

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

SEPTEMBER 9, 2013

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:55 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- MARCIE COHEN, Vice Chair
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)
- PETER G. MAY, Commissioner (NPS)
- ROBERT MILLER, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SARA BARDIN, Director, Office of Zoning
- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
BRANDICE ELLIOTT
PAUL GOLDSTEIN
MATT JESICK
JOEL LAWSON
STEPHEN MORDFIN
KAREN THOMAS
ELISA VITALE

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on
September 9, 2013.

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

2 CHAIRMAN HOOD: Good evening,
3 everyone, we're getting ready to get started.

4 We apologize for being a few moments late.
5 So we're ready to start our meeting. This
6 meeting will please come to order. Good
7 evening, ladies and gentlemen.

8 This is September 9, 2013, Public
9 Meeting of the Zoning Commission for the
10 District of Columbia. And tonight I want to
11 welcome everyone back from our month long
12 summer vacation, if that's what you want to
13 call it.

14 And I want to start to my left and
15 ask from my left to my right if you'd just
16 introduce yourselves.

17 MR. BERGSTEIN: That would be me.

18 I'm Alan Bergstein and I'm with the Office of
19 the Attorney General for the District of
20 Columbia.

21 MS. SCHELLIN: Sharon Schellin,
22 Secretary to the Zoning Commission for the

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1 Office of Zoning.

2 COMMISSIONER TURNBULL: Michael
3 Turnbull representing the Architect of the
4 Capitol.

5 COMMISSIONER MILLER: Rob Miller,
6 Mayoral Appointee.

7 VICE CHAIR COHEN: Marcy Cohen,
8 Vice Chair, Mayoral Appointee

9 COMMISSIONER MAY: Peter May
10 representing the National Park Service.

11 CHAIRMAN HOOD: Office of Planning,
12 yes.

13 MS. STEINGASSER: Jennifer
14 Steingasser with the D.C. Office of Planning.

15 MR. LAWSON: Joel Lawson with the
16 DC Office of Planning.

17 MR. MORDFIN: Stephen Mordfin,
18 D.C. Office of Planning.

19 MR. JESICK: Matt Jesick, D.C.
20 Office of Planning.

21 CHAIRMAN HOOD: Okay, thank you.
22 And I'm Anthony Hood, the Mayoral Appointee.

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1 Copies of today's meeting agenda are available
2 to you and are located in the bin near the
3 door. We do not take any public testimony at
4 our meetings unless the commissioner requests
5 someone to come forward.

6 Please be advised that this
7 proceeding is being recorded by a court
8 reporter and it's also Web cast live.

9 Accordingly, we must ask you to
10 refrain from any disruptive noises or actions
11 in the hearing room. Please turn off all
12 beepers and cell phones.

13 Again we are located in the
14 Jerrily R. Kress Hearing Room. Does the staff
15 have any preliminary matters?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: Ms. Schellin, do I
18 need to read a closed meeting statement?

19 MS. SCHELLIN: Yes, sir.

20 CHAIRMAN HOOD: Okay. Let me do
21 that first. As Chairman of the Zoning
22 Commission for the District of Columbia and in

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1 accordance with 407 of the District of
2 Columbia Administrative Procedures Act, I move
3 that the Zoning Commission hold a closed
4 meeting on Tuesday, October the 1st, 2013 from
5 9:00 am to 12:00 pm for the purpose of
6 receiving training as permitted by D.C.
7 official code 2-575(b)(12). Is there a
8 second?

9 VICE CHAIR COHEN: Second.

10 CHAIRMAN HOOD: Will the Secretary
11 please take a roll call voting on the motion
12 before us now that has been seconded? Ms.
13 Schellin.

14 MS. SCHELLIN: Yes. Chairman Hood?

15 CHAIRMAN HOOD: Yes.

16 MS. SCHELLIN: Vice Chair Cohen?

17 VICE CHAIR COHEN: Yes.

18 MS. SCHELLIN: Commissioner
19 Miller?

20 COMMISSIONER MILLER: Yes.

21 MS. SCHELLIN: Commissioner May?

22 COMMISSIONER MAY: Yes.

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1 MS. SCHELLIN: Commissioner
2 Turnbull?

3 COMMISSIONER TURNBULL: Yes.

4 MS. SCHELLIN: Motion carries.

5 CHAIRMAN HOOD: As it appears the
6 motion has passed. I request that the Office
7 of Zoning provide notice of this closed
8 meeting in accordance with the act. Thank you
9 all very much. Let's go right into our
10 agenda.

11 First consent calendar item,
12 Zoning Commission Case Number 85-10B,
13 Hillandale Homeowners Association request for
14 minor modification to PUD at Square 1312,
15 1313, 1319 and 1320. Ms. Schellin.

16 MS. SCHELLIN: Yes, sir. This is a
17 request from the applicant to replace the
18 existing six-foot high chainlink fence with an
19 eight-foot high ornamental steel fence for a
20 section of their community.

21 At Exhibit 4 there's no report in
22 support of the request. Exhibit 5 is a copy

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1 of a special use permit that the applicant
2 entered into at the U.S. Department of
3 Interior National Park Service. They'd ask
4 the Commission to consider this request.

5 CHAIRMAN HOOD: Okay.
6 Commissioners, as already requested, the HOA
7 in Hillandale have a request to change the
8 look and also the height. And it's -- I don't
9 know if -- I think the record is complete.
10 Any objections? Any comments? Okay.

11 I would move that we approve the
12 minor modification to approve the PUD minor
13 modification for the Hillandale Association,
14 Zoning Commission Case Number 85-10B and ask
15 for a second.

16 COMMISSIONER TURNBULL: Second.

17 CHAIRMAN HOOD: It's been moved
18 and properly second. Any further discussion?
19 Are you ready for the question? All those in
20 favor? Aye.

21 (Chorus of Ayes)

22 CHAIRMAN HOOD: Not hearing any

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1 opposition, Ms. Schellin, would you please
2 record the vote.

3 MS. SCHELLIN: Yes, staff records
4 the vote 5 to 0 to 0 to approve final action
5 in Zoning Commission Case Number 85-10B,
6 Commissioner Hood moving, Commissioner
7 Turnbull seconding, Commissioners Cohen, May
8 and Miller in support.

9 CHAIRMAN HOOD: Okay. Next under
10 final action we have Zoning Commission Case
11 Number 12-05A. This is the Ballpark Square
12 LLC Capitol Gateway Overlay modification to
13 square 701. Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. In
15 Exhibits 17 and 18 we have some post-hearing
16 submissions from the applicant, and we'd ask
17 the Commission to consider final action on
18 this case.

19 CHAIRMAN HOOD: Commissioners,
20 just to try to tee it up, the applicant has
21 proposed to reorient the residential portion
22 of the building so that the south-facing court

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1 would become a west-facing court.

2 Reorientation is necessary because
3 of another development's plan for a parted
4 wall along the southern edge of the property.

5 The applicant is requesting flexibility to
6 increase the width of the hotel from 59 feet
7 to 60 feet to meet the needs of a potential
8 hotel operator.

9 With that, let's open it up. Any
10 comments? We have given to us, I think, some
11 of the things that some of us may have asked
12 for, which is exhibit, I think that's 17. Is
13 that exhibit -- I believe that's 17. Okay,
14 exhibit 17.

15 Some of the things we asked for
16 are additional design information, additional
17 information for the outdoor rooftop T.V. area.

18 Let's see, and I know we had some issues
19 about how that would operate up on the rooftop
20 with the television or with the screen or
21 whatever they want to call it.

22 So let's open it up, any comments

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1 or questions? Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Yes, Mr.
3 Chair. Yes, I still have some concern about
4 the rooftop screen. I guess what's troubling
5 about it is the way it's been presented is
6 that, this is an 8-foot or 70-odd inch T.V. by
7 44 inches high.

8 The pictures that they show, show
9 only about a 36 by 24 inch T.V., which is a
10 little bit misleading when you look at the
11 pictures.

12 My recommendation is that they go
13 back -- I think also the screening which
14 they've showed on the plan doesn't do
15 anything. I think the little innocuous
16 screening was it faces the hotel and on the
17 other side really don't do anything.

18 I think the screening by the hotel
19 ought to be down further in front of the area
20 where the T.V. will be. And I think it ought
21 to be the same on the other side. That there
22 ought to be these parallel screening units

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1 that are actually blocking the view of anybody
2 looking up at the T.V.

3 I would also suggest to them - I
4 mean they have about a 1-foot overhang on top
5 of this thing. I would recommend they have at
6 least a 1-foot sidewall on either side also to
7 help screen this thing.

8 So I think there's still a little
9 bit more work to do on the roof to make this a
10 more palpable -- their views -- on A12, it
11 really doesn't do any service to what they're
12 trying to say that they're going to be able to
13 screen this thing.

14 And I really think that, if you
15 look on that one -- the view from the
16 neighboring building looking up, what they're
17 showing, you can't -- of course you can't see
18 the little T.V. from here, but that's not
19 what's there. They're really going to have a
20 bigger T.V.

21 So I think that the little planter
22 that they're showing ought to be lengthened,

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1 ought to be twice the size and going down, and
2 that the vegetation ought to be such that it
3 would grow up and screen it better. And the
4 same thing on the other side.

5 So, two things. I think that the
6 screening needs to be dealt with. The
7 depiction of what the T.V. looks like ought to
8 be made better to us, and that they ought to
9 have little wing walls on this thing to help
10 screen, even if they're only a foot. That's
11 all.

12 Other than that, I mean the only
13 other thing is when I -- I guess I'm a little
14 bit -- in Section B, Tab B they talk about the
15 sound, 60 DBs.

16 They talk about 9 o'clock. They
17 said sound should only -- and they talk about
18 -- and they make a big point about the ambient
19 noise, and they talk about the parametric
20 speakers.

21 But they also mention that not
22 only will the speakers be installed within the

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1 T.V. but also in the seating area. So there
2 are going to be speakers in the seating.

3 And they really don't -- I mean if
4 that's also at 60 DB I'm a little bit
5 concerned about this -- how much volume is
6 going to be emitted from this thing.

7 They talk about the T.V. being
8 operated between 9:00 and 11:00, but there's a
9 little caveat, not withstanding the hour
10 limitation described in this rule.

11 If a game, concert or other event
12 is simultaneously taking place at Nationals
13 Park, the T.V. and speakers shall be allowed
14 to be operated. Until when, the event is
15 over, 2:00 am, 4:00 am if it's an extra inning
16 game keeps going on and on.

17 I'm just concerned that this is
18 just totally open-ended, that it's all based
19 upon the ballpark operating, which is totally
20 independent of this building here. But it's -
21 - to me it's just an open-ended item just to
22 keep this thing going.

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1 So I'm a little bit concerned
2 about the operation of this and the noise.
3 They talk about the -- there's also another
4 little caveat here that says -- they talk
5 about 60 DBs, or in parenthesis they say "Or
6 the level of the ambient noise of the
7 surroundings."

8 That sounds like it could be -- if
9 they got a rock group up there and they're at
10 100 DBs, I mean can we just keep going? This
11 needs to be tightened up.

12 I think this whole thing about the
13 sound, the operation, the hours, I think it's
14 just -- there's just a big loophole that this
15 thing can keep going into whatever's happening
16 at National Ballpark.

17 And I understand we're in an
18 entertainment area, but there's still a hotel,
19 there's still people who want to go to bed.
20 There's still people who are visiting.

21 So I'm just a little bit concerned
22 about what is the objective of this section of

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1 section - of this component B, and what are we
2 trying to achieve.

3 CHAIRMAN HOOD: Okay. Thank you,
4 Mr. Turnbull -- of us up here because I
5 thought a little differently about that but I
6 do agree with the wings on the side. Now I
7 did like that idea out of your discussion.

8 Let me open it up, and one of the
9 things -- I will say this. Let me go to
10 Commissioner Miller first.

11 COMMISSIONER MILLER: Thank you,
12 Mr. Chairman. I just wanted to speak in favor
13 of the overall project and how much it will
14 contribute to the continuing revitalization of
15 this ball park district with its 326
16 residential units, the 26,500 square feet of
17 retail space along 1st and M Streets.

18 The 170 unit hotel. The office
19 use of, what's that, 200-some thousand --
20 224,000 square feet.

21 I don't share the concerns to
22 quite the degree that Commissioner Turnbull

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1 does about the outdoor T.V. viewing area, but
2 I agree with the Chairman and Commissioner
3 Turnbull that putting some additional
4 screening and the sidewalls would be a --
5 could be a helpful addition.

6 It is an entertainment district
7 and I think the intent for it to be able to
8 operate beyond the normal 11:00 pm hour if the
9 Nationals are going to a later hour makes
10 sense.

11 It's right across the street, just
12 a block away from the ballpark and that noise
13 is certainly going to be emanating throughout
14 the neighborhood, and that light.

15 So, I think if we -- I think we
16 could move forward with some of the changes
17 that have been suggested by Mr. Turnbull to
18 mitigate the -- to mitigate any adverse
19 impacts from the outdoor T.V. area -- T.V.
20 viewing area to the surrounding uses. But I
21 see them generally as not having an adverse
22 effect.

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1 CHAIRMAN HOOD: Okay. Thank you,
2 Commissioner Miller. Are you finished?

3 COMMISSIONER MILLER: Yes, thank
4 you.

5 CHAIRMAN HOOD: Okay. Any other
6 comments?

7 VICE CHAIR COHEN: Thank you, Mr.
8 Chairman. Again, I have less of an issue with
9 the screen on the roof, although the
10 recommendations that Commissioner Turnbull
11 made I think will reduce any type of sound
12 that emanates from the television screen.

13 So I support his tightening of the
14 covering of the sides. I just want to point
15 out a couple of small things for our attorneys
16 as they review the order, the draft order.

17 Paragraph 25, Requested Areas of
18 Zoning Commission Review and Relief.
19 Paragraph 25 talks about a approximately 77.5
20 percent of the ground floor area for the
21 project in total.

22 And then under the decision number

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1 4, they're talking about a minimum of 77
2 percent, 77.5 percent. So I think we need to
3 clarify that discrepancy.

