

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING
1171ST MEETING SESSION (15TH OF 2004)

+ + + + +

MONDAY

NOVEMBER 8, 2004

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened a 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Suite 220 South, Washington, D.C., Carol Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL MITTEN	Chairperson
ANTHONY HOOD	Vice Chairperson
KEVIN HILDEBRAND	Commissioner
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner

OFFICE OF ZONING STAFF PRESENT:

ALBERTO BASTIDA,	Secretary,
SHARON SCHELLLIN,	Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

ELLEN McCARTHY,	Deputy Director
STEPHEN COCHRAN,	Office of Planning
ARTHUR JACKSON,	Office of Planning
JOEL LAWSON,	Office of Planning
JENNIFER STEINGASSER,	Office of Planning

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

D.C. OFFICE OF THE ATTORNEY GENERAL STAFF PRESENT
LORI MONROE, ESQ.

This transcript constitutes the minutes from the meeting held on November 8, 2004.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

CALL TO ORDER:

Chairman Mitten 4

MINUTES OF SPECIAL MEETING OF JUNE 17RH 5

VOTE TO APPROVE AMENDED MINUTES: 6

STATUS REPORT - Office of Planning 6

HEARING ACTION:

Z.C. CASE NO. 04-24 (MID-CITY URBAN LLC
AND A&R DEVELOPMENT CORPORATION) 7

VOTE TO APPROVE FOR SET DOWN: 41

Z.C. CASE NO. 04-31 (DEFINITIONS FOR
CLEAR FLOOR TO CEILING HEIGHT AND/OR
CLEAR AND LOW-EMISSIVITY GLASS: 42

VOTE TO APPROVE FOR SET DOWN: 42

Z.C. CASE NO. 04-02 (EAST M STREET TARGET
AREA OF THE NEAR SOUTHEAST): 42

Z.C. CASE NO. 03-27 (4600 BRANDYWINE): 75

VOTE TO APPROVE FOR SET DOWN: 86

ADJOURN:

Chairman Mitten 87

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

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

6:41 p.m.

CHAIRPERSON MITTEN: Good evening ladies and gentlemen. This is the November 8th public meeting of the Zoning Commission of the District of Columbia.

My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Kevin Hildebrand, John Parsons, and Greg Jeffries.

Copies of our agenda are available to you. They're in the wall bin near the door if you'd like to take one.

I would just remind everyone that we are being recorded, both by the court reporter and being webcast live. I would just ask that we not have any disruptive noises in the hearing room and that folks would turn off their beepers and cell phones so that we don't disrupt the meeting at all.

I would also remind folks that, unless the Commission specifically asks someone to come forward, we don't take public testimony at our meetings.

I do have one thing. I think most people have gotten the word that under proposed action the second case will be postponed. Now I am at a lost to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

the month that we finally decided on for the Forest Hills case.

Did we decide on January? Okay. So, we'll take the Forest Hills case, which is 02-19 up in January.

And I think everything else on our agenda will remain intact. So, the first item then, unless Mr. Bastida has any preliminary matters.

MR. BASTIDA: Madam Chairman, the staff has no preliminary matters. Thank you.

CHAIRPERSON MITTEN: Thank you. Then we'll move to the action on the minutes of our special public meeting from June 17th. I would just note that there needs to be a correction. I don't know what the correction is, exactly. But it indicates the motion was made by Commissioner Parsons who was not in attendance. So that would be a little tricky.

COMMISSIONER PARSONS: But it does go on to say that I wasn't there.

CHAIRPERSON MITTEN: Yes it does. So, if we could just correct whoever made the motion and seconded the motion and then have the order of the vote accordingly, I think everything else is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

accurate. And I would move approval of the meeting minutes with the correction that I indicated.

VICE-CHAIRPERSON HOOD: I'll second.

CHAIRPERSON MITTEN: Thank you. Any discussion? All those in favor, please say "aye".

ALL: Aye.

CHAIRPERSON MITTEN: Ms. Schellin, we have everyone in favor but Mr. Parsons who is abstaining.

MS. SCHELLIN: Staff will record the vote 4 to 0 to 1 to approve the minutes of 6/17/04, with the correction noted. Commissioner Mitten moving. Commissioner Hood seconding. Commissioners Hildebrand and Jeffries in favor. Commissioner Parsons not voting, having abstained.

CHAIRPERSON MITTEN: Thank you. Now we'll move the status report by the Office of Planning. Ms. McCarthy.

MS. MCCARTHY: Yes Madam Chair. Since we just gave our status report at the last Zoning Commission meeting just a short while ago, I think we'd be happy to just be open for questions if the Commission had any.

CHAIRPERSON MITTEN: Thank you. Does anyone have any questions on any of the items on the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

status report?

Yes, that was just two weeks ago we were here.

Okay. Last call for questions.

MS. McCARTHY: I don't believe we had added anything since the last status report.

CHAIRPERSON MITTEN: Okay. Thank you. Then we'll move to the first item under Hearing Action, which is Case No. 04-24, which is the development site at the Rhode Island Avenue Metro Station.

Mr. Jackson, people should be afraid if you're working on their cases. Just kidding. Just kidding. No, I'm sorry. That was all just in fun.

MR. JACKSON: Well, good evening, Madam Chair and members of the Commission. My name's Arthur Jackson with the D.C. Office of Planning. And I will present a brief summary of the Office of Planning's preliminary report on this application.

Applicants Mid-City Urban LLC and A&R Development Corporation request Zoning Commission approval of a stage 1 planned unit development to allow redevelopment of the commuter parking lot for the Rhode Island Metro Station.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

This proposal includes a total of approximately 531,000 square feet of new construction consisting of four to five story buildings with 272 apartments, ground floor commercial uses, and parking garages.

The proposed mixed use development would consist primarily of residential and retail uses; however, the current general industry zoned district only allows industrial and commercial uses.

This PUD application includes a rezoning component that would change the current zoning to Community Business District that allows up to a 6.0 FAR of residential uses and up to a 2.0 FAR of non-residential uses.

According to the applicant's Statement of Support, the proposed PUD and zoning MAP amendment would bring this project into conformance with the Zoning regulations without additional relief.

The comprehensive plan offers options for future realization of the Metro-rail station site.

The first option in the Generalized Development Land Use MAP anticipates continued use of the site for local public facilities uses, with the introduction of some service and shopping uses.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

The other option articulated in various sections of the plan would allow for a broader mixture of high density residential uses with shopping and services uses to take full advantage of the site's proximity to transportation resources.

OP, the Office of Planning finds this proposal would support the latter option with reference goals of the comprehensive plan since it would allow the appropriate intensity of residential and commercial development.

With regards to the standards for PUD approval in Chapter 24 of the regulations, Staff's preliminary review indicates that benefits and amenities provided by the overall project, that is primarily the creation of a mixed use transit oriented development and the provision of rental housing and affordable housing opportunities are superior to the relief being requested, which is essentially the authorization to provide residential uses in a mixed use project.

Thus, this proposal appears to meet the minimum requirements for approval.

The Office of Planning concludes that this PUD proposal does not appear inconsistent with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the comprehensive plan and supports more specific housing, employment and urban design goals identified in the comprehensive plan.

It also recommends that this project be scheduled for public hearing noting that the following issues need to be addressed in greater detail prior to that hearing.

Since no property survey was filed with the application and the specific site is not within the current D.C. land records, the applicant was requested to confirm the zoning relief that would be required for this development proposal.

In terms of land use and the pattern and final design, the Staff will continue to encourage the applicant to provide an actual commercial presence along Rhode Island Avenue and to pursue suggested landscaping and public art improvements along that frontage.

The Office of Planning would also like to insure that the current design quality is maintained and not diminished during further refinements of this development proposal.

In terms of impact on public facilities and services, the applicant has been requested to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

provide traffic impact and storm water management analyses based on existing conditions, including current traffic counts.

In terms of other development amenities and benefits, the Office of Planning will work with the applicant to refine the proposed package of amenities particularly with regard to employment opportunities for local and disadvantaged businesses through construction, the proposed business incubator, and for providing effective and safe vehicular and pedestrian access between this site and the Brentwood Shopping Center.

With that, the Office of Planning recommends that the Zoning Commission set this application down for a public hearing and we conclude our report.

The Staff is available to answer any additional questions.

CHAIRPERSON MITTEN: Thank you, Mr. Jackson.

Any questions for Mr. Jackson or comments?

COMMISSIONER PARSONS: Sure.

CHAIRPERSON MITTEN: Mr. Parsons.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: Let's talk about the look alike or look like a four-story residential and mixed use storefronts on Rhode Island Avenue and your statement just now that you would urge them to make them real.

What would that do to the parking garage behind them? I mean, certainly if there was going to be retail on Rhode Island Avenue, some of the parking garage would have to be taken up, would it not?

MR. JACKSON: Yes. Well, what we've seen is examples of parking garages where you have a portion of the ground floor is actually taken over by retail or service space. So that would require that some of the ground floor space be used. So, it may not change the footprint that much, but part of the front of the ground level of the parking garage would be used with leasable space.

COMMISSIONER PARSONS: But parking garages floor-to-floor don't give you an adequate space for retail, do they? When you --

MR. JACKSON: Well, again that depends on the design of the garage. If you go to a number of other communities and what they've done is the whole goal is to encourage as much vitality on the street

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

frontage as possible. To really make that link between what would be a fairly remote -- well, link between the street frontage and pedestrians along that street frontage and the retail that's going on above it.

As now configured, you need to go all the way around up the walkway and into the site to really be in the midst of any retail activity. So that the streetscape along Rhode Island Avenue does not really benefit from vitality which would be obviously occurring on the inside of the site.

So, the thought is to try to bring that vitality down to the site and that also could be a prime location for that incubator in that a lot of their customers might be pedestrian oriented.

