

GOVERNMENT OF THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

IN THE MATTER OF:	
MAP AND TEXT AMENDMENT	
EAST M STREET, S.E.	Case No. 04-02
CAPITOL GATEWAY OVERLAY	

Thursday,

June 17, 2004

The Public Hearing of Case No. 04-02 by the District of Columbia Zoning Commission convened at 6:30 p.m., in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
KEVIN HILDEBRAND	Member
GREGORY JEFFRIES	Member
JOHN PARSONS	Member

OFFICE OF ZONING STAFF PRESENT:

ALBERTO BASTIDA	Secretary
SHARON SCHELLIN	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JOEL LAWSON	Office of Planning
JENNIFER STEINGASSER	Office of Planning

OFFICE CORPORATION COUNSEL STAFF PRESENT:

ALAN BERGSTEIN, ESQ.
LORI MONROE, ESQ.

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7:27 P.M.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen.

This is a Public Hearing of the Zoning Commission of the District of Columbia for Thursday, June 17th, 2004. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Greg Jeffries, John Parsons and Kevin Hildebrand.

The subject of this evening=s hearing is Zoning Commission Case No. 04-02. This is a request by the Office of Planning for Map and Text Amendments to Title 11 of the District of Columbia Municipal Regulations, the Zoning Ordinance, to place the Capitol Gateway Overlay over the East M Street area, thereby re-zoning certain lands in that area and to amend the Capitol Gateway Overlay and the W3 provisions relating to the East M Street area.

Notice of today=s hearing was published in the D.C. Register on April 23rd, 2004, and copies of that hearing announcement are available in the wall bin near the door.

Please be advised that this proceeding is being recorded by a court reporter and is also being

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web cast live. Accordingly, we ask you to refrain from making any disruptive noises or actions in the hearing room.

When presenting information to the Commission, please turn on and speak into the microphones at the table in front of us, first stating your name and home address.

When you are finished speaking, please turn your microphone off so that the microphone is no longer picking up sound or background noise.

This hearing will be conducted in accordance with the provisions of 11 DCMR Section 3021, which are the Rules of Procedure for Rule-making.

The order of procedure will be as follows:

Preliminary matters followed by the presentation by the Office of Planning, reports of any other Government agencies, reports of any ANCs who are affected, organizations and persons in support, organizations and persons in opposition.

The following time constraints will be maintained in this hearing:

Since we don't have a petitioner, I guess we'll just confine ourselves to organizations having five minutes and individuals having three minutes,

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because the Office of Planning is the petitioner.

We would ask you to confine your presentation to 15 minutes, but we won't put you on the clock.

The Commission intends to maintain these time limits as strictly as possible in order to hear the case in a reasonable period of time. The Commission reserves the right to change the time limits for presentations, if necessary, and notes that no time shall be seeded.

All persons appearing before the Commission are to fill out two witness cards. You can find the cards on the table near the door.

Upon coming forward to speak to the Commission, please give both cards to the court reporter who is sitting to our right.

The decision of the Commission in this case must be based on the public record. To avoid any appearance to the contrary, the Commission requests that persons present not engage members of the Commission in conversation during a recess or at any other time.

Staff will be available throughout the hearing to answer any procedural questions and you can direct those to Mr. Bastida or Mrs. Schellin.

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And I= d ask you to turn off all beepers and cell phones at this time so as not to disrupt the hearing.

At this time, we= ll consider any preliminary matters.

Mr. Bastida.

SECRETARY BASTIDA: Yes. Madam Chairman, you have a preliminary matter regarding the letter from mr. George Keys requesting that these hearings will be turned over as a contested case rather than as a rule-making.

Thank you.

CHAIRPERSON MITTEN: Yes. And we have a letter in the record. It is a May 14th letter from Mr. Keys who represents Washington Gas Light and Lincoln Property Company and requesting that this be heard as a contested case rather than as a rule-making. And it= s actually kind of ironic in this particular case that we would get this request because it started out as a contested case, if you= ll recall, that we had a request from a specific property owner and we wanted to look at it in the larger context of the area that is east of the bridge and north of the waterfront, that little triangular area.

So, I think I would recommend to the

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Commission that it's very appropriate that we deal with this as a rule-making. And we don't need to do anything different unless someone would like to make a motion to convert this to a contested case.

All right. Then, I think we'll just move ahead as a rule-making and following the order of procedure, we'll ask for the presentation by the Office of Planning and welcome Mr. Lawson and Ms. Steingasser.

MR. LAWSON: Thank you, Madam Chair, Members of the Commission.

My name is Joel Lawson. I'm a Development Review Planner with the D.C. Office of Planning and with me is Jennifer Steingasser, also from the D.C. Office of Planning.

At its February 9th, 2004, meeting the Zoning Commission set down for Public Hearing this application for a Zoning Map and Text Amendments for the East M Street target area of the near southeast neighborhood.

The application is a result of a Zoning Commission request for a planning study for the East M Street area to better insure that zoning regulations are consistent with the Anacostia Waterfront Initiative prior to the review of pending and

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anticipated development proposals.

The East M Street area is roughly bounded by the north side of the freeway to the north, the 11th Street Bridge to the west, Water Street to the south and the Sousa Bridge to the east.

The area enjoys sweeping river views. Its principal access is from M Street southeast.

The area is within the Anacostia Waterfront Initiative and the Near Southeast Urban Design Framework Plan, both of which call for mixed-use pedestrian and environmentally friendly development with greater connections to the water's edge.

Most of the north and west portions of the area are within the freeway and bridge access ramp rights of way. Much of the remainder is underdeveloped. The NPS, National Park Service, owns the land along the river to the south of Water Street and to the south of the city area, as well as a number of small scattered reservations within the study area.

Just over 17 acres are privately owned.

Most of the developable land is zoned M, general industry, which permits an FAR of 6.0 and a height of 90 feet. There is also CM1, Low Bulk Commercial Light Manufacturing, mainly along the

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interstate and railway lines and CM2, Medium Bulk Commercial Light Manufacturing below the 11th Street Bridge access ramps.

OP=s original report recommended that the Capitol Gateway Overlay District be applied to the area and proposed minor amendments as it would apply to the Capitol Gateway W3 zone in the East M Street area, including the following.

1. Building height and density. OP feels that the density and height permitted by the base W3 zone is appropriate to this area and anticipated development proposals, so that it would recommend that in the East M Street area, the Capitol Gateway Overlay residential bonuses for density and height not be permitted.

In addition, soil conditions over portions of the area would not viably permit residential development anyways, so the bonuses would be somewhat moot.

2. M Street retail. The existing Capitol Gateway Overlay requires a provision of retail along M Street, given the anticipated need for development in the East M Street area, the fact that much of the M street developable frontage in this area is already developed by the Maritime Plaza buildings and the

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vision for a future of Virginia Avenue to serve as the public gateway to the waterfront, OP feels that M Street retail should not be mandatory in this area.

3. Zoning Commission Review. OP has proposed mandatory Zoning Commission review of development proposals within Capitol Gateway W3 for the impact on the waterfront character and views as is currently the case for Capitol Gateway W2 zone.

