

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING
1096th MEETING SESSION (2nd of 2000)

+ + + + +

MONDAY
March 13, 2000

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The Regular Meeting of the District of Columbia
Zoning Commission convened at 1:30 p.m. in the Office of Zoning
Hearing Room at 441 4th Street, Northwest, Washington, D.C.,
Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	Chairperson
CAROL J. MITTEN	Vice Chairperson
KWASI HOLMAN	Commissioner
HERBERT M. FRANKLIN	Commissioner
JOHN G. PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

Jerrily R. Kress	Director
Alberto Bastida	Secretary, ZC
Stephanie D. Brown	Office of Zoning
Vincent C. Erundu	Office of Zoning
Kenneth Karkeet	Office of Zoning
Nyambi Nyambia	Office of Zoning

OTHER AGENCY STAFF PRESENT:

Ellen McCarthy	Office of Planning
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Steven Cochran
Mary Vogel
David Seidman

Office of Planning
Office of Planning
Office Of Chief Tech. Officers

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

1:33 p.m.

CHAIRPERSON HOOD: Good afternoon. We are now here for the regular monthly meeting of the D.C. Zoning Commission, Monday, March 13, 2000, at 1:33 in the hearing room. Joining me are Commissioners Mitten, Parsons, and Holman and Commissioner Franklin in on his way.

At this point, due to a handicap that I'm suffering from at this point in time I'm going to turn it over to Commissioner Mitten to run the majority of the meeting.

VICE CHAIR MITTEN: Thank you. We'll begin with preliminary matters. Mr. Bastida, am I correct that there are no preliminary matters?

MR. BASTIDA: You care correct, madam.

VICE CHAIR MITTEN: Thank you. Next, Action on Minutes of prior meetings. The first set of meetings is from December 13, 1999. Have the commissioners reviewed the minutes and are there any corrections you would like to suggest?

COMMISSIONER PARSONS: I move approval as written.

COMMISSIONER HOLMAN: Second.

VICE CHAIR MITTEN: I would like to just suggest a couple of minor changes if no one else has any. Under Action on Minutes B, we had discussed in addition to the university campus plan regulations, the issue of minor modifications and that we

1 need some clarification about that. I would just like to make
2 sure that that stays in the minutes, because I know that that's a
3 concern of Mr. Hood's in particular. But, I want to make sure
4 that's reflected in the minutes.

5 MR. BASTIDA: Madam, might I share? That's a minor
6 modification related to PUDs, right?

7 VICE CHAIR MITTEN: Yes, correct.

8 MR. BASTIDA: Thank you.

9 VICE CHAIR MITTEN: And, then under hearing action,
10 letter D, the second sentence, this is referring to David Colby,
11 when I say he. He informed the Commission that the comprehensive
12 plan has shifted the campus plans process from BZA to the Zoning
13 Commission. It has actually recommended shifting. That's our
14 purview to actually shift it.

15 MR. BASTIDA: Thank you, Madam Vice Chair.

16 VICE CHAIR MITTEN: And, then finally under
17 correspondence, per the December '99 meeting, B, this is the Fort
18 Lincoln Premium Distributor's case, the last paragraph. It said
19 that we waived the hearing fee. We actually didn't waive the fee.
20 We lower the fee to that appropriate for a PUD in that case.

21 MR. BASTIDA: That is correct, Madam Vice Chair. I
22 mean what you have as stated is correct.

23 VICE CHAIR MITTEN: All right. Any other
24 modifications, amendments?

25 MR. BASTIDA: No.

1 VICE CHAIR MITTEN: All right. There is a motion
2 that has been made to approve the minutes. Would you accept a
3 friendly amendment to approve the minutes as amended?

4 COMMISSIONER PARSONS: Certainly.

5 VICE CHAIR MITTEN: Does the seconder accept?

6 COMMISSIONER HOLMAN: Yes, absolutely.

7 VICE CHAIR MITTEN: All right. Any further
8 discussion? All of those in favor of approving the minutes of the
9 December 13, 1999 as amended, please say aye.

10 BY ALL: Aye.

11 VICE CHAIR MITTEN: Any opposed? Motion passes.

12 MR. BASTIDA: Yes, the staff will record the motion
13 made by Mr. Parsons, seconded by Mr. Holman and approved 4 to 0.
14 Mr. Franklin, not voting, not being present.

15 VICE CHAIR MITTEN: Very good. Thank you.

16 Next we have the minutes of the February 14, 2000 meeting.
17 Are there any amendments that any of the commissioners would like
18 to put forward?

19 COMMISSIONER PARSONS: I have none.

20 COMMISSIONER HOLMAN: I have none.

21 CHAIRPERSON HOOD: I make a motion to adopt.

22 COMMISSIONER PARSONS: Second.

23 VICE CHAIR MITTEN: I would just like to suggest a
24 couple of changes myself. Okay. Under hearing action for the
25 February 14th, hearing action letter A, which is the Yale Laundry

1 and then number 4. It says postpone the case as requested by the
2 applicant. We did postpone the case, but we postponed it to a
3 certain date which was May 8th.

4 D, under final action, the mover and the seconder
5 incorrectly reported here. Mr. Parsons made the motion. Mr.
6 Holman seconded the motion and it was passed on a vote of 5 to 0.

7 MR. BASTIDA: Thank you, Madam Vice Chair.

8 VICE CHAIR MITTEN: Any other? All right. On the
9 motion to approve the February 14, 2000 minutes as amended, all
10 those in favor please say aye.

11 BY ALL: Aye.

12 VICE CHAIR MITTEN: Any opposed? Motion passes.

13 MR. BASTIDA: The staff will record the vote of 4
14 to 0. Mr. Franklin, not voting, not being here. It was moved by
15 Mr. Hood, seconded by Mr. Parsons.

16 VICE CHAIR MITTEN: Thank you. We will defer the
17 status report from the Office of Planning until they come into the
18 meeting.

19 And at this point under the first item under
20 Hearing Action, in regards to Solar Building and I'll turn the
21 chair back over to the chair of the Zoning Commission, but first I
22 would just like to say that I will recuse myself from any
23 discussion or votes on this matter because of the personal
24 interest that I have in the case.

25 CHAIRPERSON HOOD: Okay. Thank you, Commissioner

1 Mitten for filling in for me. Those who want to know what my
2 problem is, I can't actually hear. So, if you're saying something
3 and I don't hear you, it's not that I'm ignoring you. Then again,
4 it depends on what you're saying.

5 Okay. Hearing Action. The hearing action on 98-
6 14C, this is a PUD and Map Amendment, 1000 16th Street, N.W., the
7 Solar Building. I believe they're coming back with a --

8 MR. BASTIDA: Mr. Chairman, even though we have it
9 on the Office of Planning, I think that the Office of Zoning is
10 better aware of what's happening. At your last meeting that it
11 was discussed and a vote, it was put on hold indefinitely until
12 the applicant will come back after they had met with the community
13 and tried to work out a solution to the problems as perceived by
14 the community.

15 The applicant has done so in accordance to their
16 testimony on the matter and has requested that the Commission
17 reopen the record to accept the new plans and set a hearing date
18 to present the new proposal. Because the file was closed, I could
19 not send you the maps. I only send you the letter requesting the
20 opening of the record and their idea to set down a hearing date.
21 And, if you open the record, I have the plans with me and I can
22 distribute it to you immediately. Thank you.

23 CHAIRPERSON HOOD: Thank you, Mr. Bastida.

24 Colleagues, we have a hearing action, whether we want to
25 set it down, I think they're asking for a reopening of the record

1 and also to set an additional hearing down for some additional
2 information. Am I correct?

3 MR. BASTIDA: Correct.

4 CHAIRPERSON HOOD: Okay.

5 MR. BASTIDA: But, the additional information is
6 basically what would be provided with the plans and so on on the
7 record. That I can put on the record today.

8 CHAIRPERSON HOOD: Okay. Colleagues, we have this
9 hearing action in front of us. We have all reviewed the record
10 that was sent to us. Are there any comments or questions?

11 COMMISSIONER PARSONS: Mr. Chairman, I understand
12 there is a set of plans that we have not seen. I wonder if we
13 could see those?

14 MR. BASTIDA: If you open the record, I can provide
15 it to you.

16 CHAIRPERSON HOOD: I guess --

17 COMMISSIONER PARSONS: I don't quite understand.
18 We have the letter from Ms. Prince. And, we didn't have to open
19 the record for that. So, why do we have to open the record for
20 the plans?

21 MR. BASTIDA: Well, the letter was sent to you so
22 you were aware that a request to open the record was in place.
23 The letter went a little bit beyond just requesting opening the
24 record. It's my understanding, advice by legal counsel, that
25 without the Commission opening the record, I cannot distribute any

1 information. And perhaps that's being too narrow in the
2 interpretation, but that is what I was advised.

3 COMMISSIONER PARSONS: So, we can open the record.
4 If we don't like the record, we can close it here today?

5 MR. BASTIDA: Oh, indeed. Indeed.

6 COMMISSIONER PARSONS: Well, I've never done that
7 before, but let's try it.

8 CHAIRPERSON HOOD: Okay. I have on the table to
9 open the record for the Solar case so we can review the plans.
10 Commissioners, any other comments?

11 COMMISSIONER PARSONS: Is there an OP report on
12 this?

13 MR. BASTIDA: No, there is not.

14 CHAIRPERSON HOOD: Will there be an OP report?

15 MR. BASTIDA: Yes. We would refer to OP for a
16 report.

17 CHAIRPERSON HOOD: So, I guess what we ask, the way
18 I see it, we're asking to open the record to obtain additional
19 drawings and then also to add an additional hearing.

20 MR. BASTIDA: If you so choose. You are opening
21 the record to admit the material into the record. Then you will
22 have another action if you so choose to have a hearing.

23 CHAIRPERSON HOOD: Let me just say this,
24 colleagues. I voted against this the first time. I am willing
25 and I think that they have made an effort, at least from the

1 material that I've read, to communicate with the community and the
2 surrounding people who are effected. I would like to see us, if
3 we so choose, to open the record and let's see what happens and if
4 we decide to move forward, then we will set it down for a hearing.

5 Any other comments?

6 COMMISSIONER HOLMAN: So, Mr. Chair, are you saying
7 that we're going to make that decision today, or are we going to
8 make it at a subsequent point?

9 CHAIRPERSON HOOD: Well, I believe because the only
10 way that we can get the drawings, to see whether or not we want to
11 move forward, would be open the record to get the hearings today.

12 I don't expect for us to stop and hold up the meeting to look at
13 some drawings at this time. I don't think it's fair to us at this
14 point in time to look at them at the meeting or to the public.
15 So, I would like for us basically just open the record up, accept
16 the drawings and then we'll come back and see if we can set it
17 down at our next monthly meeting, which will be in April.

18 MR. BASTIDA: Mr. Chairman, may I make a
19 suggestion?

20 CHAIRPERSON HOOD: Sure.

21 MR. BASTIDA: You have a meeting set up for
22 Thursday.

23 CHAIRPERSON HOOD: That's good. Yes. Okay. We
24 can do that at Thursday's --

25 MR. BASTIDA: April 7th, I'm sorry, my mistake.

1 It's in April. Sorry.

2 COMMISSIONER PARSONS: April 13th.

3 CHAIRPERSON HOOD: Well, I didn't know whether that
4 was one of those meetings where we open and close. So, I'm not
5 sure. Okay. So, let's do that, if that's the pleasure of the
6 Commission.

7 COMMISSIONER FRANKLIN: Yes. If there has been a
8 motion to open the record, I'll second it.

9 COMMISSIONER PARSONS: There hasn't been.

10 COMMISSIONER HOLMAN: Did someone make a motion?

11 COMMISSIONER PARSONS: When does the Office of
12 Planning get engaged in this? I mean, normally when we set
13 something down for a hearing we've got the preliminary report of
14 the Office of Planning. And, we've got none of that. I don't
15 understand this.

16 CHAIRPERSON HOOD: Let me ask the Office of
17 Planning. I guess our question is, normally when we set things
18 down we have a report to kind of go by. And, we have no report
19 and we're getting ready to open the record and accept some
20 additional drawings. So, Ms. McCarthy, if you can comment.

21 MS. McCARTHY: I think because it was a preliminary
22 matter it was not reviewed to the Office of Planning for a report
23 in advance. But if you would like to review it to us for a
24 report, I'm sure that we could provide one. We have met with the
25 applicant and they did go over their new design scheme with us.

1 COMMISSIONER PARSONS: Mr. Chairman, would it make
2 some sense at this juncture for us to agree to open the record for
3 the purpose of having these materials become part of the record
4 and reviewed by the Office of Planning and then sent out to us,
5 concurrently with an Office of Planning review, and at that point
6 we can decide if we want to have another hearing?

7 I think this is a highly unusual situation because,
8 just to review the history, the Commission did take proposed
9 action on this by a 3 to 2 vote. And, then 2 of the 3 are no
10 longer with the Commission. So, actually, as I hear myself speak,
11 I'm just wondering whether the commissioners who have not heard
12 the case should not only review the new materials coming in, but
13 read the transcript before we ever come to any decision on this.
14 And, it probably would be desirable for them to read the
15 transcript before we actually have a hearing.

16 COMMISSIONER HOLMAN: That sounds like me, because
17 --

18 COMMISSIONER FRANKLIN: I didn't want to mention
19 any names.

20 CHAIRPERSON HOOD: Let me just say, I think we all
21 know that Commissioner Mitten had to recuse herself, so we still
22 have an even number, but that remains to be seen. I agree with
23 your comments, Commissioner Franklin. And, if you could put that
24 in a state of a motion, list any objections, I think that's the
25 way we can proceed.

1 COMMISSIONER FRANKLIN: Okay. I move that the
2 Commission reopen the record on 98-14C for the purpose of
3 receiving materials that have resulted from further discussions
4 with the community and that the materials be made available to the
5 Commission, together with an Office of Planning report on those
6 materials, and that at a later meeting of the Commission we decide
7 whether we want to set this down for a new hearing.

8 COMMISSIONER PARSONS: Second.

9 CHAIRPERSON HOOD: It has been moved and second.
10 All those in favor by the usual sign of voting.

11 BY ALL: Aye.

12 CHAIRPERSON HOOD: Any opposition? So ordered.

13 MR. BASTIDA: Mr. Chairman, the staff will record
14 the vote of 5 to 0 to open the record to accept the materials.
15 Mr. Franklin moving it and Mr. Parsons seconding it.

16 CHAIRPERSON HOOD: Mr. Bastida, if we can record
17 the vote 4 to 0 because of Madam Vice Chair.

18 MR. BASTIDA: Oh, I'm sorry.

19 CHAIRPERSON HOOD: Commissioner Mitten recused
20 herself.

21 MR. BASTIDA: Mrs. Mitten, no voting having recused
22 herself from this case. I'm sorry, Mrs. Mitten.

23 CHAIRPERSON HOOD: Okay. Thank you. Thank you,
24 colleagues for bearing with me. Again, I'll turn it back over to
25 our Vice Chair.

1 MR. BASTIDA: Mr. Chairman, we're going to provide
2 the plans to you and to the Office of Planning so they can provide
3 the reports right at the end of the meeting.

4 CHAIRPERSON HOOD: Okay. Thank you.

5 MR. BASTIDA: Thank you.

6 VICE CHAIR MITTEN: All right. The next case under
7 proposed hearing action is case 00-02, which is a map amendment
8 for lot 2 in Square 3129, from the existing R-5-A zoning to a
9 combination of SP-1 and SP-2. And, you have in your packet a
10 statement in support of setting the case down for a hearing from
11 the applicant. We also have a report from the Office of Planning.

12

13 Do any of the commissioners have any comments about
14 this case?

15 MR. BASTIDA: Madam Vice Chair, maybe, if you want,
16 you can request a presentation by the Office of Planning on their
17 report. But, if the Commission feels that it is not necessary,
18 that is not mandatory.

19 VICE CHAIR MITTEN: Would anyone find that helpful?

20 CHAIRPERSON HOOD: I think it would be good if we
21 can just get a quick synopsis from the Office of Planning. Very
22 quick.

23 VICE CHAIR MITTEN: All right. Office of Planning.

24 MR. COCHRAN: Fine. My name is Steve Cochran and
25 I'm with the Office of Planning for the District of Columbia.

1 Our recommendations are outlined on page 2 of your
2 report. Medstar Washington Hospital Center is applying for a
3 rezoning of their property from R-5-D to SP-1 and 2. We recommend
4 that this be set down for a hearing, but we would also hope that
5 the applicant would provide additional information before the
6 hearing is held.

7 Essentially we think that it's a worthy
8 application, but a little thin at this point. We hope that the
9 applicant will give more information about what the expansion
10 plans are for the Hospital Center, so we can better assess what
11 some of the impacts would be. It's somewhat unusual to be asking
12 for a combination of SP-1 and SP-2 without specifying exactly why
13 certain zonings are required. That's why we're asking for the
14 expansion plan.

15 They do specify where they want it, but without a
16 justification, through what, I hate to use the term campus plan
17 because it is so loaded these days, but it in effect amounts to
18 something like a campus plan. And, also we understand the
19 applicant is undertaking more transportation studies, but we would
20 like to see some of those in there.

21 And, finally, our set down report does recommend
22 that certain traffic signage changes be considered by the
23 applicant and by the Commission to minimize the impact on the
24 neighborhood, particularly to the south.

25 But, again, to summarize, we essentially find this

1 to be a worthy application so that zoning gets in conformance with
2 the comprehensive plan and also with the uses that have been on
3 the site since basically 1958/1959.

4 VICE CHAIR MITTEN: If I could just ask a couple of
5 follow-up questions?

6 MR. COCHRAN: Sure. Mention was made in the
7 application and there is a reference in the comprehensive plan to
8 this requirement or -- yes, it's a requirement. It says, "The
9 District's major colleges, universities and similar institutions
10 will be required to prepare an update master plans. New
11 administrative procedures centered in the Office of Planning are
12 proposed to reduce the cost of institutional master preliminary
13 review and implementation."

14 In the context of this case, where there is a
15 master plan that they have devised and so on, what kind of
16 enforcement is there of it and, if any?

17 MR. COCHRAN: If the property were rezoned, to my
18 knowledge there would not be enforcement of this, because it is
19 not really a campus plan. They would be under matter of right.