4 And then finally, is this order
5 valid for a period of three years? I thought
6 two years was the appropriate time frame. I
7 may be wrong but, Mr. Bergstein, do you --

8 MR. BERGSTEIN: There is no time
9 limit for a CG order normally.

10 VICE CHAIR COHEN: Oh, okay. So
11 three is fine. All right. So I guess those
12 are just my small comment with regard to a
13 discrepancy. And I would support, again, a
14 greater tightening of the noise remediation on
15 the T.V.

16 CHAIRMAN HOOD: Okay. I do
17 appreciate the applicant providing other
18 areas, but I don't know how much detail we got
19 into whether it worked and I'm not sure if
20 they can find out information on whether or
21 not it was causing a problem or not.

22 But I do think some of the

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1 stringent controls that Commissioner Turnbull
2 is suggesting, I think is worthy of
3 consideration and allowing the opportunity to
4 come back.

5 I guess I just want to ask Mr.
6 Turnbull, not that I'm making him a witness, I
7 just want to ask Mr. Turnbull is it -- I guess
8 the only way we could probably do this is
9 probably delay this decision so we can wait
10 for additional clarification like you asked
11 for.

12 COMMISSIONER TURNBULL: Well, I
13 guess -- I mean, if we approve it we're going
14 to be getting drawings and pictures, drawings
15 after the fact. So it's like we've already
16 let the horse out of the barn.

17 I would really like to see some
18 revised drawings that clearly show it. We do
19 have a meeting coming up I believe on
20 September 30, so it would be a postponement
21 about three weeks, two weeks? Three weeks.

22 But I, you know, I'm in full

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1 agreement with Commissioner Miller that this
2 is a wonderful -- that this project is --
3 other than the things that I've noted on the
4 roof I'm fine with this project. It's just
5 that I'm still a little troubled by the
6 viewing area.

7 CHAIRMAN HOOD: Can we get a
8 general consensus that we maybe delay this and
9 give the applicant more time to satisfy some
10 of the requirements that Commissioner Turnbull
11 brought up, and some of the things we also
12 concurred that we agreed with on him
13 fine-tuning this project?

14 Can we do -- we wait September 30,
15 Ms. Schellin? Can we take this up to
16 September 30?

17 MS. SCHELLIN: We can. Do you
18 want to set a date for the applicant to submit
19 some -- it sounds like they need to do some
20 revised drawings?

21 CHAIRMAN HOOD: Right, revised
22 drawings.

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1 MS. SCHELLIN: Can you do those --
2 need to allow the ANC to respond to this, so
3 can you get those in by the 16th, one week?
4 Okay. And then the ANC would have until the
5 23rd to provide their response and we can take
6 this up on the 30th.

7 CHAIRMAN HOOD: Okay, thank you.
8 Okay, let's move right along. Zoning
9 Commission Case Number 13-04 ICG 16th Street
10 Association LLC Consolidated PUD and Related
11 Map Amendment at Square 185. Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. We have
13 some submissions pursuant to section 24-03.15
14 at Exhibits 57 and 58 from the applicant, ask
15 the Commission to take -- consider final
16 action this evening.

17 CHAIRMAN HOOD: Okay. Colleagues,
18 any additional -- we did receive exhibit -- I
19 think Ms. Schellin already mentioned exhibit
20 58 with the proffers and conditions. Anything
21 additional?

22 VICE CHAIR COHEN: Thank you, Mr.

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1 Chairman. I think, again, I would recommend
2 that we delete all the background in section
3 of this order.

4 CHAIRMAN HOOD: Any objections?
5 Okay, so we'll delete the background in this
6 order. Anything else?

7 VICE CHAIR COHEN: And I would
8 just say one other thing, that the financial
9 contribution is now consistent with amendment
10 to 24-03.6 condition 6.

11 CHAIRMAN HOOD: Okay, anything
12 else? Anyone else? All right. So, someone
13 like to make a motion? Commissioner Miller.

14 COMMISSIONER MILLER: I would move
15 approval of final action on Zoning Commission
16 Case Number 13-04 ICG 16th Street Associates
17 LLC Consolidated PUD and Related Map
18 Amendment, and ask for a second.

19 COMMISSIONER MAY: Second.

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

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1 COMMISSIONER MILLER: Yes, I just
2 wanted to note that we also appreciate the
3 applicant's willingness to make the financial
4 contributions to the community organization
5 prior to the building permit being issued as
6 opposed to the certificate of occupancy.

7 CHAIRMAN HOOD: Okay. Any other
8 further discussion? All those in favor? Aye.

9 (Chorus of Ayes)

10 CHAIRMAN HOOD: Not hearing any
11 opposition from those present, Ms. Schellin,
12 would you record the vote?

13 MS. SCHELLIN: Yes, staff records
14 the vote 5 to 0 to 0 to approve final action
15 in Zoning Commission Case Number 13-04.
16 Commissioner Miller moving, Commissioner May
17 seconding, Commissioners Cohen, Hood and
18 Turnbull in support.

19 CHAIRMAN HOOD: Okay. Let me just
20 say if we're talking and you don't hear us, if
21 you could just raise your hand because
22 sometime we moving around looking for stuff.

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1 And a lot of times we not in the mic, have to
2 remind myself to stay in the mic.

3 So if you can't hear us you can
4 just raise your hand and someone will bring
5 this to our attention. Okay.

6 Next, Zoning Commission Case
7 Number 08-07 Four Points LLC First Stage PUD
8 Related Map Amendment at Square 5772. And,
9 Ms. Schellin.

10 MS. SCHELLIN: Yes, sir. Again we
11 have submissions pursuant to section 24-03.15
12 from the applicant Exhibits 47 and 48. We'd
13 ask the Commission to consider taking action -
14 - final action on this case.

15 CHAIRMAN HOOD: Okay.
16 Commissioners, again, this is a first stage
17 PUD application. Any discussion?

18 COMMISSIONER MAY: Mr. Chairman.

19 CHAIRMAN HOOD: Commissioner May.

20 COMMISSIONER MAY: Yes. I do have
21 some ongoing concerns about the project. I
22 mean, I think during the course of the hearing

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1 in our subsequent discussion of proposed
2 action may have been some discussion of these
3 issues.

4 But I would like to see the order
5 modified just a little bit to ensure that when
6 we get to the second stage review we see more
7 on the -- in the way of information on LEED
8 certification and sustainable attributes of
9 the development.

10 I mean, I know there is a
11 statement in there that additional information
12 will be submitted, but it also makes reference
13 to the project meeting LEED certified level,
14 which is I mean really not a proffer at all.

15 I mean, that's below basic from my
16 perspective. Usually we're accustomed to
17 seeing projects like this at a LEED Silver and
18 higher. And I know that at least the first
19 buildings intend to be LEED Gold, so I expect
20 that level would be elevated.

21 And so I'd like the order to
22 reflect that, that second stage we'll be

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1 reviewing those and that we'll be expecting to
2 evaluate each project based on what's
3 proffered in the way of sustainable features.

4 I also have a concern about how
5 the Inclusionary Zoning is depicted or
6 described in the conditions. And I think it's
7 important on a project like this to understand
8 what the difference is between what could
9 happen there as a matter of right and what
10 will happen as a result of the project.

11 I mean the actual, you know, doing
12 the IZ requirement doesn't constitute much in
13 the way of an actual benefit of the project
14 when you're just meeting the requirement of
15 Inclusionary Zoning.

16 But I think our standard has
17 become that the way to look at that as
18 comparing what could happen as a matter of
19 right versus what happens as a result of the
20 PUD, as a result of the increased density or
21 the change of the zone or whatever occurs.

22 In this case it's a change in the

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1 zone that doesn't support or doesn't allow
2 housing to one that does and then adding those
3 elements. And I think that, that should be
4 reflected in what we see and I would expect
5 that we'll get those.

6 I want to see the order reflect
7 that we will see that information and evaluate
8 it when we get to the second stage reviews for
9 the buildings or parceled, however we wind up
10 seeing them. So, those are the concerns that
11 I had.

12 CHAIRMAN HOOD: Okay. And those
13 points, you put those on notice so on the
14 second stage PUD it won't be something -- we
15 won't hear that, oh you've already approved it
16 or you've already dealt with it in the first
17 stage. Good, that's actually a good way of
18 doing things. Commissioner Turnbull?

19 COMMISSIONER TURNBULL: Thank you,
20 Mr. Chair. I just want to clarify
21 Commissioner May's comment. On the LEED
22 certification, are we saying that we were

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1 looking -- are we looking for them to go
2 beyond -- that LEED certification is not
3 acceptable per se?

4 COMMISSIONER MAY: Well, I think
5 that right now -- yes, LEED certification I
6 think on any individual building by the time
7 we see it, I don't see that, that is of any
8 substantial benefit at all.

9 But what we see in the conditions
10 now is a promise to submit information on the
11 sustainable futures and LEED points associated
12 with each project as it comes for us for
13 second stage.

14 And at that point I think we just
15 want to be able to evaluate the project based
16 on what we see at that point.

17 And I guess I would communicate
18 now that we expect more, but we can't say in
19 the order that we expect them to meet LEED
20 Gold on every project because they've been --

21 COMMISSIONER TURNBULL: Can we say
22 that we will not accept just LEED

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1 certification?

2 COMMISSIONER MAY: I don't know.
3 I mean, you know, I think we only get to
4 accept or reject what they've proffered.

5 And I think what we're trying to
6 do is clarify that what they've proffered is
7 enough to get through first stage but that
8 they will need to demonstrate significant
9 sustainable features to get through second
10 stage. And we expect to see that.

11 COMMISSIONER TURNBULL: Okay.

12 VICE CHAIR COHEN: And I just
13 clarify, and to accept it as a proffer.

14 COMMISSIONER MAY: Right.

15 VICE CHAIR COHEN: Yes.

16 COMMISSIONER MILLER: Just to join
17 in with my colleagues, I think when we see
18 those second stage projects I think it's OP's
19 policy to expect a minimum of LEED Silver.
20 And I think that we would share that
21 expectation when the projects come forward.

22 MR. BERGSTEIN: So what you're

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1 saying is that you would not consider the
2 environmental proffer as written to
3 necessarily be adequate unless there was some
4 greater commitment to LEED levels, and that for
5 each project -- for each building you'd want
6 to see what the specific LEED level is that
7 would be sought to be achieved?

8 COMMISSIONER MILLER: Yes.

9 CHAIRMAN HOOD: Okay. Any other
10 comments?

11 VICE CHAIR COHEN: Yes, just my
12 word smithing a little bit. Under public
13 benefits in project amenities paragraph 14e,
14 there's a sentence that reads "In addition
15 there's no housing on the PUD site presently
16 and no proven housing market at this
17 location."

18 Well, that may be true but there's
19 no proven office market either at this
20 location. There is housing adjacent to this
21 site because the loading design does address
22 that. So I would just strike that one

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1 sentence.

2 CHAIRMAN HOOD: Okay, anything
3 else? Okay. With the necessary --

4 COMMISSIONER MAY: Do we want to
5 talk at all about the proffer having -
6 relating to the bid?

7 CHAIRMAN HOOD: Yes. If you want
8 to talk about that we can.

9 COMMISSIONER MAY: Sure. Well, at
10 one point the -- I mean we had discussed the
11 fact that the applicant was making
12 contributions to the bid. And it was -- it's
13 difficult to acknowledge something that has
14 already occurred as an amenity of the project.

15 But I think that in -- but we did
16 encourage that, that form of contribution
17 continue. It's also a little -- it's hard to
18 acknowledge something like this when it's a
19 contribution to a bid without a specific
20 purpose.

21 And I think that what we would
22 like to see and incorporate with the order

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1 might be something that says that in the --
2 for each second stage application that we'd
3 like to get an update on what they're doing
4 for the bid.

5 And that we would want to see
6 specific proffers related to, you know,
7 contributions to the bid that will be spent on
8 certain projects, something like that,
9 specific projects so that we can actually
10 recognize that as a true proffer.

11 CHAIRMAN HOOD: Okay. Anybody
12 else?

13 VICE CHAIR COHEN: I just want to
14 say that I concur with my colleague,
15 Commissioner May.

16 CHAIRMAN HOOD: Okay, thank you.
17 Do we all concur? Okay, save us a little bit
18 of time. Any other comments? Would someone
19 like to make a motion?

20 COMMISSIONER MILLER: Mr.
21 Chairman, I would move that we approve the
22 final actions with the amendments suggested by

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1 Commissioner May, Zoning Commission Case
2 Number 08-07 Four Points LLC First Stage PUD
3 and ask for a second.

4 But I just wanted to make one
5 additional comment and just note what -- just
6 for the benefit of the public and ourselves,
7 what the project entails, which it's a huge
8 project that will revitalize Anacostia and the
9 Martin Luther King Jr. Avenue corridor with
10 approximately 481,000, nearly half a million,
11 square feet of residential use, 8 percent of
12 which will be affordable under the IZ
13 regulations.

14 And a substantial amount of retail
15 and office as well, 144,000 square feet of
16 retail and service. And I think the intent is
17 to have a grocery store there is what we heard
18 at the public hearing testimony.

19 It's a multi-phase project that's
20 over a period of time, but it's a very
21 exciting project for this surrounding
22 neighborhood.

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1 VICE CHAIR COHEN: I'll second the
2 motion.

3 CHAIRMAN HOOD: Okay. It's been
4 moved and properly seconded. Actually, there
5 are two seconds. Any further discussion? All
6 those in favor? Aye.

7 (Chorus of Ayes)

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

11 MS. SCHELLIN: Yes, staff records
12 the vote 5 to 0 to 0 to approve final action
13 Zoning Commission Case Number 08-07.
14 Commissioner Miller moving, Commissioner
15 Turnbull seconding, Commissioners Cohen, Hood,
16 and May in favor.

17 CHAIRMAN HOOD: Okay. Thank you.
18 Let's move right along on the proposed
19 action, Zoning Commission Case Number 09-03A
20 Skyland Holdings LLC, PUD modification in
21 Square 5632 et al. Ms. Schellin?

22 MS. SCHELLIN: Yes, sir. At

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1 Exhibit 46 we received a request from the
2 applicant for an extension of time in which to
3 file the post-hearing submissions.

4 They'd like to propose a new
5 schedule for filing the materials after the
6 Mayor and the City Council reach a decision on
7 the Large Retailer Accountability Act.