This would be entirely in keeping with similar requirements for comparable M Street and waterfront commercial properties in the Buzzard Point and Southeast Federal Center areas to the west and would insure that important waterfront-related issues receive adequate attention by future Applicants in review by the attorney/client, the ANC and the Office of Planning.

OP also recommended the establishment of a minimum required retail space height throughout the Capitol Gateway overlay area.

An amended draft to the overlay was attached to the June 7th, 2004, Office of Planning Report. Copies are also available at the front table for members of the public and copies of the report in the draft overlay amendment were forwarded to area land owners prior to this hearing.

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OP considers the amendments minor. Many are wording changes for clarification and many of them are the result of suggestions from an area land owner.

I should note that an additional suggestion to amend the wording related to Zoning Commission review of proposed uses in the Capitol Gateway W3 district. This is not yet been incorporated by the Office of Planning.

While some clarification may be needed, for example, to exempt a requirement for Zoning Commission review of a change of one preferred use to another, the OP proposed writing is consistent with review requirement wording in other recent overlays including the Capitol Gateway W2 regulation. So, additional input from the Zoning Commission is requested.

Finally, with relation to the Capitol Gateway Overlay, the Office of Planning is proposing that the retail floor to ceiling height requirement be amended to 14 feet from 15 feet, because this is more consistent with similar retail height requirements for most other recent overlay proposals.

With respect to the proposed re-zoning of the lands, the Office of Planning has identified three alternatives.

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Option Number 1, OP=s original proposal that the entire East M Street area be re-zoned, Capitol Gateway W3. These options are also displayed on the board that=s sitting on the floor in front of you and there is a copy of that now attached to the June 7th report from the Office of Planning.

So, the top one represents Option Number 1, which is what the Office of Planning originally proposed.

Option Number 2 as advertised in the alternative for Capitol Gateway W3 zoning over most of the area, and Capitol Gateway W2 for squares 1025 south, 1025 east, 1048 south, which are properties adjacent to the National Park Service lands and Water Street.

And Option Number 3 is one that has come out of more recent discussions including discussions with the Advisory Neighborhood Commission would re-zone the M and CM areas to Capitol Gateway W3 and the CM1 area to Capitol Gateway W2. The CM1 area is essentially underneath the freeway at the northeast corner of the East M Street area.

Capitol Gateway W3 zoning would be in keeping with the objectives of the Anacostia Waterfront Initiative and the Near Southeast Plan by

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eliminating additional heavy industrial-type use and by permitting the possibility of a wider mix of uses including residential, recreational, retail and cultural or ceremonial uses. This would further the AWI vision for the area as a mixed-use neighborhood, which provides greater access to the waterfront and takes advantage of the unique waterfront location and sweeping river views.

OP believes that the Capitol Gateway W3 zoning is more appropriate and more desirable than the Capitol Gateway W2 alternative for all of the immediately developable portions of the area for a number of reasons.

1. The Capitol Gateway W3 allows a development pattern that is equitable and consistent with the southeast Federal Center and Buzzard Point Florida Rock areas to the west. In those areas, heights and densities equivalent to or greater than not permitted by Capitol Gateway W3 are permitted at locations along the river or adjacent to future waterfront park lands.

For example, in the Southeast Federal Center site, areas zoned for 90-foot height is within above a 100 feet of the river bulkhead. Whereas, the East M Street is separated from the river by the 200

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to 260 foot wide NPS lands and Water Street.

2. Capitol Gateway W3 is more in keeping with densities and heights permitted under the current zoning.

Office of Planning feels that this action should not significantly restrict development potential, but instead should maintain present potential while providing flexibility and opportunities for a more mixed-use form of development that can respond to emerging market conditions and AWI objectives.

OP feels that it is neither appropriate nor desirable to significantly reduce the permitted density or height of development parcels.

Although the area enjoys physical and visual access to the waterfront, which is a distinct benefit, it also faces challenges due to its somewhat isolated location and soils contaminated by years of industrial use. As such, sufficient amounts of development potential is needed to help overcome these obstacles and to provide incentives to tie this currently somewhat secluded section of the city back into the overall urban development pattern.

3. Capitol Gateway W3 zoning is generally in keeping with in-process development proposals from

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area land owners.

And finally, the proposed W3 height would allow flexibility in building design providing a three-dimensional building envelope that permits the necessary amount of development as well as opportunities for open-space around buildings to provide views and access to the river.

Overall height impacts would also be lessened by the natural terrain which slopes down from the north end of the study area towards Water Street.

And by the way, these two maps on the left hand aisle are a visual display of comparisons of the proposed zoning for the East M Street area with other near southeast areas, such as Buzzard Point, Southeast Federal Center and Florida Rock.

The top map compares heights and the bottom map compares FAR and copies of those maps were also included in the last report from the Office of Planning.

As such, OP does not support Capitol Gateway W2 zoning as advertised in the alternative for squares at the south end of the study area along Water street. Re-zoning these lands from MW2 would unnecessarily and OP feels significantly reduce development potential and opportunities to provide

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both animation for and connections to the waterfront.

These squares are also set back considerably further from the river than is the case for similar sites along the river front, some of which allow greater densities and higher building heights than the 90 foot maximum proposed in the East M Street area.

W2 would also provide lower densities and heights than proposed in the NPS large tract view application for the Washington Gas site, so it can serve as a deterrent to appropriate development in that area.

However, having said all that, OP feels there is justification given current zone densities and heights to apply the W2 zone to the CM1 portion in the northeast portion of the East M Street area. This land is mainly owned by the District and consolidated Rail and it=s covered with freeway and rail line. This portion of the city are somewhat closer to both the Anacostia river to the south and is adjacent to lower density residential lands in Capitol Hill to the north.

If and when this land is available for development, W3 would permit a maximum density and height closer to that of the existing CM1 zone and more appropriate to existing Capitol Hill development

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and zoning.

The existing Capitol Gateway W2 designation would require Zoning Commission review of proposal and could permit bonuses for residential development, although OP feels that it may be appropriate to limit development to the height and the density permitted under the base zone.

ANC 6B has noted support for the Capitol Gateway W2 zoning at this location.

OP referred this application to District government agencies for review and comment. The responses received by OP, the Department of Housing and Community Development noted support for the application. The Water and Sewer Agency noted that the capacity of the storm, sewer and water mains would need to be evaluated and the water lines would have to be protected from corrosive, contaminated soils in the area. These would be normal building permit requirements and the District Department of Transportation noted that W2 zoning for the land currently occupied by the freeway may be more appropriate given its proximity to the Capitol Hill neighborhood.

As noted earlier, ANC 6B voted on this application and voted to support the proposal with the

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recommendation that Capitol Gateway W2 be adopted for the CM1 portion of the area under the freeway.

The ANC also recommended that the Zoning Commission adopt an expedited special review process for projects that have under gone a large tract review application.

OP agrees with the Capitol Gateway W2 recommendation, of course, and has no concerns with an expedited review process, but notes that the special exception in the large tract review processes are distinct and deal with different issues and levels of design detail.

OP also presented the proposal to ANC 6D.

