

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

PUBLIC HEARING

+ + + + +

IN THE MATTER OF: :
 :
MOUNT VERNON TRIANGLE : Case No. 04-18
ANC-2F & 6C :
 :

Thursday,
June 30, 2005

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 04-18 by the District of Columbia Zoning Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C. 20001, Carol Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
KEVIN HILDEBRAND	Commissioner (AOC)
GREGORY JEFFRIES	Commissioner
JOHN G. PARSONS	Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

STEVE COCHRAN	Zoning Specialist
SHARON SCHELLIN	Zoning Specialist

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER Zoning Specialist

D.C. OFFICE OF THE ATTORNEY GENERAL:

ALAN BERGSTEIN, ESQ.

This transcript constitutes the minutes
from the public hearing held on June 30, 2005.

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

7:01 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a Public Hearing of the Zoning Commission of the District of Columbia for Thursday, June 30, 2005. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Kevin Hildebrand, John Parsons and Greg Jeffries. I apologize for starting a little bit late this evening. We had some technical difficulties.

The subject of this evening's hearing is Zoning Commission Case No. 04-18. This is a request by the Office of Planning for text and map amendments to Title 11 of the District of Columbia Municipal Regulations for Zoning to establish a new subarea within the Downtown Development District Overlay to be known as the Mount Vernon Triangle District.

Notice of today's hearing was published in the D.C. Register on April 29, 2005 and copies of that announcement are available to you and they are in the wall bin near the door. This hearing will be conducted in accordance with the provisions of 11 DCMR section 3021 and the order of procedure will be as follows: We will start with any preliminary matters. Then we will have the presentation by the Office of

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1 Planning, reports of any other Government agencies,
2 reports by ANC-2F and 6C, organizations and persons in
3 support and organizations and persons in opposition.

4 The following time constraints will be
5 maintained in this hearing: Organizations will have
6 five minutes and individuals will have three minutes.
7 The Commission intends to adhere to these time limits
8 as strictly as possible in order to hear the case in
9 a reasonable period of time. The Commission reserves
10 the right to change the time limits for presentations,
11 if necessary, and notes that no time shall be ceded.

12 All persons appearing before the
13 Commission are to fill out two witness cards. The
14 cards are on the table by the door. Upon coming
15 forward to speak to the Commission, please, give both
16 cards to the reporter, who is sitting to our right.
17 And I would also say that there is probably a sign-up
18 sheet by the door, that will just help us organize the
19 testimony a little bit better if you sign-up, if you
20 plan to testify.

21 Please, be advised that this proceeding is
22 being recorded, both by the Court Reporter and being
23 webcast live. Accordingly, we ask you to refrain from
24 making any disruptive noises in the hearing room.
25 When presenting information to the Commission, please,

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1 turn on and speak into the microphone at the tables in
2 front of us, first, stating your name and home
3 address. When you are finished speaking, please, turn
4 your microphone off, so that it's not picking up any
5 background noise.

6 The decision of the Commission in this
7 case must be based on the public record. To avoid any
8 appearance to the contrary, the Commission requests
9 that persons present not engage the Members of the
10 Commission in conversation during the recess or at any
11 other time. Staff will be available throughout the
12 hearing to answer any procedural questions and you can
13 address those to Mrs. Schellin. Please, turn off all
14 beepers and cell phones, at this time, so as not to
15 disrupt the hearing.

16 At this time, we will take up any
17 preliminary matters. Mrs. Schellin?

18 MS. SCHELLIN: We have no preliminary
19 matters.

20 CHAIRPERSON MITTEN: Okay. Great. Mr.
21 Cochran, I think we're ready for you. Not in this
22 hearing, sorry.

23 MR. COCHRAN: Thank you, Madam Chair.

24 CHAIRPERSON MITTEN: Unless you feel
25 compelled.

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1 MR. COCHRAN: For the record, my name is
2 Stephen Cochran from the Office of Planning. Thank
3 you for your indulgence on starting late. I will try
4 to speak faster, accordingly. Tonight, the Commission
5 is considering an important step to implement the plan
6 for the Mount Vernon Triangle Action Agenda.
7 Actually, I think it will be good enough without
8 those. Here we go.

9 Okay. That being the Mount Vernon
10 Triangle Action Agenda. The plan is intended to
11 further section 932 of the Comprehensive Plan to
12 establish a vibrant new downtown east of Mount Vernon
13 Square. The Commission, as you noted, has advertised
14 text amendments to create the subarea within Chapter
15 17 of the Zoning Regulations. It has also advertised
16 alternative map amendments for Square 483 to rezone it
17 from C-3-C to either DD/C-3-C or DD/C-2-C.

18 While the proposed amendments are OP
19 proposals, they could not have been reached to this
20 point without the public's spirited input of the Mount
21 Vernon Triangle Zoning Task Force, some to many of
22 whose members are here tonight. With respect to the
23 map amendment, OP continues to believe that DD/C-3-C
24 is an appropriate Zone District for Square 483. With
25 respect to the advertised text amendments, there have

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1 been several thoughtful public comments already filed
2 that have highlighted issues requiring consideration.

3 We anticipate that there will be
4 additional articulate testimony tonight. OP wishes to
5 highlight some of the issues about which we know,
6 listen to the testimony and Commission deliberations
7 and then address these matters in a supplemental
8 report, if necessary, that may include revisions to
9 the proposed text amendments.

10 Okay. Let's look at the proposal. I
11 think that you already know where the subarea is. The
12 purple area is the Mount Vernon Triangle in whole.
13 The area outlined in green is the subarea within the
14 Mount Vernon Triangle. You will notice that west of
15 3rd Street all of this area is in the DD, except for
16 Square 483. The proposal would bring Square 483 into
17 the DD and establish a new subarea within the DD
18 encompassing Squares 451, 483, 484 West, 515 and 516.

19 The subarea focuses on K Street and 5th
20 Street as the principal spines of the neighborhood.
21 The OP proposal also includes targeting certain
22 preferred uses to certain areas specifying ground
23 floor height and facade standards, as is done in other
24 parts of the DD and the Uptown Arts Overlay.
25 Establishing physical standards and use standards for

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1 buildings at the intersection of 5th and K Streets and
2 proposing combinations of loosening and tightening
3 certain physical standards in order to promote a more
4 pedestrian-friendly environment.

5 Let's look at the map amendment first. OP
6 has recommended 483 become DD/C-3-C. OP believes this
7 DD Overlay is supportive of many elements of the
8 Comprehensive Plan. They were noted in our
9 preliminary report on pages 13 to 16 in July 2004.
10 Square 483 was included in the DD when that overlay
11 was first established, but was later removed due to
12 landowner initiated Council and Commission action.

13 Absent the DD Overlay, Square 483 is the
14 only square between 4th and 7th Street, north of H and
15 south of Q, all the way up to Q, that is not
16 designated for at least partial residential usage.
17 The impact of putting this square back in the DD was
18 shown on the table on page 13 of OP Set-Down Report.
19 The principal effects are to increase the permitted
20 height from 90 to 130 feet. Increase the FAR from 6.5
21 to 9.5 for a commercial or mixed use building.

22 Require that at least 3.5 FAR be developed
23 residentially where there is not now any residential
24 requirement. Permit significant increases in
25 residential square footage that the DD permits through

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1 relaxation of FAR requirements. And permitting both
2 transfer of development rights and combine lot
3 transactions. OP believes that such a map amendment
4 would not be inconsistent with the Comprehensive Plan
5 and is, in fact, supportive of many of the elements of
6 the Comprehensive Plan noted in our Set-Down Report.

7 With respect to whether C-3-C or DD/C-2-C
8 is a preferable DD/C-3-C or DD/C-2-C, OP notes that
9 the generalized Land Use Map designates Square 483 as
10 suitable for high density commercial use. This square
11 is within the central employment area. The squares
12 southwest of Square 483 are already zoned DD/C-3-C.
13 OP believes that given the square's current zoning,
14 DD/C-3-C would achieve an adequate balance of
15 furthering the dual objectives of achieving both
16 additional residential development and high density
17 commercial development in this part of the Mount
18 Vernon Triangle.

19 The table that's on the screen now
20 compares the existing C-3-C Zoning with both DD/C-3-C
21 and DD/C-2-C Zoning. You can see the FAR would go
22 from 6.5 to 9.5 under C-3-C and 8.0 under C-2-C. The
23 residential component would, indeed, be higher under
24 C-2-C. The commercial component could be higher under
25 DD/C-3-C. We think that since it is already zoned C-

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1 3-C, that's in the appropriate bay zone, and we would
2 be very pleased to get the required residential that
3 would come from putting DD on top of that.

4 Let me look next at the subarea itself.
5 I have already mentioned where it is centered, but
6 there have been some questions about how far back this
7 proposed subarea would go. This area in either green
8 or yellow would go back 72 feet. A depth of 72 feet
9 from the property lines on the street frontages, 5th
10 and K.

11 This depth is based on multiples of the
12 construction module that was agreed upon as being
13 typical by the Mount Vernon Zoning Task Force, and it
14 reflects the depth of the subarea requirements where
15 they are the deepest, that is to say where the
16 interior and exterior height requirements of the
17 principal intersection area apply. Those go back 72
18 feet. Hence, this goes back 72 feet. And that module
19 was 36 feet. That is what had been decided upon by
20 the Task Force as being a logical structural module
21 for this area.

22 The advertised subarea regulations are
23 governed by the general provisions of the DD Overlay
24 and seven additional provisions. As you can see,
25 there are ground floor height standards, ground floor

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1 use preference standards, ground floor facade
2 standards. There are also -- it establishes a focal
3 point at the intersection of 5th and K. There is an
4 emphasis on pedestrian activity through driveway
5 restrictions.

6 There is an expansion of an alley system
7 through easements. And finally, there is ground floor
8 parking and loading areas granted in relation to the
9 provision of green roofs and additional recreation
10 space. And I'll be going through each one of these.

11 Let's look first at Provision 1, the
12 ground floor height standards. These are 14 feet
13 clear, as you have recently defined them, pending only
14 the final publication. 14 feet clear to a depth of 36
15 feet. As clear height was defined by you all in
16 action on July 11, 2005. Now, there have been some
17 questions about this, that I just alluded to. As with
18 the 72 foot depth for the overall subarea, concern has
19 been expressed that the 36 foot depth is based on an
20 incorrect determination of a typical structural
21 module. This is discussed further on page 5 of our
22 supplemental report dated June 20, 2005.

23 But as I noted, based on the discussions
24 of the Mount Vernon Triangle Zoning Task Force, and
25 especially conversations with those familiar with

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1 retail marketing that were part of the Task Force, OP
2 continues to believe that 36 feet is an appropriate
3 maximum depth for the 14 foot clear height space. It
4 does not matter to OP whether this minimum is
5 accommodated within one or two structural bays.

6 The second issue is the applicability of
7 this overlay to the wax museum site. The developer of
8 the wax museum site has expressed concerns that the 14
9 foot clear height requirement would preclude them from
10 adding a second floor or mezzanine space for 2 of 14
11 residential suites. OP notes that these mezzanines or
12 second floors would be permitted in these same suites
13 beyond a 36 foot depth, and that the 23 foot height
14 that would result within the first 36 feet for these
15 2 of 14 suites would actually comprise space that
16 would eagerly be sought after by certain retailers.
17 So we're looking at only 2 out of 14 bays and we wind
18 up with 23 foot height spaces in the first 36 feet of
19 those 2 bays.

20 Provision 2, ground floor use preference
21 areas. The subarea is divided into three use areas.
22 The usage varies at intensity by the area. The
23 preferred uses become more specific and intensive the
24 closer the area is to the hub of the neighborhood at
25 5th and K. This gradation of intensity is intended to

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1 promote the action agenda's vision of making this
2 intersection the hub of the neighborhood.

3 Let's look first, we're going to work out
4 from these red areas into the yellow and blue areas.
5 Let's look first at the special entertainment uses.
6 They are noted in section 1732.4. These uses are
7 preferred within a 72 x 72 foot area at each of the
8 four corners of the 5th and K intersection. Each one
9 of these squares measures 72 x 72. The special
10 entertainment use area is shown in red on this and
11 black on that and is also known as the principal
12 intersection area as defined in section 1723. I'll
13 describe that physical area later, the principal
14 intersection area.

15 The preferred uses, however, are
16 establishments that include dining or promote evening
17 socializing. The preferred use restrictions do not
18 extend beyond the 72 x 72 foot principal intersection
19 area. There had been some concern that throughout
20 much of this overlay there was sort of a "tag, you are
21 it." If you hit that area, you are it. In fact, it
22 is just the 72 feet. If you're looking at uses within
23 this area and that area continues up into here, only
24 the 72 x 72 foot area gets the special entertainment
25 use restrictions.

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1 The same kind of principle applies over
2 here, as we'll see later. If you are in the primary
3 use area and you go over into the secondary use area,
4 only primary use restrictions apply within the primary
5 use area. The primary use area is that yellow area
6 shown in through here along 5th and along K Street and
7 noted in section 1732.3. It extends along K from 3rd
8 to 4th Street and along 5th from I to L Street.

9 It permits all of the uses in the
10 principal intersection area, the special entertainment
11 use area. In the primary area, the preferred uses
12 are, essentially, retail, cultural or entertainment
13 uses. And again, they are noted in section 1732.2.
14 This is very long. I would prefer not to read it
15 right now.

16 The secondary use area, which is shown in
17 the map in blue, and noted in section 1732.3, extends
18 along the eastern part of K Street from 3rd to 4th
19 Street. It permits all of the uses that are permitted
20 in either the other two areas, plus a broader range of
21 professional and service uses. This is a fairly
22 unbuilt out area at this point, the Mount Vernon
23 Triangle. In recognition of the need to build a
24 market for the preferred uses in the Triangle, these
25 requirements for uses would be phased in.

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1 Their timing is geared to new construction
2 within the 20 square area examined by the Mount Vernon
3 Triangle Action Agenda. That's that area that's in
4 purple over here on this map. At first, any of the
5 broad range of uses permitted in the secondary areas
6 would be permitted in all of the areas. However, as
7 advertised, 5 years after the Zoning Administrator
8 certifies that occupancy permits have been issued for
9 3.5 million square feet of new space within this area,
10 the primary area would have to have only primary area
11 preferred uses and the special entertainment area
12 would have to have only its preferred uses.

13 This 3.5 million square feet is,
14 approximately, half of the new construction that OP
15 has calculated could be built in the 20 square Mount
16 Vernon Triangle area as a matter-of-right. This is a
17 chart that was included in the Set-Down Report. These
18 build-out projections are shown in this table. Using
19 the 50 percent of build-out figure as a trigger, which
20 was a figure recommended by the retail consultant on
21 the Mount Vernon Task Force, we get at half of about
22 7.9 million, which comes out to 3.5 million square
23 feet as the trigger point.

24 There are provisions for the special
25 exceptions from the preferred use and timing

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1 requirements. The criteria are those of 11 DCMR 3104,
2 plus the demonstration of a nine month long good faith
3 effort to lease the space for one of the appropriate
4 preferred uses. A correction on the advertising.
5 There is an incorrect cross-reference in section
6 1732.5 of the regulations. The reference to section
7 1732.3 should actually be to special exception
8 provisions in 1732.6. I have already discussed this
9 with OAG and they know what I'm talking about.