8 CHAIRMAN HOOD: Okay. Thank you,
9 Ms. Schellin. Colleagues, again, this is the
10 second request of this applicant. I would
11 propose that we move this to our October 21
12 meeting because I think the time frame has
13 been asked for.

14 And the applicant can come earlier
15 at that time if it's sufficient, but I think
16 if we deal with this October 21 we're not
17 putting ourselves or putting anyone in a tight
18 time frame. But if they want to come earlier,
19 they can notify staff and we'll move in that
20 fashion.

21 Any objections? Any other
22 comments? Okay. Ms. Schellin -- okay. Do we

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1 need to do anything else with this? Okay.

2 Let's move to Zoning Commission
3 Case Number 12-02 B&B 50 Florida Avenue LLC
4 Consolidated PUD & Related Map Amendment at
5 Square 3516. Ms. Schellin?

6 MS. SCHELLIN: At Exhibit 56 we
7 have a report from the Konkel party, and
8 Exhibit 57 is the applicant's response to that
9 report.

10 And also -- I'm sorry, Exhibits 55
11 through 55D are the applicant's post-hearing
12 submissions, and we'd ask the Commission to
13 consider proposed action on this case.

14 CHAIRMAN HOOD: Okay.
15 Commissioners, we have in front of us the
16 response. As you know, one of the things I
17 asked them to do was to go back and still have
18 another conversation with the applicant.

19 But I will say that when I look
20 back in the file, we have a letter of support
21 by the Eckington Civic Association, also a
22 resolution about ANC 5E in support of this

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1 project.

2 What I heard loud and clear from
3 the applicant was that he's been, I guess,
4 working with this community for a long time.
5 It was a difficult spot to develop. I took
6 all that into consideration.

7 While I don't necessarily have any
8 architectural issues, I think that in the
9 letter from Exhibit 55 -- I guess it's 55-55D,
10 it speaks about some of the changes the
11 applicant has done.

12 The revised plans include the
13 shadow studies, construction vibration
14 analysis from a structural engineer. I think
15 this applicant's been very responsive to that
16 community.

17 And one of the things that was
18 said by the applicant that really stayed with
19 me was that he had worked with the
20 neighborhood quite a bit.

21 And one of the things I asked, not
22 that this is a criteria, but one of the things

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1 that I asked at the hearing was some of the
2 folks who with the Konkel party and others who
3 were, not necessarily Ms. Konkel herself, but
4 some of the other party members, how long have
5 you been in the neighborhood.

6 Not that that's a criteria, but I
7 think we need to be predictable. I think when
8 people work with our neighborhoods and come to
9 an agreement, especially when I see a letter
10 of support from ANC 5E, Eckington Civic
11 Association and others, I think they have put
12 the time and effort in.

13 I'm not saying that just because
14 you moved there a week before and now you're
15 against the project, I'm not saying that's an
16 issue but I think -- I took that in
17 consideration as long as the land -- as far as
18 the land use.

19 And I will be actually voting in
20 support of this project. I think it's a very
21 difficult site to build. I think the
22 applicant has dealt with some of the loading

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1 issues as required, and that's just where I
2 am.

3 Let me open it up for comments. I
4 just wanted to tee it up. Okay, anyone else?

5 VICE CHAIR COHEN: Yes, Mr.
6 Chairman. This morning I actually got woken
7 up at 7:00 am by some drilling on the road
8 outside my house and, you know, it woke me up.

9 I understand that they could start drilling
10 at 7 o'clock because that's what the building
11 code allows, but they did kickoff at 5:00 pm,
12 which helped my sanity because I do work at
13 home.

14 I think it would actually be very
15 beneficial if the applicant did offer a
16 two-hour leave time for construction so that
17 when people do come home from work they can
18 have dinner or prepare dinner in peace, like
19 watch the new, whatever.

20 I know the building code allows
21 until 7:00 pm, but it is nerve-wracking to
22 live right adjacent or behind or nearby a lot

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1 of construction noise.

2 So I would encourage that -- I
3 know it's not being proffered, but I really
4 think that as a good neighborly policy I would
5 urge them to consider kicking off at 5:00 pm.

6 A lot of construction work does
7 stop in the city at that time, and that's just
8 my person opinion from experiencing it
9 firsthand today.

10 So, it is something that people do
11 live with. It becomes temporary, but it's
12 like an 18-month construction period and it
13 would just be a very good neighbor policy.

14 CHAIRMAN HOOD: Okay. Thank you.

15 Anyone else? Any other comments?

16 COMMISSIONER TURNBULL: Thank you,
17 Mr. Chair. I think one of the things was the
18 redesign of the loading dock, putting it off
19 on the side not directly off the alley but
20 rather on the short side alley leading into
21 Florida Avenue.

22 I think that alleviates a lot of

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1 concerns about vehicles turning into the alley
2 by the backs of the residential homes there.
3 So, I appreciate that. I think that was a
4 significant change.

5 CHAIRMAN HOOD: Okay. And there
6 was one other point that was in the Exhibit 56
7 from the report of the party I wanted to
8 comment on. Well, I'll just say this in
9 general.

10 We typically don't instruct or
11 demand, and this might not even be the case,
12 but we don't instruct or demand anyone to
13 meet, especially after a meeting, we basically
14 ask.

15 We can't make people meet, but I
16 think it's good, good community and good
17 neighbor policy when developers who are moving
18 to a neighborhood where people live at meet
19 and be the -- do the good neighbor policy.

20 And I just was reading over the
21 weekend somewhere, and I think this was the
22 case, I'm pretty it was, about the Zoning

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1 Commission instructing. And I don't think --
2 that's not within our purview to instruct.
3 All we do is ask, and I wanted to put that on
4 the record.

5 And also I want to say that I want
6 to thank the applicant for doing that. And
7 also Mr. Burns and Mr. Konkell for this letter.

8 I think a lot of this stuff --
9 when I review Exhibit 56, which is a letter
10 from the party in opposition, while they still
11 have some issues; the construction management
12 plan, the vibration, the structural engineer,
13 those things are named on the record.

14 The applicant has went again to
15 another extent to reach out, and I just was
16 very satisfied with the responses that we have
17 here on the record. So, any other comments?
18 Commissioner Miller?

19 COMMISSIONER MILLER: Thank you,
20 Mr. Chair. I just would associate myself with
21 your remarks and those of Commissioner
22 Turnbull in support of the application moving

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1 forward.

2 And I would just note to my fellow
3 Commissioner Cohen, Vice Chair Cohen, that as
4 for relating personal experiences, during the
5 summer we had construction on two sides of our
6 house; one by the city and one private
7 property owner renovations. They did go from
8 7:00 am to 7:00 pm most days, Monday to
9 Saturday.

10 There also was another renovation
11 project across the street that had the same
12 kind of schedule. It wasn't quite abutting
13 our property, though.

14 It got -- it was somewhat jarring
15 hearing the beeping of the little mini tractor
16 trailer backing up all day. But, you know
17 what, it got done quicker. The project ended
18 sooner than it might otherwise have. And so
19 the end of the summer was more peaceful.

20 VICE CHAIR COHEN: I'm happy for
21 you, but at least it was the summer and it
22 wasn't 18 months construction. You were

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1 probably outdoors at a park reading zoning.

2 CHAIRMAN HOOD: Okay. Any other
3 comments, somebody like to make a motion?

4 COMMISSIONER MAY: Sure.

5 CHAIRMAN HOOD: Commissioner May?

6 COMMISSIONER MAY: Yes, you know,
7 I'm tempted to talk about hours of
8 construction, but my personal experience with
9 that has mostly to do with the fact that I
10 want to start construction on my house at 7:00
11 in the morning and my wife is not awake at
12 that point. So, my construction hours are
13 more limited, but anyway.

14 No, I'm highly sympathetic to the
15 concerns of the neighbors and I think it was,
16 you know -- they made a good case for the
17 concerns that they have.

18 Unfortunately, a lot of what they
19 would like to see happen are beyond the bounds
20 of what we can reasonable expect in a case
21 like this. And we do see a lot of cases like
22 this and we do want to take extraordinary care

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1 to make sure that the neighbors are protected.

2 I do think that the -- some of the
3 changes, or at least one change that they made
4 on this project having to do with the loading
5 dock, was a significant change and will be a
6 significant benefit and I think goes a long
7 way to address some of the concerns.

8 You know, when it comes to the
9 height of the building and the fact that it's
10 going to wind up casting more shadows, on a
11 certain level that was inevitable given that,
12 you know, the matter-of-right zoning on the
13 property would have allowed a taller building
14 than is there right now and so there was going
15 to be more impact in the future.

16 But, I will say that I believe
17 that the building has been quite sensitively
18 designed to keep that to a minimum and to
19 reduce that feeling of height that you get.

20 I mean, they could have had a much
21 taller building up against the rear property
22 line and they don't and I think that that's --

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1 as I said, I think the building has been
2 sensitively designed.

3 I also appreciate the fact that
4 the applicant made numerous changes to address
5 other concerns that we had. You know, the
6 west facade has been improved in response to
7 our comments, and I can't remember other
8 things.

9 I also do think that the
10 architecture of the building is quite fitting
11 for the neighborhood. I think this would have
12 been, you know -- we've seen some other
13 projects that would -- in other parts of the
14 city that are, you know, big glass boxes or,
15 you know, much more industrial-looking.

16 I mean, this is -- this strikes a
17 balance between the industrial and the
18 residential feel and I think that it's -- it
19 actually will work -- look very good and be
20 very handsome in that neighborhood in the long
21 run.

22 So, I think that's it for the

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1 things that I wanted to say. Thanks.

2 CHAIRMAN HOOD: Thank you. Would
3 somebody like to make a motion? Any other
4 comments or would somebody like to make a
5 motion in this case?

6 COMMISSIONER MAY: I would move
7 approval of Zoning Commission Case 12-02 B&B
8 Florida Avenue LLC, Consolidated PUD & Related
9 Map Amendment at Square 3516.

10 COMMISSIONER MILLER: I second.

11 CHAIRMAN HOOD: Okay. It's been
12 moved and properly seconded by Commissioner
13 Miller. Any further discussion? All those in
14 favor? Aye.

15 (Chorus of Ayes)

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

19 MS. SCHELLIN: Yes, staff records
20 the vote 5 to 0 to 0 to approve proposed
21 actions Zoning Commission Case Number 12-02.
22 Commissioner May moving, Commissioner Miller

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1 seconding, Commissioners Cohen, Hood, and
2 Turnbull in support.

3 CHAIRMAN HOOD: Okay. Next we
4 have Zoning Commission Case Number 13-06.
5 This is the Office of Planning, Text Amendment
6 dealing with retaining walls. Ms. Schellin?

7 MS. SCHELLIN: Yes, sir. On this
8 case we have, at Exhibit 14, a supplemental
9 report from OP, at Exhibit 17 a corrected
10 supplemental OP report.

11 Exhibit 15, we had a request from
12 the Neighbors United Trust to re-open the
13 record, which was approved. And they also
14 made a request to re-open the hearing, which
15 was held for the Commission to consider this
16 evening.

17 And we have -- you guys have
18 received also the submittal that the record
19 was re-opened from the Neighbors United Trust.

20 I think that's Exhibit 60.

21 CHAIRMAN HOOD: Okay,
22 commissioners. There were some changes made.

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1 While I thought that -- well, we need to --
2 well, re-open the record, but we need to
3 consider the request for a rehearing. Well,
4 not a rehearing, additional hearing because of
5 additional change.

6 As was noted in the submission by
7 Neighbors for United Trust, that part of the
8 transcript where Ms. Schellin and I both said
9 there would be time to comment, and I just
10 wanted to throw that out there for discussion.

11 Due to the changes, did we think
12 that we also needed to grant the request for
13 an additional hearing because of the changes,
14 or do you think we can accomplish that within
15 the 30 days as was stated?

16 And then Neighbors United Trust
17 and others will be able to make comments
18 within that 30-day comment period. And I just
19 wanted to put that out for discussion.
20 Commissioner Miller?

21 COMMISSIONER MILLER: Mr.
22 Chairman, while I think that the 30-day

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1 comment period would provide that opportunity,
2 I have no objection to the request.

3 I would be supportive of the
4 request for an additional hearing so that
5 interested persons could come before us and
6 comment on the more lengthy text that is now
7 before us, all of which, or a lot of which was
8 addressing issues that were raised at the
9 previous hearing.

10 So I'm not -- it's not really -- I
11 agree with you with you that it's not legally
12 -- well I don't know if you said this, but I
13 don't think it's legally necessary, but I
14 think it's a request that I don't think, if we
15 had another hearing, would do any harm.

16 There are only two persons who
17 testified at the previous hearing. If we get
18 more comments, that'd be great. So, I have no
19 problem with that request myself, but -

20 CHAIRMAN HOOD: Okay. And I think
21 that the work that this group has put into it,
22 and then I'll let others comment, but I think

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1 that the work that this group has put into it,
2 especially the author, I believe, of this
3 letter, sometimes it's good to have those kind
4 of sessions where you go back and forth in the
5 comments.

6 I don't know if you get that, and
7 I've been trying to think, I don't know if you
8 get that in a 30-day comment period but we can
9 kind of have that discussion back and forth
10 about the change. But let me open it back up,
11 commissioners. Anyone else? Commissioner
12 May?

13 COMMISSIONER MAY: I don't see a
14 particular need for the hearing. I think we
15 could proceed without it, but if it's the
16 sense of the Commission that we would benefit
17 from it I'm perfectly fine with that.

18 This was an amendment that we were
19 very interested in seeing happen. The
20 retaining wall issue is a significant issue,
21 as it borders the parkland in Washington in
22 particular, but I've also seen how it can

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1 impact immediate neighbors.

2 And so it is something that we do
3 need to address, but I don't -- it won't make
4 a huge difference if we wind up doing another
5 hearing before we actually start taking action
6 on it.

7 I do have some questions that I
8 would like to get clarified, in part based on
9 the letter, but I'm confused by some of the
10 new language that, you know -- from the Office
11 of Planning, so.

12 CHAIRMAN HOOD: Yes, we'll come
13 back to that. If we can just deal with this
14 issue about the rehearing -- I mean the
15 additional hearing. I keep saying rehearing.
16 Vice Chair?