In summary, Op recommends the mapping of the Capitol Gateway Overlay over the East M Street area and the re-zoning of the M and CM2 lands to Capitol Gateway W3 and the CM1 lands to W2.

OP feels that this would address the Anacostia Waterfront Initiatives, goals and Objectives, as well as existing impending development in the area. This would also further numerous comprehensive plan goals and objectives related to the environment, transportation, urban design and land use, particularly ones related to waterfront development, as well as Ward 2 and Ward 6 goals and

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objectives related to urban design, economic development, environmental protection, transportation and land use.

This concludes the Office of Planning presentation. I see I ran overtime, I think, but thank you and we are available for questions.

CHAIRPERSON MITTEN: Thank you, Mr. Lawson.

Any questions for Mr. Lawson?

Mr. Hildebrand?

COMMISSIONER HILDEBRAND: Yes. Actually, I do have a couple.

You said something early in your statement that I just want to clarify. Did you say that the soils on the site are not suitable for residential use?

MR. LAWSON: Some of the lands, at least this is what we've been advised, are fairly heavily contaminated because of the industrial use which makes residential development much more difficult, Non-residential development is more feasible on land like that and requires -- from my understanding requires a lesser amount of site clean up.

COMMISSIONER HILDEBRAND: Is that because usually in office use you would put a garage and you

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excavate most of the soil out of there anyway?

MR. LAWSON: I would assume so and also partly because within office use, there are not people living there 24 hours a day. I'm just guessing to be honest. I don't know.

COMMISSIONER HILDEBRAND: Okay. Okay.

I didn't quite understand then why we were being asked to re-zone this to a residential possibility if the soil is not capable for residential use.

MR. LAWSON: The soil could be made capable for residential use. It would require more remediation. There are also portions of the site which I, to be honest, don't know that that's the case, that residential would not be permitted.

COMMISSIONER HILDEBRAND: In looking at the site, I noticed that your re-zoning district held properties to W3 or W2 as well.

In relation to the Navy Yard, what is the height of the average structure on the Navy Yard?

MR. LAWSON: To be honest with you, I don't now. I've never seen actual heights for the Navy Yard and the heights also vary considerably. Certainly walking around, there are some buildings that are well, you know, that are at 90 feet or

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higher. There are a number of other buildings that are much lower. But I don't have a survey of the Navy Yard that shows their building heights.

COMMISSIONER HILDEBRAND: So, we don't know what the height of the existing structures on the east side of the Navy Yard are?

MR. LAWSON: I do not.

COMMISSIONER HILDEBRAND: I think that would be something we really should know.

What would you think about re-zoning the District parcels from their current CM2 and CM1 zoning to W1?

MR. LAWSON: I should note that the only District-owned parcels, at least that I'm aware of are actually up in the CM1 area. There is Federal land and there is some land owned by, I believe, owned by Washington Gas in the CM2, in the CM2 area.

COMMISSIONER HILDEBRAND: Well, I thought that I'd seen somewhere that everything under the 11th Street Bridge was government or District property.

MR. LAWSON: No. Everything under the Freeway is owned -- most of what's under the Freeway is owned by Consolidated Rail. There are a couple of small parcels which are owned by the District.

Underneath the 11th Street Bridge and

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access ramps, as I said, I believe all of the land is owned either by the Federal Government, although I think there are agreements for District use of some of that land, as well as some land owned by Washington Gas.

COMMISSIONER HILDEBRAND: I'm just really concerned by the 90 foot height in this particular area. Unlike Buzzard Point and the parts west of the Navy Yard, it seems to me that the natural inclination in this area should be to step back down and to provide more openness towards the water's edge. And to introduce 90 foot elements there to create -- my fear, of course, would be to create a barrier between the Capitol Hill neighborhood and the waterfront that's even worse than the current Freeway condition.

What would you think about an option that provided for a W2 with the flexibility of the original intents from the overlay so that you could go to a greater FAR density and a height of 70 feet, instead of the base zoning of 6 FAR and 90 feet?

MR. LAWSON: I'm sorry. Are you talking about for the CM2 portions?

COMMISSIONER HILDEBRAND: No. Actually, right now I'm talking about for the parts that you're suggesting go to W3.

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MR. LAWSON: For the M Zone portions?

COMMISSIONER HILDEBRAND: Yes.

MR. LAWSON: Well, you know, as I stated, the Office of Planning doesn't feel that's appropriate. We feel that the level of density that would be allowed under W3 is both an appropriate amount of density given the current zoning and given current conditions on the site.

The land does slope down somewhat from M Street down towards the water. So, buildings up towards M Street are just naturally higher because the terrain is higher.

So, kind of similar to what would happen or what I understand is happening at the Reservation 13 site. The height is consistent or I think with Reservation 13 actually stops up towards the waterfront taking into account the fact that the slope of the land goes down. We feel that that's appropriate.

We are also somewhat concerned by restricting height, that what you would end up with would actually be a grater blockage of views and the buildings would start to spread out onto the site rather than be able to maybe slenderize a bit and go up a little bit.

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When the ANC 6B reviewed this application, there was certainly much more concern with the exact configuration of buildings than they were about the height, given you know and I shouldn't speak for ANC 6B because I don't believe they're here. But that was certainly my interpretation of what they were saying, because they felt that it was appropriate that views be maintained between the buildings down towards the water front. They were very concerned about the heights of buildings in the CM1 portion and how they may overshadow and how they make block the development directly to the north. But because Capitol Hill is even further higher up, they seem to accept that views would be maintained through buildings and around buildings even with the W3 along Water street.

COMMISSIONER HILDEBRAND: Okay. That portion of Capitol Hill in my recollection of driving through that area seems to be relatively flat once you get up to that plateau. If there is a slope, it's fairly gradual towards the water north of the freeway.

Okay. Thank you.

CHAIRPERSON MITTEN: Mr. Parsons?

COMMISSIONER PARSONS: I share Mr. Hildebrand's concerns as we expressed in the set-down, so I don't think that's a surprise to you.

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The only living example we have of W3, of course, is Washington Harbor in Georgetown. And it seems to be that a vertical island, I'll call it, in the urban context of this site doesn't make sense to me at all. That is the Washington Navy Yard. I think, and we'll find out. It's better to base this one fact than emotion, is generally a much lower feeling place than 90 feet.

And I want to go back to what I thought was a planning process, a large tract review that occurred maybe five years ago or so with maritime Plaza and I do not recall 90 foot high buildings in that project. I thought they were all about the same level, but I may be mistaken.

Were you involved in that or do you have knowledge of that?

MR. LAWSON: I wasn't involved in the original large tract review. Washington Gas is currently undergoing a large tract review for the undeveloped portions of their site and that large tract review application includes -- in fact, consists of buildings of 90 feet.

COMMISSIONER PARSONS: I guess I'd like to see the prior approved large tract review rather than what some desire may have evolved because of the

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zoning case. And that=s my suspicion. I may not be right, but I thought this was a campus of four to five story buildings.

MR. LAWSON: The existing.

COMMISSIONER PARSONS: Which may be a signature hotel overlooking the river.