But again, that's an issue that we raised with the applicant in the past. We've had discussions and we just continue those discussions to see if there's a workable solution that they think they can accommodate in their proposal.

COMMISSIONER PARSONS: Well, could we look at page 4, which shows this elevation of Rhode Island Avenue? And the tall buildings on either end are actual apartments. Correct?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

MR. JACKSON: Yes.

COMMISSIONER PARSONS: And then in the middle you've got foods, shops, clothes, and all those are stage set?

MR. JACKSON: Yes.

COMMISSIONER PARSONS: And behind that is a parking garage bulk.

MR. JACKSON: Yes.

COMMISSIONER PARSONS: It's not actually showing what it will look like, so I'm really concerned about this. I don't know how you're going make a good design out of this.

MR. JACKSON: Well, I would also note that these are preliminary illustrations and I think one of the things that it doesn't depict fairly well is how this will actually sit on the site.

If you note, if you go up Rhode Island Avenue, there is a significant change in elevation as you go up. It's not really reflected here.

The other issue is where the tower is on the left of the Rhode Island Avenue elevation, that would actually be at a higher elevation because the road turns around and comes into the site.

There is some unique characteristics of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the site that really aren't reflected here and that's why we're saying that we're talking about issues and concepts that we have raised before, but want to continue to work with. But, as we get to a more refined state with actual elevations that how the street frontage would actually interact with the building, because again this is not on the building, it would be set back some distance, we think there's a way that this could advanced. But we wouldn't want to put anything in place that would be detrimental to the development or to the amenities that they're providing. Particularly parking.

So again, this is the issue that we've raised in the past. We wanted to make the Zoning Commission aware that it's an issue we're going to pursue in light of looking at this as being not only a project that would be by itself a significant element, but also would contribute to the vitality of what we think is a very important street. And, hopefully continue some of the vitality that we like to see on Rhode Island Avenue. Encourage more vitality on Rhode Island Avenue to the north, to the east, and west.

COMMISSIONER PARSONS: Well, you say in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

your report that the only reason this isn't consolidated is they didn't have the drawings ready.

Did I read that right?

MR. JACKSON: That's what they explained to me. Yes.

COMMISSIONER PARSONS: So that means to me they're racing ahead with drawings that they just quite weren't ready for in September.

MR. JACKSON: Right.

COMMISSIONER PARSONS: And my concern is, I don't like this.

MR. JACKSON: What?

COMMISSIONER PARSONS: See. I do not like the idea of facades along the avenue backed up by a parking garage. I think it's a bad idea.

MR. JACKSON: I see.

COMMISSIONER PARSONS: So, how do we slow down the architects? I mean, if we give them the signal that this looks okay, we're going to have a hearing. That must mean it looks okay.

MR. JACKSON: I see.

COMMISSIONER PARSONS: That's my point.

MR. JACKSON: All right, so --

COMMISSIONER PARSONS: Is how do we say

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

"Whoa" on this aspect of it? And maybe other aspects, but that's the one that's troubling me.

MR. JACKSON: I think that --

CHAIRPERSON MITTEN: Mr. Parsons, it's not entirely clear on the plans, but you understand that on both ends of that, there are real uses. The parking garage is only the middle? Okay.

COMMISSIONER PARSONS: Oh yes. Yes. Yes.

CHAIRPERSON MITTEN: Okay. So office on one part and residential on the other.

COMMISSIONER PARSONS: Yes. Right. You know, I've met a few parking garages I liked, but I'll bet you this isn't going to be one of them. You know, it just --

CHAIRPERSON MITTEN: Okay.

MR. JACKSON: Tonight are you at a point where you wanted to suggest other options in terms of their treatment of that facade?

COMMISSIONER PARSONS: Well, I think it ought to be retail and that's damaging the capacity of the parking garage. It's taking a whole section of the parking garage out at least two levels, I guess.

MR. JACKSON: I'm sorry. I just want to be clear. So, you're saying that it should be retail

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

or it shouldn't be retail?

COMMISSIONER PARSONS: Should.

MR. JACKSON: Should. Okay.

COMMISSIONER PARSONS: Or maybe housing. Something other than a theatrical stage set out of Hollywood.

MR. JACKSON: Okay.

MS. MCCARTHY: And it has been very difficult, as we deal with the site constraints. And in addition to the very substantial grade difference that Mr. Jackson referenced, the other issue which makes it difficult to do the retail at the street level is that would typically be the kind of neighborhood serving street level retail that is far more interested in -- on the backside of this site is the new Giant and Home Depot. And, hopefully another retailer occupying that third pad that would have been K-Mart.

And so the better location for those retailers is where they are within walking distance on the walking path between the Metro and those other two retail anchors.

So the developer has been understandably somewhat reluctant, given the topography and given

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the much better location for retail on the backside.

Plus, one of the reasons that this project has gone on in the planning stage as long as it has and why they're trying to make up for lost ground is that it has taken us quite a while to convince WMATA that they did not have to replace every surface parking space that had existed on that site.

So, having convinced them of that and having shrunk the garage to this level to try to make the rest of the economics of the site work, there were a lot of different factors that caused us to accept what is a less than optimal design arrangement.

COMMISSIONER PARSONS: Do these residential buildings which have doors on Rhode Island Avenue have a Rhode Island Avenue address?

MS. MCCARTHY: I don't know that we've gotten so far as to talk about what they would actually call the address.

COMMISSIONER PARSONS: But these are entrances?

MR. JACKSON: Yes.

COMMISSIONER PARSONS: The main entrances to the building?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

MR. JACKSON: No.

CHAIRPERSON MITTEN: I'd like to jump in on this if I could because I share John's concern about, you know, we have a major thoroughfare in this neighborhood called Rhode Island Avenue.

And the community, you know, a large part of the community is to the North. And they approach the property from the avenue. They're not coming from the Metro station and people that are driving are not coming from the Metro station. And they're never going to see the retail that's along this little street.

And we, I think, have a very strong obligation to animate Rhode Island Avenue and make it a focal point. And I don't know exactly, as John was struggling with, like how do we; what's the best way to say "whoa, this is not working."? So, I share that concern.

I also would like to know when are we going to stop providing so much parking at Metro stations so that we can actually embrace the idea that this is a real transit oriented development.

Because some of the highest parking ratios that we have in these PUDs are the ones that are located

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

on top of a Metro station or within a half a block of a Metro Station.

So, it doesn't really concern me so much if we lose some parking space. I know you've struggled with this, as you said, with Metro. But it just seems like there's certain transit oriented components that we are not embracing. We're doing the exact opposite. So, why do we have so much parking?

MS. McCARTHY: Well basically because Metro still wants a number of spaces for commuter parking in addition to then the parking that one would normally provide for the residential and the retail.

CHAIRPERSON MITTEN: Okay. Set that aside. Why are we providing so much parking for the apartments? Because one-to-one is pretty high.

MR. JACKSON: I think what the applicants have been saying is that the people who will move into these apartments, even if they're taking Metro would tend to have a car. And so, what they would do is park their car during the week and take Metro most of the week. And then they use their car on the weekend.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Now we talked to them about having other park and ride options like a ZipCar downstairs and things like that. But, at this point, the statements just been made that people don't necessarily get rid of their cars because they live near a Metro station. They basically just won't use them. They'll park them all week.

CHAIRPERSON MITTEN: Well, see, I feel like I am not just talking off the top of my head. I participated in the Transit-Oriented Development Task Force and I heard a lot about best practices and stuff.

One of the things you want to do is attract people who don't want to have a car to this location. And we talked about this when we did the -- what was that one up on Wisconsin -- Western Avenue that PUD.

MS. McCARTHY: Washington Clinic.

CHAIRPERSON MITTEN: Say again?

MS. McCARTHY: Washington Clinic.

CHAIRPERSON MITTEN: Yes, the Washington Clinic. I understand that there is this philosophy that people, you know, have the car and want it on the weekends. But, you know, I think we need to get

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

past that. There's a big investment. There's a big investment both from the developer's perspective to build all this parking and there's an investment on a personal level for people to basically warehouse a vehicle five days a week so they can drive it one or two days a week.

I think we have to start changing because I think people are changing, but I just don't see some of these things being borne out in our land use practices.

And maybe, you don't have to respond to that right now, but I don't have a big concern about less parking there.

MS. MCCARTHY: Well, we always try to get the number of parking spaces reduced. We went so far as to get some money from EPA to hire an enlightened traffic engineering firm to make the case to Metro about reducing the number of parking spaces.

But I would say, on the other hand, that unfortunately for the way the rest of this site is developed, this, unlike Washington Clinic or the Church Street/14th Street area and others that are newly developing where there's a substantial density of retail and other activities to walk to within a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

very close distance, in this case because of the big bucks retailers on the site and for the large amount of industrial land that's in that vicinity still, there's not the same kind of density of attractors that make it possible to think about satisfying as many of your trip desires on foot as might be the case in another site that's in a more established residential and mixed use neighborhood.

You can see from the aerial photo on the cover, the kind of land use patterns that exist around there. There's a lot of obstacles to doing much in the way of pedestrian trips in that area.

CHAIRPERSON MITTEN: Well, I guess to that point, if we do have a hearing, I'd like to see what kinds of uses are within a ten minute walk. Because if you've got the dry cleaner and the grocery store and a place where you get your hair cut, that covers a lot. Having a grocery store that close covers a lot.

MS. MCCARTHY: We'd be happy to do that.

CHAIRPERSON MITTEN: Can you explain to us -- sorry, I'll get you next. Why you think that C-2-B is the zone of choice for the PUD related MAP amendment when it seems to me we could accomplish

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

most of what they need with C-2-A? Most if not all of what they need.

MR. JACKSON: Well the key would be the height of the proposed building.

CHAIRPERSON MITTEN: The maximum height of the PUD in C-2-A is 65.

