaking of the building mass and so on
19 would really result in an objectionable
20 condition for the neighbors.

21 I mean, there is definitely still
22 some open questions about that, because of the

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1 uncertainty in the reporting that we got from
2 DDOT. I mean, even today, the latest report
3 that we have from them does not give me great
4 certainty that the traffic situation there is
5 going to be resolved.

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

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

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

20 And then the last thing about this
21 that makes me rather uncomfortable is the idea
22 that well, now that we are trimming off some

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1 of the density at the north end of the site,
2 and so, you know, you are pushing that down
3 and the other end of the block is popping up.

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

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

17 I mean, it has gotten to the point
18 where it is okay, but it's not a real star.
19 And then there is the, I think, additional
20 density, much of which is actually commercial
21 density and I think that has impact. So they
22 are losing a lot of residential as a result of

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1 all of this changing and they are getting a
2 lot more commercial.

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

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

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

22 I think traffic would still be or

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

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

13 And I think that is -- I'm not
14 sure if they got it right. I think they were
15 just so impassioned about it. And again, the
16 ones who were more impassioned were further
17 down in the next neighborhood. And there is
18 still going to be an issue. There still will
19 be an issue with people getting in and out. I
20 think that's going to be a problem that this
21 project has to still, at some point, come to
22 deal with.

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1 But I don't think these two
2 buildings, in any way, impact the current
3 relationship to such an effect, to such an
4 area where we would reject it.

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

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

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

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

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1 approved already.

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

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

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

20 CHAIRMAN HOOD: And I think aren't
21 we changing the height? Isn't it a height
22 request also in front of us on the 1st Stage?

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1 Okay. So we are changing the height. We're
2 going from, what is it? We're coming from 110
3 to 130, am I correct? Right? Okay.

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

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

18 Even though we got a letter from
19 the university, I have a serious reservation
20 whether that is even going to happen or not.
21 And I don't know if it's appropriate for me to
22 ask that at the hearing Wednesday, but I just

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1 -- you know, I think the community -- even
2 though I heard the testimony of Ms. Thornhill,
3 I heard the testimony of -- and I also
4 received a letter, Mr. Feola and the applicant
5 submitted a letter.

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

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

15 And the other thing for me is I
16 know something has got to go there, but, at
17 some point in time, the citizens got to
18 lighten the burden and then it's not within
19 our jurisdiction, but as the Zoning
20 Commission, do we just continue to put adverse
21 impacts on a community because we are stuck,
22 because there is no other way out?

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1 That's just the way I got out of
2 that and witnessing myself. Yes, the
3 university would be a good use. I have heard
4 all those arguments, but at the end of the
5 day, I'm not there going through it.

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

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

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

22 I mean, I certainly understand

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1 questioning the -- you know, is the use
2 appropriate or does the use have unacceptable
3 impact or something like that, but I would
4 never sort of thought of the project as a
5 whole as a burden.

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

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

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1 commercial blocks needed to go residential to
2 offset that.

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

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

17 What I'm saying is we're getting
18 ready to approve or disapprove, we are getting
19 ready to put something in place for some uses.

20 And I will tell you, I'm just not confident.

21 And I know the letter was -- I'm just not
22 confident that the community college is going

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1 to even materialize. And, for me, that's what
2 I would be approving and I'll tell you why.

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

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

17 So I'm not saying it's a burden in
18 that respect. I'm saying it's a burden in
19 respect because of the infrastructure, which
20 is not really within our jurisdiction, is a
21 problem. It's a problem over there and I just
22 don't know if it's right to just compound a

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1 problem on top of a problem because we are in
2 that situation.

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

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

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

20 I think I want to vote for it on
21 the hope that it actually is realized there.
22 And it is important to some of the other

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1 aspects of the development of this, this
2 portion of the community, the continuum of
3 schools that the developer and the community
4 have been trying to develop here, you know, I
5 think that's an important part of this.

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

8 CHAIRMAN HOOD: I'm actually not.

9 So I will go out on the DCPA property, but
10 unless I hear another persuasion, I will be --
11 that's why I will probably do this vote in
12 part. I will be voting against in part.

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

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

20 CHAIRMAN HOOD: I just didn't see
21 -- and that's why I asked for the letter. I
22 just didn't see a whole lot. And I know Ms.

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1 Thornhill and I know Mr. Feola then presented
2 the letter, but I just didn't see -- something
3 is not right with that with me. And it's -- I
4 don't know what it is.