20 VICE CHAIR MITTEN: So, there is a requirement
21 through the comprehensive plan that they file one with you all,
22 but any obligation to conform with that is really just at their
23 discretion. Is that right?

24 MR. COCHRAN: Judging by body language, I think I
25 should defer to my boss on something.

1 MR. BASTIDA: Madam Vice Chair, could I give you a
2 little bit of historical background to your question?

3 VICE CHAIR MITTEN: Well, actually, maybe I ought
4 to stick with the folks from the Office of Planning for the time
5 being. I would like to hear the rest of the response.

6 MR. BASTIDA: Fine.

7 VICE CHAIR MITTEN: Thanks.

8 MS. MCCARTHY: Because there isn't a specific
9 regulatory hook to enforce that, at this point time at least, but
10 certainly one of the comp plan amendments that the Office of
11 Planning does need to take a look at in terms of cases that it
12 will propose. What we had asked of the applicant was to consider
13 doing this as a planned unit development instead, so there would
14 be more control over design issues, traffic and transportation.

15 They argue that that's particularly difficult in
16 this case because of the need for flexibility as changes occur in
17 medical technology. And, we weren't totally convinced that that
18 argument alone argued for going with the rezoning and not a
19 planned unit development, because, as you know, you can always
20 modify planned unit developments and the applicant has done a
21 master plan for the campus.

22 But, in the end I guess we felt because the site is
23 so isolated from the residential areas around it and because they
24 were proposing a relatively low density zoning all around the
25 parameter, and even the SP-2 isn't exactly high density zoning,

1 and because they had a specific plan amendment that supported
2 going for increased density on the site, we thought all of those
3 factors could justify going forward with just a map amendment
4 instead of with something that had more enforcement possibilities.

5 VICE CHAIR MITTEN: I'll defer the rest of my
6 questions until the other Commissioners have had a chance. Any
7 questions for the Office of Planning at this juncture?

8 COMMISSIONER PARSONS: Well, I'm confused. Five
9 years ago we did a PUD for this site. Is this the same site?

10 MR. COCHRAN: This is the area that you did not do
11 the PUD for. And, also, the PUD does not have underlying -- the
12 zoning goes with the PUD. So, this would actually rezone the PUD
13 so that it would be the underlying zoning, not just in conjunction
14 with the PUD. It would be the actual map zoning.

15 COMMISSIONER PARSONS: So, it would be the area
16 around --

17 VICE CHAIR MITTEN: Yes, it is the remainder of the
18 same site. Yes.

19 COMMISSIONER PARSONS: The remainder of the same
20 site.

21 VICE CHAIR MITTEN: As Steve said, the PUD was for
22 the medical office building.

23 MR. COCHRAN: Correct.

24 VICE CHAIR MITTEN: And, so that has already
25 through the PUD been changed to SP zoning. What they're looking

1 to change is the rest of the site.

2 COMMISSIONER PARSONS: Well, maybe you can help me,
3 Exhibit F.

4 MR. COCHRAN: Their Exhibit F?

5 CHAIRPERSON HOOD: Yes.

6 COMMISSIONER PARSONS: Yes. Or any other exhibit
7 that would help me.

8 MR. COCHRAN: Yes. Yes, sir.

9 COMMISSIONER PARSONS: Is a part of the proposal
10 contained on this drawing?

11 MR. COCHRAN: Is the physician's office building
12 contained on this drawing?

13 COMMISSIONER PARSONS: No. Is a part of the
14 proposal before us on this drawing?

15 MR. COCHRAN: Yes, it is.

16 COMMISSIONER PARSONS: Where is that?

17 MR. COCHRAN: What you are seeing is their proposal
18 for what they would like to see changed into SP-2 zoning, which is
19 the light grey, and SP-1 zoning, which is the dark grey. And, it
20 does include on this map rezoning of the area that you have
21 rezoned for the physicians office building, but it would de-link
22 the zoning, presumably, from the PUD.

23 COMMISSIONER PARSONS: So, we are not modifying a
24 PUD?

25 MR. COCHRAN: No. Presumably, if for some reason

1 they violated the terms of the PUD and the PUD were, through its
2 enforcement procedures, withdrawn or whatever, if what the
3 applicant is asking for were agreed to by the Zoning Commission,
4 they would still have the SP-1 zoning on that site, even absent
5 PUD. This is for the physicians office building.

6 For the remainder of the site they're asking for
7 just a straight map amendment.

8 COMMISSIONER PARSONS: All right. Then let's go to
9 Exhibit I, the drawing at the back of that or just ahead of
10 Exhibit J.

11 MR. COCHRAN: Okay. Are we looking at the one with
12 the dotted circles?

13 COMMISSIONER PARSONS: Mr. George's proposal for
14 some new entrances and so forth. Does that conform to the PUD?

15 MR. COCHRAN: I am not aware of the PUD for the
16 physicians office building having addressed these master planning
17 issues.

18 COMMISSIONER PARSONS: So, is this drawing before
19 us or is this for our information?

20 MR. COCHRAN: This drawing had not been before the
21 Office of Planning. This is, I regret, as far as I know, the
22 first time I am seeing this particular drawing.

23 COMMISSIONER PARSONS: Well, I guess what I would
24 ask for your final report or the hearing report that you see if
25 there is any inconsistency with the PUD that's in place with their

1 proposals. Because if there is, if there are to be changes, then
2 we ought to be modifying a PUD.

3 MR. COCHRAN: Yes, I absolutely --

4 COMMISSIONER PARSONS: Okay. Thank you.

5 VICE CHAIR MITTEN: Okay. Anyone else?

6 MR. COCHRAN: Madam Vice Chair, I think I would add
7 to what has been said that at such time as the hearing is held, it
8 would be of interest to me to hear the applicant explain why a
9 rezoning instead of a PUD is appropriate under these
10 circumstances. Are they planning to tear down some structures and
11 need to have zoning to increase the density? It would be
12 interesting to know really what is going on.

13 MR. COCHRAN: That is one of the Office of Planning
14 recommendations.

15 COMMISSIONER PARSONS: Now, it seems as though the
16 only purpose for this is to conform this to the comprehensive
17 plan. The rationale given is pretty light, I think.

18 MR. COCHRAN: I agree that it is not the most
19 thorough application that the Office of Planning has reviewed, but
20 presumably more of the information would come through in the next
21 round. But, they basically maxed out their FAR with the
22 underlying zoning that they have now. And, if they want to
23 rationalize their floor plans, do some buildings that would
24 connect one unit to another, reconfigure -- actually build some
25 new wings, they can't do it under the existing zoning.

1 They have said that they have not demonstrated
2 that. Again, we had been assuming that that kind of linkage
3 between what they're saying and what they're demonstrating would
4 come through in the next round. Again, we're reviewing this as is
5 application worthy of being set down for a hearing. This is my no
6 means our final recommendation, but we certainly think that it is
7 worthy of a hearing.

8 COMMISSIONER HOLMAN: So, am I to understand that
9 you're going to have subsequent meetings with them to try to
10 clarify that issue?

11 MR. COCHRAN: Oh, absolutely.

12 COMMISSIONER HOLMAN: Okay.

13 VICE CHAIR MITTEN: Anything else? Mr. Hood, would
14 you like to add anything?

15 CHAIRPERSON HOOD: No, I wouldn't. Thank you,
16 though.

17 VICE CHAIR MITTEN: I would just like to mention a
18 few things that are concerns of mine. Even though you were
19 reluctant to use the word campus plan, that's what this is. And,
20 we have, you know, this general issue before us and by the general
21 issue of campus plans and really what even should be -- we know
22 what is bound by a campus plan, but the issue of what should be
23 bound by a campus plan is part of this whole, you know, Pandora's
24 box that's, you know, about to be opened, I believe.

25 And, I guess I'm concerned about, you know, this is

1 a 20 year master plan and if we go forward with the rezoning,
2 we're basically allowing a significant increase in density, which
3 would be 176 percent increase over what's currently permitted by
4 right, without any control. And, I guess I'm leery of doing that
5 in light of the fact that we do have a greater sensitivity to the
6 fact that campuses like this need to have some kind of oversight.

7 And, I'm particularly concerned because there is a
8 pending zoning of MacMillian Reservoir, which is going to provide
9 for untold numbers of square feet of density. There is a
10 possibility for some of the Soldiers Home being zoned for private
11 use. And, that's more density. And I guess I'm just concerned
12 that we're going to be committing to a significant increase in
13 density on this site and then piling on MacMillian and piling on
14 part of the Soldiers Home, and that hasn't been thought through to
15 a sufficient degree.

16 I'm also concerned that SP zoning might not be the
17 most appropriate for the entire site. And there seemed to be some
18 indication or there is an implication in the materials provided by
19 the applicant that residential zoning is somehow inappropriate for
20 this institutional use. And most of the other hospitals in this
21 city, at least the ones I identified, 11, all must one, not
22 including this property, has some form of R zoning.

23 So, we don't have institutional zoning. So, I
24 don't think that it's inherently bad that this is residentially
25 zoned, and I guess I'm not sure that some combination of SP and

1 perhaps up-zoning the R wouldn't be appropriate.

2 So, in my mind setting this down at this time is
3 premature. I think there is a lot more work to be done. And, I
4 guess I would rather that this be a little bit more ripe for
5 decision making than it seems to be at the moment.

6 And, I don't know if the Office of Planning has any
7 response to those comments that I've made, but I would be
8 interested if you did.

9 MR. COCHRAN: We have spoken over the telephone
10 with the applicant and the applicant feels that because of the
11 relatively isolated nature of its site and the long use as a
12 hospital, that in effect whatever conditions would be generated by
13 rezoning, should it happen, would be conditions that subsequent
14 developments down the line would then need to respond to, as
15 opposed to the applicant having the responsibility to take into
16 account the other possible rezonings and in effect responding to
17 what we might all like to be a small area of plan, but one that
18 does not necessarily exist at this point.

19 So, in essence they're saying, you know, they wag;
20 others respond.

21 VICE CHAIR MITTEN: I can appreciate that, but I
22 think that our role and your role is to make sure that, you know,
23 we're looking at the big picture.

24 MR. COCHRAN: Oh, no, madam, I quite agree. And,
25 that would certainly be the kind of analysis we would be doing in

1 our final report. We're simply viewing this as is it worth
2 setting it down for a hearing? We're not saying, has the
3 applicant done an adequate job of demonstrating that his type of
4 rezoning should be approved?

5 VICE CHAIR MITTEN: All right. Thank you.
6 Anything else?

7 CHAIRPERSON HOOD: Madam Vice Chair, if I can add
8 to this conversation. I'm in support of setting this down, but I
9 also would look at some of the concerns that you have raised and
10 the Office of Planning has raised in their report.

11 I do also, too, think that this area is isolated
12 enough and I would just hope that when the applicant comes with
13 their presentation that they will, again, like we've heard
14 previously, address the issues before them, which would make us
15 decide whether to approve or not. So, that's kind of where I am
16 with this whole piece.

17 COMMISSIONER PARSONS: It sounds, Mr. Chairman,
18 like we ought to set this down for a hearing in September or
19 October.

20 CHAIRPERSON HOOD: I'm sorry, I really didn't hear
21 you.

22 MR. BASTIDA: How convenient.

23 COMMISSIONER PARSONS: You didn't miss anything. I
24 was not entirely serious.

25 VICE CHAIR MITTEN: Are there any other comments by

1 the commissioners? If not, we've been asked to take action
2 regarding setting this case down for a hearing. Would anyone care
3 to make a motion?

4 CHAIRPERSON HOOD: Madam Chair, I made a motion
5 that we set down case number 00-02, map amendment from R-5-A to
6 SP-1 and SP-2, Square 3129, Lot 2, Medstar.

7 VICE CHAIR MITTEN: Is there a second?

8 COMMISSIONER HOLMAN: Second.

9 VICE CHAIR MITTEN: It has been moved and seconded
10 to set this case down for a hearing. Any other discussion? All
11 those in favor, please say aye.

12 VICE CHAIR MITTEN: Opposed?

13 VICE CHAIR MITTEN: Will the staff please record
14 the vote?

15 MR. BASTIDA: I apologize. Yes. The staff would
16 record the vote 3 to 2 to set it down. Mr. Hood moving and Mr.
17 Holman second it, and Mr. Franklin voting in favor of setting it
18 down. Ms. Mitten and Mr. Parsons voting no.

19 VICE CHAIR MITTEN: Thank you.

20 COMMISSIONER PARSONS: If I could, Madam Vice
21 Chairman, I think in view of the discussion, it doesn't sound to
22 me like this particular hearing ought to be scheduled with great
23 alacrity. I think there is a lot of time that has to go into
24 this.

25 VICE CHAIR MITTEN: I agree with you and I think

1 we'll be largely dependent on the Office of Planning's report for
2 that and depending on their schedule as well. So, we'll be
3 talking to all the cast of characters involved before we set the
4 date. Thank you all.

5 MR. BASTIDA: Madam Vice Chair, is that to be
6 interpreted by your staff that we should consult with the
7 applicant and the Office of Planning prior to setting a date for
8 this hearing?

9 VICE CHAIR MITTEN: Yes, Mr. Bastida.

10 MR. BASTIDA: Thank you.

11 VICE CHAIR MITTEN: All right. The next case under
12 Hearing Action is case 00-03, which is a proposed PUD and map
13 amendment in Square 1772, lots 1, 2 and 805. This is the
14 Albermarle Associates. This is for rezoning from R-1-B to R-5-B.

15

16 We have just been handed a report from the Office
17 of Planning. And, we had in our packets the report from the
18 applicant. Does anyone have any suggestions about how to proceed
19 with the Office of Planning's report?

20 MR. BASTIDA: Madam Chairperson. If you notice the
21 information that you received that the applicant originally
22 submitted was for R-5-B to SP-1 and SP-2. My understanding is
23 that the applicant has been working with the Office of Planning
24 and this report is as a result of that, but this report appears
25 not to be in tandem with the information that you received in your

1 package, and I just would like to point that out to you. Thank
2 you.

3 VICE CHAIR MITTEN: Well, I don't know what the
4 situation is for the other commissioners, but actually the
5 information that I had was for rezoning from R-1-B to R-5-B. So,
6 perhaps other people had other information in their packets. Is
7 there anyone not clear about what's being requested?

8 COMMISSIONER PARSONS: I had the same information
9 you did.

10 VICE CHAIR MITTEN: All right. Okay. So, we're
11 all clear. The existing zoning is R-1-B and the proposed
12 rezoning, as part of the PUD, is R-5-B. Any discussion?

13 CHAIRPERSON HOOD: I would like to see us, Madam
14 Vice Chair, delay this because we just received the Office of
15 Planning report. And, to sit here and try to digest this along
16 with information received previously, I think it's an injustice to
17 us. So, I would like to maybe put this off for a month. Well,
18 first, let me just wait to hear from my other colleagues.

19 VICE CHAIR MITTEN: I might just call to everyone's
20 attention the fact, and this is on page 6 of the applicant's
21 submission, that this PUD or the site doesn't meet the minimum
22 requirement for a PUD in the R-5-B district. The minimum
23 requirement is one acre and our rules say that we can waive up to
24 50 percent of the minimum area requirement, but there are two
25 conditions that need to be met. And the first condition is the

1 Commission shall find after public hearing that the development is
2 of exceptional merit and in the best interest of the city.

3 And, that strikes me that we need to have a public
4 hearing that's dedicated specifically to the notion of exceptional
5 merit before we can even waive the minimum requirement. So, I
6 would say that that's something that we need to consider
7 separately. And, I don't know if we can even consider that today.

8 But, I did want to call that to everyone's attention.

9 Any comments about the minimum area requirement?

10 CHAIRPERSON HOOD: Let me just add, I think that
11 from looking at the Office of Planning report, I think that, and
12 again, I go back to my original statement, in all fairness, page
13 3, it's like the 3rd paragraph, zoning regulations allow the
14 Zoning Commission to waive not more than 50 percent of this
15 minimum area requirement, provided the following conditions are
16 met. And, that's why I go again back to this Office of Planning
17 report. I think we're doing ourselves a disservice if we set this
18 down without having all spectrums of the case presented to us.

19 VICE CHAIR MITTEN: Any other thoughts by any other
20 commissioners?

21 COMMISSIONER PARSONS: Well, I thought I'd seen
22 everything on this Commission, but this is a new one about this
23 waiver. I never really read that provision before, I guess, or
24 been exposed to it. We have written into our regulations that we
25 have to have a hearing before we determine whether this can be

1 PUD.

2 VICE CHAIR MITTEN: That's my reading of it.

3 COMMISSIONER PARSONS: I think you're right.

4 VICE CHAIR MITTEN: Okay.

5 COMMISSIONER PARSONS: I don't believe that. I
6 believe you. I don't believe that. I guess I would agree with
7 Mr. Hood and the 2nd paragraph of OP's report really brings that
8 to the fore. They're saying that we ought to set this down for a
9 hearing, but there ought to be more conversation with the
10 community to lower the density. Well, it seems to me we're giving
11 the advantage to the developer and pointing the gun at the
12 community by setting this down for a hearing. That is, we're
13 willing to hear this, but if you can work something out with the
14 community, give it a try.

15 I think this project is too dense. I agree with
16 this statement. And, in that context it is premature for me to
17 even vote to set it down. I mean, I know on the face it I think
18 it's much too dense for this community. Admittedly it's near a
19 metro stop, but we're crossing Fort Drive here. We're crossing
20 into a residential community, and you're on the edge here.

21 What impact does is this kind of development going
22 to have for the future of this community? I don't mean traffic.

23 I mean is this a domino that's starting to fall into a community
24 that's pretty special? So, I would rather send this back to the
25 Office of Planning to work towards that end than say we're will to

1 hear this, but if you can work something out have at it.

2 MS. MCCARTHY: Madam Chair, could I just clarify
3 that part of the Office of Planning report?

4 VICE CHAIR MITTEN: Sure. I hear your
5 interpretation, Mr. Parsons. What I think we are saying in the
6 report, what we are intending is that we have spoken to the
7 developer. We have indicated that we could not support at the
8 public hearing -- could not make a favorable report and could not
9 support a project as dense as what has been proposed, and the
10 developer agreed that they would substantially modify that.