MR. JACKSON: Well, the plans on the elevations in the plans actually show at 65 feet. But I guess it all depends on where you take the height from along the Rhode Island Frontage.

CHAIRPERSON MITTEN: I'm sorry. In your report it says that the maximum height is 55 feet. Did I just understand you to say that one of the plans is showing 65 feet?

MR. JACKSON: Yes. If you go to page --

CHAIRPERSON MITTEN: Okay. Well, 65 feet still works in C-2-A under a PUD.

MR. JACKSON: We talked about that in-house and there was a reason, but we don't have that handy right now. So we will give you an answer to that question.

CHAIRPERSON MITTEN: Okay. Anybody else? Mr. Hildebrand, I cut you off before. If you would like to go next?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER HILDEBRAND: I just actually had a following question about the parking. Is the current at grade parking an economic generator for Metro? Is that why they want to keep so much parking? Do they make money from it?

CHAIRPERSON MITTEN: It's not so much making money as Metro has models which correlate between the number of parking spaces provided and riders. And they felt that having that many parking spaces was necessary to maintain their ridership. But, we were able to show them with the parking study that, if their -- part of why this lot was so large was because when the Metro was build in stages, this was the terminus of the line at one point in time, or at least an important commuter shed. And now that the Green Line has been extended further out and some of the people that were driving from Prince George's County and parking at Rhode Island Avenue before, can now park at Greenbelt or other places and take the Green Line it, it was less important for maintaining ridership.

And, from the District's point of view, a lot of those parking spaces were from outside of the city.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

So we wanted to reduce it because we didn't want to encourage people to be driving from outside of the city. Especially if the city is subsidizing the project.

COMMISSIONER HILDEBRAND: I just wondered if they've looked at the cost of structured parking is so much higher than grade parking. I'm really surprised they're willing to invest that money in structured parking for what could be a limited use.

MS. MCCARTHY: Well I think, as Ms. Mitten could probably further testify, when we had the Transit-Oriented Development Task Force, there was Metro's Joint Development staff which readily understood the development economics of structured parking and was very willing to entertain the notion of reducing it. Especially because they understood the relationship between requiring applicants to provide a lot of parking and how there was an inverse relationship between that and how much money they were willing to pay Metro for the site. But, they ran into a wall when they got back to the engineering side of WMATA which felt you had to have every one of those spaces in order to maintain their ridership.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

I think that attitude is beginning to change in WMATA and finally agreeing to reduce the number of spaces so it was not a one-for-one replacement is a big milestone on this site.

COMMISSIONER HILDEBRAND: The one thing about the elevations that I wanted to bring that really concerns me is, and I'm not sure if it's the grade is just so shallow that it's not depictable across this rise, but it seems to me that that elevation should be at a fairly radical slope.

That the entrance to the current Metro site, versus the bridge overpass on the right hand side of the sheet should be pretty substantial. And having it drawn as a flat image is really disconcerting.

And also the notion that the elevation of the parking garage above the stagefront is not even depicted, even though it is right there in the same plane. It's not that the garage is stepped back many feet. The garage is right at the wall of the property line. And that no indication is given on how that's going to be articulated is somewhat disturbing.

CHAIRPERSON MITTEN: Right. Although on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

that point, I would just say, since you're still relatively new on the Commission, this is a first stage application so you don't get all the same level of detail up front. And so you we would expect to see that before we were done.

COMMISSIONER HILDEBRAND: Okay.

CHAIRPERSON MITTEN: But I think it's probably not too soon to start showing us that.

COMMISSIONER HILDEBRAND: Okay. It's just the way that it's depicted. It looks as though that is a mass that is substantially removed from the street and in fact it's right in the same plane as the storefronts or the seeming storefronts below.

COMMISSIONER JEFFRIES: Just a question. What's the elevation of the Metro platform?

MR. JACKSON: I don't have that information.

COMMISSIONER JEFFRIES: Was there any thought given to -- we've been sort of focusing on approach from a pedestrian level. But, as relates to approaching the site from the train, there should be some thought given to what this campus looks like from the approach of the train. And particularly some of the building heights. Volumetrics and things

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

of that sort, so make certain that that's part of this discussion for hearing.

VICE-CHAIRPERSON HOOD: Madam Chair, I just wanted to echo the comments of Commissioner Parsons. With the interests of the Rhode Island Avenue entrance and the way that garage is going to sit back there. I know that this is just the first stage but I'm hoping that we look at that. And I also associate myself with his comments.

But I will say this. I'm not too concerned about the parking one-to-one ratio. As you stated, Ms. McCarthy, and I don't think I can restate it as well as you did, being familiar with the area, I think that is definitely beneficial and I think you were right on point. And actually, I would probably in tune looking at more parking. But I think they satisfied the requirement.

But I do know that area is not one that is as easily accessible as far as just like in some areas around different Metros where you can just walk out and walk down and it's all right there. It does require a vehicle to get to what's in that area.

But my main concern is the garage which is being taken out which is not in the PUD, as I see

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

it. How are we going to transition, if this is set down and goes through first stage, second stage, the transition of going from the main garage. Which, the surface parking that exists now for those commuters, even though it's not a part of the PUD from what I see here in the drawing. But how is that going transition? Has that been discussed? Is construction going to take place and we have no parking for the commuters? So how is that going to actually evolve?

MR. JACKSON: What the applicant's explained to us is that they're required by Metro to provide the replacement parking before they can begin the project. So that the first construction would actually be the Metro garage for 200 spaces.

Once that is completed, then they would proceed with the constructions of the rest of the project.

They could proceed with the PUD. So it's not part of the PUD because it's on a different track and it also can be done as a matter of right.

VICE-CHAIRPERSON HOOD: But my issue is that, even though it may not be part of the PUD, it still will cause some impacts if it's not done in some type of sequence.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

MR. JACKSON: Right.

VICE-CHAIRPERSON HOOD: If that has to be done first, then that's fine.

But let me ask you. The other question is, the amount of parking which is going to be provided. I don't know how many spaces it is now on the flat surface. Is it going to be equal?

MR. JACKSON: No.

VICE-CHAIRPERSON HOOD: Less?

MR. JACKSON: A reduction.

VICE-CHAIRPERSON HOOD: A reduction? Do we know how much? And here's my issue. If you go over there right now on the Rhode Island Avenue surface parking and you look at the impact right now and if you look at where people are parking. I don't want to get anybody in trouble. So if you're parking there, I don't want to get you in trouble. But a lot of folks are parking where that empty pad is where K-Mart was supposed to be.

So that just shows you the overflow. And I think that's something that we need to look at. We don't want to cause any undue hardship on the surrounding area. And I want to make sure that we consider that and that's being well thought out.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Because if you look at it now, that looks equal to if not more than what's on the existing parking lot now.

MS. McCARTHY: Well yes, in fact Giant and Home Depot have expressed a great deal of frustration and concern about the fact that they find their parking spaces being utilized by commuters during the daytime. And they've discussed a variety of measures to identify who is parking there as a commuter and enforce tow or otherwise enforce so that those parking spaces remain available for their customers.

VICE-CHAIRPERSON HOOD: Okay. And my other question is the other groups. I notice that you mention in your report that you spoke with ANC 5B. What are the other groups that have been involved engaged in this process?

MR. JACKSON: Well over time there have been apartments that are across -- I can't remember the name of the apartments now, but the apartment buildings that across the Metro site, where you have a lot of residents who will go down and actually cross the CSX tracks to get to the Metro station.

Surveys were done in that development to just ascertain where the points of crossing were. Really, that was more in line with looking at modes of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

transportation that could be provided, alternatives that could be provided to pedestrians to get across to the Metro site.

They did provide some input as to what types of uses they'd like to see as an adjunct to this overall proposal.

VICE-CHAIRPERSON HOOD: May I also just add -- may I also --

MR. JACKSON: I'm sorry, it's Edgewood Terrace.

VICE-CHAIRPERSON HOOD: Edgewood? Yes. But also, there's another area that's a lot more closer and that's the Brentwood Civic Association.

I would encourage you to have discussions. I see you have 5B here.

MR. JACKSON: Right.

VICE-CHAIRPERSON HOOD: But the Brentwood Civic Association is right there and I would encourage that they be a part of the process. Sometimes the ANC and the civic associations don't get together so I want to make sure that we touch base with them, too.

MR. JACKSON: All right.

VICE-CHAIRPERSON HOOD: And as I stated, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

don't have the same concern about the parking. I have a different concern. It's the one I stated. So I'll be looking to that if it's set down.

Thank you. Thank you, Madam Chair.

COMMISSIONER HILDEBRAND: The only thing I wanted to add further was I think I misinterpreted the plans because there isn't a section cut through the garage. I think the garage stops at the height of the lower buildings that were shown. It just dawned on me. I assumed that it was similar to your Section B, 1, 2 which shows the garage almost approaching the same height as the townhouses.

MS. MCCARTHY: Right. That's what Ms. Steingasser was pointing out, too. It's really hard to tell because one more cross-section in between --

COMMISSIONER HILDEBRAND: Would have done it. Yes.

MS. MCCARTHY: -- those would be illustrative. But I think that is the case. That it's only a two-story garage and what you're seeing is the back of the residential and retail project behind that.

COMMISSIONER HILDEBRAND: In looking at your Section B, 1, 2, the proximity of the garage to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the apartment building. Has that been looked at for light and air considerations for the apartments? Just the proximity to that structure?

MR. JACKSON: B, 1, 2?

COMMISSIONER HILDEBRAND: Yes. It's showing a three-story garage in very close proximity to a four-story retail apartment building.

MS. MCCARTHY: Yes, that's been one of our criticisms. This -- he's talking about this distance right here.

MR. JACKSON: Right. We can look at that.

COMMISSIONER HILDEBRAND: Okay. Thank you.