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

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

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

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1 modification, yes.

2 CHAIRMAN HOOD: You said in a
3 major way. So it could be a minor
4 modification? It could be institutional use.

5 It doesn't have to be the community college.

6 It could be Burke School, because it's still
7 the same institutional use.

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

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

21 COMMISSIONER MAY: Right.

22 CHAIRMAN HOOD: Minor

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1 modification --

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

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

10 MR. RITTING: Yes.

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

18 If the -- I have heard the
19 community loud and clear and, actually, I
20 don't even think I'm taking the same course as
21 the community, because I think a lot of them
22 may have been against the DCPA part. But I

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1 think that's a vital use of that community
2 and, to me, that is a risk of the impacts,
3 which we heard.

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

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

14 COMMISSIONER MAY: Mr. Chairman, I
15 would disagree. I mean, changing from a
16 community college to any kind of, you know,
17 high school, middle school and any other kind
18 of school is going to be a different set of
19 impacts, because you are talking about
20 students who have to be transported to school
21 versus students who can make their own way
22 there.

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1 And it is a completely different
2 set of impacts. And I am pretty confident
3 that we would never regard that as a minor
4 modification. And there would be a hearing
5 and all that sort.

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

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

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

19 CHAIRMAN HOOD: E.

20 MS. SCHELLIN: E and B.

21 COMMISSIONER SELFRIDGE: So we are
22 still going to take -- we are still going to

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1 deal with community college at another
2 meeting, so I think that we could approve 05-
3 28E today, so stop me if I'm getting my
4 letters wrong, but still revisit this
5 community college issue, which I think is, you
6 know, a very important issue and could be
7 handled at a later date, but still move
8 forward on 05-28E.

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

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

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

22 CHAIRMAN HOOD: Right. Because

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1 that's why I'm raising the issue now.

2 COMMISSIONER MAY: All right.

3 CHAIRMAN HOOD: Because by that
4 time --

5 COMMISSIONER SELFRIDGE: Yes.

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

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

16 MR. RITTING: Well, it depends on
17 how you break it up into parts. I think the
18 1st Stage approval does include both height
19 and use. And if you are trying to break up
20 your 1st Stage approval into just a use and
21 not a height, I don't think that is
22 permissible.

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1 COMMISSIONER MAY: Right.

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

6 COMMISSIONER MAY: Yes.

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

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

15 MR. RITTING: If you are talking
16 about just this particular parcel and only
17 approving the use, but not the height, no, you
18 can't do that. I think you have to vote the
19 1st Stage application up or down, one way or
20 the other.

21 If you believe that the height is
22 excessive, but you want to give the applicant

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1 an opportunity to reevaluate the project --

2 COMMISSIONER MAY: Yes.

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

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

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

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

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

22 COMMISSIONER MAY: CCDC.

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1 MR. RITTING: -- community -- yes.
2 You could choose to take action on one and
3 not the other, yes.

4 COMMISSIONER MAY: Okay.

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

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

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

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

22 COMMISSIONER MAY: Yes.

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1 COMMISSIONER SELFRIDGE: Mike.

2 COMMISSIONER MAY: Paragraph
3 2407.8 in the Regulations, "The Commission
4 shall either approve, deny or modify the
5 application." And this is with regard to
6 processing a 1st Stage PUD application.

7 So we have the authority to modify
8 the application.

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

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

19 So there is a requisite increase
20 in commercial as a proportion of the whole
21 project that goes with it. And I'm not
22 comfortable with that, either. I mean, I

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1 could probably go along with that if we were
2 dealing with only 110 feet.

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

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

10 CHAIRMAN HOOD: Well, they call
11 those the blocks.

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

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

20 COMMISSIONER TURNBULL: What is
21 the community college?

22 CHAIRMAN HOOD: 110.

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1 COMMISSIONER TURNBULL: 110 now?

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

5 MS. SCHELLIN: Yes.

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

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

17 I do think we have established
18 that in the event that there is a proposed
19 change of use, whether it be minor or major,
20 Commissioner May thought any change in use
21 would be major, it will come before this
22 Commission again and need our approval.

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1 So, in that respect, I think that
2 I'm comfortable moving forward with the
3 change of use for the Community College of
4 D.C. and I think if it does end up in this
5 neighborhood, and hopefully it does, I think
6 it will be a great benefit to the area.