10 Okay. Now, there is some discussion on
11 this. The first issue is the primary area uses.
12 Concern has been expressed about conference rooms for
13 professional offices, such as law firms, not being a
14 permitted use in the primary use subarea. Such uses
15 are seen as easier to market by some than are retail
16 uses in the initial lease period for a transitioning
17 area, such as the Triangle.

18 OP believes that permitting such uses as
19 a matter-of-right would create a disincentive to
20 leasing the spaces for retail and other preferred
21 uses, as the professional offices ability to pay would
22 likely exceed that of potential initial retailer or
23 other preferred uses. OP notes that such professional
24 uses could still be permitted as special exceptions
25 under section 1732.6.

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1 The second issue is in the special
2 entertainment area uses. Concern has been expressed
3 that the specified uses are too restrictive and do not
4 allow for sufficient market place flexibility. As one
5 commentor stated, the intersection at 5th and K is not
6 exactly on Mars. The preferred uses are intended to
7 generate the kind of street life that will make that
8 intersection the hub of neighborhood activity.
9 Eating, drinking and entertainment establishments tend
10 to generate the buzz that creates a sense of place and
11 makes people want to congregate.

12 We look forward to suggestions for other
13 such preferred uses emerging from tonight's testimony,
14 but we still feel that the uses that OP has proposed
15 and that have been advertised are the appropriate use
16 restrictions for this area.

17 There was a third issue that involved the
18 grocery exit in the 400 Block of K Street. There was
19 concern that was expressed by the developer of the wax
20 museum site that grocery stores are not permitted uses
21 in the secondary use subarea and additional concern
22 has been expressed that the secondary exit for the
23 grocery store's design may be located in a principal
24 intersection area. OP notes that the grocery store
25 itself would not be located in a restricted area. And

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1 with respect to the exit location, there is no problem
2 there, as we'll discuss later.

3 Now, the final issue is the trigger
4 mechanism, and this is a significant issue. The
5 specific concerns include the concern that the interim
6 use tenants will be reluctant to sign a lease for a
7 date uncertain period. A concern that in the Triangle
8 neighborhood there is not an established retail market
9 or tradition, and as such, it will be difficult to
10 secure initial leases from the permitted types of uses
11 included in section 1732.2 through 1732.4.

12 Further concern has been expressed at
13 failure to have ground floor spaces occupied by the
14 permitted uses and, therefore, having those spaces
15 remain vacant will be a drag on the market and a
16 negative factor for the area's development. And there
17 has been concern about the administrative mechanism
18 for tracking the 3.5 million square foot trigger
19 point.

20 The trigger point mechanism, as noted, was
21 developed by OP in consideration, in consultation
22 rather, with the Mount Vernon Triangle Subarea Task
23 Force. It is intended to permit a wider range of uses
24 when the retail market is in its initial stages and to
25 then focus those uses after momentum and a critical

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1 mass is developed. The Commission may wish to discuss
2 whether the trigger mechanism is too complicated and
3 whether the concept of matter-of-right interim uses
4 should be eliminated in favor of accommodation of
5 permanent preferred uses and special exceptions.

6 OP notes that if the trigger point creates
7 too much uncertainty for lessors or lessees, it may be
8 possible to lease through a permanent use at a lesser
9 rate during the first few years, rather than abandon
10 the trigger mechanism concept.

11 Next, we go to Provision 3, the ground
12 floor facade standards. These are very similar to
13 those that are already in the DD and the Uptown Arts
14 Overlay and they are specified in sections 1722.2
15 through 1722.5. The general standards apply to K
16 Street between 3rd and 7th and to 5th Street between I
17 and L, and as well as to the first 36 feet of
18 buildings as they turn the corners of K Street or 5th
19 Street.

20 They are similar to those for the DD's
21 Shop District or the Uptown Arts Overlay, which
22 require that 75 percent of the building wall be at the
23 building line and that at least 50 percent of the
24 ground floor facade be clear glass. Features unique
25 to the Mount Vernon Triangle District are the ground

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1 floor design must not preclude entrances every 40
2 feet. Other overlays actually require that the
3 entrances be put in from the start.

4 There are references in this subarea to
5 the clear glass transparency standards that are being
6 established by the Commission. There must be a high
7 percentage of clear glass towards the top of the
8 ground floor, basically between 12 and 15 feet above
9 grade. 50 percent of the facade has to be clear
10 glass. And there are special standards that have been
11 advertised for the principal intersection area and
12 these will be discussed later.

13 Let's look at some of the issues here.
14 The architects for the wax museum development have
15 expressed concern about requiring 50 percent of the
16 surface area between 12 and 14 feet, excuse me, I did
17 say 15 feet above. I meant 14 feet. The surface area
18 be between 12 and 14 feet above grade to be clear
19 glass. Their concern that it might interfere with the
20 ability to install grills for HVAC and other systems
21 needing venting or intake.

22 The Commission may wish to ask for more
23 documentation about this concern. The regulation is
24 intended to emphasize the ground floor height making
25 it as interactive as possible from the distances of

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1 both a pedestrian and a vehicle. OP wishes to avoid
2 the use of opaque glass above a standard display area
3 that might go to 12 feet and believes it would be
4 possible to accommodate the ventilation needs in 50
5 percent of the surface area that does not need to be
6 devoted to clear glass at the 12 to 14 foot level.

7 Provision 4, the establishment of focal
8 points at 5th and K Streets. This is all in section
9 1723 through 1727 and in section 1732.4. The action
10 agenda, as I have noted, identifies this as the main
11 activity corner for the area neighborhood.
12 Accordingly, the subarea proposes both physical
13 standards and preferred use requirements to reinforce
14 the objectives for the corner. The standards apply to
15 the portions of buildings that are within 72 feet of
16 the corner of the 5th and K area. This area is called
17 the principal intersection area. It has the same
18 boundaries as the special entertainment use area that
19 I have discussed above.

20 Let me look at the principal corners first
21 and they are right behind me. Okay. As was noted
22 during set-down, and I'll go quickly if you think that
23 I don't need to go into the 72 x 72 and the 36 x 36
24 and A, B, Cs and Ds. If you have had an opportunity
25 to read that in the last year, I won't.

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1 CHAIRPERSON MITTEN: I don't think we need
2 the slicing and dicing.

3 MR. COCHRAN: Great. Okay. In those
4 sliced and diced areas, the advertised physical
5 requirements address exterior massing, interior floor
6 heights, street wall design, which is basically
7 talking about transparent glazing, lobby entrances and
8 roof terraces, all within the 72 feet of the
9 intersection.

10 Now, something new has developed in the
11 last few months, so before I go into the parts of the
12 proposed regulations that affect these areas, I would
13 like to be sure that the Commission is aware of some
14 of these new developments. The mustard shaded
15 buildings that you see here, and I'm sorry that this
16 might be a time when the lights would be better down
17 low, but you can see in light purple here the streets.
18 And these mustard colored areas are buildings. And
19 these buildings have been nominated for historic
20 preservation by the D.C. Preservation League.

21 Notice of these buildings nomination has
22 been given to the property-owners and the Historic
23 Preservation Review Board will probably consider this
24 application in the fall. As you can see, the largest
25 concentration of buildings is clustered around the

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1 intersection of 5th and K. The very special
2 entertainment use area principal intersection area
3 that we have been talking about.

4 If these buildings are listed on the
5 National Register whether as individual landmarks or
6 as is more likely contributing buildings, a number of
7 design requirements will be imposed on them if they
8 are substantially rehabilitated or included in a
9 larger development project. None of these buildings
10 are taller than three or four stories. Substantial
11 setbacks from the building fronts would likely be
12 required by HPRB for any additions or for any new
13 larger buildings of which possibly historic buildings
14 may become parts.

15 The exterior guidelines that the
16 Commission has addressed, advertised rather, are
17 intended to permit larger new buildings on Squares
18 483, 484, 515 and 516 while preserving a lower scale
19 at three of the four corners of the intersection. OP
20 recognizes that future historic preservation actions
21 may render moot some of the advertised massing
22 proposals.

23 However, OP believes that while it is
24 important to note future possible preservation actions
25 for the record, so as not to mislead property-owners

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1 into thinking that the building envelopes illustrated
2 in OP set-down testimony and advertised in the
3 language are guaranteed, if you all pass it. It is
4 also important to proceed with the advertised zoning
5 changes to ensure that the desired scale at the
6 principal intersection area is achieved regardless of
7 future preservation actions or unforeseen
8 circumstances to the buildings that exist there now.

9 Let's look at issue No. 2, and I think we
10 can flip the lights back on, if you don't mind. The
11 owner of Square 484 is aware of the historic
12 preservation issues and has suggested that this
13 uncertainty combined with the wax museum development
14 in Square 515 may exclude -- excuse me. The owner of
15 Square 484 is aware of some of these historic
16 preservation issues and has suggested that this
17 uncertainty combined with the wax museum development
18 and Square 515 being excluded from some of the massing
19 requirements in this advertisement may together
20 suggest that Square 484 could become the only square
21 to which all of the principal intersection area design
22 requirements would apply.

23 OP does not believe that this would be the
24 case. And notes that if the existing buildings are
25 retained in Squares 484 and 516, there will be even

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1 more reason for the principal intersection area corner
2 of Square 483 to reflect the lower historic scale of
3 the buildings to the south and to enable a transition
4 to the higher corner element of the wax museum
5 development in Square 515.

6 So regardless of whether these buildings
7 are declared historic or not, regardless of whether
8 the design is controlled by the kinds of zoning
9 requirements that have been advertised or whether
10 there is more input from the Historic Preservation,
11 there will still be low buildings on the east corners.
12 There will still be a higher element on this corner.
13 And we believe that the language that has been
14 advertised for the corner of Square 483, and which is
15 the northwest corner of the intersection, will help
16 for transition from the lower buildings to the higher
17 building regardless of whether all of these buildings
18 are retained through historic preservation or just
19 some of the lower scale of these buildings is retained
20 through the advertised zoning language.

21 Let's go next to exterior massing. Again,
22 that's the slice and dice, so we already know A goes
23 to 50 feet. Half of D/C can go to 50 feet and the
24 rest can go up higher and D has no restriction on it
25 other than the 130 foot restriction that applies to

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1 this area in the DD.

2 All of section 1724, which is where we
3 talk about exterior massing, applies to buildings in
4 Squares 483, 484 and 516. Square 515, which is the
5 wax museum site was not included in section 1724.1,
6 which regulates massing in the A modules, because the
7 wax museum is governed by an LDA between the NCRC and
8 the low companies that was signed, I believe it was
9 signed today. If not, I think it's going to be signed
10 sometime this week, which would mean tomorrow.

11 The NCRC itself has been part of the Mount
12 Vernon Triangle Zoning Task Force that developed the
13 advertised text changes. The low companies
14 participated in the meetings where the proposed
15 regulations were discussed. And OP believes that we
16 were working with an understanding that the final
17 design for the wax museum would conform with the
18 proposed text amendments, because it turns not only
19 the wax museum design as it exists now does conform to
20 the advertised language.

21 Within the principal intersection area,
22 that A module appears to measure only 30 feet, if
23 you're going from the north to the south, rather than
24 the required 36 feet. The B module does not appear to
25 comply at all in the latest designs. It's this area

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1 over here. And the C and D modules do comply. The
2 Commission may wish to ask the developers of the
3 museum site for clarification of this.

4 Another point, to account for the unlikely
5 event of problems developing with the wax museum
6 development and to accommodate where the proposed
7 massing for the current wax museum design does not
8 comport with the advertised language, the Commission
9 may wish to consider the following changes to the
10 advertised section 1724.1. Except for buildings in
11 Square 515, and then add the phrase "for which
12 building permits have been issued within six months of
13 the effective date of these regulations, the portion
14 of a building in an A subarea," etcetera, etcetera
15 with respect to section 1724.1.

16 The Commission may wish to consider adding
17 similar language to section 1724.2, which governs the
18 B and C modules. Essentially, this is saying it is
19 possible if you would want to let the wax museum go
20 forward as it is designed now, it is possible to very
21 easily add language to section 1724 and that language
22 would actually be less restrictive than what has been
23 advertised, so it would not require being
24 readvertised.

25 Let's look next at the minimum ground

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1 floor and interior heights, section 1725. These
2 requirements would apply to the portions of new
3 buildings inside the principal intersection area,
4 which I think I'll just call the PIA from here on out.
5 In the currently vacant squares, which are 483 and
6 515, it would also apply to the part of the new or
7 substantially rehabilitated building that is within
8 the PIA portion of Square 484, where the existing
9 building may be deemed worthy of preservation, but
10 where the interior configuration may not be able to be
11 adjusted without compromising the exterior appearance.

12 That is to say in this area down here in
13 Square 484, where we have the Monarch Paint sites and
14 adjacent possibly historic buildings, and then it
15 would apply to only new construction in Square 516
16 where it may be desirable to retain both the exterior
17 and interior configurations of the buildings. That's
18 over here with the buildings known as the Louis Row
19 Buildings and adjacent structures.

20 The interior height requirements are
21 conceptually similar to the massing requirements of
22 the outside. The A modules are the most restricted.
23 The B and C modules are partially restricted and the
24 D modules are least restricted. A's height could go
25 to 22 feet inside, 50 percent of the Bs and the Cs

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1 would go to 22 feet and the Ds would go to what
2 applies to the rest of the overlay, which is -- excuse
3 me, the subarea. Any time I'm saying overlay, please,
4 just assume I meant subarea. It would be 14 feet,
5 which is what applies to the rest of the subarea, 14
6 feet clear.

7 Let's look at the Historic Preservations's
8 concerns first. It should be noted that the existing
9 structures within the PIA in Square 484 and 516 do
10 receive historic status and whole building retention
11 standards apply. Then the minimum ground floor height
12 requirements that have been advertised as applying to
13 Square 484 may not be able to be applied. For the wax
14 museum site, the developer of that site may have
15 issues with the 22 foot requirement in a portion of
16 the A module and in 50 percent of the B module. The
17 Commission may wish to ask for additional information
18 about this.

19 Let's look next at street wall design,
20 section 1726. This governs the transparency in the
21 principal intersection area. 75 percent of the
22 surface of the street wall within the PIA must be
23 clear glass to a height of 22 feet. This provision is
24 intended to help make this intersection, especially in
25 the northeast and northwest corners, a glowing beacon

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1 of activity within the neighborhood.

2 There is a necessary correction to 1726.3.
3 Existing buildings within in the PIA in Square 484
4 should also have been exempted from the section's
5 provisions. The provisions of this section shall not
6 apply to, and here is how it should have been
7 advertised, buildings, plural, in Square 516 and 484
8 that existed on the effective date of this section or
9 to buildings in those squares that are renovated
10 thereafter.

11 Let's look at E, because there are no
12 other issues in the others, lobby entrances, section
13 1727.1. There are to be no direct entrances to
14 lobbies serving residential or office uses. No direct
15 entrances within the principal intersection area.
16 Again, we have had one issue raised about this. The
17 developer of the wax museum site has expressed concern
18 that this may preclude the location of an emergency
19 exit within the PIA. It is not a problem. An
20 emergency exit is in the lobby.