Actually, I did have a question on site circulation, too. Have you discussed how cars and vehicles are going move through here to do the Kiss and Ride and to drop off passengers? Are they actually going to drive through Main Street, or is there a way that they can circumvent that and come back out the main entrance road?

MR. JACKSON: Well there's been a traffic consultant involved that's doing on a preliminary basis a number of scenarios about how that could work. And that really alludes to what the Office of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Planning was mentioning about the traffic study. That we've seen various numbers of options and so what we're asking them to do is to look at the options. Give us a final report. And show how the site will actually work.

Preliminarily, the circulation would have been most vehicles would come in. They would go down the Main Street. Turn around at the Kiss and Ride, and come back out on the current loop road.

So the intent was to bring as much traffic by the retail street because that's the purpose of the street.

Now the actual alighting of the busses would be where it occurs today, right in front of the station. And then your Kiss and Ride would be behind the alighting area.

But the pick-up for the busses would be unique in that the bus stops would be right in front in the garage so the ground level of the garage is actually where the bus stops would be.

COMMISSIONER HILDEBRAND: In the Metro garage?

MR. JACKSON: Right. As a result, the Metro garage would be a little higher so the busses

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

could circulate underneath.

COMMISSIONER HILDEBRAND: So, the Metro busses would come down Main Street, go in front of the station, and then circle out?

MR. JACKSON: Right. Circle around that loop or that shoehorn and come back out.

COMMISSIONER HILDEBRAND: Okay. Thank you.

COMMISSIONER JEFFRIES: Just quickly, I'm trying to get some identity to what this is. Is it considered like a town center? Could you point to something in the general Washington Metropolitan area that sort of mimics what's happening here? I'm trying to get comfortable with the Main Street and so forth and so on.

MS. STEINGASSER: What comes to my mind is by the Clarendon Metro there's a small town center. It's kind of similar. It has a similar U-shape and it's got residential on top of retail. It's across Clarendon Boulevard from the Whole Foods, used to be the old Sears site out there.

COMMISSIONER JEFFRIES: It's just one of these issues around, you know, if you have a site that is truly sort of suburban in nature and trying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

to superimpose a sort of an urban paradigm on top of it. I'm just trying to, you know, I've sort of struggled with this when I was at NCRC and I'm sort of looking at it again here.

It doesn't stop me from moving forward and voting to set this down. But I just wanted to get some clarity in terms of what are we really trying to create here in terms of a project identity.

MS. McCARTHY: It's a site plan that we have struggled over. I don't know how many versions of this have been done.

As the Commission expressed, we really had wanted to focus more of the retail on Rhode Island Avenue. But the grades change was such that if you were not a customer entering there on foot, you were having to park essentially on the roof and make your way down.

So once we realized that we already had these major retail generators on the site, so we wanted to see that this also took advantage of the demand generators and captured more of the retail since we know this is an area that tends to hemorrhage a lot of consumer dollars out to Maryland.

So we wanted to really take advantage of the retail.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Retail works better if it can be on both sides of the street, but Rhode Island Avenue is very busy and you've got the overpass, which is right toward the left side of the site, which makes it hard to connect it with the rest of Rhode Island Avenue.

So, in the end, creating a somewhat artificial Main Street on top, trying to get the Metro bus all day parking off to the side and the busses as much as possible not idling or interfering with the enjoyment of the sidewalk cafes and the other retail amenities that we were trying to provide, and yet still make convenient Metro bus access to the Metro rail; it's just there's so many moving parts. And trying to get them in the right relationship to each other has been really, really difficult.

MR. JACKSON: And then if you add to that that in most cases that we have come up with that are visible, the Metro station is usually underground.

So what you have is your stops coming up and then development all around them. In this case, we've got an elevated station which gives the site an entirely different dynamic.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

So we have congratulated the applicants because they've come in with designers that worked with us and couldn't get anywhere. Then they've come in with more designers. We've worked with them.

So all the guides we can give them about the types of issues we'd like to address, I'm sure they have shown a willingness to go through and work out those problems and make the presentations necessary to, if not allay all of the concerns, to illustrate why it is they have made the decisions they have to proceed on with the current proposal.

And it is subject to modification, so additional questions that you have to raise, we're sure we can get the information back to you.

CHAIRPERSON MITTEN: Thank you. Well I guess on that note we have to make the decision about setting this down. And I think I'm supportive of setting the case down, and I think we sent an early strong message about our concerns about animating Rhode Island Avenue.

But I would want and I will move that we set this case down for the first stage PUD and the PUD related MAP amendment for C-2-B, but I would like C-2-A advertised in the alternative. Because I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

haven't heard any explanation for why we should be at C-2-B, particularly since it seems unnecessary for the project.

And I would ask for a second.

VICE-CHAIRPERSON HOOD: I second.

CHAIRPERSON MITTEN: Thank you. Is there further discussion?

COMMISSIONER JEFFRIES: I would like to see a larger aerial map; a lot more detailed so I can just get comfortable. Because I really have to say that it really looks a little offensive this garage.

And I know everyone has said it, to be right along Rhode Island Avenue. It might not be as offensive if I could see it in the entire context of this overall area. But just how it's presented, it gives you heartache here. So, I just wanted to make certain that we can get much more contextual detail on a larger scale. Thank you.

CHAIRPERSON MITTEN: I think that's a good suggestion. Thanks.

COMMISSIONER PARSONS: I'm going to vote no and the reason for that is I think we should postpone a decision on this until we see some evidence that this parking garage is not going to be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

the image of Rhode Island Avenue with a facade on the front.

I just have a feeling we're going to get to the hearing and we're going to get a story that "we couldn't put retail and you set it down, so here we are."

I'll just let you know. I'm going to vote no.

CHAIRPERSON MITTEN: Okay. That's valid.

COMMISSIONER JEFFRIES: Let me say that I will vote in favor of the set down. But I wanted to make certain that the applicants know that this is a very serious matter, and I can definitely swing the other way given what we've seen in the presentation going forth further.

VICE-CHAIRPERSON HOOD: Let me just echo, even though I second the Madam Chair, I don't mind saying no at a later date.

CHAIRPERSON MITTEN: I think we all have that sentiment. Otherwise we wouldn't really be doing much up here.

All right, if there's no further discussion, I'd ask for all those in favor, please say "aye."

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

ALL: Aye

CHAIRPERSON MITTEN: Those opposed, please say "no".

COMMISSIONER PARSONS: No.

MS. SCHELLIN: Staff will record the vote four to one to zero to set down Case No. 04-24, Commissioner Mitten moving. Commissioner Hood seconding. Commissioners Hildebrand and Jeffries in favor and Commissioner Parsons against.

CHAIRPERSON MITTEN: Thank you. And then the next case for hearing action is Case No. 04-31, which is bound to be a very exciting hearing related to the Definitions for Clear Floor to Ceiling Height and or Clear and Low-Emissivity Glass.

And somebody from the Office of Planning.

Oh, Mr. Cochran.

MR. COCHRAN: Thank you, Madam Chair. For the record, I'm excited to announce that my name is Stephen Cochran of the Office of Planning.

And OP stands on its report but would be happy to answer any questions.

COMMISSIONER PARSONS: I move that we set this matter down for a hearing as presented in this report of the Office of Planning.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: I'd be happy to second that. Any questions for Mr. Cochran? And discussion? All right, then I'd ask for all those in favor, please say "aye".

ALL: Aye.

MS. SCHELLIN: Staff will record the vote five to zero to zero to set down Case No. 04-31; Commissioner Parsons moving. Commissioner Mitten seconding. And Commissioners Hildebrand, Hood, and Jeffries in favor.

CHAIRPERSON MITTEN: Thank you. Moving now to proposed action, we have Case No. 04-02, which is the East M Street Target Area of the Near Southeast. I think the sentiment of the Commission is that we would like to have a brief presentation from the Office of Planning about their supplemental report. If Mr. Lawson would be so kind.

MR. LAWSON: I'd be happy to. Thank you, Madam Chair, members of the Commission. My name is Joel Lawson. I'm with the D.C. Office of Planning.

At a July 12th public meeting, the Zoning Commission requested additional analysis of options for new zoning for the East M Street area.

The OP report provided this analysis,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

including existing zoning, zoning options previously reviewed by the Commission, new zoning options, and options to amend the Capitol Gateway Overlay to address building height and visual impact.

Most of the developable land in the area, including the land in North side of Water Street, SE, is currently zoned "M", which permits an FAR (floor-area ratio) of 6.0 and a height of 90 feet by right.

There is also some C-M-1 zoning under the interstate and railway lines and C-M-2 zoning below the 11th Street Bridge access ways.

In general, OP believes that the currently permitted density and height provide a form and amount of development that is appropriate and in keeping with that of other waterfront areas along the Southeast waterfront.

Reducing density would be contrary to area planning objectives and would jeopardize expectations that the area develop as a desirable and valuable part of the District and be problematic to land owners who have initiated building proposals with reasonable expectations of development.

However, upon further analysis OP recognizes that any new zoning should continue to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

reflect over the long term the lower density and heights of lands at the North end of the study area adjacent to Capitol Hill.

OP feels that it's desirable to generally retain existing densities in any new zones. This could include rezoning lands zoned M to Capitol Gateway W-3, which includes the privately held parcels most likely to be developed in the near future; C-M-2 lands to the Capitol Gateway W-2, which includes the lands under the 11th Street Bridge Accessways adjacent to the Navy Yard; and land zoned C-M-1 to be re-zoned to Capitol Gateway W-1, which includes publicly held land under the Southeast Freeway adjacent to Capitol Hill.

The extensive lands along the waterfront are owned by the National Park Service so OP has not recommended W-0 zoning as would be the case if these lands were privately held.

This option would provide for a greater variety of uses than is currently permitted including residential, retail, office, and retention of industrial uses.