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

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

16 But I also know what the residents
17 of Eastland Garden and others have mentioned.

18 To me, that bridge and those other factors
19 are going to be very important to the success,
20 I believe, of this. And I just hate to sit
21 here and create something, create a problem,
22 because the charge that I took when I was

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1 sworn in was to protect the residents of the
2 District of Columbia, which -- well, you and I
3 both took that.

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

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

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

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1 Place. I thought they were trying to maintain
2 that.

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

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

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

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

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

22 CHAIRMAN HOOD: Oh, no, I'm not,

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1 no. No, I'm not.

2 COMMISSIONER MAY: Anybody else
3 got a motion formulated? Because I certainly
4 don't, at this point.

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

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

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

12 COMMISSIONER TURNBULL: The 130
13 feet for where?

14 COMMISSIONER MAY: Anywhere.

15 COMMISSIONER TURNBULL: Well, no,
16 I under --

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

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

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1 COMMISSIONER MAY: Yes.

2 COMMISSIONER TURNBULL: Whether it
3 is setback or not?

4 COMMISSIONER MAY: Yes.

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

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

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

16 COMMISSIONER MAY: Well, I'm --

17 COMMISSIONER SELFRIDGE: I think
18 that's a good point. If there is something
19 factually that we have missed up here, it
20 certainly would be helpful to have it
21 clarified. But I'm not sure that we would
22 want to open it back up for further

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1 deliberation or arguing at this point. So
2 unless we are factually wrong on something--

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

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

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

21 I think we have -- the applicant
22 has tried to address it with the setback. And

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1 I'm okay with 130 feet the way that it is
2 designed.

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

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

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

20 CHAIRMAN HOOD: Yes.

21 COMMISSIONER TURNBULL: We have
22 established that.

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1 CHAIRMAN HOOD: I'm saying if I'm
2 going to agree to that piece, I don't have a
3 problem with the 130. I don't have a problem
4 with the rest of it.

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

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

11 COMMISSIONER MAY: Yes.

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

15 COMMISSIONER TURNBULL: Well, I
16 think when we first saw it, I would agree,
17 too, that it looks -- when you look at this
18 whole project, it looks a little top heavy
19 down at the far end. It just doesn't seem to
20 be a balance to the plan. You've got the
21 other mid-rise building across the street, I
22 think.

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1 I know they stepped down. I think
2 they may have stepped down twice. I can't
3 remember. But I can't say without having
4 those drawings in front of me, it's hard for
5 me to remember. But it seems to me they made
6 the step from 130 to 110 and then I think
7 there was another step down.

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

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

21 So I think that is a great aspect
22 of this case. I mean, that there is some work

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1 to be done on these other buildings.

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

9 And I don't think that this is the
10 last word on this. Whether you agree with 130
11 or not, it's a separate issue. But this idea
12 that it is gone and we will never see it
13 again, I just don't buy that. I mean, it's
14 not true.

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

21 I mean, it used to be that there
22 were, basically, two commercial buildings in

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1 the H Block and then two large residential
2 buildings. And the way they are pictured,
3 they are large apartment buildings. And, you
4 know, just going from the images that we have
5 in the Stage 1 application.

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

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

22 And, you know, I mean, I'm picking

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

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

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

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1 buildings.

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

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

17 It didn't have to do with the
18 height, I realize now, it had to do with the
19 feel of these, you know, hard-edged glass
20 boxes. And that's what we are seeing here.
21 And there is no reason why -- I mean, you can
22 say that the architecture is going to come to

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1 us in the 2nd Stage and we are going to get a
2 better look at it then, but, you know what,
3 the architecture that we are seeing in the 2nd
4 Stage, for the two sites right now, are both
5 very modern and very different from the
6 character of what is there.

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

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

20 But, you know what, looking at
21 this, it's ironic, Commissioner May, you and I
22 happen to be on the same page, I looked down

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1 to see where you were, because I was looking
2 at the exact thing. I was looking at what was
3 approved first versus what is approved now.

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

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

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

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

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

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1 in scale.

2 They had no problem with the old
3 buildings, the old residential buildings at
4 110 and the office buildings at 110. I think
5 they felt that at 130, rightfully or wrong, I
6 mean, again, a lot of this is just personal
7 perception from them, it was getting to be way
8 too high, way too commercial and being to look
9 like, as Commissioner May said, something from
10 downtown, even though it's by a Metro.

