

The transcript constitutes the minutes from the Special Public Meeting held on December 19, 2005.

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

6:10 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a Special Public Meeting of the Zoning Commission of the District of Columbia for Monday, December 19, 2005 and my name is Carol Mitten. And joining me this evening are Vice Chairman Anthony Hood and Commissioners Mike Turnbull and Greg Jeffries.

For our special public meeting and just so we don't confuse anyone, there will be a public hearing at 6:30 but there's only one agenda item for our special public meeting which is a hearing action on Case Number 05-34 which is a map amendment petition from ANC 6C. So, now, I'll turn to the Office of Planning for their report.

MS. STEINGASSER: Madam Chair, Commissioners, because the case is somewhat complex as balanced between the comprehensive plan and the existing non-conformity of the site, we've done a quick PowerPoint to kind of walk through the various issues and Mr. Mordfin is going to open that up right now.

CHAIRPERSON MITTEN: How long is this going to be, five minutes?

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1 MR. MORDFIN: Approximately five minutes,
2 10 slides.

3 CHAIRPERSON MITTEN: Okay, we just don't
4 usually have this elaborate of a presentation for a
5 hearing action.

6 MS. STEINGASSER: We understand. It's
7 just the site has such existing conditions we thought
8 it would be helpful.

9 CHAIRPERSON MITTEN: Okay, okay. I guess
10 we can turn the lights off, and Mr. Mordfin, you're
11 going to need to be on a mike, if you're going to be
12 the one speaking to us.

13 MR. MORDFIN: Good evening, Chair and
14 Members of the Commission. I'm Stephen Mordfin with
15 the Office of Planning and the map amendment
16 application filed by ANC 6C requests to rezone the
17 subject property from the R-5-D zone district to a
18 medium high density residential zone district, to the
19 R-4 which is predominantly a real high zone district.
20 The subject property is located on the north side of
21 Massachusetts Avenue between 7th and 8th Streets
22 Northeast. It is in R-5-D, high density residential
23 but recommended for moderate residential density on
24 the generalized land use map of the Comprehensive
25 Plan.

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1 Most of the surrounding properties are
2 zoned R-4. However, to the northeast are properties
3 within the C-2-A zone district, a medium density
4 commercial zone district. At the northwest corner of
5 8th and Constitution Avenue is the original hospital
6 building designed by Harry Wardman and constructed in
7 1928. This building is a contributing structure
8 within the Capitol Hill Historic District and it is
9 flanked by 1956 building additions along Massachusetts
10 and Constitution Avenues and 8th Street.

11 Within this picture what you can see at
12 the top is the 1975 building addition which is a six-
13 story structure. Currently the site is comprised of
14 five buildings. Building A is the 1928 hospital
15 building. Building B is the 1956 hospital addition.
16 Building C is a 1975 addition. Building D is a part
17 of the parking garage and Building E is part of the
18 loading dock that goes to the 1975 structure.

19 The owner of the property proposes to
20 redevelop the site in two phases; the first phase on
21 the right and the second phase is on the left on the
22 screen. So Phase 1 involves Buildings A and B. And
23 under Phase 1, Building A, which is the historic
24 structure, is to be retained and Building B which is
25 the current 1956 addition is to be demolished.

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1 And a new building of the same height as
2 the existing is proposed to replace Building B, the
3 1956 addition as is shown on this plan or this
4 drawing. And this chart compares the maximum building
5 height FAR and lot occupancy for the R-4/R-5-B, R-5-B
6 with a PUD and the R-5-D zone districts to the
7 existing improvements on the site. Under the R-4 and
8 R-5-B and R-5-B PUD districts the existing buildings
9 would become non-conforming structures. Under the R-
10 5-B with PUD it would only become non-conforming for
11 lot occupancy.

12 However, the existing structures are
13 conforming to the existing R-5-D zoning. The
14 generalized land use map identifies the subject
15 property as being located within the moderate density
16 residential land use category. Moderate density
17 residential zone districts are the R-2, R-4, R-5-A,
18 and R-5-B. R-5-D, the existing zone district, is a
19 high density residential zone district.