If residential development were permitted on these lands, the impact on the total amount of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

development possible would be relatively minor. However, residential development may not be possible on much of this land due to soil conditions. And this option could represent an undesirable diminishment in development potential.

OP is therefore recommending that the Capitol Gateway Overlay be further amended to permit commercial or residential development up to the base zone maximum permitted residential amount in the W-2 and W-1 areas. But also to restrict density in height bonusing currently provided for in the Capitol Gateway Overlay for residential development.

OP is recommending this option because it relates well to current development potential. It would provide for a development form anticipated in adopted planning initiatives for the area. It provides for the possibility of a broader and more appropriate mix of uses than existing zoning. It's in character with surrounding development patterns.

It generally accommodates in process development proposals, and through the implementation of the Capitol Gateway Overlay District can provide for special exception review to address potential impacts and proposals on the waterfront area.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

In addition to base zoning, overlay requirements pertaining to review mechanisms use, height, density or setback can impact the form or character of development.

The OP report reviews a number of these mechanisms. Setback restrictions, depending on actual view angles could have limited or no impact on perceived building height, but can reduce overall design flexibility; restrict the building envelope; and lead to wider buildings which appear more massive and which can block views around and between buildings.

Of the buildings setback and upper story setback options examined, OP feels that a setback of 20 feet above the building height of 70 feet would have some impact on perceived building height, while limiting design flexibility the least.

A setback starting lower on the building could actually have less of an impact on perceived height, again due to the view angles in this instance.

A setback of greater than 20 feet would provide limited additional visual benefit while further restricting the building envelope.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

In summary, given the many, many options available to the Commission, OP feels that it is important to focus on changes that are consistent with overall planning initiatives for the area, while encouraging an appropriate level of form and development and will help to insure an appropriate form of review of development proposals.

As such, in summary, OP recommends rezoning lands currently zoned M to Capitol Gateway W-3; rezoning lands currently zoned C-M-2 to Capitol Gateway W-2; and rezoning lands currently zoned C-M-1 to Capitol Gateway W-1.

OP further recommends amending the Capitol Gateway Overlay text to require review of all development within the Capitol Gateway W-3 and Capitol Gateway 2 zones; permit commercial or residential density to that permitted for residential development under the base zone in the Capitol Gateway W-1 and W-2 zones; to limit height and density to that of the base zone to the Capitol Gateway W-3 zone district.

If the Commission wishes to require retail along either M Street or Virginia Avenue within the East M Street area, and again if the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

Commission wishes, amend the Capitol Gateway W-3 zone to require a 20 foot setback above the building height of 70 feet measured from grade at the face of the building.

Finally, OP recommends that the Commission adopt changes in areas where the recommended zones have already been advertised to address timing concerns of owners of those lands as development proposals are currently in the works.

If the Commission wishes to proceed with the alternative zone designations for parts of the East M Street area, such as a new proposal for Capitol Gateway W-1 for the lands beneath the freeway, these modifications should be separated out from the current application and proceeded with separately.

That concludes my presentation. And we are available for questions. Thank you.

CHAIRPERSON MITTEN: Thank you, Mr. Lawson. Are there any questions before we begin our deliberations?

COMMISSIONER PARSONS: Just one question. You said that you would limit the height to that of the base zone at W-3. That's 90 feet and as I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

understand it with the PUD, you can't get any more than 90 feet. That's the max.

MR. LAWSON: I'm sorry. I probably misspoke. I meant to say that in the Capitol Gateway W-1 and W-2 zones, that the height would be limited to the base zone amount. Because you are correct. There is no additional that can be gained through the PUD process in W-3.

COMMISSIONER PARSONS: So, on Page 19, 4d, excuse me, c, you really meant density of W-3, not height?

MR. LAWSON: The W-3 zone under the Capitol -- I'm sorry. Let me just find it here. I'm sorry, which one are we looking at?

COMMISSIONER PARSONS: I'm on page 19, number 4c. I assume what you're suggesting here is you would take out the word "height" here. "Height and."

MR. LAWSON: 4c should actually read to limit height and density to that of the base zone for the Capitol Gateway W-2 and W-2 zones. The reason for that is that there is additional density and height available through the PUD process in those zones.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

COMMISSIONER PARSONS: I understand.

MR. LAWSON: And we feel that the base zone amount is an appropriate amount for those zones and corresponds well to development potential of adjacent properties.

COMMISSIONER PARSONS: As I understand it, the Square 1025, which is 1025 and 1025E, would be W-3 as well as Square 1048s.

MR. LAWSON: That would be the case under this recommendation. Yes.

COMMISSIONER PARSONS: Yes. So the only time we get a reduced density, which is what we have been talking about since July, or reduced heights is when we get to a section of land that is currently occupied by the freeway, called Square 1067. And you're recommending W-2 for the area under the freeway?

MR. LAWSON: Recommending W-2 for the area underneath the 11th Street Bridge accesses and W-1 for the area underneath the freeway.

COMMISSIONER PARSONS: Excuse me. So I have a problem with that, which shouldn't surprise you because what we've been talking about is lowering the heights as we move up the river, graduating from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

W-3 to W-2, to W-1. And we've had a disagreement.

It's obvious. I mean, not you and I, but others and you. And I just can't bring myself to accept your recommendation because stepping back, notching back from the river doesn't reduce the bulk from the river. And I have had trouble with the words again you used tonight, which was that this is in character with adjacent development. Frankly, it's not. It's not in character with the development on Square 1025 now, which are five story buildings nor the Navy Yard across the freeway.

So I don't believe that we should be dealing with, because it's matter of right height now is 90, and it has a matter of right FAR of a certain of a certain density and somebody has been in the business of planning to build to that density, that we should allow that. Because I don't think it's correct from an urban design standpoint.

So I don't think, from my standpoint, we're any further along than we were in July. I don't know whether others want to comment, but --

CHAIRPERSON MITTEN: Okay. I think we've moved into our deliberation now and if we have questions, we'll ask you specifically.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

So let's hear some other thoughts, if we could.

COMMISSIONER HILDEBRAND: Madam Chair, I find myself in agreement with Commissioner Parsons on this.

I think I've said from the beginning that I felt that stepping the building envelope height back up on this side of the Navy Yard seemed incompatible with the existing development pattern that surrounds the site. And I was very much in favor of looking for an option that gave us a lower height at this end of M Street.

I certainly do appreciate the suggestion of how the setback from a 70 foot height might work, and I do think that if we were to move forward with the W-3 solution that the setback would be something that would almost have to be considered.

But as I'm leaning right now, I still agree with Commissioner Parsons that a lower height is warranted on this particular site.

COMMISSIONER JEFFRIES: Well, you know, and maybe it's because I'm from Chicago. Maybe that's it. Is that it? I think that's it. And we have all these wonderful glorious tall buildings

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

along the lake front. I'm just not afraid of height along the river.

I guess I'm more concerned about architecture than I am about height and what the architecture looks like. I guess I would depart from my fellow Commissioners here as it relates to this discussion around height.

I have to say, though, this supplemental report was really tough to get through for the new Commissioner here. But, in terms of just really focusing on this aspect of height, I am more inclined to really focus more on the architecture of the height rather than just height as just a pure concept.

CHAIRPERSON MITTEN: If I could just try to understand what direction we might be moving in; which is there's different ways to get the kind of control that I hear that people want. Whether it's control on height, just flat out, or whether it's control on design that works because it works whether it's at a certain height or not.

So is the sentiment that we are moving towards some version of an overlay or are we moving towards some -- I guess, are we embracing the idea of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

the overlay or are we just dealing with the underlying zones and we're going to move forward with some. I mean, somebody will make a motion at some point to vote up or down some version of some zone combination that we've reviewed.

Can I get a sense of that?

COMMISSIONER PARSONS: Well I would tell you where I would come from. To make my point which I've been trying to make for a long time, I would zone reluctantly, but here it is, 1025 W-3; 1025E W-2; 1048S W-1; and as well for the Square 1067.

That gets to the point of where I've been coming from from the beginning is to step this down gradually as the freeway and the railroad meet the river.

Now whether we, certainly we have to re-advertise it and so forth, but that makes it, I guess, easier for me to articulate what I'd like to see.

CHAIRPERSON MITTEN: Okay. Just --

COMMISSIONER PARSONS: From a height standpoint. You're going to 90, 60, 40, no relief and go for it.

CHAIRPERSON MITTEN: Okay. And without an

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

overlay?

COMMISSIONER PARSONS: Right.

CHAIRMAN MITTEN: Go ahead.

COMMISSIONER JEFFRIES: I'm not comfortable with sort of carving out individual parcels like that and I'd like to see this in the confines of an overlay. And again, sort of allowing some level of flexibility.

And we need to talk about sort of what that language looks like. But I'm not comfortable with sort of the parcel-to-parcel carve outs.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER JEFFRIES: I don't know whether the Commission has sort of operated in that fashion previously and given that level of detail, but--

COMMISSIONER PARSONS: Well that's what we did with the W zones in Georgetown, essentially.

COMMISSIONER JEFFRIES: Okay.

CHAIRPERSON MITTEN: Well, and we're not dealing with a big area here. So, you know, if we're going to have any kind of gradations, it's going to be seemingly parcel-by-parcel because it's just a small universe here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

Since Mr. Hildebrand was sort of on board with Mr. Parsons, where are you with overlay, no overlay? I'm just trying to see where there might be some consensus to work on.

COMMISSIONER HILDEBRAND: Well actually, I'm --

CHAIRPERSON MITTEN: And you could be totally different, too. I've just got to try to find the common threads and try and weave something together.

COMMISSIONER HILDEBRAND: Actually, I hadn't thought of the option that Commissioner Parsons had proffered there. The notion is that you would have this one concentrated height on 1025 and then step back.