21 Finally, for the PIA or let's look at roof
22 terraces, that's section 1727.2. Covered, but not
23 enclosed, roof terraces atop the A, B or C modules in
24 the PIA would not be counted towards FAR in the
25 advertised language. OP suggests the following

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1 clarification. Go ahead and add the word unenclosed
2 before roof terraces, if there is any question about
3 that. So it would be unenclosed covered roof
4 terraces. This would allow awnings, canvas, but no
5 enclosure and have it not count towards FAR.

6 And I believe Ms. Mitten had asked in set-
7 down to which modules it refers. I think that the
8 language that was advertised clarified that. It
9 applies to the A, C and B modules only.

10 The next provision is the emphasis on
11 pedestrian activity through driveway restrictions or
12 limitations on those driveways. To implement the
13 action agenda's vision of an active pedestrian
14 environment, the District is undertaking a number of
15 initiatives. One is the redesign of the public space
16 areas throughout the Mount Vernon Triangle. DDOT and
17 OP are cooperating on this redesign of the public
18 realm in this space.

19 Another initiative is the proposed change
20 to the Zoning Regulations that have been advertised.
21 K Street and 5th Streets are intended to be the
22 primary pedestrian streets in the Triangle. New
23 driveways would be prohibited with the advertised
24 language on K Street between 4th and 7th with the
25 exception of the north side of the 400 Block of K

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1 Street where one new driveway would be permitted,
2 that's the wax museum site.

3 Only one new driveway block would be
4 permitted on the east side of 5th Street between I and
5 L. So again, we're looking at restrictions from here
6 to here on K Street with the exception of the wax
7 museum site and one driveway on the east side of 5th
8 Street. Existing driveways continuing to serve
9 existing uses would be permitted to remain, of course,
10 but as noted in the supplemental report of June 20th,
11 if there are new driveways that are serving non-
12 existing uses, they would be subject to these
13 restrictions.

14 The north side of the wax museum site was
15 developed because -- excuse me, was exempted because
16 the development design was already very far along in
17 the process when the driveway restrictions were first
18 considered and also because that project is subject to
19 public review through the NCRC.

20 The third issue here, property-owner in
21 Square 516, over here, has requested that one new
22 driveway be permitted on the south side of the 400
23 Block of K Street. OP notes that there are special
24 exception provisions in section 1730.5 for seeking
25 such a driveway. The criteria are straightforward and

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1 the situation about which the property-owner is
2 concerned, which are possible security requirements
3 for a federally leased building, the INS, impinging on
4 the ability of the property-owner to achieve access to
5 the parking through an existing alley. These kinds of
6 situations would certainly be the type of special
7 exception requests that OP would be likely to support.

8 OP further notes that even if one new
9 driveway were permitted on the south side, there is no
10 guarantee that that driveway would be located on that
11 property-owner's site. It could just as easily be
12 located in a different part of that block.

13 Let's now look at -- excuse me, let me go
14 back just a bit. In order to accommodate the
15 entrances that would not be permitted on the above-
16 noted streets, that is to say the west side of 5th
17 Street and parts of 6th, the driveway regulations for
18 these other block faces are less restrictive, because
19 they are not part of the principal pedestrian
20 streetway and those are covered in section 1731.
21 Generally, there are no more than one new driveway
22 permitted per building frontage and two per block
23 face. Again, there are provisions on these other
24 streets for special exception relief from the
25 regulations.

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1 We're looking also at Provision 6, which
2 is an expansion of the alley system through easements.
3 Because driveways are somewhat restricted with the
4 advertised language, the proposed regulations give
5 incentives for improving the ability of public alleys
6 to accommodate circulation, loading and parking
7 entrances. What you are seeing here are -- again, I'm
8 sorry, Jennifer, but if the Commission needs, we might
9 need to turn the light off. Thank you. It doesn't
10 help.

11 These are the driveways. For the record,
12 these are the darker areas going out to the streets.
13 And these are the alleys. There are distinctions,
14 finely graded distinctions in color between driveways
15 and alleys. Because the alleys are somewhat
16 restricted, the proposed regulations give incentive
17 for improving the ability of the public alleys to
18 accommodate circulation, loading, parking, entrance
19 needs.

20 1728.1 permits the rear yard requirements
21 that are specified in 11 DCMR section 774.7(a) to be
22 reduced by 5 feet for every dedication of a 10 foot
23 deep continuous strip of private land adjacent to a
24 public alley. You can turn the lights on. You were
25 smart to stay there. In the DD/C-2-C Zone, this would

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1 apply only to the portion of the rear yard that is 20
2 feet or more above ground where the requirements are
3 measured from the property line.

4 The portion of the rear yard below 20 feet
5 where the rear yard requirement is measured from the
6 alley center line would not be affected. In the DD/C-
7 3-C Zone, if the Commission approves the recommended
8 map amendment, there would be one. This would also
9 apply, but only to the portion of a rear yard that is
10 20 feet or more above ground. In the DD/C-3-C Zone,
11 the rear yard depth is measured from the alley center
12 line, not the property line, however.

13 Let me try to get some diagrams up and
14 I'll be a little bit clearer about this. You're
15 looking in here at the alley in existing situation.
16 A 7 foot 6 setback up to the first 20 feet and then
17 roughly a 15 foot setback thereafter. What has been
18 advertised is that for a 10 foot contribution of
19 public easement to an adjacent alley here, this would
20 no longer have to be setback 15 feet. And you would
21 then have a sheer wall here.

22 If a property-owner gave an easement for
23 20 feet of widening the A public alley, you could then
24 conceivably have a building cantilevered out like
25 this. A couple of issues here. For consistency, if

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1 the Commission approves the map amendment to DD/C-3-C,
2 reference to section 774.9, which covers rear yard
3 requirements for the C-3-C District, should be added
4 to the language in proposed section 1728.1.

5 Section 1728.3 permits -- let's look at
6 rear yards now. Section 1728.3 permits 11 DCMR 775.4
7 and 775.5's side yard requirements, excuse me, let's
8 look at side yards, to be eliminated for the first 20
9 feet of building height, if there is at least 8 feet
10 of continuous dedication of land adjacent to a public
11 alley. That's what we are looking at. Where are the
12 rear yards? Here we are.

13 This is the alley. This is the proposed
14 setback and whereas a similar situation would have
15 prevailed above the 20 foot level, you would then have
16 the ability to cantilever out, which would both widen
17 the alley and allow for more loading dock space.
18 Essentially, the advertised language has suggested
19 that we reduce the numbers of driveways on K Street
20 and on 5th Street especially, but on other streets
21 also. It seems as though we have to do something to
22 accommodate the needs for loading and parking.

23 We have an active alley system in the
24 Mount Vernon Triangle already. With the additional
25 development, we're looking for provisions to make that

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1 active alley system a bit more accommodating to the
2 anticipated new traffic. So this mechanism would
3 encourage developers to help widen the alley system
4 and then give them back more than they had given to
5 the alley system in space higher up.

6 In fact, the Commission asked what would
7 be the FAR increase accompanying the alley easements,
8 dedications and the relaxed rear yard and side yard
9 requirements. If you assume that a building is 13
10 stories high, for the rear yard provisions the
11 increased square footage would be, approximately,
12 1,450 net square feet for each 10 linear feet of a 10
13 foot deep alley dedication and, approximately, 1,526
14 square feet for each 10 linear feet of a 20 foot deep
15 alley dedication.

16 I did not multiply that out to a full
17 building, because the buildings could be of different
18 lengths, but that gives you a rough idea. A developer
19 who dedicates land would certainly be getting back
20 considerably more than would be given for the
21 easement. For a similar building for the side yard
22 provisions, if a side yard were provided, the
23 increased square footage would be, approximately, 720
24 square feet for each 10 linear feet of an 8 foot deep
25 alley dedication.

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1 Let's look at Provision 7, the ground
2 floor parking and loading in conjunction with green
3 roofs and recreation space. I would refer you to
4 section 1729. This section is intended to avoid
5 privatizing the public realm by concentrating short-
6 term parking and deliveries within the building rather
7 than on the street, to provide incentives for green
8 roofs where there might otherwise be impervious paving
9 and, finally, to provide incentives for providing
10 additional outdoor recreation space in a part of the
11 District where such space is in short supply.

12 It does all this by taking the courtyard
13 space that might otherwise be used just for loading
14 and deliveries required by section 172202.1, for
15 parking required by section -- excuse me, section
16 2101.1 or for at grade short-term retail parking or
17 residential parking, as permitted by section 1702.7,
18 and then permitting that space to be covered without
19 counting towards FAR, provided that it is covered with
20 a green roof or provides outdoor recreation space over
21 and above that required in the area. The criteria for
22 the green roof covering are listed in section 1729.1,
23 and I think that they are relatively self-explanatory
24 now.

25 And a point you thought I would never

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1 reach, the closing. This summarizes the advertised
2 map and text amendments that the Zoning Commission has
3 set down, as well as the major issues of which OP is
4 aware. OP continues to recommend the remapping of
5 Square 483 to DD/C-3-C and that the Commission adopt
6 the text amendments that have been advertised with the
7 corrections that I have noted in my testimony.

8 We look forward to other testimony and
9 discussion tonight, and believe that all of this will
10 contribute positively towards the creation of a lively
11 new neighborhood in the Mount Vernon Triangle area.
12 Thanks. I would be happy to answer any questions.

13 CHAIRPERSON MITTEN: Thank you, Mr.
14 Cochran. Let me just start off by asking the question
15 that I'm sure is on everyone's mind here. Let me
16 begin by saying that I know that there is a lot of
17 work that went into this and it's clear that there's
18 quite a lot of detailed consideration that has been
19 given to everything. I don't want to disparage that
20 at all by what I'm about to ask you.

21 But this would be extremely complicated to
22 enforce and I wonder what the conversations have been
23 surrounding that in terms of there is so much detail
24 here and the Zoning Administrator would spend, I'm
25 sure, days sort of just going back and forth between

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1 the text and a given proposal, particularly if it's at
2 the corner of 5th and K, trying to figure out whether
3 compliance had been achieved.

4 Did the Task Force or the Office of
5 Planning have discussions about that? Please, don't
6 say no.

7 MR. COCHRAN: I don't -- it does not seem
8 difficult to enforce to me. Perhaps it's because I
9 have been living with it so long. But the physical
10 restrictions at the principal intersection area are
11 fairly straightforward. Everyone knows what 72 feet
12 is. Everyone knows what 36 feet is. You know, in
13 terms of vertical distance, what 50 feet is. You can
14 measure 50 percent of 50 feet. An architect can do
15 that all the time. Anybody looking at a building
16 permit can do that.

17 With respect to the trigger point it may
18 be more difficult. Someone would have to be tallying
19 up when you hit 3.5 million square feet out of here.
20 I do not know who that would be. It could conceivably
21 be the Zoning Administrator's Office if that office
22 receives additional staff. If not, presumably, it
23 would be incumbent upon OP to set up some sort of
24 mechanism by which it would advise the Zoning
25 Administrator.

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1 I would be happy to answer more specific
2 questions about other areas that you might think are
3 difficult to administer. I just --

4 CHAIRPERSON MITTEN: Well, let's focus on
5 the trigger point for a minute, which is, you know, we
6 have been struggling with something that I would say
7 is a scaled down version of that, which is the eating
8 and drinking establishments in neighborhood Commercial
9 Overlays. And you know, that seems relatively simple
10 by comparison and, yet, we haven't stumbled on the
11 right formula for doing that.

12 MR. COCHRAN: This may actually be simpler
13 than the eating and drinking establishments. There
14 somebody has to go out and physically measure the
15 linear footage in one of the overlays. Here all you
16 have to do is keep track of a building permit.

17 CHAIRPERSON MITTEN: Okay.

18 MR. COCHRAN: They add up. They reach 3.5
19 million.

20 CHAIRPERSON MITTEN: Well, things change
21 during the interim, so you would have to go back and
22 verify that, in fact, everything that had been
23 originally proposed when the permit was issued
24 remained.

25 MR. COCHRAN: That's correct, Madam Chair.

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1 I had not considered that.

2 CHAIRPERSON MITTEN: Well, let me let some
3 of the other Commissioners ask questions and then I'll
4 ask you some additional questions about this. Who
5 would like to go next? All right. Mr. Hildebrand?

6 COMMISSIONER HILDEBRAND: I'm a little --
7 it's interesting. In reading the text, it didn't
8 strike me until I saw that diagram what the impact of
9 the cantilever was going to be on these widened
10 alleys. The middle diagram where you reach a balance,
11 so that you broadened the alley to the point that you
12 get a vertical wall for the building, seems to make
13 some aesthetic sense.

14 Now, I'm trying to determine what that
15 would look like on a streetscape to have those side
16 cantilevers coming out on the side yard like your
17 diagram shows there.

18 MR. COCHRAN: Right. The closest I can
19 think of is the building that has nolle in it on 19th
20 Street.

21 COMMISSIONER HILDEBRAND: 19th and?

22 MR. COCHRAN: Between L and M on the west
23 side. There is an east/west alley with a building
24 that has a cantilever out over the alley. That's on
25 the south side of that alley. It's a white building,

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1 very modernist.

2 COMMISSIONER HILDEBRAND: Okay. What is
3 the optimum width that you're looking for for these
4 alley systems?

5 MR. COCHRAN: I cannot answer that
6 question.

7 COMMISSIONER HILDEBRAND: What are the
8 widths that you're getting in the various diagrams
9 that you're presenting?

10 MR. COCHRAN: This width -- excuse me, I
11 need to go and look at it. This would be with an
12 existing 15 foot alley. This would be 35 feet from --
13 if there were dedications on both sides. That
14 certainly seems adequate to me. This seems like a
15 very unlikely situation. The cantilever is not likely
16 to be something that someone would want to do.
17 However, the language was advertised, so I had to
18 proceed at pace with it.

19 COMMISSIONER HILDEBRAND: And what is the
20 width of that alley? That would be 55?

21 MR. COCHRAN: This alley would be 50 --
22 exactly, 55 feet. This seems like the more likely
23 situation that would be developed and it will always
24 be possible to put limitations in the advertised
25 language on up to 10 feet rather than letting it go to

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1 increments of 10 feet.

2 COMMISSIONER HILDEBRAND: And in the
3 diagrams that you have created for the intersection,
4 the A, B, C, D Squares, the diagrams that are on the
5 board, those are just various options that meet the
6 requirements of the provision, that you're not
7 indicating that those are prescriptive solutions?

8 MR. COCHRAN: That's correct. You could
9 have a Brazilian wave and it would still meet it. But
10 again, you may not see these kinds of buildings
11 constructed if there is designation of historic
12 building in this area. This may happen. It may be
13 subject to additional review from HPRB, but we feel
14 that it's important to retain this in case the
15 buildings don't get nominated or in case something
16 untoward happens.