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

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

19 CHAIRMAN HOOD: So what do we
20 want? It seems like nobody is going along
21 with my idea, so let's go with Commissioner
22 May. Still you never know what I might do,

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1 but, Commissioner May, the height is an issue.

2 Would you rather for the applicant to revisit
3 that 1st Stage PUD height or do you want to go
4 ahead and propose a motion or what do you all
5 propose?

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

14 I don't know that getting an
15 approval of those two development sites as
16 they are is sufficient for the applicant or
17 not. I would actually be interested in asking
18 that, would they rather have an approval of
19 those two sites as they have been presented
20 with no further changes to the PUD, would that
21 be preferable to them or to not get an
22 approval?

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1 CHAIRMAN HOOD: And you know what,
2 Commissioner May, I think that was something I
3 thought about also. And I can go along with
4 that.

5 COMMISSIONER MAY: Yes.

6 CHAIRMAN HOOD: I can go along
7 with that.

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

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

20 MR. RITTING: I think if you are
21 just asking him a procedural question and a
22 matter of process, which I think is Mr. May's

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1 question, there is no need to reopen a
2 hearing.

3 CHAIRMAN HOOD: Okay.

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

15 COMMISSIONER MAY: Well, it may
16 well be.

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

19 COMMISSIONER MAY: 130 feet may
20 well be critical, that's why we need to ask
21 the applicant the question. But, you know,
22 again, all I'm suggesting is that we approve

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1 the modification to allow these two particular
2 developments and that, you know, we not take
3 any action with regard to a change of height
4 or change of use for the balance of the
5 project.

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

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

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

20 MR. FEOLA: Thank you, Mr.
21 Chairman. For the record, Phil Feola,
22 Goulston and Storrs for the applicant.

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1 The applicant can accept a partial
2 approval of the 1st Stage application before
3 you that approves only the DCPCA piece and the
4 CCDC piece, as it has been proposed and hold
5 in abeyance for a future application for the
6 remainder of Parcel 12.

7 CHAIRMAN HOOD: Okay.
8 Commissioners, do we have --

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

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

14 All right. In that case, let's
15 see how I'm going to do this. I will move
16 approval of, I think, is this I2? I1 and I2,
17 which is the DCPCA and the CCDC, Community
18 College of the District of Columbia, in Case
19 05-28E, as a 1st Stage application as proposed
20 with the heights.

21 COMMISSIONER MAY: All I'm
22 suggesting -- all I was suggesting was that we

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1 approve those two sites with no -- I mean, as
2 they have been approved. I mean, as they have
3 been proposed.

4 CHAIRMAN HOOD: Previously --

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

8 CHAIRMAN HOOD: Right. But are we
9 approving --

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

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

17 COMMISSIONER MAY: Second.

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

21 COMMISSIONER MAY: I just have a
22 question. This is a modification of a PUD.

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1 There is only a single vote on this, right, or
2 are there two?

3 CHAIRMAN HOOD: Two.

4 COMMISSIONER MAY: There are two
5 votes. Okay.

6 CHAIRMAN HOOD: Mr. Ritting?

7 MR. RITTING: There is two votes.

8 CHAIRMAN HOOD: Was that motion
9 adequate?

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

12 CHAIRMAN HOOD: Okay. It has been
13 moved --

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

17 CHAIRMAN HOOD: Tell me now?

18 MR. RITTING: No.

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

22 All those in favor?

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1 ALL: Aye.

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

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

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

14 MR. RITTING: Yes. I was just
15 going to ask what process do you suggest that
16 the applicant follow for the remainder of the
17 1st Stage modification? What do you have in
18 mind?

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

21 MR. RITTING: If you -- since you
22 are deferring your decision on that portion,

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1 it would be helpful, I think, to the applicant
2 to tell them what you have in mind for further
3 process.

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

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

21 I'm not sure what the right
22 process is, but I believe that, you know, the

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1 developer was quite successful in bringing
2 this to an approval at the 1st Stage. I would
3 think that they could go back and kind of work
4 their way through it a second time around.

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

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

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

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

19 CHAIRMAN HOOD: Okay. Okay. And
20 I just want to associate myself with the
21 comments of Commissioner May, the applicant
22 engage and see what kind of avenue we can go

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1 down to try to lessen the impacts of things
2 that we have heard that the community felt
3 like it -- and I know it's like 50/50, but see
4 if we can look at ways to lessen impact,
5 because the first 1st Stage you came in with
6 overwhelming support.

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

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

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

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

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1 this same case back?