17 VICE CHAIR COHEN: Thank you,
18 Chairman. I don't see the necessity of having
19 a public hearing. I think that the Office of
20 Planning, the parties of interest and the
21 Office of the Attorney General can handle the
22 clarification to refine the terms and change

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1 subsections. So, I think it could be
2 accomplished within 30 days and we can go to
3 final.

4 CHAIRMAN HOOD: Commissioner
5 Turnbull -- let me go to Commissioner
6 Turnbull.

7 COMMISSIONER TURNBULL: Well, Mr.
8 Chair, I'd be delighted to hear from Ms. Gates
9 again.

10 CHAIRMAN HOOD: Okay. So that's
11 three votes. All right. Well, moving on.
12 Ms. Schellin, let me ask this. Can we tie
13 that in with the, I'm not going to say quick
14 hearing, possibly maybe put it -- lump it with
15 a hearing where we don't expect to take a long
16 time?

17 (Momentary pause)

18 CHAIRMAN HOOD: Everybody just
19 bear with us a moment.

20 (Off the record comments)

21 MS. SCHELLIN: I don't have any
22 short hearings. We have a Georgetown further

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1 processing and an amendment to their case. We
2 have a second stage PUD case in October that
3 we could tack them onto if you guys want to
4 tack them on to those cases.

5 CHAIRMAN HOOD: Can we do a 6
6 o'clock?

7 MS. SCHELLIN: We could.

8 CHAIRMAN HOOD: That way maybe
9 about -- from what happened previously, maybe
10 probably about 30 minutes, 6 o'clock on one of
11 those dates, whichever dates you have.

12 MS. SCHELLIN: Okay. All right.

13 CHAIRMAN HOOD: So, do we need to
14 announce the date or -

15 MS. SCHELLIN: Oh, no. I have to
16 advertise.

17 CHAIRMAN HOOD: Oh, we have to
18 advertise it. Oh, okay.

19 MR. BERGSTEIN: What we're
20 suggesting, the rules are kind of ambiguous
21 about what happens in these circumstance. The
22 charter requires that there be 30 days Notice

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1 of Public Hearing before the overrule can
2 become final. And that assumes the first
3 Notice of Hearing.

4 It doesn't tell you what happens
5 if you later have the hearing, adjourn it, and
6 then decide you want another hearing. So I
7 think the conservative thing is to do another
8 30-day Notice of Public Hearing.

9 You don't need the 40 that's
10 required under the rules. You'd in essence be
11 waiving that. But I think the conservative
12 thing to do is to advertise it for a 30-day
13 period in the D.C. Register.

14 CHAIRMAN HOOD: Okay. And anyone
15 that's interested, Neighbors United, you can
16 file it with staff and we should be able -- we
17 should know a date for you.

18 MR. BERGSTEIN: And I don't know
19 what discussion you're going to have on text
20 and all that, but I'd be requesting the
21 ability to work with the Office of Planning to
22 clarify whatever text is needed for the

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1 purposes of that Public Hearing Notice.

2 CHAIRMAN HOOD: Does anyone have
3 any objections of Mr. Bergstein's request? No
4 objections. Okay. So we'll start with you,
5 Commissioner May, some clarifications.

6 COMMISSIONER MAY: Yes. Do we
7 actually need to take a vote to re-open the
8 hearing?

9 MR. BERGSTEIN: I think that's
10 something you can do by consensus. I think
11 even the Chair could probably do it on his
12 own, so.

13 COMMISSIONER MAY: Okay. I just
14 didn't know. Before I got into the -

15 CHAIRMAN HOOD: Include all of my
16 colleagues. Does anyone object?

17 VICE CHAIR COHEN: No.

18 COMMISSIONER MAY: No.

19 CHAIRMAN HOOD: Okay.

20 COMMISSIONER MAY: Okay?

21 CHAIRMAN HOOD: Okay.

22 COMMISSIONER MAY: So, I have two

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1 questions that came about based on the report
2 that we got from the Office of Planning. One
3 is that -- and I'm not looking for answers
4 today. I think these are things that you can
5 look into and address when we have this
6 hearing.

7 The way I read it, 412.8 and
8 412.11 seem to be conflicting because in the
9 one case we're saying that a retaining wall,
10 if it's a certain type and height, would
11 constitute a structure and, therefore, be
12 counted in lot occupancy.

13 But then we're saying that
14 anything that's not above the main floor of
15 the main building would not be calculated as
16 lot occupancy. And that second one kind of
17 wipes out a lot of the reason for having this
18 rule in the first place, in addition to
19 conflicting directly with 412.8, the way I
20 read it.

21 The second is that -- do you
22 follow me on that? Yes, okay. And so then

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1 the second thing is that I don't feel that we
2 have, you know, based on what we heard on the
3 hearing, adequately addressed the condition of
4 a retaining wall in a rear yard when it abuts
5 an alley. And I think that was the
6 circumstance that Mr. Eckenwiler was
7 testifying about in particular.

8 And I wonder if there's a way that
9 we can fashion a rule that's not too
10 dissimilar from what you have on the front
11 yard circumstance because we certainly have
12 front yards where the house is high above the
13 street and there's a need for a retaining
14 wall.

15 And if we're doing, you know -- if
16 that occurs in the front, it can often occur
17 in the back as well, and sometimes, you know,
18 people have garages built in the -- I mean, we
19 just dealt with a PUD that had very high
20 retaining walls in the back and they wouldn't
21 be legal here.

22 But they were probably retaining

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1 the earth at the natural grade that had
2 existed at some time rather than being fill.
3 And they're not abutting anything that --
4 where it causes a problem for an adjacent
5 neighbor.

6 So I think that we need to address
7 that a little bit more clearly. And maybe we
8 do have an overall height and then could go
9 above it with a variance or a special
10 exception, or rather a special exception.

11 But I think it should be addressed
12 more clearly than we have now in the language
13 that you have. I think those were the big
14 issues that I had. Thank you.

15 And thank you for the detailed
16 report. It was very helpful understanding
17 what was, you know, bringing it all back
18 because I don't carry all that retaining wall
19 language in my head. Thanks.

20 CHAIRMAN HOOD: Okay. Any other
21 comments? Commissioner Miller?

22 COMMISSIONER MILLER: Thank you,

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1 Mr. Chairman. I would concur with
2 Commissioner May's comments about the
3 retaining wall that abuts an alley,
4 particularly where there's that sloping
5 situation.

6 And I also separately would note
7 that in OP's report they make a comment that,
8 "Although not part of the proposal, OP would
9 not oppose allowing relief from retaining wall
10 regulations by special exception," it says,
11 "other than variance."

12 Would that mean -- is it currently
13 the proposal that you can only get relief by
14 variance and not be special exception?

15 MS. ELLIOTT: As it's currently
16 drafted, a variance would be required because
17 we have not listed specific criteria that
18 would relate to a special exception.

19 COMMISSIONER MILLER: I would be
20 open to allowing the relief by special
21 exception so that the adverse impacts could be
22 directly looked at as the primary reason why

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1 you're allowing it or not allowing the
2 retaining wall, but that's just me.

3 I'd be open -- I'd be interested
4 in hearing testimony and your further comments
5 on that point.

6 CHAIRMAN HOOD: Okay. Any other
7 comments? Okay. We did -- we opened -- we're
8 having a rehearing by general consensus, and
9 Ms. Schellin will follow up. Do we need to do
10 anything else? Any other comments? Okay.

11 All right. So we will take this
12 up on an additional hearing and deal with it
13 at that point and hopefully we can attach it
14 to another hearing. Okay. Let's move right
15 along.

16 Let's go to -- on the hearing
17 action, Zoning Commission Case Number 08-34D
18 Capitol Crossing IV LLC & Archdiocese of
19 Washington Holy Rosary Church Modification to
20 first stage PUD at Square 566. Ms. Elliott?
21 Oh, it's Mr. Goldstein, I'm sorry.

22 MR. GOLDSTEIN: That's fine. Good

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1 evening, Mr. Chairman and members of the
2 Commission. The applicant is requesting a
3 modification to a first stage plan unit
4 development, which is order number 08-34.

5 As background, the applicant
6 requested this past July a second stage PUD
7 for new Holy Rosary Church facilities, which
8 is one component of the larger development
9 above the Center Lake Freeway.

10 The Commission heard the
11 application at the July 29, 2013 public
12 meeting and voted to set it for a public
13 hearing.

14 However, at the meeting the
15 Commission determined that the applicant
16 should file a request to modify the first
17 stage PUD to accommodate an 8-foot increase in
18 height of the Holy Rosary Church facilities.

19 OP recommends that the
20 modification before us tonight be set down for
21 a public hearing. The limited heights
22 increase should not be -- would not be

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1 inconsistent with the intent of the first
2 stage PUD, and the planned Holy Rosary
3 additions would still conform to the general
4 footprint, scale, and use of the original
5 approval.

6 OP also notes that the applicant
7 has requested that the Commission hear the
8 modification concurrently with the related
9 second stage PUD, and OP has no objection to
10 that. I'm available for any questions, and
11 thank you very much.

12 CHAIRMAN HOOD: Thank you very
13 much, Mr. Goldstein. As stated, we will hear
14 this case and we've asked the -- I guess the
15 applicant put everything together who is going
16 to hear this for 08-34C, which is customarily
17 what we do when there's a change to the first
18 stage PUD.

19 Any other questions or comments?
20 Okay. Any other questions, comments? It's so
21 nice to have our director. She's doing a
22 fabulous job here in the Office of Zoning,

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1 fabulous job. Okay. So, anybody like to make
2 a motion?

3 COMMISSIONER TURNBULL: Mr. Chair,
4 I would move that we approve Zoning Case
5 Number 08-34D Capitol Crossing IV LLC &
6 Archdiocese of Washington Holy Rosary Church
7 Modification to first stage PUD at Square 566,
8 and this would be held with 08-34C.

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

11 COMMISSIONER MAY: Mr. Chairman, I
12 would like to second, but I would like to
13 second setting it down as opposed to approving
14 it, the language that you used.

15 CHAIRMAN HOOD: Mr. Turnbull must
16 be trying to hurry up and get home for some
17 reason.

18 COMMISSIONER MILLER: I think he
19 meant to say approve the set-down.

20 (CROSSTALK)

21 COMMISSIONER TURNBULL: I was
22 approving the set-down, you're right. You're

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1 absolutely correct, Mr. May.

2 COMMISSIONER MAY: I would second
3 that.

4 COMMISSIONER TURNBULL: Thank you.

5 CHAIRMAN HOOD: Okay. It's been
6 moved -- thank you, Commissioner May. It's
7 been moved and properly seconded. Mr.
8 Turnbull, are you in a rush to get home?

9 COMMISSIONER TURNBULL: No
10 comment.

11 CHAIRMAN HOOD: All right. It's
12 been moved and properly seconded. Any further
13 discussion? All those in favor? Aye.

14 (Chorus of Ayes)

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

18 MS. SCHELLIN: Yes, staff records
19 the vote 5 to 0 to 0 to set down Zoning
20 Commission Case Number 08-34D as a contested
21 case. Commissioner Turnbull moving,
22 Commissioner May seconding, Commissioners

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1 Cohen, Hood and Turnbull in support.

2 And I just want to confirm that
3 all documents will be filed in the one case
4 08-34C. Is that what the Commission wants,
5 that all documents would just be filed in the
6 one case? Yes? Okay.

7 CHAIRMAN HOOD: Okay. Let's go to
8 the Zoning Commission Case Number 08-06A.
9 This is the Office of Planning, Zoning
10 Regulations Review Title 11, DCMR. Ms.
11 Steingasser, do you want to lead us off?

12 MS. STEINGASSER: Yes, sir.

13 CHAIRMAN HOOD: Okay, Ms.
14 Steingasser.

15 MS. STEINGASSER: All right. Good
16 evening, Chairman, Commissioners. At the dais
17 with me is Mr. Lawson and Ms. Elisa Vitale,
18 who has been instrumental in helping us get
19 these regulations revisions to where they are
20 this evening.

21 So let's talk zoning. So, tonight
22 we're going to give you a quick presentation

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1 of an overview of what -- of how we've gotten
2 to where we are, what the planning and zoning
3 context was that led us to these
4 recommendations and proposals including the
5 comprehensive plan, some growth trends and
6 zoning analysis.

7 These are going to be very high
8 altitude. There are not going to be a lot of
9 detail. We're also going to go quickly
10 through the process to-date. The guidance
11 provided to the Zoning Commission, what that
12 guidance means, the outreach and the
13 proposals, and then give a recommendation.

14 Our recommendation is going to be
15 primarily focused on process and how to
16 proceed and how to set public hearings. And
17 then we'll talk about OP's role when we get
18 those public hearings, should the Zoning
19 Commission proceed.

20 So, our planning and zoning
21 context. The first question -- and some of
22 these slides may be familiar to you in one

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1 form or another. The first question that's
2 always asked of us is, why now?

3 The current regulations that we're
4 dealing with -

5 CHAIRMAN HOOD: We turned the
6 lights off so everybody can see. Do you have
7 a light down there? If you turn it, it should
8 come back. There you go. Okay.

9 MS. STEINGASSER: We were
10 originally adopted in 1958. The population
11 was much larger. It had a much higher -- a
12 much larger household rate. Right now our
13 population is growing again. Our household
14 size is getting smaller.

15 In 1958 this was pre-Home Rule, it
16 was pre-Metro and Mass Transit, and it was
17 pre-the right to vote for presidency.
18 Seventy-eight percent of our current residents
19 are younger than our zoning regulations.

20 And the zoning regulations, while
21 they have served us, they have been a very
22 loyal companion with over 1,000 amendments to

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1 the code to-date.

2 We start with our comprehensive
3 plan, which was adopted in 2006. It gave very
4 specific direction on how to proceed, and to
5 look at the substantial revisions and
6 reorganization of the zoning regulations.

7 It suggested everything from new
8 definitions to updated development and design
9 standards, and even the creation of new zones.

10 So that has been kind of our guiding comp
11 plan policy right there.

12 The comprehensive plan in 2006 was
13 adopted. It was amended in 2010. It had some
14 major themes that talked about different parts
15 of the city, uses, designs, PUD processes,
16 foreign missions, parks and open space, and so
17 forth.