17 COMMISSIONER HILDEBRAND: Getting to the
18 structural grid question and the 36 or 72 --

19 MR. COCHRAN: Yes.

20 COMMISSIONER HILDEBRAND: -- or 22 or
21 whatever the increment is. Did you do an analysis of
22 the new residential construction that was going on on
23 Massachusetts Avenue to look at all at what a typical
24 structural bay was that were in those new
25 developments?

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1 MR. COCHRAN: I did not. I relied on the
2 advice of the architect and the developers who were
3 part of the Mount Vernon Triangle Zoning Task Force.

4 COMMISSIONER HILDEBRAND: It would be
5 interesting to see how they relate to those new
6 developments.

7 CHAIRPERSON MITTEN: Mr. Hood?

8 VICE CHAIRPERSON HOOD: Madam Chair, thank
9 you. Mr. Cochran, let's look at 1732.5 and we're
10 talking about this trigger mechanism. How do we
11 expect to achieve that? Unless approved by the Board
12 of Zoning Adjustment pursuant to 1732.3, no interim
13 use shall be established or continue for more than
14 five years.

15 How do we achieve that? How do we get to
16 that? And again, I see down here where the issuance
17 is and I agree with the first one concerned, that the
18 interim use tenants will be reluctant to sign a lease
19 for a date of uncertain period.

20 MR. COCHRAN: The alternative, it seems to
21 me, Mr. Hood, the easiest alternative is simply to
22 require it from the start. We were trying to be
23 respectful of the concerns expressed by members of the
24 Task Force that a momentum needed to be built in the
25 neighborhood before we went to these requirements.

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1 Some of the same people had concerns about the
2 mechanism by which we chose to do that, but that was
3 agreed to.

4 Now, with respect to the -- you could
5 almost go for a special exception if you're having
6 problems renting as long as you have tried for up to
7 nine months. You can come before the BZA and ask for
8 a special exception to get a use other than those that
9 are permitted, at that time, within that particular
10 portion of the MVT subarea.

11 VICE CHAIRPERSON HOOD: For nine months as
12 long as we try to get one of the primary uses. Is
13 that --

14 MR. COCHRAN: Well, depending upon which
15 area you're in, one of the primary uses or one of the
16 special entertainment uses, yes.

17 VICE CHAIRPERSON HOOD: Okay. So if I was
18 on the Board and say this was approved and that
19 happened, then I just -- when I see that, that just
20 reminds me of something that we have been grappling
21 with a lot on the Commission and that's show good
22 cause.

23 What type of evidence? What would I be
24 looking for?

25 MR. COCHRAN: We would have to be showing

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1 evidence of trying to market it, advertisements,
2 leasing agents discussions.

3 VICE CHAIRPERSON HOOD: So I basically can
4 do it one time and come down and say well, look, I
5 need to extend this, because this is what I tried to
6 do. I need to have this use, because this is not
7 working.

8 MR. COCHRAN: If you were on the BZA and
9 you felt that one time would represent a good faith
10 effort, then you might vote yes. Other people I don't
11 think would consider one attempt at advertising to be
12 a good faith effort.

13 VICE CHAIRPERSON HOOD: Okay. And then if
14 I was to be as lucky as Mr. Parsons and be here for
15 another 5 or 10 years and I show up again with the
16 same issue --

17 MR. COCHRAN: I think you just -- I think
18 you have cut Mr. Parson's term shorter than he would
19 like.

20 VICE CHAIRPERSON HOOD: Well, another 10.
21 I wouldn't want to do that, 15 or 20.

22 MR. COCHRAN: Okay.

23 VICE CHAIRPERSON HOOD: But I'm just
24 saying, I have always grappled with that and I was
25 just trying to see clear direction or the signal that

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1 would be sent into the Board of Zoning Adjustment,
2 because to me I have noticed around here that once
3 there is an interim use, it becomes permanent. And I
4 see what you're trying to achieve with getting the
5 primary use, but I don't know. Maybe I'm all
6 confused. Maybe I'm all --

7 MR. COCHRAN: It's always possible to let
8 the market work, put the required uses in from the
9 start and let the rents adjust accordingly.

10 VICE CHAIRPERSON HOOD: Okay. Now, you
11 mentioned something earlier about --

12 MR. COCHRAN: Excuse me. I meant to say
13 put the permanent uses in from the start and let the
14 rents adjust accordingly.

15 VICE CHAIRPERSON HOOD: Okay. I think you
16 mentioned active alley systems.

17 MR. COCHRAN: Yes.

18 VICE CHAIRPERSON HOOD: What is an active
19 alley system?

20 MR. COCHRAN: Oh, one that hasn't been
21 closed.

22 VICE CHAIRPERSON HOOD: Okay.

23 MR. COCHRAN: I don't mean any level of
24 activity.

25 VICE CHAIRPERSON HOOD: Okay.

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1 MR. COCHRAN: Yes.

2 VICE CHAIRPERSON HOOD: That was my point.

3 MR. COCHRAN: Yes.

4 VICE CHAIRPERSON HOOD: So you're not
5 looking for traffic?

6 MR. COCHRAN: No.

7 VICE CHAIRPERSON HOOD: Okay.

8 MR. COCHRAN: No.

9 VICE CHAIRPERSON HOOD: Okay. That's all
10 I have. Thank you, Madam Chair.

11 CHAIRPERSON MITTEN: Anyone else? I have
12 a few more questions. I think when we talked about,
13 at set-down when we talked about the limitations on
14 the number of driveways when you're talking about a
15 square block, that it would be helpful for us to know
16 what the ownership pattern is in those blocks, because
17 if you're going to limit it, but we have more owners
18 than potential driveways, you know, is it just whoever
19 happens to get there first gets a driveway from one of
20 the streets that's specified?

21 MR. COCHRAN: That's correct, Madam Chair.
22 It would be a first come, first served basis on this.

23 CHAIRPERSON MITTEN: Do you have --

24 MR. COCHRAN: I would be happy to supply
25 the information about current ownership by the end of

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1 next week.

2 CHAIRPERSON MITTEN: Okay. I think that
3 would be helpful just so that we know what is the
4 plan.

5 MR. COCHRAN: Most of the land has been
6 consolidated.

7 CHAIRPERSON MITTEN: Okay.

8 MR. COCHRAN: Unfortunately, my
9 information is about a year out of date now.

10 CHAIRPERSON MITTEN: Okay. To go back to
11 the discussion about the alley system, we have these
12 limitations on driveways and loading and the
13 requirements for street walls and all of that stuff
14 elsewhere in the DD and then in the Arts Overlay, as
15 you noted.

16 MR. COCHRAN: Yes.

17 CHAIRPERSON MITTEN: And yet, we don't
18 have offsetting accommodations to enhance the alley
19 system in those areas. And I'm wondering is there
20 some evidence that you can point to in terms of the
21 experience in the areas where we have similar
22 limitations that would compel us to make this
23 accommodation to get the alleys wider than they are
24 now?

25 MR. COCHRAN: No, we did no empirical

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1 study of that.

2 CHAIRPERSON MITTEN: Okay. One thing I
3 might ask you to look at is in those areas, those
4 squares where those design controls or whatever exist,
5 whether there have been any alley closings in those
6 squares, so that the reaction from the development
7 community is not to even try and preserve alleys, but
8 to cope in some other way. I don't know, but I would
9 be curious to know.

10 MR. COCHRAN: I would be happy to check.

11 CHAIRPERSON MITTEN: I'm kind of
12 interested in this but, you know, I'm interested in it
13 because we have lost so much of our alley systems over
14 the years, and that is one of the reasons why we have
15 so many traffic problems, is because there is too much
16 loading going on along the street. And if there
17 actually is something that the Zoning Commission can
18 do to maybe counteract the Council's propensity to
19 close alleys when they are asked that, you know, that
20 might be something I would be interested in doing in
21 more places than just here.

22 MR. COCHRAN: Okay. Madam Chair, could I
23 go back just a second to your previous question?

24 CHAIRPERSON MITTEN: Yes.

25 MR. COCHRAN: Even prior to giving your

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1 information about the land ownership and possible
2 consolidation in this area. The pattern that OP is
3 seeing, as developers have talked with us, has been
4 that most of these squares are likely to be owned by
5 one or two or, in the case of the largest squares,
6 possibly three owners.

7 So when we're limiting driveways, we are
8 still giving each, likely to be giving each building,
9 more than one driveway, because it's likely to face on
10 more than one -- have more than one street frontage
11 facing.

12 CHAIRPERSON MITTEN: Okay. You talked
13 about the potential for landmarking some of the
14 buildings and you noted that a number of them are near
15 5th and K. And one of the things that we haven't been
16 particularly good about over the years, I would say,
17 is ensuring that there is a compatibility between
18 either any historic district or where there are
19 historic structures and the zoning that's in place, so
20 that we often, and maybe we do it intentionally, I
21 don't think we do, we create this pretty significant
22 development pressure on the historic structures.

23 So you were, I think, concentrating your
24 comments on the validity of keeping these controls in
25 place in the, what are we calling, the PIA?

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1 MR. COCHRAN: Yes.

2 CHAIRPERSON MITTEN: And I'm wondering if
3 just stepping away from that subject matter and if, in
4 fact, these buildings become landmarked, what about --
5 take yourself out of that impacted intersection and
6 think about a bigger development that would result
7 there. Are we creating a lot of pressure on those
8 structures if, in fact, they would become historic?

9 MR. COCHRAN: I don't think we're creating
10 any pressure on potentially historic structures by any
11 of the language that has been advertised, except for
12 Square 483.

13 CHAIRPERSON MITTEN: Okay.

14 MR. COCHRAN: The zoning is already there.

15 CHAIRPERSON MITTEN: Okay. Then let me --
16 I said it wrong. Are we not recognizing the pressure
17 that would exist by virtue of the zoning that is in
18 place and should we be removing pressure, I guess, is
19 what -- should we be giving consideration to that?

20 MR. COCHRAN: Am I correct in my hearing
21 of what your question is? Should we be considering
22 additional massing regulations in areas that are
23 likely to be designated for historic also, so that we
24 already have zoning in place that would reduce the
25 pressure for development --

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1 CHAIRPERSON MITTEN: Yes.

2 MR. COCHRAN: -- on top of those
3 buildings?

4 CHAIRPERSON MITTEN: Yes. That's what I'm
5 saying.

6 MR. COCHRAN: I have not had an
7 opportunity to consider that question. It's very
8 complex and I really don't feel competent to answer
9 that now.

10 CHAIRPERSON MITTEN: Okay. Because, you
11 know, that's some of what we have experienced when,
12 you know, there is zoning that has been in place for
13 awhile and then a new historic district is created and
14 then there is just all this tension that exists.

15 And I think you may have mentioned it and
16 we have talked about it, you know, in certain cases.
17 In fact, I can think of one in particular recently
18 that we discussed where once zoning is in place, it's
19 almost like there is an entitlement and, you know,
20 there's just -- if there's something that we could do
21 to relieve that sense, and I know it's premature,
22 because these buildings haven't been designated, but
23 it's just something that I would like to give some
24 consideration to.

25 MR. COCHRAN: I think that everyone knows

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1 that it is sometimes difficult to reconcile what
2 expectations are through zoning and what might be
3 deemed the appropriate way to go about achieving
4 historic preservation objectives. That's more than I
5 think can be handled within this overlay. And if you
6 do decide that you want to extend those design
7 controls, of course, there would have to be quite a
8 bit of readvertising, because that would be more
9 restrictive.

10 CHAIRPERSON MITTEN: Okay. I just
11 wondered if you had thought about it from that
12 perspective and maybe just put it out there as food
13 for thought.

14 MR. COCHRAN: Thank you.

15 CHAIRPERSON MITTEN: Thanks. Anyone else
16 have questions? Okay. We might bring you back at the
17 end.

18 MR. COCHRAN: Sure.

19 CHAIRPERSON MITTEN: You know, because I'm
20 sure we're going to hear a lot of interesting comments
21 and we might have some follow-up questions at the end.

22 Are there any Government agencies here
23 that would like to testify?

24 MR. GROVER: Madam Chair, Members of the
25 Commission, my name is Sanjay Grover. I am from

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1 RLARC/NCRC. I am here to talk in particular about the
2 wax museum, which is Square 515. As you know, RLARC
3 has been commissioned with the redevelopment of Square
4 515, also known as the wax museum site. It's a 1
5 million square foot development, which includes around
6 685 residential units, 130,000 square foot of retail
7 and 783 parking spaces.

8 Being a development of that size, it is a
9 pretty significant and complex project. From our
10 perspective, it's one of the major catalysts for
11 future developments north of Massachusetts Avenue and
12 in the heart of the Mount Vernon traveled area.

13 The wax museum site has been vacant for
14 many years and the redevelopment of this site is very
15 important for the District. It has the support of the
16 Mayor and the Economic Development Committee. Among
17 the benefits it's expected to generated are 138 units
18 of affordable housing, a much needed grocery store in
19 this area, 275 permanent jobs, 538 construction jobs
20 and almost \$8 million in revenue for the District.

21 There has been a significant investment of
22 both RLARC and the developers' time and money in this
23 project over the last couple of years and we have
24 almost brought it to fruition. It is in its final
25 stages and we expect to get to construction in

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1 October.

2 From RLARC's perspective, we would like
3 the Zoning Commission to consider that any changes,
4 which would require changes in the design of the site,
5 design of the project, would substantially delay the
6 project and, hence, the benefits which this brings to
7 the community in this area. Thank you.

8 CHAIRPERSON MITTEN: Thank you. It's a
9 little bit difficult for us to judge in the abstract,
10 so do you have anything that you can share with us
11 about the design of the wax museum site?

12 MR. GROVER: The developer will show up
13 shortly after me.

14 CHAIRPERSON MITTEN: Okay.

15 MR. GROVER: To talk to you in much more
16 detail about the design.

17 CHAIRPERSON MITTEN: Okay.

18 MR. GROVER: And I would much rather defer
19 to the architect.

20 CHAIRPERSON MITTEN: Okay.

21 MR. GROVER: On that perspective.

22 CHAIRPERSON MITTEN: Did you have a
23 question? Okay. I think that Mr. Cochran alluded to
24 the fact that although you have been part of the
25 conversation and there had been -- I guess I don't

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1 know if there was an impression, if not an overt
2 commitment, to have the design be consistent with what
3 had been proposed by the Office of Planning for the
4 intersection of 5th and K and, yet, there are elements
5 of the design that are not. And I'm just wondering
6 was there a commitment?

7 I mean, you clearly have not completely
8 ignored what was intended here, so what was it about
9 what was proposed that you couldn't accommodate?

10 MR. GROVER: I think the architect, again,
11 would be in a much better position to answer it.

12 CHAIRPERSON MITTEN: Okay. Okay. Anyone
13 else have questions? Okay. Thank you, Mr. Grover.

14 MR. GROVER: Thank you.

15 CHAIRPERSON MITTEN: All right. Is there
16 anyone here from ANC-2F or 6C? Okay. Then I will go
17 to my witness list and Mr. Gladstone and Mr. Wilkes,
18 Guy Steuart? We're going to put four people at the
19 table.