MR. LAWSON: Right. The existing buildings are, I believe, approximately 65 to 70 feet in height. But the -- I would assume that development proposal that they came forward with is based on the existing zoning. The existing zoning is M which allows a 90 foot height.

COMMISSIONER PARSONS: Yes.

MR. LAWSON: So, that=s what they would have based their application on.

COMMISSIONER PARSONS: I=m more interested in the prior application than what you have now. And maybe I=m wrong. Maybe they were 90 feet, but I don=t remember that.

And is the parking garage also included in that?

MR. LAWSON: The large tract application includes a parking garage on Virginia Avenue.

COMMISSIONER PARSONS: Well, not to get us involved in your large tract review process. That=s

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not our place, but I think it would be helpful to see the prior application and this application just to better understand that.

I wanted to shift subjects to a provision for a setback. I wanted to talk about the setback that=s called for.

There seems to be a 75 foot setback. Have I misread this, provided for in this?

MR. LAWSON: I=m not sure what you mean. Are you talking about the waterfront setback?

COMMISSIONER PARSONS: That=s what I think it means. Yes.

MR. LAWSON: Yes. The existing Capitol Gateway Overlay provides for a 75 foot setback from the bulkhead.

COMMISSIONER PARSONS: Right.

MR. LAWSON: In the W2 zone.

COMMISSIONER PARSONS: so here they=re no where near the bulkhead?

MR. LAWSON: That=s correct.

COMMISSIONER PARSONS: So, why is there a 75 foot setback?

MR. LAWSON: I don=t believe there is.

COMMISSIONER PARSONS: Oh, well, what am I -- well, I=ll have to find it. It was in here. And I

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wondered if it was simply left in inadvertently. And of course I=ve got too much paper in front of me. So, I=m struggling to find it. But if you say there isn=t, there isn=t.

It=s in the notice at 1605.3A, on page 4 of the Public Hearing Notice.

COMMISSIONER HILDEBRAND: are you suggesting that since that=s National Park Service land and it far exceeds 75 feet that --

COMMISSIONER PARSONS: Right.

COMMISSIONER HILDEBRAND: -- that=s not necessary?

COMMISSIONER PARSONS: I don=t think it=s necessary.

MR. LAWSON: I=m sorry. I see what you=re saying. You=re probably right. It probably isn=t necessary since all the potentially zoned land is set more than that back from the waterfront.

COMMISSIONER PARSONS: Right. I presume this was in here because there was some confusion over one parcel that was on the waterfront that you might think was --

MR. LAWSON: Right.

COMMISSIONER PARSONS: -- that you thought at the time of the notice that it might be privately

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owned.

Does that explain that? So, this isn't included. All right? This wouldn't be included.

MR. LAWSON: It could be excluded. The only way that it might come in handy at some point is if for some reason Capitol Gateway was extended even further in some direction and could include land that was adjacent to the water. That provision would be in there kind of waiting for that. But you're right. It would have no applicability to the East M Street area.

COMMISSIONER JEFFRIES: Right. So, we might rule out the W0 zone again -- W zero.

MR. LAWSON: : But that would be available of ruse instead of for sure.

COMMISSIONER HILDEBRAND: Are you thinking that it would go towards the Reservation 13?

MR. LAWSON: To be honest, I wasn't thinking of it going anywhere. I was just saying, to be honest I think it could be taken out or it could be left in. It would have no impact one way or another, the 75 foot setback clause and the W3 for the current areas that are being proposed.

COMMISSIONER PARSONS: Well, it could be left in, but to me it implies something that isn't there. I mean, it's illogical.

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I think somewhere in the Anacostia Waterfront Initiative computer, there must be an opportunity to simulate what you're talking about.

I wonder if you could do that. And there's these wonderful images in Andy's computer somewhere. UVA's computer somewhere to insert the three dimensional model of the navy Yard and show what W3 would look like here, because I hope it goes back to the other side of the Freeway at capitol Hill, but I think -- to me, it should be stepping down. It's narrower part of the river. It can't handle what we're talking about. So, I'm trying to find a tool that will work to make that happen and the overlay ought to do that.

Let's see. I think I had -- let me pass and see if I can find my way to another question.

CHAIRPERSON MITTEN: All right. Anyone else have questions?

Mr. Jeffries?

COMMISSIONER JEFFRIES: Yes. What would say the grade change is from Capitol Hill at the north to the East M Street area?

MR. LAWSON: I can certainly get that information for you.

It is complicated by, you know, the

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Freeway kind of running in between the two and the Freeway the grade kind of dips down and then it goes back up and there=s retaining walls.

I would have to get that information for you.

COMMISSIONER JEFFRIES: Thank you.

COMMISSIONER PARSONS: Thanks for giving me that moment.

I=m very concerned about what streets will be used for the measuring height of these buildings. In other words, if it=s M Street, at 90 feet by the time you get to the water, these buildings are going to be 130 or more.

And you don=t need to answer that now, but I think -- I don=t know whether Virginia Avenue is the widest, M Street is the widest, Water Street is the widest, but which right of way are we going to be using to create this development? And maybe that=s already evident by the buildings that have already been built. But I think that would be helpful to know whether we=re really getting 60 or 90 or 70 foot height buildings.

So, if you could do, I=d appreciate it.

That=s all I have.

CHAIRPERSON MITTEN: Thank you.

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Mr. Jeffries, follow up?

COMMISSIONER JEFFRIES: And in terms of and maybe this is I'm taking off of Commissioner Parsons' concern. I'm trying to somehow visualize as volumetrically how all of this looks.

Is there any way that there could be a drawing that just deals volumetrically, sort of, you know, a W -- A W2 versus some other heights? We can get a sense of what how this sort of plays in terms of, you know, three dimension? Is there a way to do something like that?

MR. LAWSON: We can supply that. Yes.

COMMISSIONER JEFFRIES: Okay. So, in other words, I mean for East M Street, you know, we're looking at buildings that, you know, might max out at 90 feet. So, what that looks like and how that plays against the Capitol Hill community to the north and just so we get just a better visual. Thank you.

CHAIRPERSON MITTEN: Anyone else? Mr. Hood?

VICE CHAIRPERSON HOOD: Madam Chair, well, I have raised this previously.

Mr. Lawson, I'm looking here and I'm looking at all the zoning changes what I think is appropriate. We always want a nice beautiful

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waterfront. What I'm concerned when I look and see the M zone, the CM1 zones and the CM2 zones disappearing. I'm just curious. Where are they going because you mentioned sole remediation. And I believe that's only permitted -- it may be permitted in CM1. I'm not sure to do the actual process.

Where are these zones actually going to go? I mean, it's appropriate maybe to have a few along the waterfront. Maybe -- and I'm just going off of simply just hypothesis of thinking that maybe the reason why you have the M zones and CM1 zones and CM2 zones down by the water, because nobody wanted them in their neighborhoods. I may be wrong. I don't know. But I'm just curious. Where are they going?

MR. LAWSON: Well, the zones certainly aren't going anywhere. I think what is kind of a better question is, where are the uses going?

VICE CHAIRPERSON HOOD: Thank you. You hit it right on the point. I couldn't have said it any better.