11 They did not have a chance before this hearing to
12 go back and do, you know, a whole detailed redesign. So we were
13 recommending set down simply for the purpose of keeping the
14 project moving along so that they could come back to both us and
15 the community with something that much more closely reflected the
16 difficult balancing act on that site between the need to respond
17 to the housing opportunity area and to the proximity to Metro, and
18 at the same time respond to the density of the surrounding area,
19 made all the more difficult by the mistake on the generalized land
20 use map and some of the individual aspects of this particular
21 project that have made it so difficult to grapple with.

22 And, I do apologize both to you and to the
23 applicant for the lateness of the Office of Planning report. We
24 have had an unbelievable amount of communication from the
25 neighborhood and have met with the developer twice, and have tried

1 very hard to wrestle with all of this to bring you our best
2 recommendation while dealing with several very controversial BZA
3 cases and the campus plans and everything else and not having our
4 new staff on board.

5 But, I realize that it makes your job much more
6 difficult when the Office of Planning doesn't have its report in
7 in a sufficient amount of time that you can weigh it carefully
8 and, you know, mesh that with your day jobs and with what you're
9 trying to do on the Zoning Commission.

10 COMMISSIONER HOLMAN: So, Ms. McCarthy, are you
11 saying that our setting it down will facilitate your bringing it
12 to resolution?

13 MS. McCARTHY: Not that we can't go forward on that
14 without you setting it down. We just had thought the clock would
15 be continuing to be ticking; that there would be the time between
16 now and whatever time is set down for the public hearing for the
17 developer, who I believe has already begun looking at a redesign
18 of the site, for a new design to come out and for meetings to be
19 held with representatives from the neighborhood an the ANC, and
20 the developer.

21 COMMISSIONER FRANKLIN: I have a
22 question.

23 VICE CHAIR MITTEN: Go ahead.

24 COMMISSIONER FRANKLIN: With all due respect to the
25 language of the regulation, I would hate to have us go through two
hearings on this particular proposal, one to satisfy the waiver

1 issue and another, presumably, to somehow deal with something
2 else, because it seems to me the merits of the proposal are
3 implicated in the first consideration in any event. What would be
4 the result, Ms. McCarthy, if the Commission were to not wish to
5 waive the minimum requirements for a PUD? What would be the
6 posture of the application and the Commission?

7 MS. MCCARTHY: That's been one of the primary
8 issues that we have been wrestling with and the density that we
9 were talking about with the developer on this site that we thought
10 we would be more likely to be able to support would be more in the
11 R-3 range. So, the developer could come back with simply a
12 request for rezoning the site to R-3 and could make a case for
13 that based on the housing opportunity area, generalized land use
14 map and the others as one typically would with a rezoning.

15 Our feeling was that hearing this as a PUD was an
16 advantage to the neighborhood because it gave the Commission the
17 opportunity to do more detailed design review; to take a look at
18 parking and access issues. There are at least one, and it looks
19 like possibly three trees on the site that are substantial mature
20 trees that need some great sensitivity in design and placement of
21 impervious surfaces. And, that all of those issues meant that it
22 would be easier to design a project that responded to some of
23 these difficult constraints if we had the control of a planned
24 unit development, rather than just doing it as a straight
25 rezoning, which would then be a matter of right with the townhouse

1 development.

2 COMMISSIONER FRANKLIN: Thank you. Having heard
3 that I'm inclined to set this down, but again, at a date that
4 would allow some closure, if that's possible, in terms of the
5 views of the Office of Planning and the applicant and the
6 community.

7 VICE CHAIR MITTEN: You know I haven't been here
8 that long, but I guess I would like someone to respond to my
9 concern, which is, okay, we just voted on another case and we set
10 it down and it's sort of like, well, we know we got a lot of work
11 to do, but let's set it down anyway and get the ball rolling.
12 And, the balls have momentum once they start rolling.

13 So, here we are again, you know, everyone
14 acknowledges that there is more work to be done and so on, so I
15 don't understand this sort of urgency about setting things down
16 before they're really ready. And if someone could speak
17 effectively to that, it might alter my views, but at the moment I
18 just don't quite get it.

19 COMMISSIONER PARSONS: Well, I could try that. I
20 think in this case there is extensive community interest in this
21 and opposition and that is, in my view, simply unfair to the
22 community to say that the Zoning Commission is ready to hear this,
23 which implies that it's potentially approved. And, that's the
24 message. Now, you can spin it anyway you want, but that's the
25 message and I think that's absolutely wrong.

1 In the prior case the community at large isn't as
2 interested in that project. That isn't the reason I voted against
3 it, by the way, but I just spent too much time doing a PUD on this
4 five years ago, on the previous case, and know we did a very good
5 job and I don't understand why they want to change that from what
6 they submitted.

7 So, I think it's absolutely wrong to set this down
8 for a hearing. What the word significantly in the OP's report is
9 to the developer it's two units, to the community it's 14. And,
10 that's what's going to go on between now and the hearing. So, I
11 don't think we ought to set it down at all.

12 While I agree with Ms. McCarthy that this should be
13 a PUD, it's too sensitive an area. So, to come back with an R-3
14 zoning is a little bit frightening, too.

15 COMMISSIONER FRANKLIN: Well, I have a different
16 perspective, although I do respect John's long tenure on this
17 Commission. A set down decision is simply to indicate that there
18 is some merit that should be examined in this proposition. It
19 doesn't foreclose major changes by the Commission or by the
20 applicant.

21 It tends to concentrate the minds of everybody to
22 know that there is a date by which certain decisions should be
23 made. It can be very helpful, it seems to me, in concentrating
24 the minds of the applicant, as well as the community, on the need
25 for some compromise. If we don't set it down, then what it means

1 is that this can go on indefinitely. But, that's my view. But,
2 others may differ. We've had set down discussions which, you
3 know, in a couple of cases we just decide not to set something
4 down because it wasn't within our jurisdiction.

5 This kind of consideration is there to see to it
6 that the Commission and the applicants and the community's time
7 isn't wasted on something that has no chance whatever of getting
8 any approval.

9 COMMISSIONER PARSONS: Well, as presented, as far
10 as I'm concerned, it doesn't have any chance.

11 COMMISSIONER FRANKLIN: Well, you're already
12 addressing the merits in some depth when we know it's a moving
13 target, Mr. Parsons. And, I'm just stopping short of that. I'm
14 not even going there. If it is your view that under no
15 circumstances can this ever have any merit, that's one thing, or
16 is not likely to have any merit. I can't come to that conclusion
17 at this juncture.

18 Obviously, there will be differences of opinion in
19 terms of density. There may be differences of opinion as to how
20 the circulation ought to be handled. There may be differences of
21 opinion as to whether this is a project at special merit. There
22 is a prima facie showing that there is a possibility that we will
23 not be wasting our time by setting it down.

24 That's all I think we're involved in at this stage
25 of the game.

1 COMMISSIONER HOLMAN: But, isn't Mr. Parsons saying
2 that the project as currently configured, isn't that what he's
3 speaking to?

4 COMMISSIONER FRANKLIN: Yes.

5 COMMISSIONER HOLMAN: That's what I interpreted and
6 I'm going to leave the rest of my comments for a little bit later.
7 Yes.

8 VICE CHAIR MITTEN: Not too much later, I don't
9 think.

10 COMMISSIONER HOLMAN: No. No, not much later.

11 MS. McCARTHY: The reason that we had recommended a
12 set down, but said it should be a set down with a substantial
13 reduction in density, is because we thought that gave the
14 Commission an opportunity. That was the Office of Planning's
15 feeling about this project and we thought this gave the Zoning
16 Commission a chance to tell the applicant at this stage that that
17 was what they wanted to see as well, and so that it wasn't simply
18 the Office of Planning providing that message to the developer.

19 But, of course, you could in refusing to set it
20 down and saying don't bring it back until it's substantially less
21 dense, you can send that message as well.

22 VICE CHAIR MITTEN: Everybody ready to send
23 whatever message they want to send? Would anyone care to make a
24 motion? All right. I move that we not set case 00-03 down for a
25 hearing at this time.

1 COMMISSIONER PARSONS: Second.

2 VICE CHAIR MITTEN: It's been moved and seconded
3 that we not set case 00-03 down for a hearing at this time. Is
4 there any discussion? All those in favor of not setting this case
5 down for a hearing.

6 MR. BASTIDA: Madam Vice Chair, if you will have
7 the latitude to allow the applicant to speak or not, it's not
8 mandatory by the regulations.

9 CHAIRPERSON HOOD: That is our privilege if we
10 choose to let the applicant speak.

11 MR. BASTIDA: Yes. You have the latitude. So, you
12 have the privilege to do it.

13 CHAIRPERSON HOOD: Let me just say, and if I'm
14 cutting you off, excuse me. But, if we think this will help maybe
15 answer some of the questions that we have put forward in the
16 Office of Planning report and if this could help subdue and make
17 our situation, whether we set it down or not, colleagues, I'm in
18 favor of hearing the applicant. What about you? That's not our
19 normal procedure, but we can always waive.

20 COMMISSIONER PARSONS: Our normal procedure is if
21 we were denying this without a hearing, we would give them a
22 chance to speak. So, not that this is going to set a dangerous
23 precedent, but that's normally when we give the applicant a
24 chance, it's as if we're flat denying the thing on its merit
25 without a hearing.

1 CHAIRPERSON HOOD: Okay.

2 COMMISSIONER PARSONS: So, what we're really doing
3 is sending a message that they go back and work with the community
4 and come back to us at a later time with a revised proposal, and
5 that this one isn't worthy of a hearing. It's on the edge, so I
6 would suggest that we hear from the applicant.

7 CHAIRPERSON HOOD: I'm sorry, Commissioner Parsons.
8 You said you would or would not?

9 COMMISSIONER PARSONS: Would.

10 CHAIRPERSON HOOD: Okay.

11 VICE CHAIR MITTEN: If you would like to come
12 forward and address our concerns, we would appreciate it.

13 MR. FEOLA: Thank you, Madam Vice Chairperson.
14 Phil Feola of Wilkes, Artis, on behalf of the applicant in this
15 matter. And, we've certainly heard all the comments and concerns
16 addressed today, and we support the Office of Planning's position
17 on this, although we haven't seen it in writing, but just from
18 what we've heard.

19 I think the Commission is going to grapple with
20 this issue. It may be the planning issue of this century. You
21 can pick up the newspaper almost everyday and there is an article
22 about smart growth. There was one on Saturday. There was on the
23 Saturday before. The American Planning Journal devoted a whole
24 issue to smart growth and they all say we should, as a society,
25 have more density and built up areas around infrastructures,

1 specifically transit stations.

2 That's not to say that this particular application
3 meets all those standards, but the only way we can, as an
4 applicant, as a property owner, address those with this Commission
5 is at a public hearing. We may be completely all wet. We may
6 have not provided the protections that the rest of the smart
7 growth calls for, but it is the issue that I think you're going to
8 face at this Metro stop and at other Metro stops. And, I think it
9 is an important issue for this community and for the District of
10 Columbia to get their hands around.

11 We've heard the comments about the project should
12 be reduced in density, and we agree. We have agreed with the
13 Office of Planning to do that. We don't see it to be a productive
14 use of time to just leave it open ended. If we came back with
15 some significant reduction and then went through another round of
16 set down or then a hearing, we don't really see the need for it.

17 The planning issues are pretty defined. There is a
18 residential community, as Mr. Parsons said, across Nebraska
19 Avenue. There is a national park adjacent to this site. And,
20 there is a Metro stop within 250 feet, walking distance. Those
21 are the issues. Whether there are 26 condos or 14 townhouses, is
22 really what we have to grapple with, I think, in a public hearing
23 before this body.

24 We, obviously, have been in this process for
25 awhile. We filed the application awhile ago and we would like to

1 move it along. If we come back and it's still too dense and you
2 don't like it or don't like the color of the roofs, it is
3 completely within your discretion to turn it down or to change it
4 some more. But, we would like to get the train moving down the
5 track, not to hold anyone hostage, but to essentially call the
6 question.

7 Let's sit down and try to see if we can come up a
8 product that does all the smart growth stuff that we're reading
9 about and talking about, that maximizes the infrastructure with
10 the grocery store and the pharmacy and the library within a city
11 block of this site and the Metrorail station, and with the
12 concerns of the community and the impact that this development
13 will have and I think not only on this community, but the next
14 Metro stop at Takoma or at Brookland or wherever else there is
15 going to be the next case. Because in our opinion R-1-B zoning on
16 this property, this close to the Metro stop is not appropriate.
17 And, it might should be R-3. It can't be R-3 because your waiver
18 requirements don't allow it, which is interesting.

19 And, by the way you do have precedent, 26th and L,
20 and I gave the order to the Office of Planning. I don't have it
21 with me and I don't remember the number where the Commission
22 waived the residential requirement in the same hearing after they
23 decided that the project had enough merit to go forward. So, that
24 has been the past precedent. It may not be exactly how the rules
25 read, but that's at least what this Commission has done in the

1 past.

2 So, we would urge the Commission to set it down.
3 As Mr. Franklin said, it need not be on the fast track, to get us
4 going to take a look at the planning, environmental and social
5 issues involved with this application. Thank you.

6 COMMISSIONER HOLMAN: Mr. Feola, what would be the
7 detriment to having you work with the community and come towards a
8 resolution and then having us set it down and perhaps moving it
9 even more expeditiously once it has been set down?

10 MR. FEOLA: I think Mr. Franklin said it best. I
11 think everybody works better, we do, applicants do, lawyers do,
12 with a deadline and a hard and fast kind of we've got to meet
13 that. Ultimately, you can come to the hearing and say it's still
14 not enough, everybody go home. But, it give us something to work
15 for and it doesn't put the box around the process and it could be
16 another three months or six months or when we come back.

17 So, essentially, it's a new application as opposed
18 to an amendment to a continuing application. It's time.

19 VICE CHAIR MITTEN: Any other questions for Mr.
20 Feola?

21 MR. FEOLA: Thank you for the opportunity.

22 VICE CHAIR MITTEN: Thank you and I apologize. I'm
23 not up on all the rules.

24 MR. FEOLA: Well, Mr. Parsons was right, but I
25 guess I was thinking that this was -- his interpretation is

1 correct. It is usually when there is a denial. I guess I
2 interpreted the motion to be a denial. That's why I jumped up.

3 VICE CHAIR MITTEN: Sure. I'm glad you did. Thank
4 you.

5 VICE CHAIR MITTEN: All right. We have a motion on
6 the table, on the floor or whatever. Is there any other
7 discussion?

8 CHAIRPERSON HOOD: Yes. I just wanted to, after
9 sitting here and thinking and also hearing from Commissioner
10 Franklin, first I was in opposition of even setting it down. But,
11 the rationale that Commissioner Franklin gave I think was a
12 rationale that we all should take into and take consideration.

13 If that's going to excel with the community; they
14 take care of the density piece and give them an opportunity to
15 come in front of us and make changes or whatever they need to do
16 during the hearing or at the hearing, wherever they have the
17 dialogue, as opposed to having something finite by the time it
18 gets to the hearing. So, I think we may owe them a chance and I'm
19 going to change my position to be in favor, because I hear that
20 this is not on the fast track. My simple opposition was that I
21 like to put the Office of Planning report and weigh the
22 submissions and work with both of them together. So, I just
23 needed more time. But not to delay the process I will be voting
24 along with my colleague, Mr. Franklin.

25 VICE CHAIR MITTEN: Maybe I would just interject

1 something here. I understand what Mr. Franklin said. And I also
2 understand what Mr. Parsons said, which is when we set something
3 down it's what's in front of us. And when we set it down we say,
4 yes, there is a possibility that this would be approved. And, I
5 think that while there is this notion that giving a time certain,
6 you know, gets everybody serious about working towards a
7 compromise, I think that if we find that there is something that
8 has been put before us that we really think we couldn't vote for
9 in its current capacity, then to put the community in a position
10 of having to compromise off of that, sends the wrong message.

11 I think that they shouldn't be having to work with
12 an applicant who is going to compromise off of an extreme position
13 that we don't think is tenable. So, I would just like you to have
14 that perspective as well.

15 COMMISSIONER FRANKLIN: If I could add a word,
16 Madam Vice Chair? I just think that it's not possible in the
17 absence of a full hearing to reach a reasoned judgment as to what
18 the density of this project ought to be and to simply say on the
19 basis of the materials before us, that we have an answer as to how
20 dense this project should be, is to try to convert this particular
21 process into a full-blown assessment of the merits of the project.

22 Somewhere within this project is something that I
23 think is approvable. I don't know what it is and I just don't
24 want to speak in anyway substantively about it, but I've read
25 enough to know that there is a possibility that if we were to

1 approve some kind of housing on this site, that is not single
2 family detached housing, and will have a density that is greater,
3 perhaps, than the density across the street, simply because of the
4 existence of the Metro station and its proximity to shopping and
5 the like.

6 So, to try to assess all of the merits or demerits
7 of the project at this stage of the game -- for example, if we did
8 not set it down, and something came back that some members of the
9 Commission might feel has not compromised the situation enough, it
10 seems to me that then convert that second appearance before us
11 into the equivalent of this one and start assessing all of the
12 merits and all of the pros and cons would be to simply say to
13 people that, you know, the only thing that will be set down for
14 public hearing is something where all the problems have been
15 solved. And, I don't think that that's fair to the citizens of
16 the city.

17 I think we have to expect that there will be an
18 opportunity to have a full-blown public hearing on something that
19 is worthy of our attention and I think a development of this sort,
20 near a Metro station, is worthy of our attention.

21 VICE CHAIR MITTEN: Thank you. Anyone else? Mr.
22 Parsons?

23 COMMISSIONER PARSONS: Well, I don't know how long
24 we can debate this.

25 VICE CHAIR MITTEN: It's only a quarter to

1 3:00.

2 COMMISSIONER PARSONS: Maybe we're not debating it,
3 but normally I would agree with Mr. Franklin. We see many
4 projects that come before us that aren't quite right. But, here
5 we've got a developer who has come forward, the citizens who have
6 come forward and the Office of Planning that come forward that
7 says this project isn't right. So, why should we say, well, it
8 seems all right to us? Nobody in the community will hear the
9 debate that -- well, there are some members of the community here,
10 I suspect, but will understand what we were doing. All I
11 understand is there is a hearing on May 13th on this project.
12 And, I just don't think it's fair. I don't think it's fair to the
13 community and that's enough. I call the question.