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

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

6 CHAIRMAN HOOD: So we --

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

9 MR. RITTING: Yes, I misunderstood
10 your motion.

11 CHAIRMAN HOOD: Well --

12 MS. SCHELLIN: You need another
13 vote.

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

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

21 CHAIRMAN HOOD: Even if we ask
22 them to rework and revisit? But that's what

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1 is being told.

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

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

6 MS. SCHELLIN: So we need to
7 finalize everything.

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

10 COMMISSIONER MAY: Portions.

11 CHAIRMAN HOOD: -- portions of the
12 1st Stage PUD, consisting of Blocks H and G-1
13 and G-2. Is it G-1? G-1, G-2 and H and ask
14 for a second.

15 COMMISSIONER MAY: Second.

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

19 MS. SCHELLIN: I'm not keeping --

20 CHAIRMAN HOOD: And anything I
21 left out.

22 MS. SCHELLIN: I'm watching the

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1 applicant. They are shaking yes and if they
2 agree, then I agree.

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

7 COMMISSIONER MAY: Second.

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

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

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

18 All those in favor?

19 ALL: Aye.

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

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1 MS. SCHELLIN: Yes, staff records
2 the vote 4-0-1 to deny without prejudice
3 Blocks H, G-1 and G-2 of Zoning Commission
4 Case No. 05-28E. Commissioner Hood moving,
5 Commissioner May seconding, Commissioners
6 Selfridge and Turnbull in support. And
7 Commissioner Schlater not voting having
8 recused himself.

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

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

19 CHAIRMAN HOOD: Okay.
20 Commissioners, any comments on the 2nd Stage
21 PUD of D.C. Primary Care Association, 2nd
22 Stage? Any comments? Commissioner May?

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1 COMMISSIONER MAY: Yes. You know,
2 I think we have had extensive conversation on
3 this one and I am -- you know, while I'm still
4 not quite a big fan of the architecture of the
5 building, it has improved and I think it is
6 approvable as it is.

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

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

18 The final sentence of it says "The
19 ongoing work associated with the signal
20 timing changes, new signs and new intersection
21 pavement markings will demand time for review
22 by the DDOT Operations staff."

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1 And I would like to hear from them
2 and know that -- what the result of this is
3 and whether, in fact, they can make some of
4 the improvements that the applicant's traffic
5 expert believed could be realized.

6 Does anybody agree?

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

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

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

22 So I'm hoping that maybe between

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1 now and Final, we can get an additional report
2 from DDOT that shows the results of their
3 review by the operation staff to know that, in
4 fact, we are going to see some of the
5 improvements that the applicant's traffic
6 expert believed were possible.

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

10 COMMISSIONER MAY: It was
11 submitted in E.

12 CHAIRMAN HOOD: E, okay.

13 COMMISSIONER MAY: But it affects
14 everything.

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

20 Okay. Anything else?

21 COMMISSIONER SELFRIDGE: Mr.
22 Chairman?

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1 CHAIRMAN HOOD: Commissioner
2 Selfridge?

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

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

22 CHAIRMAN HOOD: So let me ask.

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1 You want to see that before we deal with it at
2 Final or --

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

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

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

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

22 So in that respect, I wasn't sure

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1 that I bought the argument. So maybe that's
2 something that we could revisit between now
3 and Final Action, and see if we can get to a
4 ratio that is maybe a little bit more
5 equitable. I think that would be appropriate,
6 but that's just me.

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

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

12 COMMISSIONER MAY: I agree.

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

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

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

21 Would somebody like to propose a
22 motion?

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1 COMMISSIONER MAY: I would move
2 approval of Zoning Commission Case No. 05-28B,
3 D.C. Primary Care Association, 2nd Stage PUD
4 and Map Amendment at Square 5055.

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

7 COMMISSIONER SELFRIDGE: Second.

8 COMMISSIONER TURNBULL: Second.

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

12 All those in favor?

13 ALL: Aye.

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

17 MS. SCHELLIN: Yes, staff records
18 the vote 4-0-1 to approve Proposed Action in
19 Zoning Commission Case No. 05-28B.
20 Commissioner May moving, Commissioner
21 Selfridge seconding, Commissioners Hood and
22 Turnbull in favor. Commissioner Schlater not

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1 voting having recused himself.

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

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

7 MS. SCHELLIN: That's it.

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

10 MS. STEINGASSER: No.

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

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

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

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

21

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