I had always envisioned in my mind as being a more lower height running from the Navy Yard and then sort of stopping at the bridge and then going down to the Congressional Cemetery and Sports Authority Road sites which are unbuilt.

I just need to think about that for a second.

CHAIRPERSON MITTEN: Okay.

VICE-CHAIRPERSON HOOD: Madam Chair, can I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

ask Mr. Parsons if he would indulge me in this. He mentioned Square 1025 and I think he said 90 feet, and Square 1025E 60 feet.

I may not be quoting you exactly, but could you explain to me your rationale again that you said we've been working since July, the step-down method. Because I think I'm trying to distinguish the difference in putting an overlay here, Madam Chair, and the step-down method that Commissioner Parsons just went through.

COMMISSIONER PARSONS: We could put an overlay over this that says we have to review each project. I'm trying to make my point that I think it should step-down gradually. It's the same thing that we did in Georgetown.

CHAIRPERSON MITTEN: As you go east.

COMMISSIONER PARSONS: Washington Harbor is W-3. We went up the river and we ended up with W-1 at the other end. It's the same concept. Maybe this isn't the same as Georgetown. I don't mean to imply that, but I'm just trying to make the point that hasn't been picked up. So I got very specific about it. There may be an easier way to deal with it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

VICE-CHAIRPERSON HOOD: Okay. Thank you.

COMMISSIONER JEFFRIES: I mean, with Georgetown in this area, I mean, as it relates to just evolution of development for a particular area.

I mean, are we talking apples-to-apples here?

I mean, how long ago was this?

COMMISSIONER PARSONS: Georgetown?

COMMISSIONER JEFFRIES: What was the city trying to achieve as related to -- I guess I'm just--

COMMISSIONER PARSONS: Well Georgetown was an M zone. People started to build at M levels. The classic is the Dodge Center which is at Wisconsin Avenue. It's a slope backed building you can see from the freeway.

COMMISSIONER JEFFRIES: Correct.

COMMISSIONER PARSONS: "Whoa! What's going on here? We didn't want that here in Georgetown." "Well, that's what we can build as a matter of right."

So, they established the W zones, specifically for Georgetown. W-1, 2, and 3. And tried to put the bulk closer to the Watergate of Washington Harbor and moved up stream with lesser

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

density.

So this is actually the second time in this city. Have we applied the W zone anywhere else?

CHAIRPERSON MITTEN: Yes. Capitol Gateway.

COMMISSIONER PARSONS: Oh, thanks.

CHAIRPERSON MITTEN: How quickly they forget.

COMMISSIONER PARSONS: Yes. Anyway, that's the genesis of it. And I shouldn't make the Georgetown comparison because they're totally different. You've got a freeway, but --

COMMISSIONER JEFFRIES: Yes. I just don't want to get into the business of acting as being overly regulatory and being sort of developer on the dias here. I mean, if an overlay will allow us to sort of take a look at everything that comes through and we can address issues of height and so forth, I mean, that's where I'm at. It seems to me that if we're at this stage and we're putting this level of restriction when we can, in fact, look at restrictions once we see individual projects, it seems that I'm just more in favor of that.

Carol, I don't know --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: I think I'm aligned with Commissioner Jeffries, which is I think that it's the scrutiny of the height that's important. That's basically what we said in the big Capitol Gateway, which is, this is an important place and the stuff that we do in the waterfront zones needs our review.

And how we capture control over height. There's a couple different ways that we can do it. But I guess I just don't want to wholesale say it's not appropriate.

Because I understand your point about Georgetown, but Georgetown is pretty long and this is a pretty small little area that we're discussing. And so where it does taper off is as you go farther up the river, it tapers off to basically nothing. It tapers off to whatever the Park Service will allow people to build.

And so I would favor some kind of control over the height, but not through just blanket lower density and lower height zones with no controls, as you had proposed.

Now I'll turn to my left and see if I can get any feedback from this side of the dias. Mr. Hood or Mr. Hildebrand?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

VICE-CHAIRPERSON HOOD: I kind of would associate myself with your comments, Madam Chair. This maybe a site where we could do an overlay and have some control over things.

You know, issues that come in front of us as far as the height is concerned. I would be inclined, I guess, to maybe put an overlay on this. How we'll get there, I'm not sure.

CHAIRPERSON MITTEN: Okay. We're getting somewhere with this, I think.

COMMISSIONER PARSONS: Well, let's get specific. What would your overlay do? Leave it all at 90 feet. If that's where we are, let's get on with this.

CHAIRPERSON MITTEN: Well, I guess there's a couple of ways. I said there's a couple of ways to deal with the height issue. One would be, since an overlay that's customized for this is going to be a text amendment that we then MAP. So one way to do it would be to say within this area, if we were to zone, we could -- one way to approach it without -- I haven't thought this through entirely. But one way to approach it would be to say instead of having no incentives, the only actual incentives in having a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

PUD in any W zone is in W-1. There are no incentives in W-2 or 2. Would be to change that and say, okay, we'll give you an incentive in W-2 and we'll give you more height and we'll give you some more density. And maybe it's not 90 feet, maybe it's something more than 60. So we come at it that way.

Or we can do it more directly in the overlay itself. And I'm looking for how we dealt with it in Capitol Gateway. I guess we didn't have anything.

COMMISSIONER HILDEBRAND: I notice in the sectional diagrams that OP has provided, for example, I'm looking on page 4 of their report. They're showing the measuring height as Water Street for all of their section diagrams, when in fact possibly the measuring height might be M Street for the front of these buildings; which would make the building instead of 90 feet on the Water Street side, closer to what 110 or something like that. Would it be possible to include language in the overlay that designates Water Street as the measuring point?

CHAIRPERSON MITTEN: Yes.

COMMISSIONER HILDEBRAND: Which gives us a 60 foot height on M Street, plus or minus, and may be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

a compromise.

COMMISSIONER JEFFRIES: What's the differential in height between Water Street and M Street?

COMMISSIONER HILDEBRAND: I can't answer that. Perhaps OP can. But looking at their section diagram on Page 4, it appears to be in the 18 to 20 foot range, depending upon where you are on Water Street, I assume.

COMMISSIONER JEFFRIES: Right.

CHAIRPERSON MITTEN: Well let's see. Mr. Lawson, do you happen to know what that differential is?

MR. LAWSON: It does vary along the property, but 20 feet is closer. It is approximately 20 feet.

CHAIRPERSON MITTEN: Okay. Mr. Lawson, can I just get you to help me sort something out here?

On your attachment to the chart of zones, in the top part, there's a 1067, lot 814 that's being suggested to be rezoned from M to C-G-W-3, and then there's a 1067, lot 815 rezoned from C-M-1 to C-G-W-1. So, I'm just wondering. I see a 1067 under the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

freeway that's zoned C-M-1. And, is it the 1067 South that's the piece you're suggesting should be W-3?

MR. LAWSON: No. 1067 South is actually with National Park Service lands.

CHAIRPERSON MITTEN: Okay.

MR. LAWSON: What doesn't show on this map because it's kind of running into the railway line is that C-M-1 zone, the boundary between C-M-1 and M, splits Square 1067. Most of it on the north half is in the C-M-1 zone, but there is a section of the south half that's in the M zone.

CHAIRPERSON MITTEN: Oh, okay. I guess the entirety of Square 1067 is north of M Street?

MR. LAWSON: By our maps, M Street kind of runs through Square 1067, through the very southern half in the M zoned portion. But, to be honest, exactly where M Street is in actuality, I couldn't say for sure.

CHAIRPERSON MITTEN: Okay.

MR. LAWSON: The M Street right of way is to the south of Square 1067, but the roadway itself doesn't appear to be exactly within the road right of way.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: Okay. I think I understand that.

Okay. I'm just going to put something out there and then we can talk about it, which would be that there's more squares that we need to zone than what Mr. Parsons's articulated because there's the pieces under the freeways and so on.

But I think the general sentiment we all understand. And the additional squares that are suggested to be zoned W-1, like under the freeway to the north, I would add that to the list without articulating each one. And the ones to the east, like Square 1000 and Square 1001, add those to be zoned W-2.

And so those would become the underlying zones. But within the overlay then, since I don't have anything else that I can articulate well right now, I'm just going to put this out there, that we would amend the Chapter 24, so that in the W-2 District, the incentive that would be made available would be -- right now it's a maximum of 4 FAR, no more than 2 FAR of which may be for non-residential purposes. I would make that look a little bit more like W-3 and say that the overall density could be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

five, of which four could be non-residential.

And again, I'm open for suggestions. And, with a height of 75 feet with the PUD.

And so, W-1 would keep the incentive that it currently has, which goes from 40 feet in height to 60 feet in height under the PUD guidelines, and the density overall goes from 2½ to 3. That's the existing incentive.

Then the W-2 would have the incentive that I just articulated. And W-3 would remain as it is with no incentive.

COMMISSIONER JEFFRIES: The W-2 with a PUD would go from 60 feet in terms of height; 60 feet to 75 and then what's the residential?

CHAIRPERSON MITTEN: The density would go from a maximum total FAR of five, of which four could be non-residential. Which currently, it's a maximum of four, and no more than two of which can be non-residential.

COMMISSIONER JEFFRIES: Okay.

CHAIRPERSON MITTEN: And then we could, if you want to add something, Mr. Hildebrand, about measuring height from Water Street or we can pin other things on it. But I'm just trying to get

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

something that we can move forward with.

COMMISSIONER PARSONS: You're changing the basic zoning? The zoning regulation?

CHAIRPERSON MITTEN: No. I would be changing Chapter 24.

COMMISSIONER PARSONS: Oh, okay.

CHAIRPERSON MITTEN: For a PUD in this little overlay.

COMMISSIONER PARSONS: Not in Georgetown?