MR. LAWSON: I think the first thing I would say is that in this area there is no industrial use. The industrial use has left many, many years ago. There's a little bit of residual kind of clean up kind of stuff going on. Otherwise it's going

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office. So, it=s not there are existing uses on these properties that are being displaced by residential or office or some other kind of use like that.

VICE CHAIRPERSON HOOD: Do you feel comfortable enough that throughout the city. I know this may not be necessary germane specifically to this case, but this is something I=ll probably be hopping on for awhile.

Do you feel comfortable enough that across the board and I mean every ward that there=s enough M zones? CM1 zones? CM2 zones? So, that those uses will land in areas across the board and the city?

MS. STEINGASSER: Commissioner Hood, if I may, I=d like to answer that in two parts.

As we discussed Monday at the regular Zoning Commission meeting, we are moving forward with our industrial land use analysis.

I think there are industrial lands peppered throughout the city, but I=m not sure that there are sufficient quantities and concentration to allow, you know, actual productive industrial activity through every ward.

The W3, W2, W1 zones are interesting in that they do allow quite a bit of industrial - -I don=t want to call it passive industrial, but they do

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allow industrial uses and they require special exception review. And some of those uses are manufacturing and processing subject to BZA review and warehousing and wholesalers. So, that the industrial uses that could be accommodated in the M zone, many of them would still be permitted through the W zones and still be subject to a requirement of review, so that the compatibility with the residential uses would be available still. So, it's not that these re-zonings are pushing those uses out absolutely. They would still be available here.

COMMISSIONER HILDEBRAND: But aren't they discouraging those uses by making them special exceptions?

MS. STEINGASSER: I don't think it's meant to discourage those uses. It's meant to insure that the uses are compatible with the overall surrounding development.

VICE CHAIRPERSON HOOD: And, Ms. Steingasser or Mr. Lawson, if you could help me. I'm looking at what was advertised earlier and I'm looking at something more recent.

It looks like we've changed 1605.1, which says that the commercial industrial use that is first permitted in the CM or M district and that is in

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existence with a valid Certificate of Occupancy as of and then it has a date, shall be deemed a conforming use but shall not be entitled to expand.

And then when I look in the later version here and I dated June 17th, I don=t see it anymore. At least, I can=t place it immediately. Was that taken out?

CHAIRPERSON MITTEN: It=s been renumbered to 1606.

VICE CHAIRPERSON HOOD: No wonder I can=t find it.

CHAIRPERSON MITTEN: It=s on page 7 of the more recent OP report.

VICE CHAIRPERSON HOOD: >Oh. Because what I have here only goes to page 5, so no wonder I=m --

CHAIRPERSON MITTEN: Oh, okay.

VICE CHAIRPERSON HOOD: -- having some problems.

But anyway, it=s in here.

CHAIRPERSON MITTEN: It=s in there.

VICE CHAIRPERSON HOOD: Okay. Again, I think for now you=ve answered my question, but just on notice, I will be asking that question more frequently. It=s a standard question now.

Thank you.

CHAIRPERSON MITTEN: Thank you. Anyone else have questions for the Office of Planning?

All right. Thank you. And we do have reports from government agencies attached to the Office of Planning submission including WASA. DHCD, DOES and then the text of a fax from DDOT. Anyone here representing any government agency that would like to testify?

All right. Anybody here from ANC 6B or any other ANC?

Mr. Lawson, you had mentioned a position that was adopted by ANC 6B. Did you have a submission from them because we don't have that.

MR. LAWSON: I was hoping that they would have submitted it to you. They had told me that they would be submitting it to you in advance, but I just have -- I do have a copy of the report from the zoning -- from the Planning and Zoning Subcommittee of the ANC, which the ANC adopted, but I don't have a copy of their actual adoption.

CHAIRPERSON MITTEN: Okay. Thank you.

And we're ready for organizations and persons in support and on my list I have Mr. Greene. And anyone else that would like to testify in support can come forward now.

Whenever you're ready.

MR. GREENE: Thank you very much, Madam Chairperson, and good evening to members of the Commission. My name is Fred Greene. My address is 1230 31st Street, NW, Washington, DC 20007.

I represent the group or the ownership of Square 1048S, which is the triangular piece. And if you recall, this is a property that we had filed last year to have it re-zoned from manufacturing to residential.

In that regard, we do support the appointed recommendation wholeheartedly with perhaps one comment. And it has to do with the Zoning Commission, the need for an additional Zoning Commission review and approval after this process. And I might add that this process and what has come out of this process from the Office of Planning is a detailed study and analysis, which the planners appear to have looked at all of the issues related to height. Bulk, mass, set back, views and vistas and it may not be necessary for an additional level of review and if you do decide to adopt the additional level of review, I would recommend that it be structured to allow for an expedited review. And I'm assuming that, at least the way we read it, it would require a special

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exception, especially in the W3, prior to going towards building a permit.

I think it's a real opportunity from a planning standpoint to East M Street. Mr. Parson, I think, originally the idea was to create a sense of community, with a mixture of uses. Office, hotel, residential, retail and the like. And I think that opportunity is still available today and we're pretty excited about it and our plans to go forward with development of 1048S to be residential. We have not finalized plans, but we want to move forward as soon as possible with that.

Thank you.

CHAIRPERSON MITTEN: Thank you, Mr. Greene.

I would say that in terms of asking for the expedited additional level of review, one of the things that does make it sort of inherently more expedient is that it's treated as if, you know, as a BZA case would be for a special exception where we don't have a set down as soon as the application is complete, scheduled for a hearing and there's a single vote. So, it is somewhat more --

MR. GREENE: That I didn't know and that's encouraging.

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CHAIRPERSON MITTEN: That=s what we were spending our time doing when you were so patiently waiting --

MR. GREENE: I appreciate that.

CHAIRPERSON MITTEN: -- for the hearing to start, but you can see how we really like to dig into those cases.

MR. GREENE: Yes. Yes.

CHAIRPERSON MITTEN: Anyone have any questions for Mr. Greene?

All right. Thank you.

MR. GREENE: All right. Thank you.

CHAIRPERSON MITTEN: Anyone else in support?

All right. Now, we=ll take the folks in opposition and we have some folks from Washington Gas and Lincoln Property Company. I=d ask them to come forward and I=ll let you decide since you=re sort of collectively the developer of Maritime Plaza. One of you will get five minutes and the rest can have three minutes apiece.

Are you going to take the five?

MR. KEYS: No, Madam chair. I=d just like to introduce myself and to set the context of the people who will speak.

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My name is George Keys, with the firm of Jordan and Keys, 1400 16th Street, Suite 520, Washington, D.C.

I have represented, as you know, the owner and the two development entities for the Maritime Plaza property, Washington Gas and Lincoln Property Company.

CHAIRPERSON MITTEN: Go ahead. Just keep on. Pay me no mind.

MR. KEYS: And we have essentially three people who would like to speak to the issues. And I think it's important for us to speak.

We had hoped by reason of our request for a contested case, we thought of that as an opportunity to give the Commission the background that I think is necessary to understand this proposal, because this proposal is really about the central piece of property in this area. The key development in this area, which is Maritime Plaza.