20 MR. DEPUY: Yes, I have four.

21 CHAIRPERSON MITTEN: Oh, you have a panel
22 of four? I'm sorry. That wasn't coming through on my
23 witness list. Okay. We'll get you on the next round.
24 Can you help me with the time, how we should arrange
25 you in terms of time, because not everyone is going to

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1 get -- we're not going to -- to do a cumulative five
2 minutes for everybody. And how would you like to --

3 MR. DEPUY: We have aimed for three
4 minutes per panelist. We have four panelists.

5 CHAIRPERSON MITTEN: Okay. So we'll just
6 put 12 and you manage your time. We'll put 12 minutes
7 on the clock.

8 MR. DEPUY: And one minute for me.

9 CHAIRPERSON MITTEN: Okay. 13. Go ahead.

10 MR. DEPUY: Madam Chair, Members of the
11 Commission, I am Jacques DePuy, attorney with
12 Greenstein, DeLorme & Luchs. Our panelists tonight
13 are Robert M. Gladstone of the Quadrangle Development
14 Corporation. To my extreme right, Charles C. Wilkes,
15 President of the Wilkes Company, Louis Slade from
16 Gorove/Slade and Graham Davidson from Hartman-Cox.

17 Mistery Gladstone and Wilkes will appear
18 primarily as property-owners through Mount Vernon
19 Place, LLC. But for the Commission's information, Mr.
20 Gladstone was the Chairman and Mr. Wilkes was the Vice
21 Chairman of the Mount Vernon Triangle Alliance, which
22 is the organization of the property-owners in this
23 area and, through a public/private partnership with
24 the Office of Planning, participated and led the
25 efforts to retain Skidmore, Owings and Merrill to do

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1 some of the planning, which led to the plan which
2 became the action agenda.

3 Thus, the Task Force, which has been
4 referred to today by Mr. Cochran, consisted of the
5 Mount Vernon Triangle Alliance as well as the Office
6 of Planning. Without further ado, I would like to
7 call on Mr. Gladstone to start us off.

8 MR. GLADSTONE: The only thing I would
9 add, Madam Chair, is that my home address, which I
10 think you requested that we cite, I live at 2468
11 Belmont Road, N.W., in the District.

12 I would like to bring you in terms of its
13 context, a brief description, an overview of the
14 project that we're involved with, which we call Mount
15 Vernon Place. It's certainly one of the largest, if
16 not the largest, project in the area. We have
17 assembled land in a number of squares and immediately
18 in back of me is a chart, which shows that.

19 CHAIRPERSON MITTEN: If you're going to
20 stand, I need you to stay on a microphone, so we can
21 keep you on the record. Sorry.

22 MR. GLADSTONE: This isn't portable, but
23 I will stand by the microphone. We have property in
24 Square 516, 527, 528 and 560. Mr. Wilkes and
25 Quadrangle are our partners in the development of that

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1 area and we have also partnered with the Mount Carmel
2 Baptist Church with respect to Square 560.

3 The project consists of a mix of uses,
4 residential and commercial, and those are displayed on
5 the chart. I think you can see the chart. I won't
6 try to point to it. And generally speaking, the K
7 Street frontage is beginning at 3rd and running
8 through 4th and down to the alley on 5th Street all
9 along the south frontage of K Street.

10 The residential components are under
11 construction. We broke ground on the first building
12 at Massachusetts Avenue and we expect to begin work on
13 the second, construction on the second building,
14 within approximately 60 days. Those comprise several
15 hundred units and we expect at the completion of the
16 project to have close to 1,000 units in the project,
17 as well as the better part of a million square feet of
18 commercial space.

19 The project that we have been working on
20 led us to be deeply involved in the process that Mr.
21 Cochran described. We worked, I think it was, two and
22 a half years at glacial speed to produce the results
23 that are included in the plan, the action plan. So we
24 are deeply committed to that process. We were deeply
25 committed to that process and our support in overall

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1 terms of the conclusions reached, including the zoning
2 overlay, having participated again not only in the
3 development of the plan, preparation of the action
4 plan, but also the Zoning Task Force.

5 We do take exception to a couple of items
6 that will be detailed by the other participants in the
7 panel, and with that I have used my time up, so I will
8 pass it on to Mr. Wilkes.

9 MR. WILKES: Thank you, Madam Chair,
10 Members of the Commission. I am Charles Wilkes,
11 Chairman of the Wilkes Company, a Washington real
12 estate development firm, and partnered with Quadrangle
13 and Mount Vernon Place.

14 Mr. Gladstone has described really the
15 journey that we have been on over the last three
16 years, deep involvement, an exercise that we found
17 deeply satisfying and fulfilling. People talk about
18 public/private partnerships. Well, we actually
19 participated in one and it was enormously successful.

20 We have four issues that we would
21 respectfully ask the Commission to consider. One is
22 that the text, as drafted, has an absolute prohibition
23 on driveway access for loading and parking in Square
24 516, and that is a significant hardship for us for
25 several reasons. One is Square 516, as you can see,

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1 is one of the longest blocks in downtown Washington
2 and our master plan that Hartman-Cox prepared
3 contemplates three buildings on Square 516.

4 And we feel that in designing three
5 buildings, which we feel are likely to be candidates
6 for use by association headquarters, instead of one
7 mega GSA type building, we think we're really right in
8 the mainstream or the spirit of the Mount Vernon
9 Triangle Action Agenda. And so, as two of our
10 panelists will describe, there is a significant
11 hardship with this prohibition.

12 We would urge the Commission then to have
13 the prohibition only in the yellow zone, the primary
14 zone on the south side of K Street from 7th to the
15 north/south alley at the junction of the yellow and
16 blue. If someone could point to that I would
17 appreciate it. Bob, maybe you could show that.

18 Alternatively, the Commission could adopt
19 the protocols that will apply to many other squares in
20 the Triangle based on the overlay and that is that
21 there will be no driveways more frequent than every 60
22 feet. We can actually live with that as well. Either
23 would work for us. This is a very important issue for
24 us.

25 The second issue is that there is a

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1 definition in the section on permitted use in the
2 secondary use subarea that refers to office as a
3 matter-of-right permitted use. That's fine. We agree
4 with that. The text then, for some reason, goes on at
5 some length to describe a whole litany of permitted
6 uses, and you find yourself quickly finding out that
7 an architect would be a permitted use, but an urban
8 planner would not be a permitted use. A stockbroker
9 would be a permitted use. A financial advisor would
10 not be a permitted use. And we think just to make
11 life simple, perhaps the definition ought to be for
12 just general office use and leave it at that.

13 Third, we strongly support the concept of
14 street wall design requirements, but in our view the
15 original publicly noticed dimension of 36 feet, we
16 believe, is the correct dimension. We have seen in
17 the OP report some discussion of a possible 72 foot
18 dimension. If you see in our case, in particular
19 heading down 4th Street into what we have designed and
20 master planned as a quiet street or a residential
21 street, that we feel is overly intrusive. And so we
22 would urge, this is not the end of the world issue,
23 frankly, but we would urge that 36 feet be the right
24 module.

25 Finally, the text contemplates the Office

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1 of Planning having review of permits, C of O
2 applications and that there is a moratorium on action
3 by the Zoning Administrator of 75 days. We have
4 studied this carefully and these protocols are
5 substantially different from and more restrictive than
6 provisions that apply to all other properties located
7 in the downtown development district. And so we would
8 urge the elimination of these new concepts, because we
9 believe that they are unnecessarily burdensome and
10 complex and time consuming and expensive.

11 So those are the four issues, Madam Chair,
12 Members of the Commission, and I will turn now to one
13 of my fellow panelists, Lou Slade.

14 MR. SLADE: Good evening, Commissioners.
15 I am Louis Slade. I reside at 3500 Quesada Street.
16 I am going to address the driveway restriction
17 provision that's in the proposed ZOD and I will just
18 be very brief on the points that I want to make here
19 to leave time for my colleagues.

20 First of all, the concentration of all of
21 the access to Square 516 in the alley would be a great
22 concern because of congestion in that alley and, given
23 the objectives of the Mount Vernon Triangle Action
24 Agenda, we were part of the team by the way that
25 worked with OP on the development of the action

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1 agenda, I think it could be counterproductive to have
2 this particular restriction on the entire square of
3 516.

4 Just visualize your own situation if you
5 drive to work and how you access your own building,
6 you know, and with all best intentions, the best alley
7 in any city is not the greatest place to be in the
8 first place. There is a tenant moving in or out with
9 a moving van back there. There is traffic moving out
10 of multiple driveways. There's loading going on.
11 There is already loading going on in this alley. So
12 that alley will be very congested. If all the access
13 has to be there, it would be better to have some
14 opportunity to disperse some of the traffic directly
15 out onto K Street rather than all in the alley.

16 My second point is about pedestrian
17 safety, but I think I will just pass on that one right
18 now. I don't think there is a pedestrian safety issue
19 with multiple driveways on K Street just like there
20 isn't on any driveways along any street in the
21 District. But if you concentrate all the traffic to
22 a single point, all the vehicular traffic to a single
23 point, then you have got a more serious conflict with
24 pedestrians than you do if you can disperse it
25 somewhat.

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1 The last point I want to make has to do
2 with the wax museum site and I'm not here testifying
3 on their behalf, although we are part of that team as
4 well. I think the wax museum site is an excellent
5 example of a good development plan that has a lot of
6 flexibility for access, and it's because that site
7 goes through from K Street all the way to L Street, so
8 that when they were bringing Safeway into that
9 project, they were able to give Safeway something it
10 needed, which was its own driveway separate from the
11 two other driveways that that site will have. That
12 site will have three driveways, one on K and two on L.

13 If you take a large square with large
14 parcels and don't have that much frontage and you're
15 restricted from K Street, you just won't be able to
16 provide for that special tenant you might want to or
17 have to provide for. So I will stop there and give 45
18 seconds to Graham.

19 CHAIRPERSON MITTEN: I need you to turn on
20 the microphone.

21 MR. DAVIDSON: Oh, I'm sorry. My name is
22 Graham Davidson with the architectural firm of
23 Hartman-Cox. I reside at 3610 Warren Street, N.W.
24 This block, 516, in fact is not as consolidated as
25 some of the other blocks. We are planning on having

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1 three buildings in the northeast corner. Those
2 buildings would not have a lot of other options. They
3 don't have any other options at all for vehicular
4 access other than through the alley. The alleyway
5 will be primarily for service use and that is the
6 extent of its value.

7 So we believe that the curb cut
8 restriction should be tailored to the diagram here in
9 blue and yellow and start at the alleyway and move
10 west.

11 CHAIRPERSON MITTEN: If you wanted to take
12 a few more seconds to make another point, you could,
13 since you got --

14 MR. DAVIDSON: That's okay. Thank you.

15 CHAIRPERSON MITTEN: Okay.

16 MR. DAVIDSON: I summarized things as well
17 as I could.

18 CHAIRPERSON MITTEN: Okay. You did a
19 great job. Thank you. Will you all be providing us
20 a copy of the site plan and all that that you're
21 showing us?

22 MR. DEPUY: Yes. We'll provide that for
23 the record and we'll also provide a copy of the
24 recommendations that have been made here in writing as
25 well.

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1 CHAIRPERSON MITTEN: Okay. That would be
2 helpful. Mr. Wilkes, I'm glad you reminded me about
3 the OP review section, because that was one of -- that
4 triggered one of my -- my question about enforcement.
5 So thank you for reminding me about that and I'll
6 follow-up with Mr. Cochran when we're done with the
7 testimony. Are there any questions for these folks?

8 COMMISSIONER PARSONS: Yes. I understand,
9 Mr. Wilkes, that these buildings that you want to
10 build on K Street are for international use, embassy
11 use. Is that what you said?

12 MR. WILKES: No. Mr. Parsons, our current
13 thinking is that this sub-market lends itself
14 particularly well to nonprofit and association use.

15 COMMISSIONER PARSONS: So each one of
16 these buildings would become occupied by a single
17 association, and they need their own parking?

18 MR. WILKES: That's the thinking.

19 COMMISSIONER PARSONS: A garage?

20 MR. WILKES: That's the thinking, yes,
21 sir.

22 COMMISSIONER PARSONS: There is no way to
23 have a shared parking facility under all three
24 buildings?

25 MR. WILKES: I guess I would defer to Mr.

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1 Gladstone or Mr. Kenoff on that or, Graham, perhaps
2 maybe you would like to comment on that.

3 MR. DAVIDSON: I think this is an
4 ownership issue, so I do want to pass the buck to the
5 ownership.

6 COMMISSIONER PARSONS: Oh, so these three
7 buildings will be marketed separately. Is that it?

8 MR. DAVIDSON: That's the idea. They may
9 present an opportunity for ownership using revenue
10 bonds, which are very attractive right now for
11 nonprofit to actually have ownership and a permanent
12 presence here in the city. So that is one potential
13 complicating issue in terms of shared parking, shared
14 driveways, shared access, yes.

15 COMMISSIONER PARSONS: So there is no
16 market here for a single office building?

17 MR. DAVIDSON: There certainly may well
18 be. It's just we have designed kind of a campus
19 setting. We have 14 buildings here at Mount Vernon
20 Place and we have asked Graham to create something
21 special and, in terms of the scale, we have asked him,
22 as tempting as it would be perhaps to have one, as I
23 put it, mega size building, I think we're working hard
24 to present smaller building opportunities.

25 COMMISSIONER PARSONS: Well, I'm a little

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1 confused by the image on the left. I'm not sure what
2 that is, but is that the image of these buildings that
3 you speak about?

4 MR. DAVIDSON: Are you speaking of the
5 rendering?

6 COMMISSIONER PARSONS: The rendering, yes.

7 MR. DAVIDSON: The rendering there shows
8 a group of three or four buildings, actually, along K
9 Street. You're standing just to the west of the alley
10 looking east, so that is the row of four new
11 structures looking to the east that would also be seen
12 in the site plan behind me.

13 COMMISSIONER PARSONS: Yes. So this is
14 the campus feeling that you spoke about?

15 MR. WILKES: Yes. We could go into it in
16 more detail, because we have our own village square at
17 3rd and I. We have public space, public art,
18 fountains and other components, some of which came
19 from the Sasaki contribution as a team member on the
20 master plan.

21 COMMISSIONER PARSONS: So these umbrellas
22 and so forth and people walking, are these unusual
23 setbacks that you have come up with? I mean, where is
24 that public space on K Street?

25 MR. DAVIDSON: The public space that

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1 exists on K Street is about 50 feet wide. It's a very
2 generous sidewalk.

3 COMMISSIONER PARSONS: So you're at the
4 building line here?

5 MR. DAVIDSON: Yes.

6 COMMISSIONER PARSONS: You're just
7 creating this on the public space?

8 MR. DAVIDSON: Yes, that's correct. The
9 umbrellas and the ambience is all in the public space.

10 COMMISSIONER PARSONS: But you want to
11 penetrate that every 60 feet with a driveway. I mean,
12 I'm really having trouble with this. That's a little
13 bit wider than this room that you want to penetrate
14 that sketch with parking access every 60 feet.

15 MR. DAVIDSON: Yes. I don't think any of
16 us want to do that, but if that site is developed by
17 more than one building, that is a practical necessity,
18 because we have to get parking into the buildings and
19 putting the parking off the alley is not practical
20 given that the alley system will be fully utilized for
21 the service of all of the other sites on the block.