14 VICE CHAIR MITTEN: All right. There is a motion
15 that has been and seconded to not set this case down for a
16 hearing.

17 CHAIRPERSON HOOD: I still have some unreadiness if
18 that's in order. I just want to comment on what Commissioner
19 Parsons -- I thought the reason, and forgive me if I didn't hear
20 it, but I thought that the reason for the -- from what I gather
21 from, I guess OP, was that once we sat it down they were going to
22 go back and work out some of the issues or try to work out or
23 reasoning with the community and the folks involved within that
24 jurisdiction or that area. That's why I had changed my mind to
25 begin with, so that series of events could start and move forward.

1 So, if I'm incorrect on that, then I need to go
2 back where I was.

3 VICE CHAIR MITTEN: I don't think you're incorrect
4 about that. It's not that there won't be further discussion.
5 Unless somebody else has something to say about that, I think
6 there will be further discussions regardless of whether we set it
7 down or we don't. So, you're not incorrect about that.

8 CHAIRPERSON HOOD: Okay.

9 VICE CHAIR MITTEN: And, Mr. Parsons had called the
10 question, but since you didn't hear it, that's why. Okay. All
11 those in favor of not setting case number 00-03 down for a hearing
12 please say aye. All those opposed please say aye. Will the staff
13 record the vote?

14 MR. BASTIDA: The staff would record the vote to
15 hear it 2 to 3. Ms. Mitten and Mr. Parsons not hear. Mr. Holman,
16 Mr. Hood and Mr. Franklin oppose.

17 VICE CHAIR MITTEN: All right. Thank you. So,
18 this case will be set down for a hearing.

19 MR. BASTIDA: Well, the motion would have to be
20 made and approved.

21 VICE CHAIR MITTEN: Oh, yes, right. Okay. Sorry.
22 Is your hearing getting any better, Mr. Hood?

23 CHAIRPERSON HOOD: Worse.

24 VICE CHAIR MITTEN: All right. Would someone like
25 to make an alternative motion?

1 COMMISSIONER FRANKLIN: I move we set down the
2 application for Commission case number 00-03 for a hearing.

3 VICE CHAIR MITTEN: Is there a second?

4 CHAIRPERSON HOOD: To set down?

5 VICE CHAIR MITTEN: Yes.

6 CHAIRPERSON HOOD: I second.

7 COMMISSIONER PARSONS: Let me offer a compromise,
8 that we set this down for a date certain and that the applicant
9 must submit at one of our regularly scheduled meetings ahead of
10 that with an Office of Planning report the results of the
11 deliberations and that we reserve the right to postpone that
12 hearing at that meeting.

13 What I don't want to happen is what I see will
14 happen. We'll get the drawings soaking wet because they just came
15 out of the printer the night of the hearing; a lot of confusion in
16 the community as to how many units there are and changes that have
17 been made. I've been through this too many times. The ANC hasn't
18 had a chance to meet because they changed the plans the night
19 before. It's a compromise I'm offering that we put a date
20 certain, but at the prior monthly meeting we have an opportunity
21 to review it and make sure things are in order.

22 VICE CHAIR MITTEN: Mr. Franklin, are you amenable
23 to that sort of modification to your motion?

24 COMMISSIONER FRANKLIN: I didn't hear a second to
25 my motion.

1 VICE CHAIR MITTEN: Mr. Hood seconded your motion.

2 COMMISSIONER FRANKLIN: Oh, he did? Okay. My
3 hearing is not very good.

4 VICE CHAIR MITTEN: It's contagious.

5 COMMISSIONER FRANKLIN: Oh, I don't know. I think
6 John is imagining -- I think I would rather, John, if we run into
7 that kind of issue, address it at the time. You know, there is
8 nothing about holding a hearing that forces the Commission's hand
9 to do anything. All we're doing is holding a hearing. We won't
10 even decide the matter until sometime subsequent to the hearing.
11 We may want to, as a result of the hearing, ask the applicant to
12 do something. We might want to keep the record open. All kinds
13 of possibilities exist. So, to I think suggest that there will be
14 a chamber of horrors resulting from simply the set down is really
15 premature.

16 I appreciate your effort to try to reach some kind
17 of compromise, but I don't think that we should imagine
18 difficulties of this sort and if they do arise we can deal with
19 them.

20 CHAIRPERSON HOOD: Commissioner Franklin, I know
21 I'm not the maker of the motion, but I would be inclined to agree
22 with Commissioner Parsons, because one of the things that concerns
23 me is and I think I heard him correctly, he said the ANCs would
24 get it a day or two before and we're running here with fresh off
25 the press and then that will show me that the deliberations have

1 not taken place. There is no compromise. No one has tried to
2 work to come to common ground and then we'll have a hearing and
3 waste our time. So, I just see that as being good, but then again
4 I'm not the maker of the motion.

5 COMMISSIONER PARSONS: Well, my point, Mr. Hood,
6 was simple that if we discover that there has been some flaw in
7 the process that we're unhappy about, at anytime we can decide to
8 postpone anything that we've scheduled.

9 CHAIRPERSON HOOD: But, how would we find out? How
10 would we know without a scheduled status report or something of
11 that nature?

12 COMMISSIONER PARSONS: Well, I would hope that if
13 we set this down for a hearing on a date certain, that the Office
14 of Planning as a result of having heard this discussion will
15 report to us if there some flaw in the way in which these
16 discussions are taking place, if people haven't been properly
17 notified or whatever it happens to be. When we set it down for a
18 hearing we'll get another report from the Office of Planning and
19 if the Office of Planning feels that for whatever reason the
20 matter is not ripe for us to hold a hearing, we'll postpone the
21 hearing. But, this can go on, you know, without end if we don't
22 have some kind of date certain for everybody to sort of plan their
23 efforts toward.

24 CHAIRPERSON HOOD: I don't want to belabor the
25 point, but if we set it down now, without taking it up at another

1 meeting and dealing with some of the issues, the next time we will
2 have time to deal with it we'll be at the hearing. So, I don't
3 see anywhere in between where we call a hearing off. That's just
4 one of my concerns. So, I would be inclined to think that Mr.
5 Parsons' suggestion would be for the best interest of all of us
6 saving our time.

7 COMMISSIONER FRANKLIN: Well, perhaps he ought to
8 repeat his suggestion.

9 CHAIRPERSON HOOD: Since we're not agreeing,
10 Commissioner Franklin, I didn't exactly hear you.

11 COMMISSIONER FRANKLIN: My short term memory being
12 what it is, John, could you repeat your suggestion?

13 COMMISSIONER PARSONS: The idea is to set it down
14 for a date certain, April 27th or something and then we would
15 consider whether it was ripe for a hearing at our April meeting.
16 I shouldn't pick a date, but it's just there for example. Rather
17 than getting the entire community down here to see that on the
18 night of the hearing that the whole is not coming together. And,
19 then we send everybody home.

20 COMMISSIONER FRANKLIN: I don't have any problem
21 with that. I would then set it down for a date certain subsequent
22 to April certainly, to give enough time for all this to be done.
23 And, if the Office of Planning reports to us that for some reason
24 or the other it's not ripe, we just won't go forward with the
25 hearing. But, I would want to set it far enough ahead of time so

1 that there is enough time. I'll accept that as useful.

2 COMMISSIONER HOLMAN: Wonderful.

3 VICE CHAIR MITTEN: That's so great.

4 CHAIRPERSON HOOD: That was the motion I was
5 looking for and couldn't quite articulate and we had so many other
6 motions on the floor, but that's where I would like to go.

7 VICE CHAIR MITTEN: All right. So, Mr. Franklin,
8 you accept Mr. Parsons' amendment to your motion?

9 COMMISSIONER FRANKLIN: Yes.

10 VICE CHAIR MITTEN: And, Mr. Hood, do you accept
11 that amendment as the seconder?

12 CHAIRPERSON HOOD: Yes.

13 VICE CHAIR MITTEN: All right. The motion that we
14 have before us as amended is to set this case, 00-03, down for a
15 hearing on a date certain at our regular monthly meeting. Prior
16 to the hearing date we will review a status report on the case to
17 decide if the hearing that has been scheduled should go forward.
18 Any other discussion? All those in favor please say aye.
19 Opposed.

20 VICE CHAIR MITTEN: Will the staff please record
21 the vote?

22 MR. BASTIDA: Yes, Madam Vice Chair. Did you vote
23 yes or no?

24 VICE CHAIR MITTEN: I voted yes.

25 MR. BASTIDA: Okay. Thank you. The staff would

1 record the vote to set it down with a date certain 4 to 1, Mr.
2 Franklin making the offer; Mr. Hood seconded it. Mr. Holman and
3 Ms. Mitten voting to approve. Mr. Parsons is opposed to it.

4 VICE CHAIR MITTEN: Okay.

5 MR. BASTIDA: Do you want to discuss the date
6 certain now or would you rather.

7 VICE CHAIR MITTEN: I think we better do that in
8 conjunction with the Office of Planning at a later time.

9 MR. BASTIDA: Okay. Fine. Thank you.

10 COMMISSIONER FRANKLIN: I was impressed with Mr.
11 Parsons' compromise and then he didn't vote for it, so I'm
12 beginning to doubt what has passed.

13 VICE CHAIR MITTEN: I think he snookered you.

14 COMMISSIONER PARSONS: Thank you for that
15 observation.

16 VICE CHAIR MITTEN: All right. Under Proposed
17 Action we have 99-05C, Ft. Lincoln/Premium Distributors. We had a
18 public hearing on this matter and some additional information was
19 provided in your packet. We also have draft findings of fact and
20 conclusions of law from the applicant. Is there anyone who would
21 like to begin discussion on this case?

22 COMMISSIONER PARSONS: Well, yes. I think the
23 applicant has responded positively to all of our suggestions. I'm
24 ready to vote affirmatively on this.

25 CHAIRPERSON HOOD: I also wanted to add that I

1 think they have covered all the material which we asked for.
2 Well, I will mention, though, I was looking for an agreement about
3 the preparing of the roles, but I think it is sufficient enough
4 that it's in the record that I don't think we necessarily -- I
5 probably can't be in agreement between public works and the
6 applicant, so I think it's sufficient enough and I'm ready to move
7 forward and vote affirmatively, too.

8 VICE CHAIR MITTEN: Mr. Hood, were you speaking
9 regarding the agreement to maintain the streets that have not yet
10 been dedicated?

11 CHAIRPERSON HOOD: Yes, I was.

12 VICE CHAIR MITTEN: I believe that's in Exhibit C
13 of the supplemental materials.

14 CHAIRPERSON HOOD: And, I think I saw that, but I
15 was looking for more of an agreement.

16 VICE CHAIR MITTEN: Oh, I see.

17 CHAIRPERSON HOOD: That's just a statement, but
18 it's in the record, so I'm satisfied with it.

19 VICE CHAIR MITTEN: True. All right. Any other
20 comments?

21 COMMISSIONER FRANKLIN: Just a minor comment on the
22 proposed findings of fact and conclusions of law and it's very
23 minor. Page 11, paragraph number 30, I would like to see the word
24 enthusiastically stricken from the paragraph. We don't normally
25 characterize testimony or letters. So, it's in reference to

1 Robert King's, he's testified enthusiastically.

2 VICE CHAIR MITTEN: Right. Just for my
3 clarification, we're not voting on the specific findings of fact.

4 We're voting on the case itself, right? This has just been
5 offered to us by the applicant. Is that correct?

6 MR. BASTIDA: That is correct. You are generally
7 agreeing with the concept of them.

8 VICE CHAIR MITTEN: All right.

9 MR. BASTIDA: Not with the strict language of it.

10 VICE CHAIR MITTEN: All right. Great.

11 COMMISSIONER PARSONS: But, we will have the
12 opportunity to go through this if we want to make any changes.

13 VICE CHAIR MITTEN: Oh, absolutely. Yes.

14 MR. BASTIDA: Yes. So, the final action you will
15 have the opportunity to go through the exact wording that the
16 order would reflect.

17 MS. KRESS: But, it would be helpful today if there
18 is anything, because this will be used as the basis, if there is
19 anything here, especially of essence, that you agree or disagree
20 with, it would be helpful to note.

21 VICE CHAIR MITTEN: Would you like us to do that on
22 the record, or just to hand that in separately for the draft that
23 comes out of the staff here?

24 MS. KRESS: Typically it has been on the record.

25 VICE CHAIR MITTEN: All right.

1 MS. KRESS: Whatever you wish, Madam Vice Chair.

2 VICE CHAIR MITTEN: All right. Any other comments
3 regarding the language of the draft findings of fact that we have
4 before us? All right.

5 COMMISSIONER PARSONS: I do on page 17, number 9.
6 So, there is no confusion, this pipe that we were speaking about,
7 that they're going to maintain, discharges into the Anacostia
8 River in Prince Georges County. So, although it may seem like a
9 small matter, we're not expecting a pipe to come through the
10 District of Columbia, Eastern Avenue. So, I think to be accurate
11 it should say on line 5, "from the pipe to the Anacostia River in
12 Prince Georges County.

13 VICE CHAIR MITTEN: So, that's an addition?

14 COMMISSIONER PARSONS: Yes.

15 VICE CHAIR MITTEN: Okay.

16 COMMISSIONER PARSONS: I guess it should say Prince
17 Georges County, Maryland.

18 VICE CHAIR MITTEN: Okay. Anything else? Well, I
19 guess I would just like to say that while there is sort of this
20 sterile review that take place of applications like this, I just
21 noted that there is a tremendous amount of good will between the
22 community and Premium Distributors and I think that's going to
23 carry this project forward in the long term, you know, in setting
24 up a good relationship for this business and I hope that it will
25 serve as a model for other businesses in the District of Columbia.

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And, with that I would accept a motion.

CHAIRPERSON HOOD: I make a motion that we approve 99-05C, the PUD and map amendment of Ft. Lincoln/Premium Distributors.

COMMISSIONER HOLMAN: Second.

VICE CHAIR MITTEN: It's been moved and seconded that we approve the PUD and map amendment for Ft. Lincoln/Premium Distributors, which is case number 99-05C. Any other discussion? All those in favor please say aye. Opposed. Will the staff record the vote?

MR. BASTIDA: The staff would record the vote 5 to 0. Mr. Hood moved it and Mr. Holman seconded it.

VICE CHAIR MITTEN: Thank you. Now we have before us for Proposed Action case number 99-06M, which is a PUD modification and map amendment for 901 New York Avenue. In our packet we have proposed findings of fact and conclusions of law and we also have additional submissions that were requested from the applicant at our January public hearing.

Could I ask Mr. Franklin to begin the discussion?

COMMISSIONER FRANKLIN: I'm honored. I'm going to come back, Madam Vice Chair, to the matter that preoccupied me at the time of the hearing and that is where are we with regard to the National Park Service Reservation in front of the building? There seems to be some indication of continuing discussions on

1 that subject, but the Office of Planning's memorandum, dated
2 February 18th does not address it. And, the materials before us
3 indicate that there are some correspondence, but when you look at
4 the plans that are before us, landscape plan, there is sort of a
5 vacancy at that point, surrounded by a three foot high wrought
6 iron fence. Perhaps Mr. Parsons knows more about this. Or maybe
7 not. I don't know.

8 COMMISSIONER PARSONS: I have no first hand
9 knowledge. In looking at this, what's been -- I know that the
10 concern of the concern of the Park Service has been is that this
11 is a potential site for a memorial. Not that they're looking at
12 one at the moment, but anything that would enhance the space, that
13 would appear to be a part of this project or a part of the
14 restaurant or call out for tables and chairs and those kinds of
15 things to be placed here is a step in the wrong direction as far
16 as they're concerned.

17 So, it appears as though they've removed the
18 walkways and have gone to a lawn configuration. I'm not defending
19 it, but I just explain that there is a change, as you know, or
20 maybe you don't know.

21 COMMISSIONER FRANKLIN: No, I do recognize it as a
22 change from what we had looked at before. It seems to me to be
23 singularly unimaginative and I'm kind of at a loss to know what to
24 do about it. I don't want to hold up this project because this
25 particular facet of it is not in the hands of creative designers,

1 but it is too bad that a key site like that is not -- that we're
2 not getting something presented to us that really we can -- at
3 least I can feel is worthy of the site.

4 MR. COCHRAN: Madam Vice Chair, would it be
5 appropriate for the Office to address that?

6 COMMISSIONER FRANKLIN: I would like to hear from
7 you.

8 MR. COCHRAN: As you can see from our February 18th
9 memo there were a number of issues that were still in need of
10 additional treatment. However, the record was left open only for
11 the Office of Planning to comment on the awnings. That doesn't
12 mean that we didn't work on the rest. So, I am familiar with some
13 of these, but we couldn't actually write about it or it wouldn't
14 have been accepted.

15 The applicant did continue to work with the
16 National Park Service on this and I think in very good faith and
17 the applicant understands completely the urban design issues that
18 the Office of Planning had raised and attempted to meet those
19 issues.

20 I think though that what we're faced with is a
21 situation where different agencies are dealing with different
22 missions. And, the National Park Service is trying to preserve
23 these reservations as distinct elements that would frame a L'Efant
24 Square and frame them with the idea in mind that they would become
25 future memorial sites.

1 effect that that point of the block and the building is a, you
2 know, a focal point and have it sort of dribble off into a lawn
3 surrounded by a three foot wrought iron fence just seems to me to
4 be also laughable if it weren't so sad. And, I don't know quite
5 what to do about it, other than to express my disappointment. So,
6 let's move on. And, I would hope that the Office of Planning can
7 sort of pick up the cudgel on this. If anything, it's worse than
8 it was when we looked at it the first time around, in my judgment.

9

10 I would like to hear from the Office of Planning as
11 to whether the awning examples that were being shown in the
12 renderings would be such as to satisfy the language that you think
13 ought to be put into the PUD order.

14 MR. COCHRAN: It's my understanding that you review
15 orders twice because you'll be looking at more details later, that
16 this is much more of a conceptual approval. The language that we
17 came up with, that the applicant agreed to is very brief. Well,
18 you've see it in the February 18th memo.

19 COMMISSIONER FRANKLIN: Yes. But, is the language
20 being put in, Mr. Cochran, because what we're being shown is not
21 acceptable or is it acceptable?