CHAIRPERSON MITTEN: No.

COMMISSIONER PARSONS: So you've given W-2 another 15 feet?

CHAIRPERSON MITTEN: In a PUD.

COMMISSIONER PARSONS: And, that would only be applied under the freeway?

CHAIRPERSON MITTEN: No. I'm picking up what you said which is 1025E.

COMMISSIONER PARSONS: Oh.

CHAIRPERSON MITTEN: We have to re-advertise this anyway so I'm trying to get to something that we can actually advertise.

COMMISSIONER PARSONS: Yes. I understand.

CHAIRPERSON MITTEN: We have some ideas that we'd like to knock around a little bit more.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: So W-2 would be applied to E?

CHAIRPERSON MITTEN: Yes.

COMMISSIONER PARSONS: And how about 1048S?

CHAIRPERSON MITTEN: You had said W-1.

COMMISSIONER PARSONS: Well, what do you mean?

CHAIRPERSON MITTEN: I meant what you said. Everything you said, I said, and added an overlay and added some other squares that --

COMMISSIONER PARSONS: Then we need to deal with 1025S. I didn't mention that.

CHAIRPERSON MITTEN: 1025S. You're right. You didn't deal with 1025s.

COMMISSIONER PARSONS: And I would propose W-2 for that as well.

CHAIRPERSON MITTEN: Well how about if there we would advertise, since we're going to advertise all this again, we'll do W-2 and W-3 in the alternative on 1025S? Because, you know, there's either the stepping down to the river philosophy or there's the going east philosophy, or maybe you're trying to do both of them. But, you know.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: I could be trying to do that. See my favorite diagram. Do you remember these that the Office of Planning produced?

CHAIRPERSON MITTEN: Yes. They're very nice.

COMMISSIONER PARSONS: I hope you saved those because Number 3 on the lower left is exactly what we're talking about except you just gave them a few more feet.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER PARSONS: So in the spirit of compromise, let's try this. And you're right, we'll have to have a hearing.

CHAIRPERSON MITTEN: Where are we down here?

COMMISSIONER HILDEBRAND: Actually, I'm completely in line with what you are saying. I'd like us to get everyone else's feeling on the notion of the measuring height being Water Street as opposed to M Street for the development. Of course, what I'm suggesting is assuming that 1025 and S and E are going to be developed at the same time.

CHAIRPERSON MITTEN: You mean the entirety?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER HILDEBRAND: Yes.

COMMISSIONER PARSONS: We'd be a lot better equipped to deal with that if we knew what the height difference was between Virginia RAM and Water.

CHAIRPERSON MITTEN: It's approximately 20 feet is what Mr. Lawson said. It changes, but 20 feet is a good number.

COMMISSIONER PARSONS: So then you would end up with a building 45 feet high?

CHAIRPERSON MITTEN: Are we measuring everything in the overlay from Water Street, or certain squares?

COMMISSIONER PARSONS: What he's trying to avoid is buildings 20 feet higher than we're talking about today.

CHAIRPERSON MITTEN: Right.

COMMISSIONER PARSONS: And the only way to do that is to measure from Water Street.

CHAIRPERSON MITTEN: Wholesale.

COMMISSIONER PARSONS: Then you get what we're talking about.

COMMISSIONER JEFFRIES: But I'm having difficulty. Where on Water Street? I'm having difficulty.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: As the buildings front Water Street.

COMMISSIONER JEFFRIES: Right.

COMMISSIONER PARSONS: You'd measure them from there, as opposed to the MAP and saying "I'm measuring my 65 feet from here, therefore, this building's 85 feet.

COMMISSIONER JEFFRIES: And that gives you much more height when you're down on Water Street.

CHAIRPERSON MITTEN: But what precisely would we be measuring from Water Street? Would we be measuring buildings on Square 1048 from Water Street?

COMMISSIONER PARSONS: Yes.

CHAIRPERSON MITTEN: Up there? North of M Street?

COMMISSIONER PARSONS: They all front on Water Street.

CHAIRPERSON MITTEN: No, they don't. Not all the squares we're talking about.

COMMISSIONER PARSONS: Well, not Square 1167.

CHAIRPERSON MITTEN: Well, that's what I'm trying to say. What are we measuring? Which ones?

COMMISSIONER PARSONS: 25S, 25, 25E, 1048.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: And 1067S?

COMMISSIONER PARSONS: Well.

CHAIRPERSON MITTEN: Or is that yours?

COMMISSIONER HILDEBRAND: That's the National Park Service.

COMMISSIONER PARSONS: Oh yes, we won't build there. I promise. 1067 is, I think admittedly a pipe dream.

CHAIRPERSON MITTEN: Okay. So you said 1025, 1025E, 1048.

COMMISSIONER PARSONS: 1025S.

CHAIRPERSON MITTEN: Oh, 1025S.

COMMISSIONER JEFFRIES: So what happens, Madam Chair, if the developers would come in and the applicants would come in and perhaps start to measure along M Street and start from that point up. And we would have an opportunity to make the adjustment or we really have state this in the hearing exactly where we're going to be starting the measurements from.

COMMISSIONER PARSONS: It would be peculiar to this overlay. It isn't something we've done before, if that's what you mean.

COMMISSIONER JEFFRIES: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: Is to dictate what street.

COMMISSIONER JEFFRIES: Yes. So we're dictating what street to measure from.

CHAIRPERSON MITTEN: We're debating that.

COMMISSIONER PARSONS: In this overlay, yes. To achieve the objective that we're agreeing upon as to what the building heights should be so we're not surprised with, "Well, I've got a matter of right to go up to Virginia Avenue and measure my property."

CHAIRPERSON MITTEN: I mean, since we're putting these things in and we want to get feedback, I'm willing to put it in. It doesn't mean we're wedded to it.

COMMISSIONER PARSONS: Okay.

COMMISSIONER HILDEBRAND: Should we put it in as an alternate and leave the normal zoning language of the front of the building as the measuring height. And then, as an alternate, we'll talk about the --

CHAIRPERSON MITTEN: For those squares. Just to go one more time for whatever poor soul has to write this public hearing notice, 1025, 1025E,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1048S, 1067s, 1025S, the building height for any building in and of those squares would be measured from Water Street.

COMMISSIONER JEFFRIES: This is so restrictive for an overlay. It seems to me. I'm sorry.

CHAIRPERSON MITTEN: I know, I mean we're just talking about language to advertise right now. You don't have to be in favor of it. We're just trying to get to the point where we can move ahead.

VICE-CHAIRPERSON HOOD: Madam Chair, are we including 1080S? You said 1067S, did you not?

CHAIRPERSON MITTEN: I don't think those are part of this case.

VICE-CHAIRPERSON HOOD: They're not?

CHAIRPERSON MITTEN: No, because they're-- oh wait, 1080 is on the list.

COMMISSIONER PARSONS: 80-S is park land and 80 is railroad.

VICE-CHAIRPERSON HOOD: Okay. I don't guess we need to include those.

CHAIRPERSON MITTEN: It will be a long time before we have to do that.

COMMISSIONER PARSONS: Yes, I think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

there'll be new zoning proposals once the freeway and railroad are removed.

CHAIRPERSON MITTEN: Okay. Anybody else want to hang anything on this tree?

VICE-CHAIRPERSON HOOD: And let me make sure I'm understanding. We also want to put in the announcement that we're going to measure from Water Street on those squares. That's what we're doing?

COMMISSIONER PARSONS: Yes.

CHAIRPERSON MITTEN: Yes, and we will get feedback about that.

VICE-CHAIRPERSON HOOD: Thank you.

CHAIRPERSON MITTEN: Okay. So this is language that will then be advertised for further hearing on this. We're going to get this, but I know we have a lot of differences of opinion and we couldn't go forward tonight. So this is one way of moving forward.

COMMISSIONER PARSONS: I wonder if it's possible to have a special meeting next Monday to look at this announcement?

CHAIRPERSON MITTEN: Sure. Yes. We don't have to do it at a meeting. We can just circulate it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: Okay.

CHAIRPERSON MITTEN: Mr. Bastida, are you comfortable? Did we leave anything out?

MR. BASTIDA: I think that it appears to be fairly straight forward now that you have defined it in those terms.

CHAIRPERSON MITTEN: Okay.

MR. BASTIDA: And we will work with the Office of Planning to write it up and then circulate it to the Commissioners.

CHAIRPERSON MITTEN: Okay.

MR. BASTIDA: I'll give you a few days to look at it and then get the feedback. And then put it all together and circulate it again if it needs to be.

CHAIRPERSON MITTEN: Okay. Thank you.

Okay. Next case is 03-27 which is 4600 Brandywine. All right. I'll just mention that we had asked for some additional submissions from the applicant, which we have received. And since we don't have a proposed order in front of us, I'll just review that the proposal is for 42 apartments and about 1600 square feet of retail space; garage parking on the property; and the amenities and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

benefits being offered in this PUD which does not change.

There's no PUD related MAP amendment, but it basically does take full advantage of the increases in height and density that are available through the PUD.

That, what's been proffered is good urban design. That there will be a first source agreement with the Department of Employment Services; an MOU with the local Business Opportunity Commission to use local small disadvantage business enterprises.

That there will be one unit, a one bedroom unit that will be affordable, I think, on the same terms as the other PUDs that we've had in the past. That there will be landscaping, both onsite and in the public space nearby. That the project will have a green roof.

That the applicant will donate \$75,000 to Janney Elementary School; \$25,000 to the Friends of Tenley Library; \$20,000 to Wilson Senior High School; \$15,000 to the Friends of Fort Bayard Park; and \$47,427 for the purchase of a hazardous materials pod for use by the fire department.

And so those are the things we have to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

weigh. The additional density and height that's being gained through the PUD against these proffered benefits and amenities. And then, because there is the requested waiver of the minimum area for the PUD, we have to find that the project has exceptional merit. Because it already meets the other benchmark of having at least 80 percent of the gross floor area dedicated to residential uses.