18 It also sprung from an inclusive
19 city, talked about -- which includes in its
20 major statements, managing growth and change,
21 creating successful neighborhoods, connecting
22 the whole city, building green and healthy

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1 cities, and increasing access to education and
2 employment. I want to make sure I hit my -

3 So we also look to the One City
4 Action Plan, which was set out in 2012, and
5 it's organized into three overarching goals
6 and talks about -- again, it builds from the
7 comp plan which builds from the inclusive
8 city, and talks about growth and diversifying
9 the city's economy.

10 It talks about education and
11 preparation of the workforce for the new
12 economy and the quality of -- and improving
13 quality of life for all. We took all of these
14 very closely to heart as we looked through the
15 zoning regulations and proposed what you'll
16 see hopefully this fall.

17 There's also an economic
18 development strategy for the District of
19 Columbia that got to many issues, that looked
20 -- that kind of sets kind of a guidepost for
21 the District and moving forward in its
22 economic development policy. This also played

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1 into some of our recommendations.

2 We also looked closely at the
3 Sustainable D.C. Plan, which was just adopted
4 this year. This was an incredibly, what's the
5 word I'm looking for, forward-thinking
6 document that talks about making D.C. a
7 sustainable leader in the nation.

8 It deals with everything from
9 relieving pressure on our storm water
10 infrastructure, reducing long-term floods. It
11 looks at expanding access to fresh foods,
12 promoting telecommuting, protecting and
13 expanding tree cover, and green landscapes.
14 It looks at increasing agricultural uses.

15 It calls for a 50 percent
16 reduction in trips by automobile, and
17 increasing trips by transit, walking, and
18 bike. It calls for an increase in urban
19 density to accommodate what is a clearly
20 growing urban population downtown.

21 And its plan, as well, calls for
22 modifying the zoning regs to do such things as

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1 allowing for accessory apartments and
2 adjusting parking minimums. So we've looked
3 very closely at this particular regulation.

4 Some of these elements the Zoning
5 Commission has already adopted through our
6 work on the Green Area Ratio impervious
7 surface requirements. So we'll be -- those
8 also fed in to our policies.

9 So then we stepped back and we
10 took a look at the city, and we looked at our
11 population trends and our land use background,
12 and how the zoning regs and the comp plan
13 direct the city.

14 Our household size, as this slide
15 shows, we did a -- we looked back at 1950.
16 This is clearly just a quick snapshot. The
17 population was 800,000 in 1950. In 2010 it
18 was only 601,000. It was a clear 25 percent
19 drop in total population.

20 But what's interesting here is the
21 size of the households. Our number of
22 households went up while our total population

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1 went down, due to the average size of
2 household dropping dramatically by almost 34
3 percent.

4 We looked at the trends as well
5 and how the population has been changing in
6 terms of age groups. Obviously since 2000
7 we've seen a very healthy and steady increase
8 in population.

9 Last year -- at our last count,
10 which was July, 2012, we were up to 632,000,
11 which is since the year 2000 when we had a
12 population of 572,000.

13 So this is, again, just an
14 illustration that kind of shows some of the
15 graphics of how the population is changing
16 over the last few years.

17 I'm trying to get my notes here.
18 We also stepped back and took a quick look,
19 based on the comp plan categories, what is the
20 land use distribution in the city? How does
21 the comp plan -- and by this I'm talking about
22 the map categories, the future land use map.

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1 Obviously our largest land use
2 category in D.C. is residential, and that
3 includes all residential categories of land.
4 It does not include residential development
5 within commercial zones, but it does include
6 everything that's yellow, peach, brown.

7 What's interesting is our second
8 largest land use category in the District is
9 street right-of-ways. And granted, Washington
10 has some very large, especially in the older
11 city, rights-of-way, but it's a very large
12 percentage, second only to residential,
13 followed then by open space and park land.

14 So that got us to thinking, you
15 know, 46 percent of our city is in either open
16 space or rights-of-way so it's not being
17 developed for land use. So then we started
18 looking at what's our taxable land base.

19 This goes through, based on our
20 records from the Office of Tax and Revenue,
21 the different categories of tax-exempt lots
22 based on 2011 tax records. As you can see on

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1 the very bottom, 39.4 percent of the District
2 is tax-exempt of our land area, which is an
3 enormous amount of land to be off the tax
4 rolls.

5 So then we also stepped back and
6 we took a look at the zoning ordinance, and
7 this is just kind of an analytical look at the
8 regulations. We started by looking at the
9 FARs, and as you can see, we tried to somewhat
10 link these colors to the comp plan.

11 We started looking at the
12 residential, which is over on the left, and
13 its distribution and FAR as you go up by use
14 category. We did the same for commercial,
15 industrial, and then the waterfront zones.
16 And there, as you would expect, you know, they
17 rise up as the zones increase.

18 We also took a look at the heights
19 and we compared them both to each other and
20 both within the zone category and within use
21 categories, just to get a sense of how they
22 sit together.

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1 We then intertwined, interlaced
2 them by commonality, so how they fit -- how
3 the FARs fit together irrespective of their
4 zone categories. And we started to see some
5 real commonalities in how the zones laid
6 themselves out.

7 We also took a look at uses, and
8 these numbers represent the number of uses in
9 the current regulations. So as you get into
10 the commercial zones, there's over 500 uses.

11 You can see there they tend to
12 hover in basic groups, which has always not
13 been a surprise to anybody who's familiar with
14 the zoning regs, that in D.C. it really is
15 about uses. They are really what separate the
16 zones out.

17 We then took a look at those lots
18 that have minimum lot areas. Those fall
19 between the R-1-As and the R-4s, which are the
20 low to moderate density residential zones.
21 They're the only zones in the city that have a
22 minimum lot area. And we found some really

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1 startling studies here.

2 We looked at the number of lots
3 that are conforming to the current minimum lot
4 areas. In the R-4, 59 percent of the record
5 lots in R-4, in the row house zones, are
6 nonconforming to the current code. They were
7 pretty much nonconforming the day the code was
8 adopted.

9 We looked at R-3, which is over 54
10 percent is nonconforming, then in R-2, again,
11 we're up to 57 percent nonconforming.

12 It's not until we get to the R-1-A
13 that the nonconforming becomes fairly, I don't
14 want to say marginal, at 22 percent that's
15 still a pretty significant number, especially
16 if you own one of those properties.

17 But it did make us realize that
18 these lot areas needed to be looked at in
19 terms of how the development standards apply
20 to these lot areas, and what it means to the
21 homeowners who own these properties when they
22 try to build or expand or improve their

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1 property.

2 So, that kind of gave us a little
3 framework as we started to head into the
4 zoning work and the revisions, both in terms
5 of the comp plans, the other development, and
6 sustain -- and environmental policies, as well
7 as just kind of an analytical understanding of
8 what the zoning regs told us.

9 So then we started the process.
10 We started with a series of working groups
11 that we went over with the Commission. The
12 Commission kicked this process off in 2007
13 with two roundtables held here in June and
14 July.

15 We were then -- OP then followed
16 up with 81 workgroup meetings. These meetings
17 were almost all held in the evenings. They
18 discussed these topics.

19 They gave us feedback. We looked
20 at different issues in terms of the context --
21 I'm sorry, in the context of the comprehensive
22 plan and the polices and the zoning

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1 regulations.

2 These fed into recommendations
3 that the Office of Planning then took to the
4 task force. We had 42 task force meetings.
5 The task force provided additional feedback,
6 and again, the task force was a body that was
7 created by the Office of Planning.

8 We invited various stakeholders
9 and councilmen to provide appointed members.
10 They then provided feedback to the Office of
11 Planning from the perspective of their
12 representatives. The group met -- started in
13 the late fall of 2007 and completed in 2013.

14 We then also took several meetings
15 out into the community. We accepted every
16 invitation that we could. We had over 100
17 community meetings and ANC meetings.

18 We had those broken down, and they
19 were provided to you in your sit-down report,
20 dates and what the community was that we met
21 with.

22 Eight of those meetings were

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1 OP-hosted meetings that we did this fall in
2 December and January -- I'm sorry, this last
3 winter in December and January. The
4 Commission, we've gone through basically
5 through our major recommendations.

6 We took those out to the public
7 and got a lot of feedback. That feedback then
8 influenced a lot of the changes that were made
9 to the regulations, including format. And
10 then we've spent the last spring and summer
11 working on those.

12 In addition to the face-to-face
13 outreach, we've also done a lot of electronic
14 outreach. We've -- both on our Web site, the
15 Planning D.C. government Web site, as well as
16 the D.C. Office of Zoning's government Web
17 site, we've also created a Web site back in
18 2007 called D.C. Zoning Update.

19 That has become a library and
20 archive of all of the documents produced
21 through this process, including minutes from
22 the working groups, minutes from the task

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1 force meetings, documents that were provided
2 to the Zoning Commission, hearing reports to
3 the Zoning Commission.

4 We also then created, last year, a
5 blog site which is a little bit more
6 interactive. That's the ZoningDC.org. We
7 post a lot of, again, updates. It's a site
8 that OP controls directly so we're able to be
9 much more responsive much more quickly on that
10 Web site.

11 We've linked it to some of the
12 other District Web sites as well. So we've
13 had a lot of interaction and outreach through
14 documents, all of which are publicly
15 accessible. They all link to the zoning
16 regulations either directly or through
17 assorted Web links.

18 We've also held two, what we
19 called, Twitter town halls in January, and
20 those were for an electronic conversation with
21 people who Tweet. And we spent an hour on two
22 different occasions interacting with people

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1 electronically through that outreach.

2 A lot of the recommendations we
3 brought to the Zoning Commission, and the
4 Zoning Commission held a series of public
5 hearings.

6 You've had 19 public hearings on
7 the zoning regulations to-date. You've had 40
8 public meetings where you've discussed either
9 the public hearings, the guidance given to OP,
10 or just general issues with the Office of
11 Planning.

12 The Commission gave us guidance,
13 and I want to be clear because a lot of the
14 commissioners are new. The guidance is not
15 binding. There was no motion with a second in
16 action. It was direct feedback in response to
17 issues that OP brought before you.

18 So, if new commissioners have
19 other issues they'd like us to look at, we're
20 happy to take those up. A lot of the guidance
21 given to the -- not a lot, but some of the
22 guidance issues that the Commission gave to OP

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1 had caveats.

2 Like you were interested in seeing
3 where that might go with no commitment that,
4 yes, you were going to support it or, no, you
5 were not going to support it, but that some of
6 the things you were just interested in OP
7 looking at and bringing back to the
8 Commission.

9 Some of the things OP has
10 ourselves researched in great detail, and then
11 found that they didn't work. And the most
12 noticeable example was on a planned unit
13 development, the idea of kind of a point-based
14 system.

15 We worked on that for several
16 months and realized it was not in the spirit
17 of what a planned unit development. It did
18 not allow for the flexibility that
19 neighborhoods and ANCs, as well as the
20 Commission, I'm going to say enjoy but I'll go
21 with work with. So we backed away from that.

22 But that was guidance that the

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1 Commission was open to. We looked at that and
2 found that didn't work.

3 So there is still opportunities
4 and what's important is that the Commission
5 knows that you can still, obviously, give us
6 additional comments on this.

7 The Commission did adopt some text
8 on the zoning rewrite. It had to do with
9 original guidance, original text on the Green
10 Area Ratio, which we've since modified and
11 re-adopted into the current code.

12 There were some rules on height
13 measurement, several administrative amendments
14 which came through in the Zoning Commission
15 case last December.

16 You also took some action on
17 general rules for parking and loading, bike
18 parking, and several other items. Those
19 actions are in the D.C. Register. They were
20 published as final action. They were not
21 effective. They were held not to be effective
22 until the entire zoning code was revised.

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1 We have used that language
2 wherever possible and incorporated it into the
3 new format. The format that was provided to
4 you at the end of July is a little bit
5 different than what was originally presented
6 back in 2010 -- in 2009.

7 So that language will look a
8 little bit different and we'll work with OAG
9 on how to make sure that that's rectified
10 correctly.

11 So in general, top-down, our new
12 proposal includes a new structure. A lot of
13 those structures are a lot more familiar now
14 than they were three years ago when some of
15 the first drafts came out. We've provided in
16 the Commission set-down packet a
17 chapter-by-chapter summary of proposals.

18 When we get to the hearing, we
19 will work backwards and we will give you a
20 detailed analysis of the proposals that are in
21 the subtitles. The subtitles are a new
22 structure that we worked with the Office of

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1 Documents to get permission to use.

2 They preferred chapters, but we
3 convinced them to allow us to work within
4 subtitles. It seems like a small bureaucratic
5 thing, but it allowed for greater flexibility
6 in the way we arranged the information and
7 materials. So we'll be bringing that to the
8 Commission.

9 Finally is our recommendation.
10 Let me grab my notes on this. So, our
11 recommendation to the Commission tonight is
12 that you set the case down for public hearing.

13 Now, this is a little bit
14 different than a usual sit-down in that you
15 usually have a nice, polished, refined piece
16 of text that is ready to go.

17 Due to the volume of this
18 particular document, we gave you, in July, a
19 copy of our working draft, we've been posting
20 errata sheets to show you as we continued to
21 clean up and move some information around.

22 We do recommend that the case be

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1 set-down for hearing. We think it's important
2 for -- definitely for the Office of Planning
3 to hear from the Zoning Commission as to what
4 your direction on some of these issues, and
5 for the Zoning Commission to hear from the
6 public.

7 There's a lot of pent-up opinions
8 out there that the Commission -- that are
9 waiting to try to get to the Commission and be
10 voiced.

11 We recommend that the hearings be
12 scheduled on consecutive evenings and that
13 they be grouped as closely together. We're
14 recommending, if the Commission is open to it,
15 that they run Monday, Tuesday, Wednesday, and
16 Thursday in one week and followed by the next
17 week, if possible.

18 We think it's important that the
19 information be held together, that the
20 conversation and the material be addressed in
21 a way that can be easily organized and
22 remembered.

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1 We're recommending that each
2 hearing be on a specific and advertised
3 subtitle, that it not be just an open
4 free-for-all to come in and give comments on
5 Title 11.

6 We think, for the Commission to
7 follow the material, for the public to follow
8 the material, that it be very focused on one
9 subtitle at a time. We're able then to manage
10 the input of material.