There are some unique circumstances affecting this land that aren't addressed in the OP report, a significant development background that this Commission is simply not aware of and that's evident from the questions that were asked.

So, what we would hope to do is to take as

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much opportunity and time as you'll give us to engage you in a dialogue that will hopefully educate you about the implications of this proposal on this particular development, because I think is what East M Street is about. It's about Maritime Plaza proceeds.

I have with me Mary Jane Brady who is the project manager for Washington Gas for the Maritime Plaza development. Next who would speak would be Harry Pfohl. Harry Pfohl is the representative of Lincoln Property which is the co-developer of this site. And, lastly, Lindsley Williams, whom you're well familiar with who has been advising us on some land use and planning issues.

If I could designate the five-minute person it would be Mary Jean Brady --

CHAIRPERSON MITTEN: Okay.

MR. KEYS: -- who would lead off. And we hope to confine the others to three and we hope that you will take the opportunity to engage them and learn what they know.

CHAIRPERSON MITTEN: Thank you.

Ms. Brady, go ahead.

MR. KEYS: I'm sorry, and I made the assumption that you would recognize Mr. Williams as an expert in the planning area.

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CHAIRPERSON MITTEN: I'm just going to have to -- I'm just going to have to ask one question.

Is that appropriate to do even in a rule-making? I mean, if someone doesn't have -- standing as a party, can they proffer experts?

MS. MONROE: I don't think it's necessary, but I think if you would to accept that as proffer, you can. You know, he's not an expert witness or anything but he can give you expert advice or testimony in that sense.

CHAIRPERSON MITTEN: Okay. We're very familiar with Mr. Williams and we'll acknowledge his talents as they relate to this matter.

Go ahead.

MS. BRADY: Good evening, Madam Chairman and members of the Commission.

As George said, my name is Mary Jean Brady and my address is 627 Warfield Drive in Rockville, Maryland. I'm the Maritime Plaza Project Manager for Washington Gas and I'm presenting testimony this evening on behalf of Washington Gas, which owns the Maritime Placed property and Lincoln Property Company and Lincoln Property Company which is our development partner.

Maritime Plaza, I'm going to try and talk

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fast since I=ve only got five minutes, but as George said, I do want to give you some of the background. That=s really going to be the thrust of my remarks and then Lindsley and Harry will talk about more specific issues.

The Maritime Plaza is a 12 acre parcel located as you can see at the southeast corridor of 12th and M, just north of Water Street. It=s approximately 200 feet from the river. It is a Brownfield site that=s being redeveloped for commercial use under a remedial plan, which prohibits residential and below-grade development.

The side plan includes four office buildings and a hotel and an above-grade parking structure. The project also provides significant public amenities including a large park-like central plaza and several smaller plazas that will be designed to attract the public into the site and to provide vistas of and access to the nearby waterfront.

To date, two office buildings have been completed that are leased primarily to the Navy contractors. It=s located in the East M Street area as everybody knows and Maritime Plaza comprises 80 percent of the privately owned land and 93 percent of the developable land in the East M Street area.

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Washington Gas and Lincoln support the rezoning of the area to W3 which allows us the same building height and substantially the same FAR as the M zone did. However, we strongly oppose the alternative W2 zone, which would limit future building height to 60 feet and FAR to 4.

These conditions would not only make future development economically unfeasible, but they're also contrary to the goals of the Anacostia Waterfront Initiative which Mr. Lawson has already alluded to.

Washington Gas and Lincoln also strongly oppose the imposition of the Capitol Gateway Overlay on Maritime Plaza because the special exception process, because the special exception process squire is largely duplicative of the large tract review process.

Washington Gas formally initiated our site development process more than five years ago and in 1999 we did receive large tract review approval from the Office of Planning for the first phase of development.

The first phase LTR approval only applied to five acres of the property, however, the LTR application package presented an integrated office

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complex development plan for the entire site that was reviewed and discussed at length and just in response to Mr. Parsons' question, that original proposal which we'll be glad to provide copies of, did show two office buildings that were seven stories high and one hotel that I believe is eight stories high. So, we did originally plan to build taller buildings on the site, although they were not the ones that were subject of that particular large tract review.

After additional meetings with the Office of Planning, we submitted our second phase LTR this March. The phase 2 application was specifically revised to address OP's comments about building orientations, vistas, pedestrian access to the site and connections to the river. We expect to continue our collaborative process with OP throughout the remaining Maritime Plaza development project. However, despite all this time, expense and effort involved in the large tract review process, the overlay would change the rules of the game by allowing the Zoning Commission and the NCPC, through the special exception process, to impose additional requirements and/or change those that have already been established by the Office of Planning.

This uncertainty and the additional costs

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and delays associated with the special exception process will severely hamper our ability to compete with other potential development projects, and I'm not going to address that specifically. Mr. Pfohl will get to that.

The Capitol Gateway Overlay area was developed after much deliberation, we understand, to coordinate and address potential development of numerous privately owned parcels as well as specific conditions found in the South Capitol Street corridor, which is a major entry way into the city. This overlay should not be automatically applied to the East M Street area, which consists of only two development parcels and is located at what's really the dead end of M Street and Virginia Avenue. And as you can see from the photographs over there, it's effectively cut off from the city street network.

Washington Gas and Lincoln do support the overlay's purpose to provide for the development of Virginia Avenue, SE, as a gateway to the river with a strong connection to the waterfront park and river walk. We're committing to designing and building future office buildings and a parking structure in a manner that can accommodate the active mix of uses on the ground floor when a market develops for them in

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the East M Street area. However, at this time, only office development at Maritime Plaza can provide the economic base and critical mass of tenants necessary to fund the construction of the plaza that will provide pedestrian access to the river and that will support the ancillary retail and entertainment businesses.

Do I need to stop?

CHAIRPERSON MITTEN: Since you're winding down.

MS. BRADY: I only have one more comment.

CHAIRPERSON MITTEN: Okay. Let's wrap it up then.

MS. BRADY: Okay. Washington Gas and Lincoln in summary support the goals of the Anacostia Waterfront Initiative. We participated in its development process. We recognize and appreciate Maritime Plaza's special potential to provide access to the future waterfront park and we believe that the growth of our project will help to stimulate the park's development.

We worked in good faith with the Office of Planning to redesign the Maritime Plaza site to meet the AWI's initiatives. And we believe the large tract review process is sufficient to insure that the

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Maritime Plaza will be developed in a way that's consistent with the city's vision for the redeveloped waterfront.

We urge the Zoning Commission to delete Section 1605 for the proposed regulation and we urge you to consider an alternative plan that Mr. Williams will discuss in a few minutes.

CHAIRPERSON MITTEN: Thank you.

MS. BRADY: Thank you.

CHAIRPERSON MITTEN: Mr. Williams.
Whoever is going next. Okay.

MR. PFOHL: Madam Chairman, Commissioners,
thank you very much.

I'm Harry Pfohl. I live 6224 Winebago Road in Bethesda, Maryland.

I'm with Lincoln Property and our mission in a project is to try and make things happen and it's my understanding that that is really what we would all like to try and do and the question is how should it happen.