22 The Federal Building to the south, for
23 instance, already keeps the alley fully occupied all
24 the time and adding several more buildings and the
25 service to those buildings would just make that

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1 situation that much worse. So putting parking off the
2 alley system is just not practical.

3 COMMISSIONER PARSONS: Well, that I
4 understand. It's just your decision to build three
5 buildings instead of one seems to intrude on what
6 you're trying to do out front. I don't see how that's
7 going to work. Thank you.

8 MR. DAVIDSON: Well, it may very well be
9 in the long run that one building gets built. I think
10 the thinking here was that because of the type of
11 person, the type of organization that's likely to
12 locate here, they are more likely to want their own
13 building and their own building is more likely to be
14 a smaller one rather than this being a place where,
15 say, large federal tenants or large law firms would
16 locate.

17 MR. GLADSTONE: The image we have going is
18 one that we developed, a building we developed for the
19 Carnegie Endowment for International Peace on
20 Massachusetts Avenue adjacent to the Brookings site
21 and it's just under 100,000 square feet. And that
22 market, we think, is strong for the Mount Vernon
23 Triangle. In fact, we're working currently with a
24 not-for-profit association for our first commercial
25 building in Mount Vernon Place.

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1 CHAIRPERSON MITTEN: Where is the access
2 to the parking for the Chester Arthur Building?

3 UNIDENTIFIED SPEAKER: Chester Arthur,
4 Bob, is?

5 MR. GLADSTONE: I think it's I Street.
6 It's on I.

7 UNIDENTIFIED SPEAKER: It's on I.

8 CHAIRPERSON MITTEN: Directly from I?
9 It's not drive down the alley from I and get in?

10 UNIDENTIFIED SPEAKER: No.

11 CHAIRPERSON MITTEN: It's not in the
12 alley?

13 MR. SLADE: Right. It's adjacent to the
14 alley, but there is an alley curb cut and adjacent to
15 it is the driveway curb cut.

16 CHAIRPERSON MITTEN: Okay. Anyone else?
17 Mr. Hildebrand?

18 COMMISSIONER HILDEBRAND: What do you
19 think of this additional alley dedication concept and
20 the idea of providing more alley space in exchange for
21 additional building above, at the rear property line?

22 Is that something that could ease that
23 congestion in the alley between you and the Chester
24 Arthur Building?

25 MR. DAVIDSON: I have not had an

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1 opportunity to look at that particular part of the
2 proposed legislation. I would like to, however, so
3 I'm not sure that that would be -- what the
4 ramifications of that would be.

5 MR. GLADSTONE: There's heavy involvement
6 with the geometry of a particular site because of the
7 floor plate requirements and the way the office lays
8 out. For the area that we're working in 516, 527, 528
9 and 560, the dimensions are very difficult to
10 surrender alley space, because we need it to achieve
11 floor plate, optimum floor plate sizes. So my
12 judgment would be that it would be a difficult matter.

13 COMMISSIONER HILDEBRAND: Okay. In
14 looking at your rendering, just to make sure I
15 understand, where am I standing on K Street to get
16 that expansive plaza view? Am I on the north side of
17 K Street?

18 PROPONENT: Yes, sir.

19 COMMISSIONER HILDEBRAND: So I'm looking
20 through not only the depth of the sidewalk on the
21 north side, I'm looking through the street and then
22 on.

23 PROPONENT: Across the street.

24 COMMISSIONER HILDEBRAND: Thank you.

25 CHAIRPERSON MITTEN: Anyone else? Okay.

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1 Thanks to the panel. It's nice to see Mr. Gladstone
2 again after all this time and Mr. Wilkes.

3 MR. GLADSTONE: Thank you.

4 CHAIRPERSON MITTEN: And you guys, I see
5 you more often. All right. Now, we have Mr. Steuart.
6 He has been on deck all this time swinging that bat.
7 Mr. Glasgow and Mr. Sher, and we also have Tom Duffy.
8 Tom Duffy? Okay. Oh, okay. All right.

9 MR. STEUART: Thank you, Madam Chair. My
10 name is Guy Steuart, Senior Vice President of Steuart
11 Investment Company and, as you will hear in my
12 remarks, no offense, we're a patient family, so I
13 don't mind sitting and waiting and listening to wiser
14 heads talk about their projects and their involvement
15 in what has been, hopefully, certainly a very arduous
16 and very worthwhile endeavor and our participation in
17 the Mount Vernon Task Force in the crafting of this
18 overlay.

19 We are a Washington-based family and I
20 reside, I'm sorry, for the record, at 8017 Aberdeen
21 Road in Bethesda. We're a Washington-based family
22 best known for our petroleum company and our
23 automobile dealerships. We're no longer in those
24 enterprises. However, the vestiges of at least one of
25 those enterprises, the automobile business, is a

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1 principal parcel of ground that we're talking about
2 tonight, and I'm speaking specifically with respect to
3 Square 483 on the northwest corner of 5th and K.

4 We own that block in its entirety and have
5 since, well, principally since 1928. We also own a
6 significant majority. To get to your question earlier
7 about consolidation of ownership, we own probably 90
8 or 95 percent of Square N515, which is the pie shaped
9 piece of property due north of the wax museum.

10 As I said earlier, we have been working
11 with the Office of Planning, the Task Force, other
12 professions and members of the community to try to
13 create a sense of place. As testament to sort of the
14 cycles of real estate, this intersection and these
15 locations were one time very important centers of the
16 city. In fact, what is now designated the wax museum
17 site at one time was the first Convention Center, I
18 think, of the city. It subsequently became the Center
19 City Market and then a bowling alley. I think it
20 burned down and now it's the wax museum site, so go
21 figure.

22 But we are very keen on returning this
23 intersection to a vibrant and active neighborhood and
24 part of the community and, to that extent, we wholly
25 support and endorse the Office of Planning's

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1 recommendations within this overlay.

2 Principally, with respect to the rezoning,
3 the zoning of our parcel, we do share some
4 disagreement on the edges, I suspect, with respect to
5 the technical merits of some of the very specific
6 items that have been crafted. I'm not prescient
7 enough to know whether a 36 foot depth and the 14 foot
8 clear height is absolutely the, you know, sine qua non
9 of perfection regarding creating an ambient
10 streetscape nor am I wise enough to think that a 72 x
11 72 foot grid of the northwest or the southeast corner
12 of our parcel is, you know, a Picasso.

13 But I think the intent is there and we're
14 willing to work with OP with that intent to try to
15 create what we hope is a special place within the
16 Mount Vernon area, and we would like to see some
17 flexibility with respect to special exceptions. If we
18 happen to, you know, as we further refine our
19 development schemes, come up with, you know, a better
20 idea, maybe it's not the Brazilian wave at that
21 intersection, those four pieces, but it might be
22 something that impinges somewhat on the specificity
23 that has been crafted.

24 But the intent is still there and with OP
25 and BZA, through a special exception, we would hope

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1 that we would be able to create this special sense of
2 place. So those are the extent of my comments. Thank
3 you.

4 CHAIRPERSON MITTEN: Thank you. Mr.
5 Glasgow?

6 MR. GLASGOW: I'm going to defer to Mr.
7 Sher.

8 CHAIRPERSON MITTEN: Woo.

9 MR. SHER: For the record, my name is
10 Steven E. Sher, the Director of Zoning and Land Use
11 Services with the Law Firm of Holland and Knight. I
12 really want to just make two points that Mr. Steuart
13 already mentioned. I'm going to take the second one
14 first.

15 The special exception. We think it would
16 be useful and reasonable for the Commission to write
17 sort of a general special exception standard into this
18 whole Mount Vernon District subarea of the DD. As Mr.
19 Steuart mentioned and as Mr. Cochran went through in
20 great detail, there is a lot of predictions about how
21 these specific standards might work. Steuart has not
22 yet attempted to retain an architect to put all that
23 together in a package.

24 We don't have a plan to present to you
25 this evening, but we just would like the ability to be

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1 able to come back and work those out with some relief
2 mechanism that is not a variance so that if, for
3 example, 36 x 36 doesn't work, but 35 x 35 does, we
4 want to be able to come back in and be able to deal
5 with that in a mechanism that doesn't say we have to
6 prove an exceptional situation, practical difficulty
7 and so forth.

8 So we would strongly suggest that you --
9 and you might be able to consolidate some of the
10 special -- let me retract that, different special
11 exception provisions that are in the overlay and put
12 them all in one place, and that would then give some
13 flexibility to deal with is it 14 feet or 13.5 feet or
14 16 feet or whatever. That's an important point,
15 because we're not far enough along to know that it
16 works or it doesn't work yet.

17 And then the first point, which is now
18 second, is that we support the position taken by Mr.
19 Cochran with respect to the proper zoning of this
20 square. We think it ought to be rezoned from C-3-C to
21 DD/C-3-C and we would suggest that the record is amply
22 discussed in that regard, and I wouldn't say any more
23 about it at this point.

24 CHAIRPERSON MITTEN: Okay. Any questions
25 for this panel? Okay. Thank you. Is there anyone

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1 else who would like to testify in support before we
2 move to opposition? All right. We have Maury
3 Schlesinger, John Epting, Lisa Wiersma.

4 MR. EPTING: I actually have a panel.

5 CHAIRPERSON MITTEN: Oh, you have a panel?
6 Okay.

7 MR. SCHLESINGER: Good evening.

8 CHAIRPERSON MITTEN: Just hold on one
9 second. Is your panel the wax museum folks? Okay.
10 Okay. Fine. I'm sorry. Please, go ahead.

11 MR. SCHLESINGER: Okay. Madam Chair,
12 Commissioners, I am Maury Schlesinger and I am the
13 Director of Real Estate and Administrative Service for
14 National Public Radio. I reside at 8807 Maywood
15 Avenue in Silver Spring.

16 National Public Radio is the sole property
17 owner in Square 44W, which is at Massachusetts and 7th
18 extending to 6th along K Street. Clearly, we would be
19 impacted by the second tier of these use requirements.
20 We bought the former American Security Bank Building
21 in 1992 and renovated it. We have been there as we
22 have seen the neighborhood change and certainly
23 support the goals of the Office of Planning's
24 proposals, but we find some difficulty with some of
25 the details thereof.

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1 Especially for us as an owner/occupant and
2 a nonprofit, we think some of the proposals really
3 envision that the vacant properties would be developed
4 by developers along a certain model and don't really
5 envision how an owner/occupant might develop the piece
6 for their own use.

7 We're particularly troubled by some of the
8 specific use requirements for the ground floor along
9 K Street, which may not fit our operational needs, may
10 force us into the position of becoming a landlord,
11 something we don't particularly want to be. We are
12 right now for the Bank of America, but that's not what
13 we're in business to do. We're in business to provide
14 a service to our listeners and not to be in the real
15 estate business.

16 And clearly beyond that, if we were to go
17 into that direction, it would impose some significant
18 additional financing costs on us because, as you heard
19 the earlier panel talk about, it's very attractive.
20 If and when we were to develop the vacant property we
21 would to do that through the tax exempt bond
22 financing, which couldn't fund commercial operations.

23 We also question some of the physical
24 requirements. In particular, given the slope of our
25 site, the high bay requirements on K Street for retail

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1 and the overall maximum FAR we may be able to achieve
2 may be compromised.

3 Now, we have not done architectural
4 studies on the site. We had one very preliminary
5 massing study done, which brought this question to our
6 minds, that it may be difficult. And again, dealing
7 with the retail, some of the issues of the provision
8 for the ability to create openings along that
9 streetscape may be problematic.

10 We also aren't clear on how these
11 requirements would affect our existing building should
12 we decide to renovate even if we were to do some
13 smaller scale renovations of the building, as opposed
14 to a wholesale renovation. And clearly, it would be
15 very difficult for us to do a wholesale renovation of
16 a building we're currently occupying.

17 So in short, I will say that this proposal
18 creates an added burden on National Public Radio. In
19 our plans and looking forward to whether we were to
20 develop that adjacent site that is now vacant and on
21 whether we were to continue to be in our current
22 building for a very long time, which would require
23 some renovation, we would suggest that there be some
24 mechanism to consider an exception for nonprofits or
25 owner/occupants to address some of the concerns we

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1 have raised. Thank you.

2 CHAIRPERSON MITTEN: Thank you. Any
3 questions for Mr. Schlesinger?

4 COMMISSIONER JEFFRIES: Yes, I have a
5 question. Mr. Schlesinger, did NPR have any
6 involvement at all with the formation of the Mount
7 Vernon Action Agenda? Did you have any --

8 MR. SCHLESINGER: We had some preliminary
9 discussions with the Office of Planning staff about
10 the action plan, but not on the specific Zoning Task
11 Force.

12 COMMISSIONER JEFFRIES: Okay. So when was
13 that, the first meeting with the Office of Planning?

14 MR. SCHLESINGER: A couple of years ago.

15 COMMISSIONER JEFFRIES: Okay. So from
16 that point forward, there has not been any discussion?

17 MR. SCHLESINGER: No.

18 COMMISSIONER JEFFRIES: Okay. Thank you.

19 CHAIRPERSON MITTEN: Mr. Parsons?

20 COMMISSIONER PARSONS: Mr. Schlesinger,
21 the vacant property you speak of is directly to the
22 east of your existing building?

23 MR. SCHLESINGER: East, correct.

24 COMMISSIONER PARSONS: And are you asking
25 that we give relief in some fashion to that property

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1 as well as your existing building?

2 MR. SCHLESINGER: Yes, in the fact that if
3 we were to develop that property for our own use, we
4 would ask for that kind of relief.

5 COMMISSIONER PARSONS: But you still don't
6 feel that you would want to have any retail on the
7 ground floor, I mean?

8 MR. SCHLESINGER: We would prefer not to
9 be in the position of having to have retail in our own
10 building. As I said, we really --

11 COMMISSIONER PARSONS: I can certainly
12 see.

13 MR. SCHLESINGER: I can understand why
14 there would be a desire for it to generate the
15 streetscape, but we don't understand why that burden
16 would be imposed upon us where it's not now.

17 COMMISSIONER PARSONS: But if we're trying
18 to create a lively street for Mount Vernon Square,
19 which you abut to the west and down K Street, to have
20 a dead zone at its entry is troubling.

21 MR. SCHLESINGER: Oh, I --

22 COMMISSIONER PARSONS: From an urban
23 design standpoint.

24 MR. SCHLESINGER: I agree, but as a
25 property-owner, I also have a concern about having a

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1 use imposed on me where that is not my normal
2 business. My business is not to rent retail space and
3 that is not why we bought the property. That is not
4 why we own the property.

5 COMMISSIONER PARSONS: I understand.

6 MR. SCHLESINGER: We were there to house
7 our operations, which may not fit. Now, there are
8 certainly some uses that we would look at trying to
9 locate along the street, but I'm not sure that that
10 works totally within our internal operations.

11 COMMISSIONER PARSONS: Thank you.

12 CHAIRPERSON MITTEN: Just to clarify. Is
13 it the use that you're targeting not all the other
14 design-related --

15 MR. SCHLESINGER: Most of the other design
16 requirements don't really affect us. There is some
17 concern about the high bay requirement for that
18 setback as it would affect our total permissible FAR.
19 But like I said, I don't have enough detail there. I
20 mean, we're not designing a building now. We don't
21 have that information. We could probably work within
22 that.