20 The existing buildings will become non-
21 conforming, let's see, would become non-conforming
22 under the R-4 zone district. Therefore, the Office of
23 Planning recommends that the Commission set down the
24 application to rezone the subject property to the R-5
25 -B because the existing improvements are more

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1 consistent with zone district and because the R-5-B is
2 also consistent with the comprehensive plan
3 designation of the site.

4 And this plan, what it shows is all of the
5 existing FAR on the site and under the R-5-B what
6 would happen to the existing building is there would
7 be approximately 59,000 square feet more floor area
8 than is permitted under the R-5-B zone district. But
9 in order for the Commission to adopt the R-5-B in the
10 alternative, they must first waive the rule set-down
11 in order to adopt the R-5-B rather than the R-4 as is
12 in the application.

13 And that concludes the presentation by the
14 Office of Planning.

15 PARTICIPANT: Thank you. So I just
16 wanted to clarify, Madam Chair, the Applicant had
17 brought this as a zoning consistency action at R-4.
18 What the Office of Planning is recommending is set
19 down at the R-4 or R-5-B in the alternative. We are
20 concerned about the creation of the non-conformity
21 given the generally not very attractive status of the
22 buildings that are on the site now and the fact that
23 the proposed new development, which is something that
24 members of the community and the Historic Preservation
25 Review Board staff and the Applicant had worked on was

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1 given preliminary approval with some items called out
2 to be further refined to get a full conditional
3 approval at District Preservation Review Board at
4 their last meeting. So there's still quite a bit of
5 work to go to get final approval from the Historic
6 Preservation Review Board, but our concern about --
7 while on the one hand it's a zoning consistency action
8 and it is important that the zoning not be
9 inconsistent with the Comprehensive Plan. On the
10 other hand, the possibility of getting rid of the
11 existing structures and getting something that's
12 better there at least in that area is -- that's an
13 issue that weighs on us in terms of if that existing
14 structure becomes non-conforming, it's not clear that
15 the value would be such that that part of the project
16 would go on and of course, it leaves the 1975 wing
17 which is even less attractive, would probably mean
18 that that will never get redeveloped because it has
19 substantially more density than what would be
20 permitted under the IFRB and certainly than what would
21 be permitted under the R-4.

22 But we have recommended setting them down
23 because of the zoning consistency issue.

24 CHAIRPERSON MITTEN: Just a couple of
25 questions. One is the current proposal, which I

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1 understand from Mr. Mordfin only applies to A and B,
2 where does that fit into the scheme in terms of
3 density and so on between R-5-B -- R-5-D, the existing
4 zoning or R-5-B with a PUD or -- how does that fit in?

5 MS. STEINGASSER: It's my understanding,
6 having talked with the architects, that the property
7 would be subdivided, so that the new construction,
8 Building A and B would be a matter of right 3.5 FAR
9 under the R-5-D. So even under the PUD, R-5-B, it
10 would be a half an -- it would walk away from about
11 a half an FAR.

12 CHAIRPERSON MITTEN: So action by the
13 Commission is basically going to derail the current
14 proposal; is that correct?

15 MS. STEINGASSER: As submitted to the
16 Historic Preservation Review Board, yes. It would
17 make that proposal and the existing site both non-
18 conforming.

19 CHAIRPERSON MITTEN: So I guess I'm just
20 wondering if this has been something that has been
21 worked on by -- I take it there's not a wholesale
22 consensus, otherwise we wouldn't have this proposal in
23 front of us, but you know, how much support is there
24 in the community for the project as it exists?
25 Because if I understood what you just said, that

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1 there's been work on the current proposal for some
2 time, and that there's some support for it. Is that
3 -- did I understand that correctly?

4 MS. STEINGASSER: The Commissioner -- the
5 ANC Commissioner that we've been in contact with has
6 stated that the ANC has been negotiating in good faith
7 with the developer on the historic review process as
8 a fallback in case the Commission chooses not to set
9 down the existing zoning.