11 We're recommending that the
12 Commission waive Section 3021.5 G and H, which
13 is the order of process for the hearings.
14 Right now the Commission hears persons in
15 support, and then the persons in opposition.

16 We're recommending, due to the
17 depth of material and positions in every
18 subtitle, that the Commission allow a witness
19 to testify in order of registration.

20 For instance, in any particular
21 subtitle or any particular topic, even if it's
22 just penthouses or roof structures, there may

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1 be elements that an individual is very
2 supportive of.

3 But there may be other elements
4 that they don't support, and there may be
5 other elements that they just want to give the
6 Commission some advice or comments on.

7 So rather than have people be
8 bouncing back and forth up and down, we
9 suggest -- we're recommending that the
10 witnesses be allowed to testify in the order
11 of their appearance.

12 So the draft text itself, we have
13 been providing the Commission with some of the
14 errata sheets, we've been posting the errata
15 sheets up on our website as well.

16 If the Commission chooses to set
17 the case down this evening, we will provide
18 one clean copy tomorrow that will be uploaded
19 through ISIS, with the Office of Zoning, and
20 it will be -- we will work with the Office of
21 Attorney General on the Public Hearing Notice.

22 And we will post -- we will not

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1 post any additional working documents after
2 that date until such time as the Commission
3 holds the Public Hearings so that there can be
4 one document that everybody is familiar with
5 that has no additional changes, no more errata
6 sheets, that will be linked to the Public
7 Hearing Notice with the opposite documents,
8 the D.C. Register, and it will be available up
9 on ISIS.

10 So with that, that is our
11 recommendation. Oh, yes, we have one other
12 very important thing. This is the order that
13 we're recommending the hearings be held.

14 We feel that one night should be
15 enough for Authority, Mapping, Board of Zoning
16 Adjustment, and Zoning Commission Rules of
17 Procedure.

18 We've tried to identify what we
19 think to be the more controversial issues
20 within each grouping, and we've tried to keep
21 them as dispersed as possible.

22 Obviously parking, loading, and

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1 bike parking are the most controversial based
2 on all the outreach and information we've
3 heard. We're proposing that there be at least
4 two nights set aside for parking.

5 We believe most things could
6 probably be heard in one night beyond that
7 one, but we do think at least two nights
8 should be set aside for parking. And again,
9 this is the order we're recommending that they
10 be heard.

11 We think definitions and uses
12 could be heard in one evening. Residential
13 house, which is the R-1 through R-3 zones, be
14 heard in one evening. The controversial
15 elements there are the accessory apartments
16 and corner stores in the R-3 zones.

17 We've also proposed a new subtitle
18 and a new category of uses which we're calling
19 residential flats. That includes our
20 traditional R-4 that we're used to.

21 We're also proposing two new zones
22 in that category, which would be a zone that

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1 would allow three units per building and a
2 zone that would allow four units per building.

3 The purpose of that is to try to bridge that
4 gap between the flats and the apartments.

5 One of the biggest things we
6 learned when we were out dealing with a lot of
7 the neighborhoods in the inner-city was they
8 didn't realize they were ever zoned for
9 apartments.

10 And that was part of the shock and
11 awe when developers would come through and
12 start cutting up these larger row houses. And
13 so we thought this is a way to try to control
14 that artificial subdivision of these larger,
15 older row homes.

16 General rules, again, that gets to
17 parking by parking, loading. It also gets to
18 rules of measurement, courts, inside yards,
19 and things like that.

20 Mixed use is what we now call
21 commercial zones, special purpose, and
22 waterfront zones. The neighborhood mixed use

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1 are what are created through the application
2 of the neighborhood commercial overlays.

3 And then finally the downtown
4 production, distribution, and repair, which
5 are industrial zones. And what we're calling
6 special purpose subtitle, which includes zones
7 that are written specific to a small area
8 plan; Union Station North, Southeast Federal
9 Center, Capital Gateway, St. Elizabeths, and
10 then Walter Reed.

11 They'll all be in there. We don't
12 expect any controversy. We've proposed no
13 changes to those. And, like I said, they're
14 tied.

15 So with that, I'm available for
16 any questions the Commission may have.

17 CHAIRMAN HOOD: Okay. Ms.
18 Steingasser, I want to thank the Office of
19 Planning for this report that was put
20 together. I will tell you this commissioner
21 found it very easy to read, but I will say
22 this.

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1 Nothing is definite. Everything
2 is subject to change. And I'm going to put
3 that out there first before somebody thinks
4 that we are mandated to go exactly by what we
5 see here. There's going to be discussion
6 between the Commission. But understand
7 everything is subject to change.

8 Okay. I'm not going to start off
9 on this even though I have a few comments, but
10 I will open it up to my colleagues.

11 And if my colleagues disagree with
12 what I said, everything is subject to change,
13 just let me know. Let's do it publicly. So
14 let me open it up for comments. Who would
15 like to get us started? Commissioner May?

16 COMMISSIONER MAY: All right. I
17 always have something to say. Well, first of
18 all, thank you very much for that presentation
19 and the report and the giant tome that you
20 gave us on July 29th, and for the electronic
21 copy of it because it's a lot easier to carry
22 around electronically than it is on paper.

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1 CHAIRMAN HOOD: Let me interrupt,
2 I'm sorry. My notes are here. We're going to
3 deal with -- and forgive me.

4 COMMISSIONER MAY: Oh, yes.

5 CHAIRMAN HOOD: We're going to
6 deal with the set-down first.

7 COMMISSIONER MAY: Okay.

8 CHAIRMAN HOOD: And then we're
9 going to do the process second.

10 COMMISSIONER MAY: I see.

11 CHAIRMAN HOOD: So let's go in
12 that order.

13 COMMISSIONER MAY: All right.

14 CHAIRMAN HOOD: Okay, Commissioner
15 May?

16 COMMISSIONER MAY: I'll focus on
17 the issue of set-down.

18 CHAIRMAN HOOD: Okay, thanks.

19 COMMISSIONER MAY: Okay, good.
20 Thank you. I appreciate the reminder.
21 Anyway, it's very clear that this has been
22 just an absolutely Herculean effort.

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1 And I appreciate everything that
2 has gone into it from the Office of Planning
3 working on it for all these years and the
4 members of the task force and all of the
5 people who have contributed so far. Excuse me
6 one second.

7 CHAIRMAN HOOD: I would ask that -
8 - come on you all. I would ask that we don't
9 protest, signs and stuff. Actually, I would
10 ask you all to please put those down. We have
11 a long way to go.

12 You can come back and testify at
13 the appropriate time, but I would ask that you
14 put those down if you don't mind, please. I
15 would ask that you all put those down.

16 There's going to be plenty of time
17 for discussion, comments. Let us deal with
18 this tonight. Please, let's not start it off
19 wrong let's work on this.

20 So, I would ask that you all put
21 those down. If not, I'm going to take --
22 believe me, I would love to take a ten minute

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1 break right now to see what's going on and
2 have you all escorted out.

3 So I would ask you all to put
4 those down at this point. I won't ask you a
5 second time if you'll put those down. One of
6 you all are my former classmates, so I'm going
7 to ask you if you would please put that down.

8 Thank you very much. Okay, Commissioner May.

9 COMMISSIONER MAY: Okay. So as I
10 was saying, it's clearly been quite an effort,
11 and I know that many, many people have
12 contributed to this effort.

13 I have spent a fair -- well, a lot
14 of time already reviewing what we have, and I
15 look forward to seeing the updated version
16 because hopefully it'll take care of some of
17 the questions that I've already compiled for
18 you.

19 And anyway, I think that while
20 there may be lots of things that could be
21 fixed fairly immediately before we actually
22 got to set-down, I don't see any purpose in

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1 going through that.

2 I think we just take what we have
3 right now in the form of what we have seen and
4 the errata and proceed with setting it down
5 for a hearing, and then we can talk about how.

6 CHAIRMAN HOOD: Vice Chair, you
7 want to go next?

8 VICE CHAIR COHEN: Thank you, Mr.
9 Chairman. I know this is to discuss set-down,
10 but I just want to kind of share with
11 everybody that everyone who is involved in
12 this process and everyone who will be involved
13 in this process cares about the city. We live
14 here and we love it.

15 And some of us just disagree on a
16 number of things, but I think that we're all
17 adults. I think we should learn to respect
18 each other, and I think we can work together
19 to make this a fine document that any city
20 would be proud of.

21 People have put in hours and
22 hours, including myself. I've read the whole

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1 document from July 29th. I'm very proud of
2 it. That's why I'm stating it for the record
3 and my colleagues. I even sent them emails.

4 One of the things I just want to
5 assure that the basis should be respect and
6 listening to everybody, and I assure you
7 that's one of the things that I know my
8 colleagues and I will be doing.

9 The one thing I also want to state
10 is I think we should move ahead and set-down
11 this extensive document. It has a lot of
12 areas in it which need to be discussed.

13 And I just wanted to repeat that I
14 concur with my colleague, Commissioner May,
15 that we should set this down.

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

18 COMMISSIONER TURNBULL: I just
19 wanted to echo the comments of my colleagues.

20 I think I want to thank the Office of
21 Planning and other members who were on the
22 task force, the working groups.

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1 I think this has been a -- the
2 word was Herculean effort. It really was.
3 And I look forward to setting this down and
4 going to the next stage.

5 CHAIRMAN HOOD: Anyone else?
6 Commissioner Miller, you and I are left?

7 COMMISSIONER MILLER: Thank you,
8 Mr. Chairman. I would just associate myself
9 with my colleagues' remarks. This has been a
10 very lengthy process that began over six years
11 ago, or about six years ago or more.

12 So I think a lot of people have
13 participated, the public has participated, and
14 the Office of Planning has worked hard on
15 this, and a lot of people have.

16 I think we've gotten to a better
17 point along the way with all of the public
18 input that has occurred so far, and we will
19 get to an even better point when we get
20 through our Public Hearing process. So I look
21 forward to the Public Hearing testimony and
22 moving forward with a revised Zoning Code.

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1 CHAIRMAN HOOD: I would agree with
2 all the comments I've heard. I don't have any
3 more to expound upon. I don't want to be
4 redundant, so let's get started. Would
5 somebody like to make a motion?

6 VICE CHAIR COHEN: I think this is
7 okay to do.

8 CHAIRMAN HOOD: And this is just
9 for set-down. We're going to talk about the
10 process.

11 VICE CHAIR COHEN: Correct. Mr.
12 Chairman, I move to set down Zoning Case
13 Number 08-06A Office of Planning Zoning
14 Regulations Review title, is that two, DCMR.
15 Can I hear a second?

16 CHAIRMAN HOOD: Title 11.

17 VICE CHAIR COHEN: Title 11, I'm
18 sorry.

19 COMMISSIONER MILLER: Second.

20 CHAIRMAN HOOD: Okay. So it's
21 been moved and properly seconded. Any further
22 discussion? All those in favor? Aye.

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1 (Chorus of Ayes)

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

5 MS. SCHELLIN: Yes, sir. Staff
6 records the vote 5 to 0 to 0 to set down
7 Zoning Commission Case Number 08-06A as a
8 rule-making case. Commissioner Cohen moving,
9 Commissioner Miller seconding. Commissioners
10 Hood, May, and Turnbull in support of
11 set-down.

12 CHAIRMAN HOOD: Okay. I would
13 like to also call -- now that we're going to
14 talk about process, I would like to call our
15 correspondence item, which is -- I don't know
16 what exhibit number it is -

17 MS. SCHELLIN: It doesn't have an
18 exhibit number because at the time it was
19 submitted there was no record.

20 CHAIRMAN HOOD: Okay. And that's
21 Committee 100 of the Federal City who has
22 given us some things that we actually asked

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1 for. So I guess we will waive our rules on
2 3021.5 G and H.

3 Do I have any objections to waive
4 those? Is that -- no, I don't need to do
5 that. Let me just call this correspondence
6 item without process, and let's take those
7 both under consideration at the same time.
8 Okay. Any objections?

9 VICE CHAIR COHEN: No.

10 CHAIRMAN HOOD: Okay, no
11 objections. As you all notice, the Office of
12 Planning has made some process -- has
13 recommended some process, and the only
14 response we've gotten is from the Committee
15 100.

16 And I think -- I don't know -- the
17 best way to proceed is first let's see whether
18 or not -- let's talk through the Office of
19 Planning's procedural way that they're
20 recommending to us. And I think really we can
21 begin on Page 2 where it says Public Hearing
22 Schedule.

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1 One of the things that I did
2 notice in the submission from the Committee
3 100, they asked us to be flexible. I think
4 you'll find that this Commission is definitely
5 going to be flexible and want to be
6 considerate, even some things that we may be
7 proposing at the end of this conversation.

8 Let's start off with Public
9 Hearing Schedule. I think the schedule looks
10 good. I don't know if we could hardly tell
11 how many nights we're really going to need,
12 but we can start here.

13 One of the concerns -- and I will
14 say this is again -- and I know that those who
15 have been at the task force meetings and those
16 who have been in the work group meetings will
17 probably know this better than I would.

18 We may have gotten it to a point
19 where we can hear PUDs and campus plans
20 procedures in one night. It may happen, it
21 may not. Again, that's why I want to leave
22 some wiggle room just in case it doesn't.

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1 I'm not sure -- I wasn't at the
2 work force meetings. I don't know how close
3 we've come together. Everybody may have been
4 holding hands leaving the room, I'm not sure.

5 But if we don't, then I guess the
6 way I see it, colleagues, unless something
7 different, we go in this order. And if we
8 can't finish -- and I'm throwing this out here
9 for discussion.

10 If we go in this order and case in
11 point, if we don't finish subtitle D -- no
12 not D, I'm sorry, subtitle -- if we don't
13 finish the first night, let me say this, with
14 authority, mapping, general process, border
15 zone readjustment, and Zoning Commission, that
16 the next night that's being proposed, we don't
17 come back and continue it that way, so there
18 will be some predictability. Okay.

19 The first night, we're going to be
20 talking about authority, mapping, general
21 process, border zone adjustment, Zoning
22 Commission.

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1 And then if we don't finish that,
2 which I hope we will, then we will set a date
3 on the back-end as opposed to saying, okay
4 well, Tuesday or Wednesday, whatever the day
5 is, we'll come back now and continue that
6 because that way people will know whether to
7 be down here or not if that issue's important
8 to them.