The project is or the site is one that has serious competitive disadvantages. It's a Brownfield site. It's 4,000 feet from Metro, which is 4/5 of a mile. It's isolated. It doesn't pick up on the dynamics that are occurring on M Street elsewhere.

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There=s no critical mass there and it still retains a quasi industrial environment in the general vicinity.

The existing development that we have there is due to the Navy contractor demand which was very strong for a very short period of time. We saw that, we built two buildings on a speculative basis.

Relative to building height, we had great fear. We had a 90 foot permit at that point in time where 90 foot was permitted. We had great fear that we might building too much, because the contractor market had a sharp demarcation, would fall of and we were dead. So, that=s why building heights exist as you see them now.

The demand was there. We would build a speculative building at this point in time.

The key to our competitive position at this point vis-a-vis the balance of M Street, southeast Federal Center, the north side of M Street is quick response and price competition.

We feel that the overlay would provide us at a serious disadvantage. We need to be able to define a produce, go into the marketplace and pursue a tenant.

We receive an RFP from a private sector tenant, respond quickly. What are we giving you?

What=s the building look like? What=s the floor plan, etcetera, etcetera.

If we can=t do that, if it takes us months in order to do that, we=re at a disadvantage.

Pricing again. We don=t know how the calculate the rent until we have matters of that nature defined.

With the overlay in place, I cannot envision any speculative buildings occurring. The only building I can envision occurring there in the foreseeable future would be in the event of a very substantial military build-up, number one. And number two, if we were able to get a major Federal agency.

Absent that, I would see that building in a speculative context might occur with mature M Street and mature Southeast Federal Center. Again, consider the isolation.

That, I think, if you consider the east end of Washington and what occurred there and how long it took to occur, if you consider what=s occurring at present in Noma, if you consider the north side of the Capitol, I think that we would literally be looking at 20 to 40 year time span before the balance of the project would be built up.

Thank you.

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CHAIRPERSON MITTEN: Thank you, Mr. Pfohl.

Mr. Williams?

MR. WILLIAMS: Good evening, ladies and gentlemen. My name is Lindsley Williams. I reside at 3307 Highland Place, NW, and I=ve been asked by these people to give a little bit of assistance to them in the hearing process that=s before you tonight.

I prepared for you some materials to help bring to your attention where the site is located. I know you know it already, except that it really shows within the circled area that you can hardly get there from anywhere, which is one of the characteristics of the site. It is isolated and you almost need to have special driving instructions to get there and to get out.

The next page of this diagram, I traced the outline of all the properties that are being advertised in this case to establish an overall perimeter for how much land is being included in the advertisement and it includes that segment, Mr. Parsons, which goes down closer to the water which is probably the genesis of the setback provisions that you were discussing. We=ll talk about that a little bit in a second.

On the following page, I=ve colored these

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land areas, blue for Federal, yellow for the gas company, red for one of the two D.C. parcels. The other one is also another freeway-only parcel that's located further to the east. The purple land is CSX property. Mr. Greene's property is represented by the lighter orange. And then I believe Stuart Petroleum owns one of the reservations. It's a rare reservation, but it's noted in the records as being owned by Stuart Petroleum. The blue, as I said is Federal.

The point of this chart is to say that the blue areas, which are Federal, would be by action of the Zoning Commission rules be un-zoned and the green area which is depicted on this area, is shown on the zoning maps that you have, the ones that are published on the web as being CM1, but in fact it isn't and so we have, if you'll turn now to the chart here which I gave you. It's a list of the properties and you'll see that there's a total area within the perimeter that I've just done of 932,000 square feet, about 21 acres of which 3.3 is Federal lands, the way I totaled it. 11.7, which is over half of the zoned land is from the client that I'm working with right now.

CHAIRPERSON MITTEN: That's your one-minute warning.

MR. WILLIAMS: And the final thing I'll do before giving you the proposal is to simply say that the large base map that I gave you, I put in so that you'd have some actual measurements from the edge of Water Street out to the bulkhead. It's historic. It probably has changed slightly, but it gives you some sense of the scale going out.

What we're recommending, ladies and gentleman, is that the W3 zoning occur over much of the area, that we support objectives that protect sensitive exposure to the Anacostia, but we want to recommend that we substitute basic design standards for the design review process that you've got outlined before you now.

We suggest further that the regs provide ZC jurisdiction where area variances or special exceptions arising within the area. We believe that we could establish, going directly to your question, mr. parsons, a maximum height of buildings measured from Water Street's private property limits on the north side. We're going to suggest a figure of 90 feet, but that clarifies it, even though the measurement of the building might ordinarily be taken from a more favorable point, that there would be a line of certainty. We're saying 90. We're having the

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discussion of what should be.

And above that point, that we should take a lesson from the DD rules and basically say from there it could step back on a none-to-one basis to whatever height it ultimately allowed. If we take away to provide for that 45, we need some place to be able to realize the loss that has occurred.

We=re suggesting that slightly higher heights be allowed to capture the area that=s taken out of that 45 degree chunk and the overall building height back away from Water Street to then go higher.

CHAIRPERSON MITTEN: We=re going to have to just rely on your written submission and I=ll give you a chance to just summarize.

MR. WILLIAMS: Okay. In essence, we believe that by taking the principles of this written submission, we can develop a set of standards that would allow the developer to have rules within which they could operate with certainty and that would still meet the spirit of everything that Joel and Jennifer were talking about earlier this evening, but without having detailed review.

CHAIRPERSON MITTEN: Thank you.

MR. KEYS: Madam Chair?

CHAIRPERSON MITTEN: Yes, sir.

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MR. KEYS: I believe that I may have used perhaps a minute in introducing these folks and I would like to reserve a minute or two to just close?

CHAIRPERSON MITTEN: You know, your turn was over when you stopped speaking. This is not a contested case. This is not a panel of people. This is a set of individuals who happen to be speaking together. So, I think we understand your proposal, so I'm just going to ask you to not request that additional time.

I'll deny you the request for the additional time because I guess that's what I'm saying.

MR. KEYS: Thank you, Madam Chair.

CHAIRPERSON MITTEN: Thank you.

Any questions for this panel?

Mr. Parsons.

COMMISSIONER PARSONS: Well, I'm a little confused about this height thing. This is the sheet you're using. Right? So, it says in bold at bullet 2 there, on the basic principles, total height of no more than 110 as measured from Water Street. And I thought I understood you to say 90.

MR. WILLIAMS: Yes. What I was saying, Mr. Parsons, is that you'd go up as in the Mass Avenue

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DD rules to a certain plane and in the Mass Avenue DD rules, you go up to 110 feet. At that point, you can only go up to 130 in DD if you step back one to one. What I'm proposing is an analogous set of things that you would be able to go up to 90 feet as measured off of Water Street and then go up an additional step. But it would be stepped back, essentially two more floors.

COMMISSIONER PARSONS: So, the overall building height off Water Street is 110 plus a penthouse of 13.

MR. WILLIAMS: Yes. We're trying to --

COMMISSIONER PARSONS: From an urban design standpoint. I mean, what do you think we're doing here?