23 I think, you know, again, speaking off the
24 -- unstudied on this, I don't find too many of the
25 others. The driveway proposals are not problematic

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1 for us. The ability to design a streetscape with the
2 potential for openings is not a potential problem for
3 us.

4 CHAIRPERSON MITTEN: Okay. I just wanted
5 to just understand.

6 MR. SCHLESINGER: Yes.

7 CHAIRPERSON MITTEN: If your issue is
8 narrow, I wanted to understand.

9 MR. SCHLESINGER: It's primarily the
10 imposed use and how it would affect our existing
11 building.

12 CHAIRPERSON MITTEN: Okay. Mr.
13 Hildebrand?

14 COMMISSIONER HILDEBRAND: Mr. Schlesinger,
15 I am trying to recall what is your K Street
16 streetscape like now? What is the facade of your
17 building like along K Street?

18 MR. SCHLESINGER: It is not very inviting.
19 It's probably about 30 percent loading dock entrance.

20 COMMISSIONER HILDEBRAND: I thought it was
21 a loading dock facade.

22 MR. SCHLESINGER: And again, this is where
23 we have a difficulty. We have a narrow pointy end of
24 that building. You know, again, thinking about this
25 setback on the bay, 72 foot setback, that is

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1 problematic when you get really narrow there.
2 Although, the first about -- I think it's 60 or 70
3 feet coming in off 7th is already high bay. It would
4 meet the requirements.

5 COMMISSIONER HILDEBRAND: Because it's a
6 loading dock now?

7 MR. SCHLESINGER: No, it's the bank.

8 COMMISSIONER HILDEBRAND: Right.

9 MR. SCHLESINGER: Which has a high bay.

10 COMMISSIONER HILDEBRAND: Were you
11 surprised at all to hear the earlier panel say that
12 this area would be ideal for other potential
13 nonprofits and particularly because they could have
14 ownership of their buildings? And how does that
15 square with your concern about having leased space and
16 still being able to get the bonds that you're talking
17 about?

18 MR. SCHLESINGER: It does not surprise me
19 that the developers believe that that's an active
20 market for that type of user. Our real estate
21 consultants have shared that same kind of information
22 with us and has factored into our current thinking
23 about the property, that it is marketable, if we do
24 choose to leave that it would be highly marketable to
25 other nonprofits and that, in fact, our parcel might

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1 be more marketable split up than as one large building
2 if we were to choose to leave both the existing
3 property and the adjacent property.

4 So that comment that there is a market to
5 nonprofits and that they have an attractive financing
6 vehicle doesn't surprise me at all. But that vehicle
7 -- again, if we were to have to have -- assume the
8 role of a landlord, that portion of the building that
9 would be a commercial operation that is not directly
10 related to our mission would have to be financed
11 through commercial financing, which would increase the
12 cost of the project to us and that's the concern.

13 COMMISSIONER HILDEBRAND: I see. Thank
14 you.

15 CHAIRPERSON MITTEN: Anyone else? Okay.

16 MR. SCHLESINGER: Thank you.

17 CHAIRPERSON MITTEN: Thank you very much.
18 Okay. Mr. Epting, bring your folks forward. Can you
19 make it work with 10 minutes?

20 MR. EPTING: I'll try. We have got a lot
21 of issues, because I have the architect here, too. So
22 it we could maybe start with 12. I know Lisa is going
23 to be quick, but we do have a number of things that
24 really do impact us that I would like to get to, and
25 I would really like to talk about the uses also.

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1 CHAIRPERSON MITTEN: Okay. Well, let's
2 put 12 on and try and fit within that time frame,
3 please.

4 MR. EPTING: Okay.

5 CHAIRPERSON MITTEN: And then if we have
6 questions, we'll ask.

7 MR. EPTING: I understand. Thank you. I
8 am John Epting with Pillsbury Winthrop Shaw Pittman.
9 Lisa Wiersma from Lowe Enterprises and Maurice Walters
10 of Torti Gallas is also here. We're filing right now
11 what is our third statement about this project and our
12 first two were filed in September and November of
13 2004. Both of those statements included letters
14 detailing -- letters from the architect detailing the
15 problems that the architect had with the current set-
16 down proposal for the design as it impacted the wax
17 museum.

18 So there has been -- maybe it was a
19 misstatement, but we have always had issues with these
20 plans and we have always said we basically left the
21 train station. I mean, we're starting construction in
22 October and we tried to alert the Zoning Commission as
23 early as six months ago that these problems were a
24 problem for us.

25 And we have met with OP. We have tried to

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1 fix as many things as we can, but it's hard to fix
2 things later in time and if you're going through a
3 public review process and a private review process
4 with the NCRC.

5 So we have had a number of difficulties
6 and Lisa is going to talk a little bit more about
7 those, and I think I will go ahead and turn it over to
8 her now.

9 MS. WIERSMA: Hi. Good evening. My name
10 is Lisa Wiersma and I am the development manager for
11 the wax museum project. I am with Lowe Enterprises.
12 We're the master developer. Thank you very much for
13 allowing me to speak tonight.

14 The Lowe Team was selected by NCRC to
15 develop Square 515, Lot 158, which is at the corner of
16 5th and K Streets. Our project, the Wax Museum
17 Redevelopment, is a mixed use project with
18 residential, retail and parking. The wax museum has
19 had a long, rocky history. It was vacant for many
20 years and was the subject of three different RFPs.
21 The third RFP to develop the site was issued on July
22 7, 2003. We were selected as the developer on
23 February 26, 2004.

24 NCRC and the Lowe Team have now executed
25 an ERA agreement and tomorrow we'll execute our LDA,

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1 our development agreements. This agreement will
2 govern the development of the wax museum site and it
3 includes the review and approval of the plans.

4 We have already received approvals from
5 NCRC for our first and second submissions to them of
6 the design materials, and so the design for the wax
7 museum project has been finalized. We have done
8 significant work and expense has gone into getting
9 these plans approved. We have also been working very
10 closely with the Office of Planning regarding the
11 designs for the wax museum project and, given all of
12 this, we feel the additional overlay restrictions are
13 unnecessary.

14 As acknowledged by the Commission at set-
15 down on July 12, 2004, the proposed overlay is both
16 complicated and confusing and we feel it is an
17 obstacle to the successful completion of the wax
18 museum project.

19 Let me emphasize again that the design is
20 nearly complete. It has been approved by NCRC through
21 several reviews, which also included the Office of
22 Planning, and these approvals were dictated by the
23 agreements that Lowe has with NCRC. And again, as
24 John said, we are looking at breaking ground in
25 October and we are very concerned that any bumps in

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1 the road right now are going to set us off the tracks.

2 There are several serious differences
3 between the currently approved design of the project
4 and the provisions of the Mount Vernon Triangle
5 Overlay, which Maurice from Torti Gallas, our
6 architect, will describe. In addition, we are also
7 concerned that the use restrictions are not feasible.

8 The timely resolution of these differences
9 -- I'm sorry. The timely resolution of these issues
10 is critical to the viability of the wax museum project
11 and also to the creation of a successful Mount Vernon
12 Triangle subarea since the wax museum project will be
13 a catalytic force there.

14 Lowe and NCRC have devoted an
15 extraordinary amount of time and expense to making
16 this project finally happen and to bringing new life
17 to the Mount Vernon Triangle area. And again, as we
18 said, the Office of Planning has been involved.
19 Superimposing the additional and often conflicting
20 design and use restrictions with the controversial
21 phase and trigger provisions for the more restrictive
22 uses is inconsistent with NCRC and the city's goals
23 for developing the wax museum site. They needlessly
24 complicate an already complex project.

25 Therefore, we respectfully request that

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1 the Commission, should it proceed with the Mount
2 Vernon Triangle Overlay, specifically exempt the wax
3 museum site from its provisions and issue a revised
4 hearing notice to that effect. We note that section
5 1724.1 of the proposed legislation specifically
6 exempts the wax museum site from the proposed height
7 restriction.

8 And also, the Office of Planning's July 9,
9 2004 updated report on the proposed text and
10 discussion on page 8 stated that Square 515 is
11 exempted from this requirement, and that this square
12 is already covered by the ERA for the disposition of
13 the wax museum site. We feel that a similar logic
14 should be applied to the remainder of the overlay
15 restrictions.

16 Should the Commission determine not to
17 exempt the wax museum site from the Mount Vernon
18 Triangle Overlay, we ask that the Commission modify
19 the overlay significantly as we have suggested in our
20 statements. Thank you very much.

21 CHAIRPERSON MITTEN: Thank you.

22 MR. WALTERS: Good evening. I'm Maurice
23 Walters, a principal, with Torti Gallas and Partners,
24 the architects of the project. I reside at 623
25 Constitution Avenue, N.E. We wanted to say that we

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1 very much endorse and support the spirit of what
2 Office of Planning is proposing here, but we do have
3 specific concerns about the details and, I think as
4 was mentioned before, some of the specificity of the
5 proposed overlay starts to become problematic.

6 We did meet with the Office of Planning
7 and have made significant adjustments to the building
8 to make it comply with the spirit. But again, there
9 are 10 points that I want to go through quickly where
10 we have issues or minor concerns. Starting in section
11 1722.2, the requirement for the 50 percent, I think
12 the main concern there is as advertised in the public
13 notice, I think there is a missing text specifying
14 that it requires that to a height of 14 feet.
15 Otherwise, it's hard to understand.

16 Then going to the next section 1722.3
17 requiring the 50 percent transparency between 12 and
18 14 feet, to get into the details of our project, we
19 have a lot of grade on the site. The site steps up
20 about 5 feet from K Street up to L Street and we have
21 set the store fronts, in fact, at a height of about 16
22 feet along K Street. And what happens is we try to
23 maintain that datum. As you can see, I guess I'll
24 point, as you go around K Street and up L Street, we
25 have maintained the consistent datum.

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1 So, in fact, when we get to these upper
2 stores on L Street, we start to be in violation of
3 that. The head of our store fronts are at 12 feet.
4 So we could misalign our store fronts. Aesthetically,
5 we prefer to keep them in line. But I think the
6 spirit of our common is there's just -- if there was
7 some kind of flexibility built into this where if
8 people are meeting the spirit of it without having to,
9 at this late point, we're in for permits, go in for
10 zoning relief.

11 The next section 1722.4, every 40 feet of
12 building entrance. We just wanted to get it clear
13 that that is on average and the letter that's
14 attached, I have done the mathematical calculation
15 showing that we meet the intent of that. I think the
16 important point there is when you get to places like
17 corners of the buildings, the doors tend to spread out
18 and I can walk you through the details of our ground
19 floor plan and you will see doors occurring more
20 frequently on the in-line stores. Then they tend to
21 spread out at the corner. So I think the on average
22 provision being very important there, otherwise, there
23 could very easily be violations.

24 Number 1722.5, as has been spoken about a
25 lot, the requirement for the 14 foot minimum

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1 clearance. We did meet with Office of Planning and
2 made some pretty significant changes to our plan along
3 5th Street. Again, our retail heights vary from,
4 approximately, 18 feet along K and then as we start to
5 go about 16 at the corner, 15, going up there. We
6 started running into trouble on 5th Street.

7 Originally, our northern most bay we never
8 intended having, but when we did the competition
9 through 2003, we were given the ward -- or early 2004
10 through our negotiations all through the spring with
11 Office of Planning and NCRC. We had retail space up
12 in our mezzanine there. When we first found out about
13 this in the fall, we then came back and did remove
14 some space. I'm going to show you that in a mezzanine
15 point. This is a plan.

16 CHAIRPERSON MITTEN: If you're going to
17 talk, you need to be on the mike. I'm sorry.

18 UNIDENTIFIED SPEAKER: Just take it with
19 you.

20 MR. WALTERS: Can I take this with me?
21 It's a little awkward.

22 CHAIRPERSON MITTEN: You can only go so
23 far.

24 MR. WALTERS: It's on a leash. This was
25 the space we had never intended to take here. We have

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1 removed actually one, two and three more as we got
2 more concerned about the provisions of the
3 requirement. Well, specifically, it says 14 feet
4 clear, excluding any plumbing and mechanical devices.
5 We don't have the necessary power to know exactly what
6 is going to go in there.

7 So out of concern for that, it causes us
8 to buffer the dimension by a foot or a foot and a
9 half, because, you know, we could have a plumber out
10 there and he drops a pipe longer than he, you know,
11 specified, all of a sudden we've got a zoning
12 violation. It's a very frightening provision to all
13 of a sudden have something in violation, given a
14 tradesman or an overlapping of piping. It happens
15 very often.

16 They may, you know -- somebody gets in
17 early, they run something different. So all of a
18 sudden tradesman could get us into zoning violations.
19 So we have removed that space down to here. We would
20 very much like to have that space to be active on the
21 second floor. We are pursuing leases with local gyms
22 and we think that from the urban design standpoint, it
23 would be much better to have activity up in that
24 mezzanine area along 5th Street.

25 Currently, what happens is, in fact, that

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1 will just be very tall retail space as designed here.
2 It's going to be about 22 feet tall. You know, very
3 generous, but I think from an urban design standpoint
4 as you're walking down that street, if we can provide
5 a 13 foot or 12 foot clear retail space, and we can
6 additionally have activity up there, from the big
7 picture that's going to be a more desirable building
8 and urban environment.

9 Moving on to the PIA, 1724. Just a
10 little, I think it's more of a tax thing on this.
11 1724.2 does not exclude Square 515 from the 50 foot
12 height, as does the preceding section. I think that
13 might just be a typo. But if you were to take one
14 without the other, we would have some very serious
15 problems.

16 Moving on to 1725.1, the full PIA
17 requirements.

18 CHAIRPERSON MITTEN: Let me ask you. How
19 much more do you think you have?

20 MR. WALTERS: Maybe two minutes. Okay?

21 CHAIRPERSON MITTEN: Okay. Okay.

22 MR. WALTERS: Good. 1722.5, the PIA
23 requirements. I'm sorry, 1725.1, the PIA requirements
24 for the corner. This was a major change we made to
25 the plan last fall after we already had it approved in

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1 working with OP. We changed the proportion of our
2 setback plaza originally as awarded to the development
3 team, the setback plaza had an orientation on 5th. We
4 changed the orientation to K Street at the suggestion
5 of Office of Planning.

6 Additionally, we opened up an area of
7 retail space, that you see right here, to give the
8 very tall retail space and what is envisioned as a
9 restaurant complying with what Office of Planning was
10 requesting. We presented this exact design to Office
11 of Planning last fall and were told that it met the
12 spirit. In some calculations recently, it looked like
13 we might be a percent or two under. I think we can
14 adjust it to hit the 50 percent. I don't think it's
15 a point. It just kind of points out that some of this
16 high level specificity can be problematic.

17 The last one, the street wall design
18 having the 22 feet, 1726.1, having the 75 percent
19 transparency, that is one that we're finding to be
20 very difficult in our design as approved. The 50
21 percent on the other street walls is fairly
22 achievable. The 70 percent really starts to place
23 some burdens on the design.