22 MR. COCHRAN: What you're being shown, the date of
23 which document?

24 COMMISSIONER FRANKLIN: We're being shown this
25 rendering, signage and awnings, et cetera. In your view are we

1 being shown something that would accord the standard --

2 MR. COCHRAN: That would accord and there would
3 even be a bit more variety allow than that, but that's
4 representative of what we would hope would be there. Multiple
5 colors would be allowed. Different patterns would be allowed, but
6 logos would not be acceptable, except on the sign band. And, we
7 were trying to keep the design at a fairly sophisticated level,
8 which is why we thought we would avoid the scallops and perhaps I
9 should have included fringe in that language.

10 VICE CHAIR MITTEN: I think fringe is mentioned.

11 MR. COCHRAN: Did I put it? Well, what do you
12 know? I guess it was a better day then. I was more awake than I
13 thought. Yes, what you see in the application is very much like
14 what we had imagined the applicant would design.

15 Now, in terms of pattern, it does also allow for
16 diagonal pattern. I just want you to be aware of that and whoever
17 uses the retail space is clever enough to come up with a pattern
18 that reflects their, in effect team colors, that would be allowed
19 also, but it would be able to say T.G.I. Friday's or anything like
20 that. Because we certainly hope it's going to be more like D.C.
21 Coast than T.G.I. Friday's.

22 COMMISSIONER FRANKLIN: There was also,
23 Mr. Cochran, I thought I saw something, I can't put my hands on it
24 at the moment, that stated the uses that would go in on the ground
25 floor and made reference to the zoning regulations.

1 MR. COCHRAN: Yes. The applicant sought
2 clarification that the retail uses would be those that are
3 permissible in the DD and we felt that that would be the
4 appropriate --

5 COMMISSIONER FRANKLIN: Okay. I didn't have my
6 regulations handy to cross check them, but the Office of Planning
7 would endorse that?

8 MR. COCHRAN: Yes. For a change we are going with
9 the concept of simplification.

10 COMMISSIONER FRANKLIN: Now, on the design of the
11 loading dock, I don't have in front of me the earlier renderings
12 of the loading dock doors. Is it your view, the Office of
13 Planning, that the redesign would avoid the adverse effects that
14 were noted?

15 MR. COCHRAN: The redesign is actually better than
16 what you're looking at right now. Originally the applicant had
17 been proposing that the shadow would be cast by a projection, a
18 horizontal canape. What we've come up with is an attempt to keep
19 the same rhythm that you have in the bays that would be occurred
20 by retail or entrance space and this would be accomplished
21 primarily through paint colors and you would see that same banding
22 -- excuse me, I shouldn't have said rhythm, but banding going on
23 inside, as well as outside the structure.

24 COMMISSIONER FRANKLIN: So, the drawing that we're
25 looking at has been superseded or the rendering? You say it's

1 been improved beyond what we're looking at here?

2 MR. COCHRAN: That's correct.

3 COMMISSIONER FRANKLIN: All right. This is the one
4 that we were given.

5 VICE CHAIR MITTEN: I think his concern is that
6 there is something better that we haven't seen, it's actually
7 better than what we're even looking at.

8 MR. COCHRAN: It's represented, but it's been
9 improved.

10 COMMISSIONER FRANKLIN: Is that it? These are not
11 numbered, unfortunately, these drawings, Exhibit 4 in the
12 materials.

13 MR. COCHRAN: Mr. Franklin, what you are looking at
14 is the latest.

15 COMMISSIONER FRANKLIN: It is the latest?

16 MR. COCHRAN: I fault my contact lenses.

17 COMMISSIONER FRANKLIN: Okay. Well, I defer to my
18 colleague, Mr. Parsons, who raised the issue in the beginning.
19 Are you satisfied by this?

20 COMMISSIONER PARSONS: There appears to be no
21 change between the one I just passed down and the one that you're
22 looking at, except for the color. Maybe I'm missing something.
23 If there is any difference it's the treatment at the base of the
24 windows above the loading dock, which appear to have louvers in
25 them the last time and now are solid.

1 VICE CHAIR MITTEN: How does that strike you, Mr.
2 Parsons?

3 COMMISSIONER PARSONS: Well, I guess my
4 recollection is we were more interested in the interior when the
5 doors are open. And, that's one handsome loading dock.

6 COMMISSIONER FRANKLIN: It's improved by the --

7 COMMISSIONER PARSONS: There is no dumpster. There
8 is no nothing.

9 COMMISSIONER FRANKLIN: There is no truck.

10 MR. COCHRAN: The trucks will also have to follow
11 the same color banding pattern upon deliverance. The applicant
12 had actually explored other ways of making the doors, when closed,
13 pick up the rhythms of the rest of the building and we felt upon
14 looking at them that they just became too busy when they tried to
15 emphasis the vertical elements, rather than the horizontal
16 elements, which is why what you're seeing is fairly simple. When
17 they started looking at the vertical elements it just became too
18 busy and you wound up drawing too much attention to an element
19 that was not necessarily the highlight of the architectural design
20 of the building.

21 COMMISSIONER FRANKLIN: I'm a little confused, I
22 must say, by the second drawing in Exhibit 4, where you have one
23 door down and two doors up. Maybe I'm not reading it properly,
24 but the doors that are up, has this door disappeared into
25 something? I don't know what I'm seeing at the top of the loading

1 dock. It doesn't exist, you know, whatever is shown at the top of
2 the loading dock doesn't exist at the opening that's closed and is
3 that because the door sort of disappears or something? If it
4 does, it's not clear what it disappears into.

5 MR. COCHRAN: It is a roll-up door.

6 COMMISSIONER FRANKLIN: Yes, I assumed.

7 MR. COCHRAN: And, I'm just assuming that the roll-
8 up occurs beyond the plane of the facade, inside the plane of the
9 facade.

10 COMMISSIONER FRANKLIN: Well, there seems to be a -

11 -

12 MR. COCHRAN: I am only guessing, but I would
13 assume that what you're seeing that looks like the area where the
14 roll-up occurs is in fact a lowered ceiling. But, I would have to
15 defer to the applicant or architect on that.

16 COMMISSIONER FRANKLIN: Well, I think generally
17 speaking we also spoke of having those doors down at all times
18 when they needn't be raised to accept deliveries, so that the
19 interior, which has been dressed up, you know, is probably not
20 going to be visible when there are trucks there. So, it's really
21 how the doors look when they're rolled down that probably just as
22 important. As I say, I defer to my colleague, Mr. Parsons, on
23 this.

24 COMMISSIONER PARSONS: Would you agree that the
25 doors are a different technique, worth trying in the city, the

1 three colored doors? That is the panel that matches the awnings,
2 if you will.

3 COMMISSIONER FRANKLIN: I guess I would have no
4 objection, because if it doesn't work it can be repainted.

5 COMMISSIONER PARSONS: Yes, right. But, I think
6 that's a good idea that they came up with.

7 MR. COCHRAN: That's exactly what we tried to
8 achieve with the water table, if you want to call it that or the
9 base, and then the natural, unpainted area, matching where the
10 windows would be and then a darker color where the canapes,
11 awnings would be.

12 COMMISSIONER PARSONS: Now, have you got pretty
13 specific plans for inside the loading dock to know that there
14 won't be florescent lighting or other lightening? I mean is this
15 going to be it?

16 MR. COCHRAN: That's all I've seen.

17 COMMISSIONER PARSONS: All right.

18 MR. COCHRAN: I remember in the hearing mention was
19 made of how nice the entrance to Washington Square looks with some
20 of the neon there, but I think that was just a passing reference,
21 not anything that was going to be required.

22 VICE CHAIR MITTEN: Any other concerns?

23 CHAIRPERSON HOOD: My only other concern, again,
24 back to the loading dock, and I don't know if we brought this up
25 during the hearing. The safety issue for the pedestrians. I

1 notice that some loading docks, when trucks pull out, there is
2 like a bell or whistle, that type of arrangement to let people
3 know when those trucks are going to be pulling out. I don't know
4 whether we addressed that or whether it is in our purview, but I
5 believe that that's something that hopefully by final action that
6 will be address.

7 COMMISSIONER FRANKLIN: I do recall, Mr. Hood, that
8 I think there is a DPW requirement.

9 CHAIRPERSON HOOD: Okay.

10 COMMISSIONER FRANKLIN: When there is a curb cut
11 like that and a dock that there be a bell and a light that flashes
12 before the vehicles are permitted to leave the opening.

13 CHAIRPERSON HOOD: Okay. So, that's required.

14 COMMISSIONER FRANKLIN: I believe so and although
15 it is not shown on the rendering, the light that has to flash.

16 CHAIRPERSON HOOD: Now, I bring that up because one
17 of the drawings, you see the pedestrian is going by and nine times
18 out of 10 those doors are not really going to be down. They're
19 going to be up.

20 COMMISSIONER FRANKLIN: Right.

21 CHAIRPERSON HOOD: And, I think we want to, you
22 know, maybe bring that to the attention of the applicant.

23 MR. COCHRAN: I'll consult with the residents
24 across from the Hilton Hotel to see what the practice is.

25 CHAIRPERSON HOOD: Oh, okay.

1 VICE CHAIR MITTEN: Any other comments? I guess I
2 would just like to interject two things and maybe I just want to
3 share the similar sorts of concerns that Mr. Franklin did, which
4 is not to suggest that I'm not in favor of this application, but
5 just things that were raised in the context of this case.

6 Two things, one is that everybody that testified,
7 folks from the community, the applicant, the Office of Planning,
8 all indicated that this would be a great site for a hotel. And,
9 the only thing that's holding it up is the fact that the city is
10 not prepared to offer the kinds of incentives necessary to make
11 this a convention hotel. And, I guess I just wanted to say on the
12 record that it saddens me that one of the better sites, more
13 appropriate sites for a convention hotel is probably going to be
14 developed with an office building, when if the incentives were
15 made available it could be a hotel and everyone endorsed that as
16 the potential use of this property.

17 The other thing that came up in the case was that
18 given that the original PUD had been approved many years ago, the
19 point of departure for the current discussions was the original
20 zoning of the site, as opposed to the zoning that was indicated by
21 a series of changes that had taken place and while I don't mean to
22 penalize this applicant for the fact that they were having
23 discussions with the Office of Planning based on the original
24 zoning, I would urge you to rethink your police about how you hold
25 the underlying zoning of these site, given that changes have been

1 made to the zoning of the surrounding area, going forward.

2 So, any other comments?

3 COMMISSIONER FRANKLIN: I would like to, for the
4 record, associate myself with your remarks regarding the city's
5 failure to provide the financing for a hotel on this site. I
6 agree that this would have been really a very appropriate site.
7 It would have brought a lot of vitality to the area if it were a
8 hotel and it seems to me the city should have seen that.

9 With respect to your comments on the applicable
10 zoning under circumstances like this, as my colleagues know, I
11 have been much less patient with PUDs that don't go forward than a
12 lot of my colleagues. And, it seems to me that we get into these
13 kinds of puzzles when we have what I would all stale PUDs that
14 hang around for years and never develop. And, I will repeat the
15 notice I've given before, that a period of economic prosperity
16 that is unique in the history of this country, I'm going to look
17 very carefully at PUDs who come before this Commission and say
18 that, I'm sorry, we want an extension because we haven't been able
19 to get financing.

20 That excuse might have been valid during the '80s
21 and the early '90s, but it certainly has not been valid in the
22 latter part of the '90s and today.

23 VICE CHAIR MITTEN: Thank you, Mr. Franklin. Do I
24 hear a motion to approve application number 99-06M, PUD
25 modification and map amendment for 901 New York Avenue?

1 CHAIRPERSON HOOD: So moved.

2 COMMISSIONER PARSONS: Second.

3 VICE CHAIR MITTEN: Any other discussion?

4 COMMISSIONER FRANKLIN: Could I make the
5 suggestion, Madam Vice Chair, I would like to leave the NPS site
6 open for us to take a look at when the parties get together, so
7 that we can have a chance to pass on it again? Will that be
8 legal, I guess is the word?

9 MR. BASTIDA: Mr. Franklin, if you requested prior
10 to the final action it would be totally legal.

11 COMMISSIONER FRANKLIN: Yes. Okay. So, if my
12 colleagues are willing to do that, I would like to suggest it so
13 we just don't let it go.

14 MR. BASTIDA: So, it would have to be submitted
15 this office by Friday, April the 7th, so you can have it on your
16 meeting on the 10th, which is, I'm hoping, we can have the final
17 action at that time.

18 COMMISSIONER HOLMAN: That's fine with me.

19 COMMISSIONER FRANKLIN: Yes, since it hasn't really
20 been presented to us in its present submittal.

21 VICE CHAIR MITTEN: Well, I guess maybe if we just
22 planned ahead, given that there has been, you know, this sort of
23 ongoing discussion and yet no finality has been reached with the
24 National Park Service. What do you propose to do if the final
25 agreement is not available when we're ready to take final action

1 or just cross that bridge when we get there?

2 COMMISSIONER FRANKLIN: Well, I think the PUD order
3 could say that the final design will be submitted to the
4 Commission for its approval.

5 VICE CHAIR MITTEN: Okay.

6 COMMISSIONER FRANKLIN: Unless the staff as any
7 problem with that.

8 VICE CHAIR MITTEN: Mr. Bastida, is that possible
9 to do?

10 MR. BASTIDA: I am not sure, Madam Vice Chair, but
11 I will research that. I would have an answer for you prior to the
12 next meeting or I would communicate to you via the telephone. I
13 have to check with the corporation counsel, because after final
14 approval I don't know if the Commission then can go back to look
15 at something that you already have approved and especially when it
16 is not part of the PUD land. It's outside the PUD.

17 VICE CHAIR MITTEN: Okay.

18 COMMISSIONER FRANKLIN: It's an amenity.

19 MR. BASTIDA: It is an amenity. You are correct,
20 but I'm not saying that I am sure one way or another, but I will
21 check on that. I will get back to you and if you want I can do it
22 on the telephone. I can get back to you by Friday.

23 COMMISSIONER FRANKLIN: Thank you.

24 MR. BASTIDA: Thank you.

25 COMMISSIONER PARSONS: Madam Chair, Mr. Franklin, I

1 think it would be helpful if you could give some indication of
2 what you feel should be done with this space, paved over with
3 planting beds in it; sculpture; what comes to mind?

4 COMMISSIONER FRANKLIN: Well, what comes to mind
5 actually is more hardscape than greenery that would maybe within
6 the paving emphasize the punctuation. I'm not a designer. I'm
7 giving you my legal opinion.

8 COMMISSIONER PARSONS: That's why I asked.

9 COMMISSIONER FRANKLIN: That's why I'm very
10 diffident about proposal solutions.

11 COMMISSIONER PARSONS: All right.

12 COMMISSIONER FRANKLIN: But, I do know that what we
13 have before us is -- I think I could come up with a better design
14 other than what we have before us.

15 COMMISSIONER PARSONS: I'll not ask you to do that.

16 COMMISSIONER FRANKLIN: Okay. Good.

17 COMMISSIONER PARSONS: I would also like to make
18 mention of the fact that I thought the north side of the building,
19 the additional landscaping, seating areas outside on the sidewalk,
20 have been a vast improvement and since we asked for it, I thought
21 we should mention that.

22 VICE CHAIR MITTEN: All right. So, if we were to
23 amend the motion to include Mr. Franklin's suggestion, the motion
24 would include that we would receive by April 7th submittal of the
25 final agreement with the National Park Service, if it's available.

1 Is that a correct representation, Mr. Franklin?

2 COMMISSIONER FRANKLIN: Yes.

3 VICE CHAIR MITTEN: And, who made the motion? Was
4 it Mr. Holman? Did you make the motion?

5 COMMISSIONER HOLMAN: Yes.

6 VICE CHAIR MITTEN: Do you accept that as a
7 friendly amendment?

8 COMMISSIONER HOLMAN: Yes.

9 VICE CHAIR MITTEN: All right. And, Mr. Parsons,
10 do you accept that as a second?

11 COMMISSIONER PARSONS: Mr. Hood.

12 VICE CHAIR MITTEN: Oh, Mr. Hood. Okay.

13 COMMISSIONER PARSONS: Did I say that?

14 CHAIRPERSON HOOD: Yes, Mr. Parsons, you did.

15 COMMISSIONER PARSONS: You know by 5:00 we're all
16 going to be deaf. I can't even hear myself. The seconder agrees
17 to that amendment.

18 VICE CHAIR MITTEN: Terrific. Any other
19 discussion? All right. All those in favor of approving the PUD
20 modification and map amendment for 901 New York Avenue, case 99-
21 06M, with the amendment that the agreement with the National Park
22 Service regarding the landscaping for the reservation will be
23 submitted to the zoning commission by April 7th for consideration
24 when we vote on final action, all those in favor, please state
25 aye. Opposed. Will the staff record the vote?

1 MR. BASTIDA: The staff would record the vote 5 to
2 0, Mr. Holman moving the motion; Mr. Parsons seconded it and
3 everybody voting on the affirmative. Thank you

4 VICE CHAIR MITTEN: Thank you.

5 MR. BASTIDA: Madam Vice Chair, We have in the
6 audience our paid consultants to present you the zoning map that
7 we're working on. I would like to have the leeway to move through
8 the agenda rather quickly to come to a conclusion if you allow me
9 to do so.

10 VICE CHAIR MITTEN: Mr. Bastida, it has been
11 suggested to me that perhaps we would go back and take the Office
12 of Planning status report at this time and then proceed as you've
13 suggested, if that's amenable to you.

14 MR. BASTIDA: But of course.

15 VICE CHAIR MITTEN: Terrific. Is the Office of
16 Planning prepared to give us the status report?

17 MS. MCCARTHY: We are, Madam Vice Chair, and we're
18 prepared to do that very briefly. You have the report before you,
19 so I won't go into it in much detail. The two major items that
20 there has been action on since our last meeting related to the
21 request for transfers of development rates to be re-examined. As
22 you know you postponed the Summit Properties case until April 13th
23 to permit a review of that and the Office of Planning is in the
24 process of contracting out with a consultant to help us do a
25 really thorough analysis of transfers of development rates.