9 So that's just kind of where I am
10 and I'm just throwing that out there for
11 discussion. Someone may have a better way. I
12 don't have all the answers. I wasn't here the
13 last time you all did this re-write. That was
14 a joke; nobody got it. So I'm throwing that
15 out there. Anybody want to comment?

16 COMMISSIONER MAY: The concern I
17 would have is we don't want to wind up
18 scheduling the continuation from night one to
19 a hearing date two months later, right? We
20 want to be able to handle them in relatively
21 short order.

22 So maybe we actually need to plan

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1 for an overflow day each week. I know this is
2 going to wind up spilling us into possibly
3 another week of hearings, but maybe we plan on
4 Monday, Tuesday, Wednesday and then Thursday
5 is the extra night.

6 And, you know, if we manage to get
7 through it all Monday, Tuesday, Wednesday,
8 then we got Thursday night we can all go play
9 volleyball.

10 VICE CHAIR COHEN: Actually, I --

11 CHAIRMAN HOOD: I like that. I
12 like that. I think that may work.

13 COMMISSIONER MAY: Especially the
14 volleyball part, right?

15 CHAIRMAN HOOD: No, that part of
16 it we can have another hearing. Okay, Vice
17 Chair?

18 VICE CHAIR COHEN: No, I was going
19 to just say that I agree with Commissioner
20 May. I think that that's an excellent idea to
21 have an overflow night each week.

22 CHAIRMAN HOOD: Okay. All right.

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1 COMMISSIONER MAY: I don't think
2 that guarantees that we're going to get
3 through everything, depending on how many
4 people we have show up, but I think that with
5 all the efforts that we'll make to --

6 CHAIRMAN HOOD: They want us to
7 give you the mic. Believe it or not, somebody
8 wants to hear us.

9 COMMISSIONER MAY: Thank you.
10 Anyway, we may not have enough time even as it
11 is with just one overflow night per week, but
12 I think that planning on that, at the very
13 least, is probably a smart thing to do.

14 And then we really do need to get
15 people to sign up in advance so we have a
16 sense of how many people are going to be
17 speaking.

18 I mean, they'll still be able to
19 come down and be heard if you just show up,
20 but it just helps us so much if we know in
21 advance who's -- how many people we have each
22 night to talk.

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1 CHAIRMAN HOOD: And trying to put
2 both of these together, even though I know
3 it's set with Office of Planning, if we have -
4 - again, we want to strongly encourage people
5 to sign up. That would help us get a better
6 reference.

7 Also, one of the -- in the letter
8 from the Committee 100, they mentioned about
9 maybe getting the old council chamber. We
10 don't know -- and that's something I guess at
11 this point I'll leave up to staff because we
12 don't really know who's going to sign up or
13 who's going to potentially come to sign up.

14 I'm not sure, but that's something
15 that we would leave up to staff and see if we
16 get those who sign up prior to the hearing, we
17 would know whether or not we're going to be be
18 able to fill this room or if we're going to
19 take it downstairs.

20 I'm not sure how exactly to work
21 that out. But I think that was a suggestion
22 that was made, but I agree if we have just an

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1 abundance, we do need to move it to a bigger
2 venue, if at all possible.

3 I know years ago it was hard to
4 get that. Okay, I thought all those council
5 members left, but I know years ago it was hard
6 to get that downstairs at some point.

7 But again, that's something I
8 would like to see left up to staff and Office
9 of Planning because you all have a better idea
10 of exactly how many probably we're going to
11 have, at least that's my train of thought.

12 Okay. Any other comments on the
13 schedule we're trying to work out, the nights
14 and how we go about doing that? Again, this
15 is a moving piece. Any other comments? Mr.
16 Turnbull?

17 COMMISSIONER TURNBULL: Yes, thank
18 you, Mr. Chair. I guess I would agree. We
19 need flexibility. But if we're looking at a
20 three week window for hearings, I don't know
21 how that affects our regular hearing caseload.

22 I mean, it's going to take a little bit of

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1 juggling, moving.

2 COMMISSIONER MAY: Do we have
3 cases scheduled for the -- all the way around?

4 COMMISSIONER TURNBULL: Well,
5 that's what I'm saying. I mean, I think -

6 COMMISSIONER MAY: And on Tuesdays
7 and Wednesdays?

8 COMMISSIONER TURNBULL: -- take a
9 careful examination of the schedule.

10 COMMISSIONER MAY: Yes, staff can
11 work that out.

12 COMMISSIONER TURNBULL: Yes, I'm
13 just saying I think the staff needs to
14 carefully look at our hearing load and
15 rearrange cases that we have, a window that we
16 can use to do all this so that we can
17 accommodate and get this thing done.

18 CHAIRMAN HOOD: You're right,
19 because we do have our regular workload.

20 COMMISSIONER MAY: Yes. And we
21 got applicants who are depending upon us
22 hearing their case. So, I mean I think it's

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1 going to be an interweaving of all of this
2 stuff to make sure it works, but we need to
3 give ourselves two, three weeks period to be
4 able to get this done.

5 CHAIRMAN HOOD: Okay. And that's
6 not certain either. We're saying that now,
7 but that's not even certain.

8 COMMISSIONER MAY: Right.

9 CHAIRMAN HOOD: Okay. But I think
10 that's a good point. Okay. And I'm sure
11 staff and Office of Planning is taking -- and
12 OAG is taking all this into consideration.
13 Okay, any other comments on that? Okay. Vice
14 Chair?

15 VICE CHAIR COHEN: Thank you, Mr.
16 Chairman. In fact, actually, I'm going to
17 throw this out to my colleagues, and be
18 gentle.

19 In an effort to actually do great
20 outreach, be transparent and flexible, I think
21 it would be helpful if we take to the road.

22 In other words, what I'm going to

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1 propose is that we actually go out into the
2 field and sit with different wards, put them
3 together so there's four additional meetings,
4 like the adjacent wards, like one and two,
5 three and four, five and six, and actually go
6 out and see if there are any people who have
7 missed testifying.

8 I just think that it's an
9 important step for the Zoning Commission to
10 take to be more inclusive.

11 CHAIRMAN HOOD: I'll just ask this
12 for clarification. People who come down here
13 to testify on specific issues, we'll go out
14 there and just collect everything that we
15 haven't collected from those who have not, not
16 to hear redundant testimony, right?

17 VICE CHAIR COHEN: Absolutely not
18 hear redundant testimony.

19 CHAIRMAN HOOD: So if you
20 testified -- it is actually better to come
21 down here and testify, but I kind of like that
22 idea. I'm going to have to throw that up

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1 because that's going to take a lot of work to
2 get the venue, to try to find a meeting place
3 for each ward.

4 So that's something, again, that's
5 more work on staff, but you're right. I think
6 it shows, again, that continued outreach,
7 which has happened prior to us, that the
8 Zoning Commission, hey, look, we're taking our
9 show on the road.

10 We're coming to you to give you an
11 opportunity to respond to the zoning re-write
12 review and the regulations in which we're
13 trying to put in place. And I think that's
14 something that we should just do, if it's
15 doable.

16 VICE CHAIR COHEN: And I guess I
17 think that some people, some groups may feel
18 that they're left out and this gives them an
19 opportunity to just, you know, come forward if
20 you have anything to say. If you couldn't
21 make it, if you feel that we didn't give you a
22 chance, this is it, you know.

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1 I think that -- my feeling is that
2 it would serve the purpose of our going local
3 and just giving everybody the opportunity to
4 be heard but not, as I said, redundancy.

5 CHAIRMAN HOOD: And we would do
6 that on the back-end?

7 VICE CHAIR COHEN: Yes, sir.

8 CHAIRMAN HOOD: Okay. Any
9 objections to that? I think that's an
10 excellent idea. Okay. All right. Hopefully
11 somebody's remembering all this. Okay.

12 The issue with the regulations and
13 being consistent with the comp plan -- and I
14 will yield to one of the offices of that.

15 But anyway, I think that
16 everything that -- and I think that we had a
17 submission behind tab A in showing how the
18 processes were initiated and the comprehensive
19 plan citation and how it's consistent with the
20 comp plan.

21 Anything we do cannot be
22 inconsistent with the comp plan, so I think --

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1 I don't know if that's going to be an issue
2 that arises, but if it does we definitely have
3 to correct it.

4 That has to be corrected
5 immediately. And again, that's behind the
6 report that was given to us as far as dealing
7 with that issue.

8 Again, we heard about the -- I'm
9 just basically going by the same thing that
10 Ms. Steingasser presented to us. Again, I
11 like this condensed report. It was very well
12 done with the meetings. It talks about the
13 public outreach.

14 As the Vice Chair has mentioned
15 now, we're going to do our public outreach
16 also after we're going to have our hearings.
17 People come down and testify in front of us by
18 the subtitles. We're going to do our best to
19 stick as close to a schedule as possible.

20 And then after all of that, we're
21 going to go on the road to hear just
22 everything from those who have not testified

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1 and give them the opportunity.

2 We may show up and everything's
3 fine. We may go to two wards and only have
4 one person come down. But we want to make
5 ourselves available.

6 At least that's the goal. If it's
7 within the budget, if it can be done because I
8 don't know how it all works. I don't even
9 know the venues.

10 Office of Planning knows what they
11 did when they did the eight wards. We'll try
12 to condense it. We want to do two wards at a
13 time. I think that's a good idea.

14 But let me back up and ask my
15 colleagues if they want to say anything about
16 any of this before I move further? Vice
17 Chair?

18 VICE CHAIR COHEN: Thank you, Mr.
19 Chairman. I just want to confirm with the
20 Office of Planning that copies of the zoning
21 re-write is located in each library?

22 MS. STEINGASSER: Yes, ma'am.

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1 There's a copy, both the paper copy and an
2 electronic disk copy in every library in the
3 district. We also mailed a disk out to every
4 ANC office on record.

5 COMMISSIONER MILLER: Madam Vice
6 Chair, if I could follow-up on that. For the
7 new clean copy that's going to be uploaded
8 tomorrow, would that be provided there?

9 MS. STEINGASSER: It was not our
10 intention to produce another 25 -- it was 25
11 copies, 1,000 pages per document. It was not
12 our intention to provide an additional paper
13 copy to every library.

14 COMMISSIONER MILLER: I think we
15 need to get an additional copy, at least to
16 one library, the main library in every ward or
17 something.

18 I think -- I realize that's 25,000
19 pages that you just mentioned, which I'm not
20 sloughing over, but the access -- we need to
21 remove what procedural objections that we have
22 the control and the budgetary ability to

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1 remove procedural objections so that that's
2 out of the way.

3 So as accessible as a hard copy
4 can be of what's being uploaded tomorrow, I
5 think that would be good.

6 CHAIRMAN HOOD: We don't need to
7 take a vote on that, do we? Any objection?
8 Okay, all right. Thank you.

9 VICE CHAIR COHEN: Mr. Chairman?

10 CHAIRMAN HOOD: Vice Chair?

11 VICE CHAIR COHEN: I don't know if
12 you've given this to us I don't recall seeing
13 it, but you indicated that you have had
14 obviously many groups involved and
15 professional organizations and advocacy
16 groups.

17 Can we get a list of those so that
18 we're quite aware that, you know, how broadly
19 this has been reviewed? Like, if The American
20 Association of Planners has seen it at least,
21 you know, I'm aware of that.

22 MS. STEINGASSER: Yes.

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1 VICE CHAIR COHEN: I just want to
2 make sure we've covered everything that we can
3 do the 100 put forward.

4 CHAIRMAN HOOD: Yes that's right --
5 I'm not sure.

6 VICE CHAIR COHEN: Okay.

7 COMMISSIONER HOOD: I'm not sure,
8 I was in a sidebar. You're talking about the
9 materials for where we got some of the studies
10 from is that was one of the things that was
11 requested. I actually would like to see that
12 as we go along. We referenced it.

13 I think in your presentation
14 tonight, Ms. Steingasser, you referenced that
15 you - the studies that you all looked at. I
16 think it was the lot occupancy I think it was.

17 Even if you could tell us the references,
18 where those studies were so we could do that?

19 MS. STEINGASSER: We'll be happy
20 to do that. All of the studies are on our
21 website for reference, but when we go into
22 hearings OP will give a much more detailed

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1 report with citations and background analysis.

2 CHAIRMAN HOOD: Okay. And in
3 conclusion --

4 VICE CHAIR COHEN: The maps.

5 CHAIRMAN HOOD: Oh, okay. Do you
6 want to comment on it because -

7 VICE CHAIR COHEN: Are we going to
8 have these interactive maps that the Committee
9 of 100 suggests or, you know, how are we going
10 to demonstrate some of these topics? Will you
11 have --

12 MS. STEINGASSER: I'm not sure
13 what you're --

14 VICE CHAIR COHEN: Overlay maps
15 and interactive maps, maybe -

16 MS. STEINGASSER: We don't have
17 the capacity to do interactive mapping, but we
18 will have maps that show, for instance, when
19 we talk about corner stores there will be a
20 map that shows those zones and where the
21 current corner stores are and all the data
22 that we've -- research that we've done and the

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1 data we've collected about corner stores and
2 the potential for where they could be, that
3 kind of maps and background we will be able to
4 provide.

5 VICE CHAIR COHEN: Okay, thank
6 you.

7 CHAIRMAN HOOD: Okay. Anything
8 else? Any other comments? Commissioner May?

9 COMMISSIONER MAY: We want to talk
10 specifically to the request that we allow
11 witnesses to testify as a panel on particular
12 topics.

13 I think that what's proposed is
14 that we simply take on a subtitle or multiple
15 subtitles on each evening. I don't think it's
16 really practical for us to have people coming
17 forward topic-by-topic.

18 I think we need to keep it
19 subtitle-by-subtitle because it would just
20 actually in the long run wind up being more
21 confusing to me to have, you know, everything
22 done piece-by-piece, and it would also take

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1 forever.

2 CHAIRMAN HOOD: Okay.
3 Commissioner Miller, do you want -- anybody
4 else want to add something -- Commissioner
5 Miller, on that topic or something else?