24 Energy consumption, it's a huge amount of
25 glass. Where do we put the structure for the

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1 building? Where do we put the signage? Our design,
2 as currently approved, provides for 70 percent in the
3 areas where we have the double height space in there.
4 Where we don't, there's a large remainder of that PIA
5 that does not have double height space and, in fact,
6 has mezzanine. And in those areas, we have masonry.
7 We have span rails separating the windows. We have a
8 floor between the windows, so it increases the amount
9 of wall space. So that is we're finding it a very
10 difficult one to comply with.

11 Last quickly, getting into the driveways,
12 1730, the driveways. Even since this design was
13 selected and approved, we have always had a new alley
14 we were proposing going from K Street through to L.
15 That is kind of the life blood of the project. It
16 brings residents in. They access their below grade
17 parking. We have our parking for the condos and the
18 retail here. We have our Safeway parking. We have
19 our rental building parking. And then we access back
20 out onto L Street.

21 So as the text was advertised, it would
22 only allow one curb cut on the north part of K. The
23 existing museum square project as was shown earlier
24 has an existing curb cut on K Street. So we need one
25 also.

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1 And then lastly, the provision of 1731.3
2 limits buildings to one curb cut per building. We are
3 building along L Street. We do not extend the entire
4 block. The museum square is the rest. We, in fact,
5 have two curb cuts, the exit of the alley we spoke
6 about also we have a dedicated entrance to our below
7 grade retail parking that comes off of L Street for
8 the Safeway. The G1 level is solely for the use of
9 retail patrons. It is separated from the residential
10 parking and we have their curb cut there where it is
11 in proximity to the Safeway. It can be seen there and
12 easily entered. So we wanted to point out that that
13 causes a problem for us, too. Thank you.

14 CHAIRPERSON MITTEN: Thank you.

15 MR. EPTING: I would like to talk briefly
16 about uses, if I could, because this affects us, too.

17 CHAIRPERSON MITTEN: Can you submit the
18 balance of what you want to say for the record in
19 writing, please?

20 MR. EPTING: I have submitted it in
21 writing.

22 CHAIRPERSON MITTEN: Okay. Okay.

23 MR. EPTING: I really think that -- if I
24 could talk like maybe one minute about the trigger
25 point?

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1 CHAIRPERSON MITTEN: All right.

2 MR. EPTING: Because I really think it is
3 something unusual. I also wanted to mention the
4 Office of Planning review of any application. They
5 actually stated in their July 9th report for you that
6 they needed that because the overlay was so
7 complicated. I did talk with the foreman and Zoning
8 Administrator, Toye Bello, about this trigger
9 provision. He basically rolled his eyes. He said
10 there is no way they have a capacity for keeping these
11 kind of records.

12 He did mention the Cleveland Park and the
13 cafeteria types of -- the restaurant restrictions were
14 so difficult. I even posed the question or statement
15 what happens if a large user leaves and you go below
16 3.5, do you send a notice back out? The interim uses,
17 this is not the area that we see. You're going to be
18 able to just put restaurant uses in right away. I
19 think the OP's comment about just offering a lower
20 rate to get them in, doesn't work.

21 Restaurants and stuff are very expensive
22 for fit-outs. These guys need to make money on the
23 backend. So that's not a helpful comment either. So
24 I think what's going to happen, because we have all
25 preferred uses on the wax museum site, none of the

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1 space is going to be rented. Because you can't rent
2 to a user for a non -- the term that you can't
3 ascertain.

4 The lease term is sort of the most basic
5 aspect of the lease. And the price is not even that
6 important. If you don't know how long it's going to
7 be, you wouldn't pay to fit it out. You wouldn't do
8 anything. So, I mean, I think that's the highlight,
9 to me, of the impact on this project of this proposal.

10 CHAIRPERSON MITTEN: Thank you. I did
11 want to ask you. I understand all of the -- and I
12 appreciate the detail that you went into to explain to
13 us how this impacts the wax museum site specifically
14 and then Mr. Epting's comments are to some extent
15 generic to the area, and I appreciate that, too. I
16 did want to ask you one question that I think is more
17 generic and it's about the 75 percent requirement.
18 1726.2, is that a problem in terms of meeting that 75
19 percent, the glass requirement? That's not unique to
20 the wax museum, is it?

21 I mean, because you were describing the
22 need to have some structure to hold the glass and the
23 need to put signs and all of that or is it unique?
24 I'm just trying to get a handle on whether that is a
25 bit too aggressive generically.

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1 MR. WALTERS: I think it would be more
2 general. I mean, it applies to us, but I think it
3 would apply to other buildings also.

4 CHAIRPERSON MITTEN: Okay. Are you going
5 to be providing us copies of the floor plans that you
6 are showing? It might be helpful for us --

7 MR. WALTERS: Yes, I can.

8 UNIDENTIFIED SPEAKER: We can submit
9 those.

10 CHAIRPERSON MITTEN: -- to read through
11 the testimony again. Anyone have questions for the
12 panel? Okay. Thank you.

13 MR. WALTERS: Thank you.

14 CHAIRPERSON MITTEN: Is there anyone else
15 who would like to testify in opposition? Okay. Then,
16 Mr. Cochran, I have a question for you now that a few
17 people have reminded me about why I was asking it.
18 Which is when I asked you about the complexity of the
19 enforcement and the provision for the Office of
20 Planning review, why is the provision there for Office
21 of Planning review?

22 MR. COCHRAN: Just as we have review for
23 TDRs and for combined lot development, we recognize
24 that the Zoning Regulations can be complex and it's
25 our intention to be able to assist the Zoning

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1 Administrator in their review of some of the more
2 complex provisions of the Zoning Regulations. We
3 haven't had a problem with combined lot. We haven't
4 had a problem with TDRs. We don't think we would have
5 a problem with this.

6 CHAIRPERSON MITTEN: Okay. Anyone have
7 any follow-up questions? They are
8 uncharacteristically quiet this evening. Mr.
9 Hildebrand?

10 COMMISSIONER HILDEBRAND: I guess I do
11 have a question. Given the opposition we have heard
12 to the idea of the trigger, did you look at other
13 mechanisms or other ways that you could allow the
14 interim uses to exist for perhaps a period of time as
15 a minimum? And if so, what is the standard lease time
16 that's seen as a necessary minimum to entice a tenant
17 to invest in a leased space?

18 MR. COCHRAN: All right. I'm sorry, I
19 don't know the answer to the second question. With
20 respect to the first question, no, we did not look at
21 anything other than the requirement that the preferred
22 uses be in there right from the start or the trigger
23 mechanism. The trigger mechanism is actually a
24 compromise from the kinds of requirements that are
25 usually put in place with something like, for

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1 instance, a PUD. Where, for example, at 901 K Street,
2 the restaurant requirements were required period. 901
3 New York Avenue, excuse me. It was an attempt to
4 accommodate.

5 COMMISSIONER HILDEBRAND: Thank you.

6 CHAIRPERSON MITTEN: Okay.

7 VICE CHAIRPERSON HOOD: Let me just here
8 right quick.

9 CHAIRPERSON MITTEN: Sure.

10 VICE CHAIRPERSON HOOD: I was hesitating
11 on asking this question. But very quickly, Mr.
12 Cochran, it seems like the -- Mr. Epstein and the wax
13 museum site, obviously, you know, I have heard about
14 them for years and I believe they are in the permit
15 process, I think, he said.

16 MR. COCHRAN: I hope that they are in more
17 than mid process.

18 VICE CHAIRPERSON HOOD: I said permit
19 process.

20 MR. COCHRAN: Oh, yes, I believe. I'm not
21 sure.

22 VICE CHAIRPERSON HOOD: Wherever they are.
23 Okay. Wherever they are. Does it seem that, from
24 their testimony, does it seem like -- I mean, OP,
25 obviously, worked with them through the process.

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1 MR. COCHRAN: That's correct.

2 VICE CHAIRPERSON HOOD: And now, at least
3 the way I have envisioned their testimony, is now we
4 are like changing mid-stream. And I always thought
5 that at least from the planning perspective, at least
6 the agenda was to make sure that we are predictable.
7 Are we still -- I mean, if you work with them for a
8 long time, then all of a sudden are we changing mid-
9 stream? Are we changing up on them at this point?

10 MR. COCHRAN: My impression is that first
11 off, they were part of the process for a year before
12 the proposal was advertised. Secondly, all their
13 comments in writing post-date the advertisement.

14 VICE CHAIRPERSON HOOD: Yes.

15 MR. COCHRAN: They expressed no concerns
16 that I am aware of during the process that led to the
17 crafting of the language that was advertised. The
18 design that I have seen recently is different than the
19 design I had been familiar with. Admittedly, during
20 the last year, while the Office of Planning has been
21 in consultation with the wax museum developers, I
22 believe that most of that has happened in a different
23 part of the office. But the wax museum has not
24 requested a meeting to discuss how they might have
25 changed the design and what might need to be done,

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1 what they might want to have done, either to change
2 the regulations or to change their design to
3 accommodate the regulations that they didn't express
4 any problem with up until after they were advertised.

5 VICE CHAIRPERSON HOOD: Okay. And I
6 think, Madam Chair, you have asked for something from
7 them. Was it the floor design or something you asked
8 from them.

9 CHAIRPERSON MITTEN: From wax museum?

10 VICE CHAIRPERSON HOOD: Right.

11 CHAIRPERSON MITTEN: For the floor plans
12 that they were showing.

13 VICE CHAIRPERSON HOOD: Okay. Good.
14 Okay. All right. Thank you.

15 CHAIRPERSON MITTEN: Okay.

16 MR. EPTING: Madam Chair, we would like a
17 forum to respond to those comments, though, even in
18 writing.

19 CHAIRPERSON MITTEN: In writing.

20 MR. EPTING: The architects.

21 CHAIRPERSON MITTEN: The record will be
22 open for 30 days.

23 MR. EPTING: Okay. All right.

24 CHAIRPERSON MITTEN: Okay. Thanks.

25 COMMISSIONER JEFFRIES: Madam Chair?

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1 CHAIRPERSON MITTEN: Yes?

2 COMMISSIONER JEFFRIES: It also might be
3 helpful that there be some establishment of time lines
4 and things of that sort, so that people are sort of
5 clear when things occurred and so forth. I think in
6 terms of any kind of response that might come from
7 this group, some sort of time line that sort of speaks
8 to when certain things happen, I think would be
9 helpful.

10 CHAIRPERSON MITTEN: Can you help us get
11 that?

12 MR. COCHRAN: I'm sorry, Madam Chair, I
13 did not hear the question.

14 CHAIRPERSON MITTEN: Mr. Jeffries was
15 asking for a time line of, you know, sort of how we
16 progressed to this point and that would, I guess, be
17 a combination of the text amendment and map amendment
18 progressing and the wax museum project progressing, so
19 we can see, you know, how they were tracking with each
20 other.

21 MR. COCHRAN: Yes, we can put something
22 together.

23 CHAIRPERSON MITTEN: Okay. And one last
24 thing I would like to get.

25 MR. COCHRAN: But I should point out that

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1 when Mr. Epting had requested some meetings, we had
2 said that we were -- because of the confusion that
3 existed with some other cases where we changed
4 language in mid-stream and kept trying to modify it
5 and modify it, our position has been let's stick with
6 what we have advertised. Let's go to the hearing. If
7 modifications are required, let's do it after the
8 hearing and after we have heard what people have
9 testified or after what the Commission has said.

10 CHAIRPERSON MITTEN: Yes.

11 MR. COCHRAN: We still think that if there
12 are problems, and I'm sorry that Ms. -- oh, there you
13 are. If there are problems, we still think that there
14 is every opportunity to work them out.

15 CHAIRPERSON MITTEN: Well, yes, and we
16 don't want to get into a "he said, she said" type of
17 thing, because we are here now, you know.

18 MR. COCHRAN: Right.

19 CHAIRPERSON MITTEN: You know, we can't
20 mediate any of that. So just whatever guidance you
21 can provide us.

22 MR. COCHRAN: Right.

23 CHAIRPERSON MITTEN: About where we are
24 now.

25 MR. COCHRAN: And I also think that some

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1 of the concerns that were expressed from Mr. Walters
2 were a slight misunderstanding of the overlay, because
3 it doesn't affect some of the areas about which he has
4 expressed concern physically. It just doesn't cover
5 those areas.

6 CHAIRPERSON MITTEN: See, it's
7 complicated, just like I thought. I'm just teasing
8 you at this point. Okay. Will you be giving us a
9 copy of your PowerPoint presentation?

10 MR. COCHRAN: I would be happy to give you
11 a copy of that and of the testimony.

12 CHAIRPERSON MITTEN: That would be great.
13 Both of those would be great.

14 MR. COCHRAN: Sure.

15 CHAIRPERSON MITTEN: Thank you. So what
16 we will do then is leave the record open for 30 days
17 and it would then close on August 1st at 3:00 p.m.

18 MR. COCHRAN: Thank you, Madam Chair.

19 CHAIRPERSON MITTEN: And then we'll put it
20 on for decision at one of our regular monthly meetings
21 and you can find out when that would be by calling the
22 Office of Zoning. And then you should also be aware
23 that should the Commission propose affirmative action,
24 the proposed action must be published in the D.C.
25 Register as proposed rulemaking with a reasonable

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1 period of time for comments.

2 In addition, the proposed rulemaking will
3 be referred to the National Capital Planning
4 Commission for federal impact review. The Zoning
5 Commission will then take final action at a public
6 meeting following receipt of public comments and the
7 NCPC comments after which a written final rulemaking
8 and order will be published. And your request,
9 although I don't make any representations about it,
10 was not overlooked about the request that you made,
11 about issuing a new public hearing notice.

12 So I thank you all for your participation.

13 MS. STEINGASSER: Madam Chair, if I may
14 very quickly throw ourselves on the mercy of the
15 Commission, could we extend that deadline? In light
16 of the inclusionary zoning hearing that's going to be
17 just five days before that?

18 CHAIRPERSON MITTEN: Sure, because nothing
19 is going to happen in August.

20 MS. STEINGASSER: Right. So if we could
21 just get --

22 CHAIRPERSON MITTEN: So we'll make it 45
23 days.

24 MS. STEINGASSER: That would be great.

25 CHAIRPERSON MITTEN: Okay. So 45 days and

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1 that will be, I'm hoping it's August 15th or something
2 like that.

3 MS. SCHELLIN: Sounds good.

4 CHAIRPERSON MITTEN: Okay. Well, we'll
5 just call it August 15th at 3:00 p.m.

6 MR. EPTING: Again, our only issue is that
7 we're starting construction in October. So that's
8 our --

9 CHAIRPERSON MITTEN: Okay. Okay.

10 MR. EPTING: So if you push it much beyond
11 that, you're looking at maybe delaying us if we don't
12 comply.

13 CHAIRPERSON MITTEN: I understand. We've
14 got it all. We understand. We do. Really, we do.
15 Okay. So now, anybody else want to speak before I
16 bang this gavel? Okay. Thanks everybody.

17 (Whereupon, the Public Hearing was
18 concluded at 9:24 p.m.)

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