1 We're also in the final stages working with the
2 downtown house task force. The task force has made semi-final
3 recommendations. They've been forwarded to the Deputy Mayor for
4 Economic Development to assess the economic feasibility and
5 advisability of some of those, like tax abatement and changes in
6 the combined lot transfers and so that is tracking well for that
7 to be finalized and at the same time to have our analysis of
8 transfers of development rates so that the Commission, when we
9 come back to the Commission on April 13th we can really take a
10 comprehensive look at all of the various incentives that are or
11 can be in place to provide incentives for preferred development,
12 so that we don't simply, as we did before, have to look at TDR to
13 accomplish everything we needed to do with regard to providing
14 incentives for preferred developments.

15 So, I just wanted to report to you that we are
16 moving forward on that and we expect to be on time with our report
17 for the April 13th hearing.

18 The second issue is with regard to the case with
19 regard to Woodward and Lothrop. As you know we had a hearing
20 scheduled on that last Thursday for Woody's and the Department of
21 Employment Services and as Mr. Hood knows, because he had to come
22 and open the hearing and close the hearing, there was no further
23 detailed information in the record from the applicant with regard
24 to Woody's.

25 As you've probably seen in the paper, the

1 possibility has been floated of interest from the museum in from
2 moving from Northern Virginia into Washington and so the
3 consultant, which the Office of Planning engaged to help us figure
4 out what our economic approach ought to be to that project, is
5 working with the developer of Woody's to help see whether there is
6 a way to structure that deal to make sense, which would certainly
7 effect the mix of uses that we would bring back to the Commission.

8 So, I just wanted the Commission to know that
9 that's not -- the fact that we were unable to go forward on
10 Thursday does not mean that there is not action with regard to
11 Woody's at least on the Office of Planning's part.

12 VICE CHAIR MITTEN: In both of the cases that you
13 mentioned there is this outside economic analysis being done. Are
14 the reports of those consultants going to be made available to us?

15 MS. MCCARTHY: Oh, they'll definitely be in the
16 public record. Right.

17 VICE CHAIR MITTEN: Any questions from the
18 Commissioners to the Office of Planning?

19 COMMISSIONER FRANKLIN: Yes, I have one, Madam Vice
20 Chair. With regard to Woody's, then is this matter still active,
21 Ms. McCarthy? In other words, the Commission should assume that
22 the Office of Planning still has an active matter pending before
23 the Commission or should we assume that the proposals that have
24 previously been made have been overtaken by events and that the
25 proposals, therefore, pending before us have become moot?

1 MS. McCARTHY: Certainly they've been overtaken by
2 events. I don't know if I would go so far as to say they've
3 become moot just because the possibility of permitting office
4 space in the building as a way of increasing the income stream to
5 compensate for the loss either for museum space or housing, is
6 still a possibility. I would say the preference to the Office of
7 Planning would be to accomplish whatever preferred uses we want to
8 incentivize, if that's a word, on that site. Our preference would
9 be to do it directly through tax abatement or through some sort of
10 cash payment and not try to do it with just doing text amendments
11 that only effect one lot and square.

12 But, at this point in time I'm still deferring to
13 our consultant who still has included that in the mix of possible
14 activities. So, he hasn't ruled it out yet, so I guess at this
15 point in time we shouldn't rule it out.

16 COMMISSIONER FRANKLIN: Thank you.

17 MR. BASTIDA: Mr. Franklin, if I may, I may add to
18 that, at the hearing on Thursday the two cases were postponed
19 indefinitely. So, those two cases are still pending in front of
20 the Commission and the Office of Planning will have to request
21 that they will be closed to take it, to put it to rest.
22 Otherwise, it will be still pending. Thank you.

23 COMMISSIONER FRANKLIN: All I wanted to note is
24 that if in fact the advertised proposals have now been overtaken
25 substantially by something else, that just bear in mind we may not

1 be able to continue a hearing on those advertised proposals, if in
2 fact what we're being presented with doesn't bear a substantial
3 relationship to those proposals.

4 MR. BASTIDA: Yes. Because it was postponed
5 indefinitely would require re-advertisement.

6 COMMISSIONER FRANKLIN: it will in any event.

7 MR. BASTIDA: In any event.

8 COMMISSIONER FRANKLIN: I see. Okay.

9 MR. BASTIDA: And, that was the idea to do it in
10 that fashion.

11 COMMISSIONER FRANKLIN: Okay. So, the re-
12 advertising will then reflect the state of play at the moment.

13 MR. BASTIDA: It should.

14 COMMISSIONER FRANKLIN: Thank you.

15 VICE CHAIR MITTEN: I'm sorry, Mr. Bastida, do you
16 mean it's re-advertised in that the 40 day notice period begins
17 again or do you mean re-advertised not only for the 40 day notice
18 period, but also for having to come back with a new statement of
19 what is being advertised?

20 MR. BASTIDA: It could be either. It was required
21 the 40 days notice, but remember that that 40 days notice is
22 really more like 50 to 52.

23 VICE CHAIR MITTEN: Right.

24 MR. BASTIDA: Because it has to be written, sent to
25 the register a week prior to advertisement. So, at that time

1 either we advertise it in the same fashion that is now if the
2 Office of Planning chooses to do so, or we could re-advertise it
3 on a different mode.

4 MS. McCARTHY: With a completely
5 different --

6 MR. BASTIDA: Right. But, it would also have to be
7 posted and the Office of Planning will have to do the posting,
8 because that's your burden.

9 MS. McCARTHY: Right. Okay.

10 MR. BASTIDA: Or you designate, but it would be
11 your responsibility.

12 VICE CHAIR MITTEN: Okay. Thank you. Now, Mr.
13 Bastida.

14 MR. BASTIDA: Thank you, Madam Vice Chair. Item 6,
15 I think, is self-explanatory. I just wanted you to know that it
16 was not in front of you for final action because the 30 days
17 concluded today.

18 Nothing in the consent calendar; nothing in the
19 legislative report.

20 In the litigation I would have to add to it. On
21 Thursday afternoon we received the mandate from the court. On
22 Friday I would issue all the letters to the applicant and the
23 parties involved in the case.

24 Basically all the motions will have to be completed
25 by May 26th, back and forth. They gave us 65 days and then two

1 weeks to respond to it. So, hopefully it could be in your June
2 meeting for a decision. That means I would need the Commissioners
3 to read the package that I sent to them.

4 VICE CHAIR MITTEN: Yes, Mr. Bastida.

5 MR. BASTIDA: And, thank you. The correspondence,
6 I think, is self-explanatory. The reminder is scheduled --

7 CHAIRPERSON HOOD: Let me just interject. I think
8 that the correspondence, we have quite a bit of correspondence and
9 I want to make sure that we're responding to the people who take
10 time out to give us vital information, whether we agree with it or
11 not, that we are at least given some type of receipt that we have
12 received your correspondence.

13 MR. BASTIDA: Our intention is to acknowledge the
14 receipt. Some of the things we cannot address or that we know
15 that it would be addressed at a given time, then we can do that.
16 But, basically, it would be a very brief letter, acknowledged
17 receipt of the correspondent.

18 CHAIRPERSON HOOD: Well, I understand that we have
19 consultants here to show the map piece, but I think that some of
20 the correspondence that is in front of us is very important. So,
21 I don't want to just run right over it. I think at some point in
22 time we need to come back and discuss it. But, if this is not the
23 opportune time, at this meeting, we'll do it at the next meeting.

24 I want us to have a discussion on what I see here, because I
25 think it's very important. I just don't want to shoot over it

1 because we have consultant.

2 MR. BASTIDA: Okay. Fine.

3 CHAIRPERSON HOOD: I think it's very important.

4 MR. BASTIDA: I'll be glad to put these three and
5 whatever comes on the next agenda and in that way we can go over
6 them one by one. In the reminder schedule you were also handed
7 de-zoning regulations that require BZA referral. And, that give
8 you all the parts in the regulations that referrals require. The
9 report of the Director, I think that basically will be waived so
10 we can go into our paid consultants.

11 The other business I think is self-explanatory.
12 Some of the cases I informed you, but we had not given you a list
13 of all those cases, so I felt that we should catch up with them.
14 And, on the BZA calendar, we had the calendar filled out to the
15 next meeting. And, I think that we could have the time in April
16 to then fill out the rest of the dates. We don't have a
17 Commissioner for Tuesday, April the 18th. It will be the only one
18 shortly after the 10th meeting. So, I would like you to start
19 thinking of it. And, I have added the cases and the names of the
20 Commissioners that offered to attend those hearings. And, that
21 is, I believe, self-explanatory.

22 CHAIRPERSON HOOD: Mr. Bastida, may I interject?

23 MR. BASTIDA: Yes.

24 CHAIRPERSON HOOD: If you look at the May calendar,
25 I'm down for three hearings. The two of them I know that I'm on,

1 those cases.

2 MR. BASTIDA: Right.

3 CHAIRPERSON HOOD: The first one, if we can find
4 another Commissioner to sit in.

5 MR. BASTIDA: Okay. We'll discuss that
6 extensively. But, you want me to take you out of the Georgetown
7 Homeowner's Association, the Hilton or the Loring Condominium?

8 CHAIRPERSON HOOD: Two of them I'm already on. The
9 first one I think is the first meeting of the month. That's the
10 one, if I can get -- Mr. Holman is raising his hand.

11 COMMISSIONER HOLMAN: Enthusiastically.

12 MR. BASTIDA: So, Mr. Holman has been selected?

13 COMMISSIONER HOLMAN: Yes.

14 MR. BASTIDA: We'll be delighted to add Mr.
15 Holman's name.

16 CHAIRPERSON HOOD: Thank you.

17 MR. BASTIDA: Thank you. And, I think that that
18 concludes the agenda, unless you have any questions that you would
19 like me to go through. Item 14 is the progress report on the new
20 zoning map and that is the jobs of the consultant that we're going
21 to be looking at.

22 VICE CHAIR MITTEN: Okay. Thank you, Mr. Bastida.
23 Are there any questions from the Commissioners for Mr. Bastida on
24 the information that he went through? And, I would just like to
25 reinforce what Mr. Hood said. I think it is a great suggestion

1 that when we have more time to take up the correspondence
2 individually and spend, you know, spend some time discussing it.

3 Is it the intention to adjourn this meeting.

4 CHAIRPERSON HOOD: Adjourn.

5 VICE CHAIR MITTEN: And, then is the public welcome
6 to stay for the presentation of the zoning map or not?

7 CHAIRPERSON HOOD: I think that would

8 be --

9 MS. KRESS: That wasn't intended, but this was
10 intended for you as a private executive session.

11 VICE CHAIR MITTEN: Okay.

12 MR. BASTIDA: Is that your pleasure that you would
13 like to do?

14 MS. KRESS: If somebody desperately wants to stay,
15 I don't think there is a problem.

16 VICE CHAIR MITTEN: I just want to know what I
17 should be --

18 COMMISSIONER FRANKLIN: Before we adjourn, Madam
19 Vice Chair, it's following up on Mr. Hood's earlier comments about
20 the correspondence. I would appreciate it if we would get staff
21 recommendations as to how they think we ought to respond
22 substantively to these letters, because I agree they deserve not
23 only just an acknowledgement, but a substantive response and one
24 that's very considerate. And, I particularly didn't know what the
25 state of concern was in terms of campus plans and the like. So,

1 if they can give us some recommendations.

2 VICE CHAIR MITTEN: Yes. Thank you.

3 MS. KRESS: I agree and we have answers for every
4 one of those. It is just that we're short today on time. If you
5 would like, we can perhaps do it sooner than waiting a month.
6 Let's take a look at doing that, but every one of these letters,
7 everything that comes in here gets a response of some sort. We
8 need to go over how we're doing different kinds of items, so that
9 everyone is in agreement, so that we handle them the way the
10 Commission wants.

11 CHAIRPERSON HOOD: Right. And, I want to make sure
12 that the Commission discusses it before we respond, because I know
13 I have some points on some of these correspondences and I'm sure
14 my colleagues do to. So, before we send anything out, any formal
15 response, I want to make sure that we discuss it as a Commission.

16 MS. KRESS: May I just say in general that some of
17 the things I think you're going to want to discuss are changes to
18 the rules and basically what our response has been to everyone who
19 is asking us is that's on our 4th quarter agenda, as we testified
20 in front of the Committee of the whole, that we're going to be
21 reviewing and looking at each of those and considering those 4th
22 quarter. That's how we've been handling this right now, because
23 these are too complex to get into item by item, detail by detail
24 and not only that, then we might as well be doing them right now
25 if we're looking at each one of them in that kind of depth.

1 So, just think about that. I'm not saying that's
2 the right way to be doing it, but on all of the proposed rule
3 making changes that's what we're doing right now. We're saying
4 4th quarter, which basically means this summer.

5 CHAIRPERSON HOOD: Okay. But, again, I want to
6 make sure that these correspondences are on next month's meeting
7 so we can discuss it.

8 MS. KRESS: We will.

9 CHAIRPERSON HOOD: Thank you.

10 VICE CHAIR MITTEN: Now, if I could just get some
11 direction about whether or not we're going to invite the public to
12 stay or if this is going to be a true executive session.

13 MR. BASTIDA: However you're going to do it, we're
14 going to go to the ANCs and we're going to go to the public at
15 large to get this input. I thought that at this time it was more
16 so the Commission would know and give us their input. But, there
17 would be subsequent meetings that would be open to the public and
18 we would be going out to the community also.

19 MS. KRESS: You might just say the ANC upcoming
20 meeting. I guess everybody is pretty well gone. You might
21 mention, Nyambi, the date and time.

22 MR. NYAMBIA: The ANC meeting is scheduled for the
23 20th of this month at 2:00, here in this hearing room.

24 MS. KRESS: That's where the ANC and the community
25 to be reviewing the map.

1 CHAIRPERSON HOOD: Before we adjourn the meeting I
2 want to thank our Vice Chairman Mitten for filling in due to my
3 illness. You did an excellent job.

4 VICE CHAIR MITTEN: It was my pleasure. Thank you
5 for your help. And, this meeting is adjourned.

6 (Whereupon, at 3:52 p.m. a recess until 4:03 p.m.)

7 MR. NYAMBIA: Good afternoon. Madam Chair, Mr.
8 Chair and Madam Vice Chair, members of the Commission, in the
9 first quarter of FY '99 we started the new initiative to produce
10 an electronic zoning map. In the past we had generally gone out
11 in an interim period of every 10 years to produce paper maps,
12 which the Commission has always certified as the officials' only
13 the maps, to be distributed within the District.

14 In September of FY '99 we decided to go out and
15 create this electronic zoning map, given the funding that we had.

16 And, today we're coming to you with what we've done so far in
17 that exercise.

18 We studied the process of meeting with members of
19 the community and we thought that before we went too far with it
20 that we should come in front of you and show you what we've done;
21 get you to look at it and comment on it. This is not a session
22 where we're asking for any action to be taken, but more or less a
23 session to inform you about what we're doing; have your input;
24 have you ask us questions; even voice your concerns, you know, as
25 to what we're doing.

1 Today we have brought the consultants who are
2 putting the zoning map for us, consultants from Baker Geo
3 Research. We have Barney Krucoff.

4 And, Barney, do you want to introduce your team?

5 MR. KRUCOFF: We have two firms working on the
6 project, Baker Geo Research. We can go on to the next slide,
7 Emily. We're reporting to Nyambi. The project runs through the
8 National Capital Planning Commission where Connie Harshaw is the
9 contracting officer and Desirine Worsley and Konrad Perlman are
10 being sure that we are coordinated with the WGIS consortium and we
11 are actually under contract to the National Capital Planning
12 Commission with your money.

13 We have also been reporting to David Seidman, who
14 is right behind me. David is of the Office of Chief Technology
15 Officers, GIS officer and he sets the standards for GIS in the
16 District of Columbia. So, we have been following his standards.

17 Our team, Ira Tavakoli and Emily Powell is one of
18 the consultants who has worked a long time on the map and Tiffany
19 Hill from Spacial Systems has done a tremendous amount of work on
20 the map. She is our sub-contractor.

21 The goal of the project is to build a GIS zoning
22 map, a digital zoning map, which will be useful in many ways
23 throughout the office to help research cases, respond to citizens
24 more quickly in general, help Nyambi and the entire office turn
25 around requests from the public more quickly and having this in a

1 digital form.

2 The biggest challenge is that we really want the
3 map to be trusted and what we were told when we started the
4 project is that previous additions of the zoning map was not fully
5 trusted by even this office and particularly the public and others
6 out there who used it. That was the 1996 version.

7 Another goal is to make the map more detailed so
8 that you can see individual lots if necessary and you can do that
9 in the digital form of the map. The challenge also was that since
10 the last map wasn't trusted, we really wanted to go back to the
11 '87 map and work forward. And, there is very limited funds to do
12 that. So, the approach Nyambi endorsed was to gather as much data
13 from this office and from other sources as well.

14 So, we went out to the private sector and met with
15 a group from the Land Use Law Committee of the D.C. Bar and we
16 gathered that data and assembled the map that we have now. It
17 coming from many sources needs to be quality controlled and
18 reviewed. And, the plan is to allow key stake holders to review
19 the map.

20 One of those groups will be the ANCs. We meet with
21 them on the 28th and we've already met for a second follow-up
22 meeting with the D.C. Bar, Land Use Law Committee and with D.C.
23 agencies that are concerned about zoning. And, those include the
24 Office of Planning, who was at both of our meetings; the
25 Department of Community and Regulatory Affairs and the Real

1 Property Tax Administration.

2 MR. NYAMBIA: Now, let me add that the group that
3 you're meeting with, that's the private sector, comprises more
4 than just the D.C. Bar Association. I think we have people from
5 the real estate community and DCBIA participating in that.

6 MR. KRUCOFF: That's correct. After these groups
7 have reviewed the maps, the goal is to have the Office of Zoning
8 review each of those comments and tell us which ones are the
9 correct ones. So, the ANC may disagree with what the D.C. agency
10 says the zoning is. It will be ultimately Nyambi and his staff
11 that will tell us this is the correct line and we will then make
12 the final changes.

13 The bulk of our work is actually behind us in
14 getting the first draft done and now changes can be made in the
15 system relatively quickly.

16 The last step, and this will be ongoing really
17 beyond our contract, into Nyambi's continuing work and future
18 budgets with us and other consultants, we hope, is to make sure
19 that the office can use this tool to its full potential to keep a
20 data base of cases; to keep a data base of orders; to be able to
21 research those online; perhaps to provide this information online
22 to the public so that they don't have to come down to the office
23 or if they come down to the office they don't have to buy the
24 whole atlas. They can just prey on a little piece of the map
25 that's for their area of interest. And, there are many automation

1 possibilities that need to be followed up into the future.