MR. WILLIAMS: Well, I'm starting with the principle, Mr. Parsons, that we have a measurement point that can be taken right now off of M Street which is about 20 feet higher than Water Street at certain points. And the whole thing, the whole property could be developed and you would have a plane coming out of 110 feet and I don't believe that that's what we would want to see.

I'm responding, I think, to the very theme that you were talking about. Perhaps, not as dramatically as you would, but nevertheless --

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COMMISSIONER PARSONS: Perhaps not.

MR. WILLIAMS: But nevertheless I'm trying to say there is a framework here for saying, where should the line be drawn? I'm not the line drawer. I'm suggesting a process by which we could have a line be drawn and still allow the expression of an FAR of 5. And if you take away the opportunity to have it come as far forward to the full height, it has to be expressed somewhere else. And if you don't want it to squish out, denying views laterally, the only place to go is up.

COMMISSIONER PARSONS: Thank you.

COMMISSIONER HILDEBRAND: But just so that I can clarify.

Are you saying at the property line face, it would be a maximum height of 90 on Water Street, but that from elsewhere in the property as you step away from Water Street, it could go up to a maximum height of 110?

MR. WILLIAMS: Yes.

COMMISSIONER HILDEBRAND: Which would give you about 90 feet off of M Street?

MR. WILLIAMS: Yes.

COMMISSIONER HILDEBRAND: Is what you're saying.

Thank you.

MR. WILLIAMS: Now, I put this together rather quickly. It is a working statement. I don't know that it will necessarily achieve every development metric that the Applicant has. I was trying to come in with an idea that would allow us to say, what kind of thing could begin to work as an effective, meaningful, thoughtful thing that would provide protection for the area, provide guidance and a little bit more certainty to the developer, but certain guarantees to the community and public at large at the same time.

For example --

CHAIRPERSON MITTEN: Thank you. Thank you.

Any other questions? All right. Thank you all.

Anyone else who would like to testify in opposition?

SECRETARY BASTIDA: Madam Chairman?

CHAIRPERSON MITTEN: Yes, Mr. Bastida.

SECRETARY BASTIDA: Could we establish that the timetable for the submissions of the exhibits that was requested from the Office of Planning and also for the filing of the large tract review

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applications from Washington Gaslight?

CHAIRPERSON MITTEN: Yes.

SECRETARY BASTIDA: Okay. In order to do that, I would like to ask the Office of Planning how long they would need in order to fulfil those requests from the Commission.

MS. STEINGASSER: I suspect, Mr. Bastida, and Commissioners, we would need probably three to four weeks to produce this. I say that in light of what I know we have coming for the July Zoning Commission meeting in terms of set downs and reports.

SECRETARY BASTIDA: You think, Ms. Steingasser, that you can submit that by Tuesday, July 6th?

MS. STEINGASSER: How about that Friday?

SECRETARY BASTIDA: The Friday before?

MS. STEINGASSER: The Friday after.

SECRETARY BASTIDA: The only thing that that will then push the decision of the Commission to September because the package will be gone by then for the July meeting, which is on the 12th.

CHAIRPERSON MITTEN: Do we have any hearing scheduled for later in July?

SECRETARY BASTIDA: Yes. We do.

CHAIRPERSON MITTEN: So, we could have a

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Special Public Meeting?

SECRETARY BASTIDA: Yes. We will, but take into account that it probably would be a lengthy meeting that will have to begin at 5:00 or 5:30.

CHAIRPERSON MITTEN: Well, I guess.

MS. STEINGASSER: How about Wednesday?

CHAIRPERSON MITTEN: I definitely wouldn't want to put it on on the 22nd. So, okay. If guys can get it in before.

MS. STEINGASSER: We'll do our best.

SECRETARY BASTIDA: Okay. Shall we say Wednesday the 7th at 12:00 noon.

MS. STEINGASSER: Midnight? That will be fine.

SECRETARY BASTIDA: Okay. And I would imagine that the Washington company can also provide that exhibit by that date, but I would rather appreciate if you could do it on Tuesday, July the 6th by noon.

That is even better. Thank you so much. So, it would be July the 7th at noon for the Office of Planning and then Washington Gas Light, let's give them a week just in case.

They can submit it by 3:00 on Thursday, June the 24th.

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CHAIRPERSON MITTEN: So, basically the record is open until the 7th of July.

SECRETARY BASTIDA: Only to admit what you have requested. The record is closed.

CHAIRPERSON MITTEN: Right. Right. Right. Right. Right. Right.

But we don't need to set different dates for submissions. Right?

SECRETARY BASTIDA: Okay. Fine. If you don't, you know. That's okay.

CHAIRPERSON MITTEN: All right.

So, just to review what we're going to be getting.

From the Maritime Plaza folks, we're going to be getting parameters of the large tract review submissions that have been -- or applications that have been made so far, both the prior and the current.

And then we have from the Office of Planning we're going to have the so-called volumetric study and topographic map that shows the grade change between the northern part of the study area and the water.

And then a response to Mr. Parson's question regarding the point of measurement for building heights or the potential -- possible points of measurement for various building heights.

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Was there anything else that I --

SECRETARY BASTIDA: No, Madam Chairman.

MS. STEINGASSER: Madam Chair, if I may?

CHAIRPERSON MITTEN: Yes.

MS. STEINGASSER: Was it also requested that we produce a simulated height of the Gateway too including the Navy Yard and some Capitol Hill?

CHAIRPERSON MITTEN: I thought that was the volumetric study?

MS. STEINGASSER: Okay. I thought there were two separates. Okay.

CHAIRPERSON MITTEN: Basically, we just want to in three dimension -- try to see in three dimensions or something, the parks three dimensions what we're talking about for the various proposals.

All right. Okay.

The record will be closed then for -- will be held open until July 7th for the submissions that we have specified and as Mr. Bastida noted, they should all be made by, what are we talking. Noon now?

SECRETARY BASTIDA: Yes, noon.

CHAIRPERSON MITTEN: Okay.

SECRETARY BASTIDA: We need to send the package out.

CHAIRPERSON MITTEN: Okay. And they

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should also be served directly to the NCPC? We're not going to ask these folks to do that. That's what this says.

You'll take care of that. Right? All right.

SECRETARY BASTIDA: We will because we will be sending the package to NCPC.

CHAIRPERSON MITTEN: Okay. And then we'll make a decision at our next regularly scheduled monthly meeting and our target in this case would be July. And the date for that meeting is July --

SECRETARY BASTIDA: 12th.

CHAIRPERSON MITTEN: July 12th and that will be held at 6:30 in this room. And if anyone is interested in following the case further or has any additional questions, you can contact Mr. Bastida in the Office of Zoning.

And you should also be aware that should the Commission propose affirmative action on this rule making, the proposed action must be published in the D.C. Register as a proposed rule making with a period of time for comment, so there would be additional comment opportunity.

And in addition, the proposed rule making will be referred to the National Capitol Planning

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Commission for Federal impact review.

And then we will take final action following the receipt of NCPC=s comments.

And I thank you all for bearing with us while we had our Special Public Meeting run over and we=re still out at a relatively reasonable hour.

This hearing is now adjourned.

(Whereupon, the above matter was concluded at 8:38 p.m.)