6 COMMISSIONER MILLER: Yes, I would
7 concur with Commissioner May. And I think
8 that combined with his previous good proposal,
9 which everybody else liked and I liked, too,
10 and said that to allow that overflow day each
11 week will allow people to sign up together.

12 And they may be in an order that
13 they are together and they can organize
14 themselves in a way that they can be signing
15 up speaking at the same time or a similar
16 time.

17 CHAIRMAN HOOD: Now, the overflow
18 day -- and this is why we want to make sure
19 that we try to get this as straight as
20 possible because, again, anything can change.

21 The overflow day, I was thinking
22 we go by what the Office of Planning is

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1 recommending, two days or one day or whatever
2 for those subtitles.

3 And the overflow day would be on
4 the back-end once we finish all six or
5 whatever how many titles it is. That's what I
6 was thinking in terms of overflow.

7 COMMISSIONER MAY: Yes, I mean we
8 talked at one point about having an overflow
9 day at the end of the whole three weeks.

10 I was actually suggesting that we,
11 you know -- if we're going to be here Monday,
12 Tuesday, Wednesday, Thursday that the first
13 three nights would be the sections as
14 identified by OP, and then the Thursday
15 evening would be the overflow day.

16 And then we would start up again
17 with Monday, Tuesday, Wednesday the following
18 week or Tuesday, Wednesday the following week,
19 whatever.

20 CHAIRMAN HOOD: Let me muddy the
21 waters a little bit more. What if we stick to
22 the schedule and the overflow day -- what do

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1 we do when we go out to the wards, which
2 everybody seems to think is a great idea, if
3 we're able to do that. What do we do when we
4 go out to wards one and two?

5 VICE CHAIR COHEN: I think that
6 it's the end of the entire hearing cycle. And
7 then, you know, if somebody in wards one and
8 two did not come down, did not testify in
9 front of us those days and felt that they have
10 something to offer, we would hear them out.

11 CHAIRMAN HOOD: Okay, on any
12 subtitle?

13 VICE CHAIR COHEN: Correct.

14 CHAIRMAN HOOD: Okay. So in other
15 words, we would hear three days of subtitles,
16 and on Thursday it would be wrap-up day on all
17 the subtitles we heard on those three days or
18 four days?

19 COMMISSIONER MAY: Not wrap-up,
20 overflow.

21 CHAIRMAN HOOD: Overflow.

22 COMMISSIONER MAY: Yes.

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1 CHAIRMAN HOOD: I'm reminded that
2 we're not taking into consideration our
3 already days that we have scheduled. So why
4 don't we let Staff work it out. They know
5 what we're intending.

6 We have another hearing -- I mean
7 another meeting coming up the end of the
8 month. I'm not sure what all needs to be
9 advertised how we're going to do it, but we
10 can fin-tune a lot of our discussion.

11 I'm sorry, we can fine -- most
12 people don't want to hear what I have to say.

13 We can fine-tune a lot of our discussion on
14 the 30th. Is that doable, Ms. Schellin?

15 MS. SCHELLIN: Actually, it'll
16 just be discussed in the Public Hearing
17 Notice. We'll put everything in the Public
18 Hearing Notice.

19 COMMISSIONER MAY: Yes, I don't
20 think there's time for us to discuss it at our
21 next meeting and then still get the notice out
22 in time with the dates that we're actually

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1 thinking about doing that.

2 MS. SCHELLIN: No.

3 CHAIRMAN HOOD: Well, this goes
4 back to your earlier point, and we do have
5 some scheduled hearings that are already --
6 that we need to deal with.

7 COMMISSIONER MAY: Right. But as
8 I understand it, we are ready with the number
9 of hearing dates that we're talking about
10 right now.

11 CHAIRMAN HOOD: We already have
12 that.

13 COMMISSIONER MAY: We're at eight,
14 eight hearing dates.

15 CHAIRMAN HOOD: We're looking at
16 probably about seven or eight.

17 COMMISSIONER MAY: Right. And
18 there was already -- I mean we're talking
19 about adding two or three days to that.

20 CHAIRMAN HOOD: But I'm saying
21 that that would be on the back-end of all
22 that.

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1 COMMISSIONER MAY: Yes.

2 CHAIRMAN HOOD: Okay, okay.

3 COMMISSIONER MAY: I mean, in
4 total it would. All I'm saying is that, you
5 know, we take what we have here instead of
6 doing them -- I mean, you know.

7 If this was just three straight
8 weeks, it would be Monday, Tuesday, Wednesday
9 for the first three, Thursday we insert an
10 overflow day.

11 And then we start up again Monday,
12 Tuesday, Wednesday, insert an overflow day,
13 and then we start up again Monday, Tuesday,
14 and then Wednesday is the overflow day.

15 MS. SCHELLIN: There's a holiday
16 on a Monday, so it doesn't quite work out.

17 COMMISSIONER MAY: I understand
18 that.

19 CHAIRMAN HOOD: Let's do this.

20 COMMISSIONER MAY: So one of those
21 weeks would be a Tuesday, Wednesday with an
22 overflow on Thursday. And then the following

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1 week would be Monday, Tuesday, Wednesday, or
2 Tuesday, Wednesday, Thursday.

3 MS. SCHELLIN: There's something
4 scheduled for Monday and Thursday the
5 following week, so it doesn't quite work out.

6 CHAIRMAN HOOD: So why don't we
7 stick to the plan we start there with those
8 dates, and then why don't we let staff work on
9 that.

10 But the key is when we talk about
11 overflow, again, I think the best way for it
12 to work would be on the back-end somewhere,
13 and then we take our show on the road.

14 So we're doing a little more also.
15 We're going to do it on the back-end, then we
16 go to the wards.

17 COMMISSIONER MAY: Then I would
18 make one other suggestion, which is that we're
19 already talking about having two days for
20 general rules that we actually start out
21 planning for one day of general rules, right?

22 CHAIRMAN HOOD: Mr. Lawson, do you

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1 have control of that? Can we put that back
2 up? The days, so everybody could see it.
3 Okay, Commissioner May, if you wanted to go
4 ahead?

5 COMMISSIONER MAY: Right.

6 CHAIRMAN HOOD: There we go.
7 Okay.

8 COMMISSIONER MAY: So I would just
9 suggest that since we're already planning --
10 you're already planning on one overflow day,
11 in effect, with general rules that that
12 overflow day be generic.

13 In other words, we could take
14 overflow from the other meetings that week,
15 and that gives you one day.

16 And even as it is, I think in the
17 third week, you know, we may have hearings on
18 Monday and Thursday but we don't have hearings
19 on Tuesday and Wednesday. We were already
20 planning on using Wednesday let's just pick up
21 Tuesday.

22 CHAIRMAN HOOD: Okay.

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1 COMMISSIONER MAY: All I'm just
2 thinking is that, you know, if we go any
3 further it could be a lot further before we
4 start coming back to this.

5 And we want to -- I think part of
6 the reason for doing it as compactly as we're
7 doing it now is to that we have all of this in
8 our heads at once and we're not having to come
9 back months later and remember it all.

10 CHAIRMAN HOOD: And that is
11 definitely the goal because we want it to be
12 fresh on our minds or our minds get stale, so
13 I think we are all in agreement. Okay.
14 Anything else?

15 There's only one other thing
16 that's been left out, and I want to bring that
17 up at the end because that may muddy the
18 waters even more. And that is -- okay, I'm
19 sorry, Commissioner Miller?

20 COMMISSIONER MILLER: I hadn't
21 spoken on the issue of going out to the wards,
22 and I realize you had a lot of caveats in

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1 there about the logistics and the budget.

2 I just think we should be flexible
3 during the hearing process to see what it is
4 that we need further in terms of -- I think
5 it's a good concept in general.

6 But in terms of whether it's four
7 or two or one or three or how we do it -- and
8 I agree, toward the back-end made sense. But
9 I just think we shouldn't lock in and create
10 an expectation that there's going to be X
11 number right now.

12 We may need it, and we may be
13 exhausted from the public hearings, and the
14 public may be exhausted from having to attend
15 so many hearings.

16 So I think we can be flexible on
17 that since flexibility is something -- is a
18 goal that we're all trying to get.

19 VICE CHAIR COHEN: I think that we
20 need language from the Office of Attorney
21 General regarding the fact that we could slip
22 on some of these dates, but this is our

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1 intent.

2 I just think that we need to
3 explain that up-front so that -- of what we
4 hope to do and accomplish. And language
5 should be able to explain some of the bumps
6 along the road.

7 CHAIRMAN HOOD: Okay. All right,
8 we will move in this fashion. Any unreadiness
9 up here among us? I just have one question,
10 and I asked this early on. The time limits.
11 This is a lot. I asked should we do three
12 minutes, four minutes, or should we just stick
13 to the council rule.

14 I don't remember seeing anything.
15 I asked for this months ago. And if I did
16 see it, I just missed it. Did anybody -- did
17 I get anything?

18 Nobody responded, so I guess
19 everybody wants to stay with the regular
20 rules. Okay. Okay. I put it out there, so
21 nobody responded.

22 COMMISSIONER MAY: And I think

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1 it's also important to emphasize that having
2 written testimony, especially concise written
3 testimony, is very, very helpful.

4 And having it in advance of the
5 hearing date is most helpful so that we can
6 digest it and follow along when people are
7 speaking.

8 It helps a lot more to have that
9 in your hand when somebody is reading as
10 opposed to -- and to have read it so that we
11 can really grasp what they're saying when they
12 speak to us.

13 CHAIRMAN HOOD: All right. I
14 really want to thank Committee 100 for giving
15 us another view. I really appreciate reading
16 their documents. And also I want to thank the
17 Office of Planning.

18 Dealing with both of those was
19 very helpful in insight and helping kind of
20 plan things. So I greatly appreciate it. We
21 said a lot up here. Hopefully we captured it.

22 Let me ask this. Director Bardin, do you

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1 have anything you want to add, comments?

2 DIRECTOR BARDIN: Not at this
3 time.

4 CHAIRMAN HOOD: Okay. All right.

5 Ms. Schellin? Whenever Ms. Schellin comes,
6 we must have left something out. Does anyone
7 want to add anything else?

8 COMMISSIONER MAY: Mr. Chairman,
9 I'm sorry, did we explicitly waive the
10 requirement that people testify in support or
11 opposition?

12 CHAIRMAN HOOD: So do you want to
13 --

14 COMMISSIONER MAY: I lost my cheat
15 sheet.

16 CHAIRMAN HOOD: 30-21.5 G and H.

17 COMMISSIONER MAY: 30-21.5 G and
18 H?

19 CHAIRMAN HOOD: I actually started
20 to do that earlier, but then I pulled it back.

21 COMMISSIONER MAY: So you need a
22 motion? Is that what you're saying?

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1 CHAIRMAN HOOD: Let's do that.

2 COMMISSIONER MAY: I would like to
3 move that we waive 30-21.5 G and H so that
4 people can come and just testify about the
5 zoning regulations without stating in advance
6 support or opposition.

7 CHAIRMAN HOOD: Okay. It's been
8 moved. I need a second?

9 VICE CHAIR COHEN: Second.

10 CHAIRMAN HOOD: Moved and properly
11 seconded. Any further discussion? All those
12 in favor? Aye.

13 (Chorus of Ayes)

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

17 MS. SCHELLIN: Yes, staff records
18 the vote 5 to 0 to 0 to waive the rules in
19 section 30-21.5 section G and H with regard to
20 Zoning Commission case 08-06A. Commissioner
21 May moving, Commissioner Cohen seconding.
22 Commissioners Hood, Turnbull, and Miller in

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1 support.

2 CHAIRMAN HOOD: Okay. Any other
3 discussion on the process, Commissioners?

4 COMMISSIONER MAY: Yes, Mr.
5 Chairman. One last suggestion. For the sake
6 of efficiency, in the process of reviewing
7 what I've done so far I've compiled many, many
8 comments, most of which are not worth boring
9 everybody with from the dias.

10 So what I'd like to propose is
11 that we have the ability to send comments,
12 written comments to the Office of Planning
13 well in advance of the hearing date and then
14 they could actually use this list of comments
15 and reply or respond to them explaining how
16 things are being addressed or what have you.

17 And then that will be a guide for
18 me to talk about the things that, you know --
19 the much shorter list of things because
20 already right now I've got 150-some comments
21 and I'm going to be -- I'll have at least
22 twice that by the time I'm done. That's kind

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1 of more than average for me, but not much
2 more.

3 CHAIRMAN HOOD: You might want to
4 move closer here. I don't want you to get hit
5 while you're sitting there.

6 COMMISSIONER MAY: Yes, but I just
7 thought that would be a more efficient way to
8 do it, and we could all do it. And if we do
9 it in advance, it could become part of the
10 record and it could be shared.

11 I'm not sure exactly what the
12 logistics would be, but we'd get it done at
13 least 30 days in advance. And then if we can
14 get the responses back when you do your
15 hearing report ten days in advance then that
16 would be great.

17 CHAIRMAN HOOD: That would help
18 fine-tune some of our questions, and that will
19 be made public. Any Commissioner that -- if
20 you choose to you don't have to.

21 I made up my mind what I'm going
22 to do. But if you choose to do that, that

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1 will become part of the record. Okay. Any
2 other questions?

3 Let me say -- let me make a motion
4 to accept the process discussed, and the
5 process that was discussed this evening will
6 be further clarified and discussed in the
7 Public Hearing Notice. And I ask for a
8 second.

9 COMMISSIONER TURNBULL: Second.

10 CHAIRMAN HOOD: It's been moved
11 and properly seconded. Any further
12 discussion? All those in favor? Aye.

13 (Chorus of Ayes)

14 CHAIRMAN HOOD: Any opposition?
15 So ordered. Staff, would you record the vote?

16 MS. SCHELLIN: Yes. Staff records
17 the vote 5 to 0 to 0 to accept the processes
18 discussed this evening, which will be further
19 spelled out in the Public Hearing Notice.
20 Commissioner Hood moving, Commissioner
21 Turnbull seconding. Commissioners Miller,
22 Cohen, and May in support.

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1 CHAIRMAN HOOD: Okay, Ms.
2 Schellin, do we have anything else for
3 tonight?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: Okay. I want to
6 thank everyone for their participation and
7 interest tonight, and we will roll up our
8 sleeves and get started. With that, this
9 meeting is adjourned.

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