2 So, as I said, the first approach was to gather the
3 best available material. We started with the existing zoning
4 atlases. The zoning atlas you may be familiar with looks like
5 this. This is the 1987 version. We also got the '96 version and
6 we also got data from law firms and private sources. The final
7 product looks something like this, a marked up map where you can
8 barely see their little red lines and zoning changes since 1987.
9 This was all done by hand.

10 Those sources were then compared with other data.
11 The D.C. Office of Planning, David Colby, has kept for many years
12 -- we'll go back one step, a zoning case law. Which is sort of a
13 Rosetta stone for zoning cases. It relates the order to the case.

14 It tells you who the applicant was, the hearing date and has a
15 D.C. register date for the order. And, this was in Microsoft
16 Word, which is much easier to work with than going through card
17 files here at the office.

18 So, with David's data gathered from the Office of
19 Planning and with the data from the law firms and the zoning
20 atlas, is together you could begin to piece together the
21 information.

22 That information was then fit to the WGIS
23 orthophotos which everyone in town is using as a common base map,
24 including, Mr. Parsons, for example, your staff which Patrick
25 Gregory sent in and Tammy. And, we had an access to the Real

1 Property Tax Administration's lot and square maps.

2 Those are scanned and we can bring up a few lots at
3 a time, a few squares at a time and view the map and for the first
4 time we're able to see the zoning lines relative to the lot lines
5 and that's where the most interpretation is in this map. We tried
6 to follow lot lines where we thought it was applicable. In many
7 cases lots have changed numbers since a zoning order was written.

8 It is not always easy to tell where that line should fall within
9 a square. And, that's where the most careful review and quality
10 control needs to be.

11 But, for the first time you can look at a zoning
12 map and try to figure out what's happening within a square,
13 whereas before it was a rather thick line going down a middle of a
14 block .

15 I will show you now how we put this together. What
16 we started with was the orthophotos from the WGIS project, which
17 is funded by the Office of the Chief Technology Officer and NCPC
18 and others. We geo-referenced the old zoning atlases and they
19 come out with something like this. This is New Hampshire Avenue
20 and N, and you can see the thick lines. You can see that the
21 lines may be falling almost in the street, but maybe they were off
22 into another street.

23 And, this is just a fact of putting a map that was
24 developed and viewed at one scale over a much more detailed base.

25

1 We then added the property lines that show faintly
2 here in yellow and we tried to follow those faithfully as we
3 digitized the new atlas.

4 And, what we're going to show you now is the final
5 product. You can just throw away the old atlases or only bring
6 them up when you need to try to refer to what happened on a given
7 site over time. So, the old atlases can be brought up in the
8 system and if you want to know what happened there in '87 you can
9 look. In '96 you can look. So, there are good archives set now.
10 And, we'll show you that on the GIS.

11 For that I was going to stand up, but if you can't
12 hear me I'll sit back down. I'll sit back down. This is fine.
13 There is the District of Columbia's familiar diamond. I'm going
14 to go ahead and drive since I'm sitting down now. That way we
15 don't have to do this dance.

16 We also digitized overlays. There is two sets of
17 data that people have asked about that are not yet included in the
18 zoning map and that's PUDs and transfer of development rights.
19 But, overlays and regular zoning, underlying zoning, have been
20 done as well as historic districts.

21 MR. NYAMBIA: Let me add to that. Originally when
22 we started this effort what we wanted to do was produce the
23 quickest map that we can produce for the money that we had. And,
24 in putting out a scope of work we realized very quickly, you know,
25 that we couldn't go out and do all the things that we wanted to

1 do. So, we didn't include PUDs in this exercise. We intend to
2 include that. We didn't include campus plans. We include to
3 include that. TDRs and other areas that require a lot of research
4 to actually be able to represent those on an electronic map, so
5 that's something that we intend to include in the future.

6 However, again, given the way the budget funding
7 has been going, we're not sure where we exactly are with those
8 things that we shifted, you know, for future production.

9 If our budget situation changes and we do get some money
10 put back into our budget to cover that, we did ask for funding to
11 get those things done in the next fiscal year.

12 MR. KRUCOFF: There is a data base behind each of
13 the overlays. So, if I were to click on one I'll come up with it.

14 This tells me that this the 16th Street Heights overlay. And,
15 what's nice is that now I can zoom in on it and take a look at
16 what's going on. Here is the old atlas and there is the overlay
17 in the new atlas. And, we can just turn off the old atlas. We
18 don't want to see it, but I think it is actually helpful in this
19 case.

20 There it is off or on. We can turn on other layers
21 that come from other city agencies and for that I'm going to have
22 to zoom in just a bit more and a bit more than that. What's
23 showing here in yellow is actually D.C. squares that are inside
24 this 16th Street Heights area. If I want to figure out what
25 squares were involved in the 16th Street Height area, I would come

1 on, sort by theme. That intersect overlay, that's a new set.

2 And, what's happened is I picked a certain number
3 of squares. Actually, I got these squares. I know from those
4 squares that I have certain zoning orders associated with those
5 squares. And, I know from those zoning orders I have certain
6 cases associated.

7 What happened is I've got every square in the city.

8 So, I need to go back and first select the 16th Street Heights.
9 Now, let's try that again. Now I have only the square that are in
10 this district and I can get down to look at some of Dave Colby's
11 data, for example, that was associated with it. Here is the
12 zoning order. I know the order date was 1994 and the D.C.
13 register date was July of that year, which means that I can go
14 back and research this much more quickly than I used to be able
15 to. And, I know that a case was associated with it, 92-2. If I
16 go take a look at 92-2 I have the benefit of Dave's notes on that
17 case, petition to map 16th Street Heights. In many cases he's
18 kept track of who the applicant was, when the hearing dates were,
19 if there were previous cases associated with this that are being
20 superseded by the new case. And, he keeps the date filed.

21 So, there is a wonderful resource that goes back to
22 about 1975 to help research these issues. I'm going to zoom back
23 out and just show you quickly the historic districts. I've got
24 Cleveland Park. I could do the same sort of thing that was --
25 here is Capital Hill -- that we did with the overlays, but I think

1 you get the picture.

2 Turn those off and turn on the zoning and we'll go
3 ahead and take a look at some zoning. Just pick an area. You can
4 see the old map come up. This was R-3. If I click on my data
5 base now it tells me R-3 and a nice feature is that it tells you
6 just a few facts about R-3; 60 per cent of the lot occupancy for a
7 church or public schools; it allows three stories, 40 feet height.

8 For commercial zones it will give you a legal FAR, set back
9 restrictions, et cetera, in the data base.

10 And, you can see here that we have our line not
11 exactly following the old zoning atlas. It's Glenwood Cemetery's
12 border. So, let's take a look and see. I haven't rehearsed this,
13 so we'll find out why we are following where we are. We're now
14 bringing up the photo and you can see the cemetery clearly, a
15 group of houses and our line is following pretty much on what has
16 to be the boundary of the cemetery. And, if we were to bring up
17 at this scale, which I don't have turned on, the old map you would
18 see that these houses probably would have fallen into the wrong
19 zone on the old map, if you superimposed it on this.

20 COMMISSIONER PARSONS: That was the cemetery and
21 they came to us and said we're no longer burying people, we're
22 building townhouses, please rezone us. So, that's what happened.

23 MR. KRUCOFF: Okay. Good. So, there is the --
24 it's in there.

25 COMMISSIONER PARSONS: That was marked 5-A about 15

1 years ago, I think.

2 MR. KRUCOFF: That's pretty much the presentation.

3 We just wanted you to see how it looked. We have check plots
4 here and what we really want to get is comments on the process
5 that Nyambi has put in place, make sure that you were aware of it
6 and if you want to go check out somewhere in the city, we're
7 willing to try the data base out and see what kind of things
8 happened.

9 MR. NYAMBIA: Originally we had planned to bring
10 this map to the Commission in late April, but given the process
11 that we have to go through to have the plots and what's been done
12 so far reviewed by the different groups, we think it will take us
13 another month and a half to go through that review process. And,
14 so we're thinking that that schedule is going to shift to
15 somewhere around June, at least to get a zoning map that's an
16 acceptable working zoning map. And, at that point we'll be
17 looking to get the Commission to endorse this as the official
18 zoning map.

19 Now, if the Commission wants to go through a
20 process that allows you to understand what we've done in more
21 detail before you go through that endorsement, it's something that
22 we can plug into the process and give you the opportunity to be
23 totally satisfied with what we've done before you endorse it.
24 But, it is important that in the final analysis the map that we
25 produce is designated as the official zoning, because from here

1 and out this is what we're going to be producing as the zoning map
2 of the district, instead of the paper maps.

3 A lot of concern has been raised about how this map
4 is going to be presented to the public after it becomes official
5 document for use by the public. So, these are issues that we are
6 still working on to resolve how we intend to do that. A lot of it
7 will depend on the kind of funding we have to continue to produce
8 either the paper maps for people that don't have access to
9 computers and also to produce, at least to take this map and
10 publish it on the Web as an interactive zoning map that people can
11 actually call up and look at different sections of that, produce
12 reports for what they want to do and be able to print that. To do
13 that I've got to have servers that allow me to produce the -- I
14 mean to at least present the capability, you know, to be able to
15 search the maps and produce the set of information that you're
16 seeing here.

17 We've already scanned in a lot of the orders that
18 have been issued by this Commission and we expect to tie those
19 physical orders to the zoning map so that when people get to the
20 map they can do searches that would allow them to pull out the
21 actual documents in read only format and be able to go through and
22 review whatever zoning orders we've passed over the years.

23 Now one of the things that will happen is that when
24 we make this the official zoning map, the electronic map, when we
25 make it the official zoning map there will come a time when we

1 want to update it. Hopefully we'll set up a system for doing that
2 updating. We think doing a bi-annual update process seems to be
3 something that's very workable. That is every six months we put
4 out a map that says this is the most up-to-date map to that day.
5 And, what that does it allows us to be able to, over time, keep a
6 history of what zoning might have applied on a piece of property
7 before we actually changed the boundaries we did change any of the
8 boundaries in the process of going through this rezoning.

9 So, there are a number of things that we have to
10 think about as we're trying to get this map to become "the" map
11 that everybody goes to.

12 COMMISSIONER PARSONS: This is fabulous. You guys
13 are terrific, don't you think? This is wonderful. This grid
14 system called check plot, it's in the upper corner.

15 MR. KRUCOFF: Yes.

16 COMMISSIONER PARSONS: Is that a standard for the
17 District. In other words, if the water and sewer authority is
18 mapping that they'll be using that same grid.

19 MR. KRUCOFF: It is not. We decided early on that
20 one inch to 400 feet was a reasonable scale at which to present
21 the zoning data. It has traditionally been one inch to 600 feet
22 in your atlases and the water and sewer authorities for example
23 has hundreds and hundreds of maps to cover the city and because
24 much more detail is needed. So, their grid is different.
25 Basically, what we did with that grid was fit it onto the city

1 with a reasonable number of maps we ended up with 15. There is
2 nothing special about it and we could change the grid as desired.

3 What we didn't want to do is repeat the practice of
4 rotating the maps so they are no longer north-south. We can do
5 that in our office, but it will make it hard on the Office of
6 Zoning to replicate the maps if we do that. And, hard for other
7 city agencies who might be using not the highest end software to
8 do it. So, there is a cost advantage to not rotating the maps.

9 COMMISSIONER PARSONS: So, there is no consistency
10 in the District of Columbia. Like the comprehensive plan will be
11 on one grid and this will be on another, so you wouldn't be able
12 to overlay.

13 MR. KRUCOFF: The comp plan is usually presented on
14 one piece of paper at roughly one to 24,000 scale. So, what we
15 were going for here was a map where you could reasonably see
16 through the photo down to individual buildings. Now, some of the
17 comments from the law firm who saw this on Thursday was maybe you
18 don't want to show individual buildings. Maybe you want to turn
19 that off. The nice thing is we can turn them on and off pretty
20 easily, depending on what you feel is appropriate.

21 MR. NYAMBIA: I was thinking that what's critical
22 is that we're going through this effort to build this map, that
23 all of the District agencies that have a need to build maps
24 continue to work together to produce these maps on a consistent
25 base. I think we're doing that with the WGIS process that we've

1 adopted.

2 However, it still doesn't preclude other agencies
3 from going their own way, you know, and going out and getting
4 their own contractors to do maps at the scale that they would want
5 to. But, hopefully as we're going through this that we'll
6 computer coordinate with other agencies to make sure that we have
7 a map that all the layers are consistent. And, we've started
8 doing that.

9 MS. KRESS: I was going to say, mention some of the
10 ones that you've already spoken to.

11 MR. NYAMBIA: On Thursday we met with a number of
12 city agencies to show them this map and also talk some of the
13 challenges that face us in city agencies in building these maps.
14 And, the Office of Tax Revenue, which by the way actually owns the
15 map you see over here with the yellow lines. That's the property
16 map. They keep that, so they were here also at the meeting. The
17 DCRA also was here and they have a major interest in seeing this
18 map completed. The Board of Elections that's primarily
19 responsible for ANCs, creating ANC boundaries, they're very
20 interested in this map that we're producing and because all of the
21 data that we're collecting and keeping in this new electronic
22 information system that we're trying to build for the Zoning
23 Office is predicated on the ANC as the lowest common denominator.
24 We're trying to make sure that we keep that information current
25 so we're coordinating that with that office, because it is their

1 responsibility to keep up with the boundaries of the ANC. We just
2 keep the zoning map and we're trying to make sure that every
3 agency that is responsible for all of these pieces are part of the
4 total effort, you know, that we're putting together.

5 MR. KRUCOFF: I've put an example up on the screen.

6 This is the National Park Service, Map A, which is very useful
7 for finding the park properties and federal properties in general.

8 And, it was produced by John Parsons' office and then registered
9 by the National Capital Planning Commission. So, we're all on the
10 same coordinate system. We can bring in each other's data.

11 The grid is only how we decide to print it out and
12 then it becomes stagnate in print. But, in the computer we can
13 mix and match more easily.

14 COMMISSIONER FRANKLIN: Is there another office in
15 the District that is trying to use an electronic form of
16 communicating with the public in terms of their maps?

17 MR. NYAMBIA: I can say for sure that yes, there
18 are several offices, you know, that are working towards that, but
19 I wouldn't want to speak for David Seidman who has been
20 coordinating GIS for the District. Dave, do you want to say
21 something to that?

22 MR. SEIDMAN: Yes, we're making sure
23 that --

24 MR. NYAMBIA: Do you want to come to a microphone?

25 MR. SEIDMAN: We're making sure that there is

1 consistency in the maps being created across the District
2 government in the ways that are important. But, when you go to a
3 digital format scale becomes less significant. You can create a
4 map at any scale you want, so what's important is to make sure
5 you're all on the same coordinate system and that you're using the
6 same software and we've made sure that that's the case.

7 So, when you look at the maps as they go on top of
8 each other you'll see that they do match up very well and that's
9 because we are using the same coordinates. And, we all use these
10 orthophotographs as the base map for creating all the other maps
11 we have. And, they're called orthophotos just because they've
12 been straightened to take out the effective building lean and
13 elevation, to make sure that the maps are accurate to within two
14 feet of the -- that is the locational measurement is accurate to
15 two feet of its actual location on the earth.

16 MR. NYAMBIA: Dave, would you want to speak to the
17 other agencies that are producing digital maps and using them with
18 the public?

19 MR. SEIDMAN: Well certainly the Office of Tax and
20 Revenue worked with OCTO to get the digital property map created.

21 We're working with the National Capital Planning Commission and
22 the Department of Public Works in creating what we call plan-a-
23 metric maps, which are the point and line maps of the various
24 features you see on the orthophotos, such as the road edges and
25 the streets and the lines and the bridges and the alleys and the

1 street lights and so on. That's going to be completed early next
2 year.

3 And, then we do have something called the DC Atlas
4 on our Internet, which we plan to use as the vehicle for
5 distributing these maps, making them viewable and also downloading
6 capability on the Internet itself, sometime this year, and there
7 will be some restrictions on what maps can be downloaded because
8 some of them were quite expensive to create and we will want fees
9 from the private sector the use of some of these. And, that's a
10 point that might want to address at some point yourselves.

11 MR. NYAMBIA: One of the things I want to add is
12 that it is true that we're building the zoning map not to sit
13 totally on its own, because it couldn't. Even if we tried we
14 couldn't just build a zoning map and let it sit out there by
15 itself. So, it's important that we continue to coordinate with
16 these other agencies that are putting together funds to put up
17 these maps that are a lot more detailed than what we've got today.

18
19 And, so I think this one area that's really of
20 concern today and that's the property map, hopefully down the
21 road, you know, the agencies, either the Office of Tax and Revenue
22 and the Surveyor's Office will get together and put the money to
23 produce a much more reliable property map, but that is something
24 we're still looking towards.

25 In mentioning these maps, there are several ways

1 that we're still looking to look at, but we as an agency, given
2 the size of the agency and given the budget that we have, I don't
3 see how we can single-handedly maintain both the zoning map and
4 maintain the rest of the maps that make up what you see as the
5 zoning map.

6 And, so there is going to be some sort of
7 partnerships that we have to create to allow us to just put in a
8 little bit of money to help in the support of those maps and get
9 the benefit of the total map sets that are out there. The maps
10 are being built by both District agencies and the federal agencies
11 and groups that are participating in this WGIS and it takes
12 funding, you know, to be able to get those things done and so
13 we're very supportive of that and we're trying to make sure that
14 we're set up in a position to be able to continue to do that.

15 MS. KRESS: Come to the mic. Thanks.

16 MR. COCHRAN: Steve Cochran, Office of Planning.
17 I'm pretty excited about it because I'm wondering if -- well,
18 there certainly seems like there is the possibility of it saving
19 hours and hours of time and you'll probably see us initiate a lot
20 more rezoning cases.

21 MR. BASTIDA: Oh, no.

22 MR. COCHRAN: Sorry about that. But, instead of,
23 for instance, let's take the Logan Circle case, we probably sent
24 several person days verifying lots. Now if we had this, would we
25 be able to have a CD Ram save portions of this city and then do

1 different variations of what we're proposing? The Commission
2 decides upon certain things and then would be just be able to pump
3 out the information for the register to be published?