So, with that, I will open it up for discussion.

VICE-CHAIRPERSON HOOD: I just had a question about the affordable unit. I thought they were offering three. I don't know where I got three from.

CHAIRPERSON MITTEN: It started at three when we first saw it because the project was larger. If you remember, they were asking for a PUD related MAP amendment and it was greater density. And then when the project was scaled back, they reduced the amenity to one.

VICE-CHAIRPERSON HOOD: Okay.

CHAIRPERSON MITTEN: Did that M Street thing wear you guys out?

COMMISSIONER HILDEBRAND: I'm sorry. I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

beat.

COMMISSIONER PARSONS: I'm ready to approve this project and we've got the retail out on Wisconsin Avenue where we wanted it.

I think the design detail at this corner has not compromised the architecture, but has given us a retail presence. I note the tower has been lowered a little bit. I'm not sure about that, but I can see why they did it.

And I think it meets all the criteria for the exceptional circumstance of the building. Certainly it's a vast improvement over the first design we saw that we didn't set down.

The plan is superior to a matter of right building and I would move approval as we have received the supplementary information.

CHAIRPERSON MITTEN: Okay. We have a motion for approval. Can I get a second, and then we can continue the discussion?

COMMISSIONER HILDEBRAND: I'll second.

CHAIRPERSON MITTEN: Thank you.

I guess you're up since you second it. You can add your comments now.

COMMISSIONER HILDEBRAND: I just want to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

reiterate. I think this project has really come a long way since its first iterations. And that the fact that it's gotten such widespread support from the community I think speaks to the level of cooperation that the developers and the neighborhood have attained. And I think, in some ways, that speaks to its exceptional turn around in this particular case. And I think I'll leave it at that.

CHAIRPERSON MITTEN: Could I ask either of you or anyone else on the Commission to speak directly to the issue of exceptional merit? Because that's what I'm struggling with.

You know, we've had a few of these cases where we've had requests for waivers of the minimum area requirement for the PUD.

And, while the projects do have a significant number of amenities and benefits, but I think we need to be able to articulate precisely what makes it exceptional, which is really, you know, it needs to be special. And I don't know that the qualifier can be, well it's a lot better than it was before. Because that encourages people to come to us with ugly buildings and then just make them better so

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

they'll look good by comparison.

So could I ask either of you to help me with that?

COMMISSIONER PARSONS: I thought I did.

CHAIRPERSON MITTEN: Not enough.

COMMISSIONER PARSONS: Well, what do you want me to say? I mean, this is much better than a matter of right building on Wisconsin Avenue.

CHAIRPERSON MITTEN: But that's what a PUD is supposed to be.

COMMISSIONER PARSONS: You're correct.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER PARSONS: But I'd rather have this, and I feel it's exceptionally better than matter of right, which is the other option for this development.

I don't know what else you want me to say. I mean, they did what's needed to achieve a PUD.

CHAIRPERSON MITTEN: I agree. They did what's needed to achieve a PUD.

COMMISSIONER PARSONS: Right. So --

CHAIRPERSON MITTEN: But then, it has to be --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER PARSONS: They're asking for a 3,000 square foot waiver in order to accomplish that.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER PARSONS: And I think they've met that burden of proof with the amenities for the community and the design of the building.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER PARSONS: And I don't think it sets a precedent for the next guy to come in with an ugly building and beg for -- I hear you, but I'm not sure I see your point.

CHAIRPERSON MITTEN: Okay. I didn't really make a point. I asked you to convince me.

COMMISSIONER PARSONS: No. Yes, you did. "Exceptional" has been a troubling word for the Commission for a number of years. Fortunately, there are not very many of these. But I know that we have struggled with that as well as the benefit to the country, which is another of these conundrums.

VICE-CHAIRPERSON HOOD: And a good cause. I know we have struggled with that quite a bit. And I share your concern if that's a concern, Madam Chair, or your question to either one of our

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

colleagues. Because whether we know it or not, I'm sure it's going to come back. And they are only asking for what, 3000 square feet difference. But I do grapple with the good cause question and the exception issue.

That's always been a tickler for me.

CHAIRPERSON MITTEN: Mr. Jeffries, did you want to help out here?

COMMISSIONER JEFFRIES: Yes. You know, being the newest Commissioner here, I don't have a lot to compare. I mean, looking at the design.

CHAIRPERSON MITTEN: That's probably good.

COMMISSIONER JEFFRIES: Right. And so, I know of a couple of buildings here that I would imagine did not go through PUD that were a matter of right that were just as good as this project.

I mean, it's a decent design, it would be much improved. But I have to tell you, and I think I asked the question of someone on staff, I mean why is exceptional? But, we are looking at 3000 square feet and in some ways, I feel the train has somewhat left the station in that, you know, at this point this is where we are. But I can see that, based on what I'm looking at here, it just doesn't strike me as being

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

exceptional particularly because of size. I mean, you know, size matters. A large scale catalytic development that's going to deliver a lot of project amenities and really speak to really jump-starting a particular area and so forth. That seems to be to me a PUD. This seems more like almost end fill construction.

So that's just stated. I'm fine with going forward with this. It's just that I can see the concern that Madam Chairman has put forward.

VICE-CHAIRPERSON HOOD: Madam Chair.

CHAIRPERSON MITTEN: Yes.

VICE-CHAIRPERSON HOOD: I think I know the answer, but what would happen if we don't find it exceptional?

CHAIRPERSON MITTEN: Then the premise on which the whole thing is based, which is that it would qualify as a PUD, would not exist. And then they would have to go back and rework something to make it exceptional.

Okay. Anyone else want to say anything?

COMMISSIONER JEFFRIES: Yes. I think this whole notion of comparison, I think you're absolutely right. I mean, you know, someone brings a design up

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

that's really really not great. And then there's an improvement.

I think at the last hearing we were so caught up on the improvement that we didn't really get to the question of exception.

CHAIRPERSON MITTEN: Yes.

COMMISSIONER JEFFRIES: You know, the leap was way to great to go from what looked like a K Street office building to exceptional is way too much room. And I think we got comfortable with more baby steps.

But again, I'm just of the belief that this discussion could have been probably better served the last time we discussed this.

CHAIRPERSON MITTEN: I guess what I'd just like to say at this point, and I intend to support the motion. Because I think the amenities are great. I'm glad to see them being creative about having a green roof. I like the design. I think it's going to be a fine project.

I think what we owe to ourselves going forward, as well as to the public, is to re-examine this whole thing. We've had debates here about whether or not it even makes sense to have the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

minimum area requirement for a PUD.

I think if you're going to use the word "exceptional", that's a very powerful word. I think by not being able to articulate well and clearly -- and I know that Mr. Parsons was articulating well and clearly, but maybe I just wasn't as sure. I don't feel it in my gut.

We're diluting that word; the power of that word. And we've struggled with this before. So I guess I just want to remind us to take this up and decide what do we really want.

Do we really want that there's no minimum area requirements? Do we really want a lower threshold? Or do we really want something to be exceptional? And if we do, then let's do a better job of capturing that going forward.

COMMISSIONER PARSONS: If it will help, I can tell you that was a compromise. Some people wanted no limits on the Commission and others were frozen at 15. And so we came up with this and it's not working. It's broken.

CHAIRPERSON MITTEN: Yes.

COMMISSIONER PARSONS: So we'll revisit that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: Since we make the rules, we can do what we want.

COMMISSIONER PARSONS: Right. Fix it.

COMMISSIONER JEFFRIES: I just, you know 15, 20, whatever the number is. Size matters to me here. Scale matters. And just the thought of someone walking in with a 5,000 square foot site and saying, "PUD." This is problematic for me.

COMMISSIONER PARSONS: Yes. Great.

CHAIRPERSON MITTEN: Okay.

COMMISSIONER HILDEBRAND: And particularly since -- and that really couldn't happen. But I think we also have to look at the level of area relief they're asking for. And in conceptualizing our definition of "exceptional," I know the definition is that you can be granted up to a 50 percent reduction in the area requirement if you are exceptional. But, at the same time, they're not asking for a 7,500 square foot reduction. We're looking at something closer to 2,500 square feet, which is a third of that.

And I think that certainly the ANC has come forward saying that they feel that the amenities package in combination with the urban design of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

project meets the exceptional requirement by supporting the PUD application. And I think we would be on solid ground to affirm the ANC's position on this and say that they have met at least the minimum standard of arriving at that exceptional threshold in this particular case.

But, in saying that, I also certainly don't want to encourage the concept of smaller and smaller sites coming forward and being proffered as PUDs without a clear understanding of what will be anticipated of them.

CHAIRPERSON MITTEN: I'm glad you mentioned the ANC. That's a good point to make. And also, if there is this notion of proportionality, I'll look forward to reminding the Commission about that when we take up another case like this that has asked us. We set it down for a very significant waiver.

And if proportionality is part of it, we should be communicating that, too, in the ordinance.

So with that, I'd ask for all those in favor of approving the PUD for 4600 Brandywine please say "aye".

All: Aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

CHAIRPERSON MITTEN: Those opposed, please say "no."

MS. SCHELLIN: Staff will record the vote five to zero to zero to approve proposed action in Case No. 03-27. Commissioner Parsons moving. Commissioner Hildebrand seconding. Commissioners Hood, Mitten, and Jeffries in favor.

CHAIRPERSON MITTEN: Thank you. And, unless anyone has anything else, I think we're done with our agenda.

Mr. Bastida, yes?

MR. BASTIDA: The Staff has no other matters, Madam Chairman.

CHAIRPERSON MITTEN: Thank you. We're now adjourned.

(Whereupon, the meeting was adjourned at 8:33 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com