4 MS. KRESS: I'm not going to say yes, but that's
5 where we're going. That's what we want.

6 MR. COCHRAN: That's great.

7 MS. KRESS: Do we have money for that right now,
8 no. But that's exactly where we want to go.

9 COMMISSIONER FRANKLIN: When you get to the PUD,
10 you said the PUDs are not yet reflected, but when they are
11 reflected will they be sort of treated, as it were, as an overlay
12 and a link to the PUD order? How is that going to be done?

13 MR. KRUCOFF: That would be the plan. We would
14 have a sheet like the overlay zones were, so you could turn them
15 on and off and see the PUDs and it would be nice to have a little
16 more history about each PUD; has it been built; has it not been
17 built.

18 COMMISSIONER FRANKLIN: I would love to have that
19 history.

20 MR. KRUCOFF: Dave Colby's list actually has some
21 of that history. I don't want to speak for how comprehensive it
22 is.

23 MR. NYAMBIA: At this point we are really not
24 talking or speaking to PUDs because we've not none the research we
25 need to do to build it and definitely the consultants have been

1 very helpful in collecting and adding information that we did not
2 include in the original scope of work and a lot of that has been
3 very helpful. I just hesitate to stretch them a little bit
4 further, you know, get them to do more things and end up having to
5 owe them a lot of money.

6 So, at this point what we've done is we've tried to
7 at least cover an area, at least a certain amount of work that we
8 think that when we're done with that we'll have something that's
9 usable. We don't want to end up trying to do everything and end
10 up with something that we could not use. So, we'll try and get
11 this first and as we get additional funding we'll go out and build
12 the PUD layers and the campus plan layers.

13 These are two pieces that we really want to get
14 done, especially campus plans, they're a very hard area mound, you
15 know, with both the community and the job public that's been
16 crying about the fact that campus are expanding rather too
17 quickly, you know, and so on and so we would like to at least get
18 information in the system that would allow us to be able to see
19 where that movement is located.

20 VICE CHAIR MITTEN: Well, you know, this, brings up
21 the PUDs though. There was an issue raised today in our meeting
22 which is, okay, if the PUD is not going to be mapped at this time
23 and it's going to be treated later as like an overlay, we have to
24 make sure that we're mapping the underlying zoning correctly and
25 there is an issue there. And, we need to get that sort out like

1 now as opposed to later.

2 And, I think that there is probably an issue
3 related to District owned properties, too.

4 MR. NYAMBIA: That's why this process that we're
5 going through, the quality assurance process is so important to
6 us. Definitely the consultants they've done as much as they can
7 to locate where all of the districts are and to put the labels
8 rather correctly, but as you can tell, Ms. Mitten, from the last
9 meeting that we had, there were two areas that people who knew
10 more about the zoning categories could just eyeball the drawings
11 and say there is something wrong with that.

12 VICE CHAIR MITTEN: Right.

13 MR. NYAMBIA: And, we want to get to where it would
14 take somebody who knows a lot, you know, to be able to just
15 eyeball the drawings and say there is something wrong with that,
16 because that's the only way that we can get the credibility that
17 this map needs. We've got to take the quality assurance process
18 very seriously. We've got to get people who know enough about the
19 zoning categories, the work that's been done over the years,
20 people who have some historical memory about some of these things.

21 VICE CHAIR MITTEN: Yes.

22 MR. NYAMBIA: To be able to work with us to make
23 sure that the document that we produce in the final analysis is
24 one that has a lot of credibility and that will not be so easily
25 challenged. I mean over time people are going to find little

1 things here and there that are wrong with the map.

2 VICE CHAIR MITTEN: Right.

3 MR. NYAMBIA: There is no question about that. I
4 mean that's something that we cannot help at this point, because
5 the process of going through and checking the quality of the map,
6 it could be so detailed that we may not be able to afford to have
7 people on the payroll doing that. So, when people, down the road,
8 after we get a certifiable map or a map that is certified by the
9 Commission as the official map, people can still come back to us
10 and say we think there is something wrong with this piece of
11 property and the zoning that's attached to it.

12 At that point we can go back and research and make
13 the necessary corrections. So, it's still going to be an ongoing
14 process.

15 MS. KRESS: Let me do respond quickly to the PUDs.
16 Right now the current map, on the current maps that have been
17 produced for the last several years, PUDs have not been reflected
18 at all. That's why one of the initial decisions when we were
19 looking to what could we buy for the money we had, that's why PUDs
20 got put onto the second tier of information and so right now the
21 whole map as it is being put together, does not reflect any of the
22 over-zoning. It only reflects the underlay zoning of PUDs.

23 VICE CHAIR MITTEN: And, I appreciate that. It's
24 just that like if we can use, you know, there was a case that we
25 were discussing today, which is the underlying zoning is not

1 clear. I mean it's clear to me, but I believe there is a
2 difference of opinion about, forget the PUD, what's the thing
3 zoned if the PUD never gets built? That's not clear.

4 MR. KRUCOFF: What's that case?

5 VICE CHAIR MITTEN: 901 New York Avenue

6 MR. BASTIDA: No, Carol, that is clear. When the
7 PUD was approved, the underlying zone is what it was, the
8 underlying zone at that time. Afterwards it changes on the zone
9 map, that PUD has not been effected. So, you will find like in DD
10 you will find homes that they happen to be C-4. They might be SP
11 or C-3-C and so on, because by law legally that was the
12 interpretation that has taken place. So, it is a little more
13 complex.

14 VICE CHAIR MITTEN: Okay. It may be more complex,
15 but first of all I would like to know where it says by law.

16 MR. BASTIDA: Okay.

17 VICE CHAIR MITTEN: And, then if that's what it
18 says, then I would like to discuss that at some point.

19 MR. BASTIDA: Yes.

20 VICE CHAIR MITTEN: Because I just think that that
21 gives more power to a PUD that expired. Say the thing just dies,
22 then it really does survive in some capacity, because it's
23 basically frozen in that zoning.

24 MR. BASTIDA: Indeed. And, I had made a mental
25 note to as corporation counsel for a resolution of that.

1 VICE CHAIR MITTEN: I would like to get that sort
2 out before we finalize this map.

3 MR. BASTIDA: Right. Yes. And, when you asked the
4 question I was just sharing what my interpretation has been or my
5 perception has been so far.

6 VICE CHAIR MITTEN: Okay.

7 MS. KRESS: But, I still think it is a problem, but
8 90 per cent of the PUDs, what is showing up right now, is the
9 underlying zoning, which is what I think we want to be 100 per
10 cent there. To me the best way to put the overlay of the PUD is
11 that when the PUD comes on that layering, if you will, and you go
12 to check that piece of property, that's when you get that
13 information. Otherwise, it's the underlying zoning is what you
14 pull up without putting the PUD overlay on.

15 VICE CHAIR MITTEN: And, I understand that part. I
16 just am saying that in the case where a PUD was approved a long
17 time ago, the underlying zoning, absent PUD has effectively
18 changed but the PUD sort of freezes it in place. I think that's a
19 policy question that we need to sort out.

20 MS. KRESS: Oh, I'm sorry. Yes.

21 VICE CHAIR MITTEN: Okay.

22 MS. KRESS: I was just answering in general PUDs.

23 VICE CHAIR MITTEN: I got that.

24 MS. KRESS: And, that's why I said 90 percent.

25 VICE CHAIR MITTEN: Yes, I got that.

1 MS. KRESS: There is this other that's complicated,
2 we've got to work out. I agree.

3 VICE CHAIR MITTEN: Yes.

4 CHAIRPERSON HOOD: Can I just kind of change the
5 question? With the current funding, how far can we go? I know
6 that some things, obviously you're going to have to leave out
7 unless you get more funding, but how far can we go with what we
8 have now?

9 MS. KRESS: May I kind of start answering that and
10 then you can answer in more detail? The bottom line, we're dead
11 in the water. We've got enough money to finish the contract that
12 is currently in place for year FY 2000. Come October 1 we have no
13 work to go any further on anything. It's whatever we have done is
14 what we have.

15 What that does exclude and this is what I've Nyambi
16 to write up in a little different format as I was saying right
17 before we came into the room, so it can be identified on programs.

18 But, the big thing, we will not be able to do anything
19 interactive. That will be a big problem. We will not be able to
20 do a word search in our zoning regulations. We will not be able
21 to really have this on the Web. That's not even in the running
22 here. Intranet, meaning with-inside the government, so perhaps
23 and I'll let Nyambi answer a little bit more, but virtually the
24 PUD thing we're talking about, will not get done, not to the level
25 and with the kinds of issues that you're talking about.

1 COMMISSIONER FRANKLIN: Is that because you asked
2 for money and it was denied?

3 MR. NYAMBIA: Yes.

4 MS. KRESS: Yes. In fact it's supposed to be out
5 today. The budget that we asked for, not only was that denied,
6 but they've gone and cut into the base monies and I understand
7 we're not alone. But, it is really sad because, as you know, we
8 got this money as part of the Management Reform and we've got all
9 this kicked off and I'm so excited, working well, only to have
10 everything taken away. So, we haven't even gotten enough money in
11 this budget, literally, to maintain the equipment that we have
12 bought through the Management Reform to do all of the copying,
13 printing, mapping work, et cetera.

14 The Hanson System that we're putting together to
15 use in conjunction with DCRA, it's a licensing system for the
16 computer program that we're using. We don't have money to
17 continue that.

18 COMMISSIONER FRANKLIN: Well, who cut it out?

19 MS. KRESS: Right now the Mayor, the executive
20 branch, it came through the Mayor's office, most immediately, I'm
21 understanding from the people I've asked, it is Eric Price whom we
22 come under, Deputy Mayor for Economic Development, and the Mayor's
23 office basically. The budget people are approving it. That is
24 what is going forward now to the council. We do have the
25 opportunity to meet with the council and present to the council

1 our concerns and make pleas to them that some of this be restored.

2 We are talking to the technology office to see how we can work
3 more efficiently to stretch our dollars to maybe piggy back off of
4 other people. Right now we're trying a lot of different things.

5 Do you want to add to what I'm saying, Nyambi?

6 MR. NYAMBI: I think you were right on the ball
7 when you said we're dead in the water. I think we started
8 something good here and when I came on board in July of last year
9 there were a number of things that were put in front of us as
10 things that we need to improve rather quickly, you know, for the
11 Office of Zoning, and one of those was how we serve the general
12 public.

13 These maps that we're putting out, while from a
14 mapping perspective to look like maps that are very similar to
15 maps that were produced in the past, these are not study maps, you
16 know, that all you get is the paper that you produce.

17 We've talked about doing an electronic submission
18 system called the Hanson System. Now, what that allows us to do,
19 that we could not do in the past, is that with the GIS system that
20 we've put in here with the zoning map, in the past generally when
21 people come in here to make an application for whether BZA or
22 zoning case, we send them back to the surveyor's office to get the
23 200 radium modification information.

24 MS. KRESS: Oh, no, that's finance. I'm sorry.

25 MR. NYAMBIA: Go to somebody, you know, to get that

1 information. The GIS system that we're putting up here allows us
2 the capability of tying that electronic application system to the
3 GIS so that a lot of that can be triggered automatically, so that
4 one doesn't have to go back to another agency to pull that
5 information, because the same data base that OTR, the Office of
6 Tax and Revenue, pulls that 200 foot radius information from is
7 the same data base that we've got within the system.

8 So, there are a number of things that are inherent
9 within this system to allow us to truly improve the quality of the
10 service that we're putting out. We've talked about how to cut
11 down on some of our time frames for rezoning processes or for BZA
12 a processes. And, a lot of those we've just gone through the
13 process of re-engineering each one of those processes and putting
14 time frames and finding areas where we can get our staff to be
15 more efficient, to be able to trigger templates that allow them to
16 write some of these orders very quickly. These are things that we
17 are putting in place that without the funding that we're asking
18 for, that we could not continue trying to get those things done.

19 A lot of the systems are different systems where I
20 have a GIS on one hand and I have a Hanson System on the other
21 hand. We're working with DCRA and we're working with Public Works
22 on a system that can be viewed by the Mayor from his office. It
23 takes getting the right sort of consultants to make the Hanson
24 System talk to my GIS system. And, to make the GIS system work
25 with the orders, you know, which we've scanned and put in a data

1 base somewhere, you know, where you can actually do a word search
2 and pull up a history of how many orders or how many orders have
3 we written that involved actual zoning changes.

4 I mean those are the kinds of things I would like
5 to be able to do, but without the sort of funding that we're
6 asking for now, it would be awfully difficult to accomplish.

7 COMMISSIONER FRANKLIN: Well, Mr. Chairman, having
8 heard this I would ask you to consider whether this Commission, as
9 a Commission, could write to the Mayor and explain the importance
10 of the funding that we requested in the efforts of the city to
11 spur economic development and to be responsive to the community,
12 because I can't think of anything more important for us to be
13 doing in this economic climate. So, you know, I for one would be
14 willing to sign a letter to the Mayor to ask for the additional
15 funding in a respectful way that explains exactly what it would
16 enable us to do that is consonant with his announced objectives.

17 CHAIRPERSON HOOD: Commissioner Franklin, I
18 forwarded a letter asking for a Zoning Commission meeting with
19 him, BZA and also HBRB who want to join in. Earlier today we were
20 supposed to meet with Dr. Omar. This was going to be one of the
21 topic that we brought up. But, that meeting was canceled due to
22 his meeting with the Mayor and I believe they were announcing the
23 budget today. So, we're aware of it. We're glad to have you
24 support to go along with us when we go forward, because we will be
25 moving this whole piece forward.

1 I think one of the catches is though, it seems like
2 and I know the council is finding out the good things that are
3 going on here in the Office of Zoning, but it's just not getting
4 to the Executive Office. That's been a concern today if we were
5 going up there to try to get that message, because I do too agree
6 with you, Commissioner Franklin, that that is a key piece. A lot
7 of people rather look at that than look at all that language they
8 would have to read.

9 So, that's key and keeping in line with the Mayor's
10 vision, I'm sure if we could get him down here and also Dr. Omar,
11 which is the goal and also Eric Price, to come down and see which
12 way we're moving with technology, I believe then we might see some
13 numbers change in our budget. But, the hardest thing I see here
14 now, and, Ms. Kress, I'm pretty sure you agree with me, it's for
15 us to get the PR piece to them. It's hard to get to them.

16 MS. KRESS: Well, we for the first time have
17 something really to show. Up until now, as you know, I kept just
18 giving you pieces of paper saying what we were working on. We
19 finally have a Web site up with our new regs on it, so everybody
20 can have the current regs and other miscellaneous information and
21 we continue to put more information.

22 You can see we've just gotten this. We are really
23 just now, I think, to the point where we can really physically
24 show something and so I think we are ready to do more marketing to
25 the Executive Branch.

1 VICE CHAIR MITTEN: When is the meeting with the
2 ANCs about this, the presentation?

3 MR. NYAMBIA: The 28th of March at 2:00.

4 VICE CHAIR MITTEN: The message gets through better
5 if you have like citizens going ooh, ah, neat, need more of that,
6 you know. I mean, can you either invite the cast of characters
7 that we need to hear that or tape it so that you can say, look,
8 you really need to see what the citizens were saying and here it
9 is. I mean if you can get it on video and then play selected
10 pieces of it for the Mayor or for Eric Price, because sitting here
11 in a room like this with them, it doesn't quite have the impact as
12 it would if he could really feel the -- you know, I've been to a
13 couple of these meetings with the folks from the D.C. Bar and D.C.
14 BIA and there is a lot of enthusiasm. And, these are professional
15 people that are going to give, you know, hours and hours of their
16 time to help make this map as accurate as possible and their
17 willingness to do that really comes through when you're in their
18 presence. And, I think the same thing would be true if ANC. So,
19 however we can do that, get that message across, just let's try.

20 CHAIRPERSON HOOD: Let me just ask, with the ANCs,
21 are you meeting with the ANC assembly?

22 MR. NYAMBIA: Yes.

23 CHAIRPERSON HOOD: The only drawback I found out to
24 that from last time, a lot of people are not with the ANC
25 assembly. If there is a way that we can of try to touch all ANCs,

1 because we ran into that last time. A lot of people think the ANC
2 assembly is against the law. Actually, it goes into a little more
3 detail than that. But, you're also excluding and some of those
4 commissioners who are very vocal who come down in front of the
5 Commission all the time, who would be the assets in which
6 Commissioner Mitten was talking about, they won't know about the
7 meeting on the 28th.

8 MR. NYAMBIA: Okay.

9 CHAIRPERSON HOOD: So, if there is a way, Ms.
10 Kress, that we could look into that.

11 MS. KRESS: Let's you and I coordinate, I think
12 especially because of when it's scheduled we can do perhaps an
13 open mailing.

14 MR. NYAMBIA: Sure.

15 CHAIRPERSON HOOD: And, then what we can do --

16 MS. KRESS: Sarah is here, so she's got it.

17 CHAIRPERSON HOOD: We can always request a letter
18 from the ANC.

19 MR. NYAMBIA: Okay.

20 CHAIRPERSON HOOD: And, maybe some people will come
21 down and testify on the 5th, but the key is Commissioner Mitten
22 hit it to the point, that we need to make sure that the Mayor
23 knows that this is what the citizens want and the people that use
24 this as the general public as a whole, because that's key. That
25 whole piece is key and for it to be dead in the water I'm kind of

1 perplexed about that, because that's a key piece. I would rather
2 look at that than some other things I have to look at.

3 And, let me just say while I have the mic, Nyambi,
4 you and your staff and the consultants, you all have done an
5 excellent job. So, we don't want to see that dead in the water.

6 MR. NYAMBIA: Thank you.

7 MR. KRUCOFF: Thank you.

8 MS. KRESS: Any other questions?

9 CHAIRPERSON HOOD: No, I think that's all.

10 MS. KRESS: I think that really concludes our
11 presentation today and if anyone wants to stay after to ask any
12 other questions, please feel free. Thank you all for being here.

13 CHAIRPERSON HOOD: Thank you.

14 MR. BASTIDA: Remember, they are paid consultants.

15 (Whereupon, the meeting was concluded at 4:58 p.m.)

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