10 CHAIRPERSON MITTEN: But that it wasn't a
11 sign that the alternative design was supported by the
12 ANC. Is that clear to the larger public, do you think
13 that may be attending ANC meetings? I'm just talking
14 to the Office of Planning now.

15 PARTICIPANT: It wasn't -- we didn't have
16 an independent way to gauge the degree of community
17 support for the alternative.

18 CHAIRPERSON MITTEN: Okay, and then as far
19 as the building that's designated or the section
20 that's designated as B or the Section that's
21 designated as C, would either or both of those
22 sections -- I just don't have this on the top of my
23 head. You know, there's a provision in the zoning
24 ordinance where I think -- I'm sure it applies in R-4
25 where you can do a conversion to multi-family as long

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1 as you have 900 square feet of land per unit. Would
2 those be eligible for a conversion of that type?

3 MS. STEINGASSER: Not for the number of
4 units and the density that are being proposed by the
5 owner.

6 CHAIRPERSON MITTEN: Okay, when will they
7 be -- so they don't have approval from HPRB at this
8 point?

9 MS. STEINGASSER: No, they do not.

10 CHAIRPERSON MITTEN: And when are they
11 back in front of HPRB? Do you have any idea?

12 PARTICIPANT: I know Mr. Mordfin talked
13 to the HPRB staff this afternoon.

14 MR. MORDFIN: Right, I spoke with them
15 earlier. They have conceptual approval now or rather
16 they expect conceptual approval some time between
17 January and March of next year to obtain that from
18 HPRB.

19 CHAIRPERSON MITTEN: Do you have a sense
20 of when the first date in January that they would --
21 if they were to get conceptual approval?

22 PARTICIPANT: The Historic Preservation
23 Review Board meets on the third Thursday of the month.

24 CHAIRPERSON MITTEN: Okay.

25 PARTICIPANT: But my understanding was

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1 that the staff report was adopted which recommended
2 refinement of certain elements of the design, so it's
3 not clear that they will be able, given the holidays,
4 to get the design work done to the plans in time to
5 apply again, to be considered at the HPRB meeting in
6 January. So it may not be before the HPRB again until
7 February.

8 CHAIRPERSON MITTEN: Okay.

9 PARTICIPANT: And that's just for the
10 conditional approval, and then they still have to go
11 through the detail design and the permit approval.

12 CHAIRPERSON MITTEN: Okay. Anyone else
13 have questions for the Office of Planning?

14 VICE-CHAIRMAN HOOD: Yes, Madam Chair, I'm
15 just curious of the urgency of -- yes, our meeting was
16 postponed and why is this case the only one being
17 brought to us as opposed to all the rest of them and
18 then what will the other folks say that we didn't hold
19 a special public meeting for their cases which our
20 meeting was postponed last week?

21 I'm just curious, why is this one so
22 significant? Is this a time issue or what's the issue
23 here?

24 PARTICIPANT: I think there had been a
25 fear by the ANC that there would be full conditional

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1 approval given to the project at HPRB last week in
2 which case they wanted to get it set down before there
3 were final permit drawings. Our sense is, because
4 they don't even have conditional approval yet, let
5 alone permit approval, that it will be several months
6 before it would be possible for them to submit their
7 building permit application.

8 VICE-CHAIRMAN HOOD: Okay, so let me make
9 sure I understand what's going on. The Petitioner --
10 there's obviously something that's coming down the
11 pike to be proposed for this site.

12 PARTICIPANT: There is a proposed
13 redevelopment for a portion of the site.

14 VICE-CHAIRMAN HOOD: So as the Chair has
15 already said, they've been working with I guess the
16 applicant -- the person who is petitioning is the ANC,
17 6C that we understand it.

18 PARTICIPANT: Right.

19 VICE-CHAIRMAN HOOD: They have been
20 working with whoever the applicant is, whatever
21 they're going to do with the site.

22 PARTICIPANT: Well, the ANC, Capitol Hill
23 Restoration Society and others were part of the group
24 working on the refinement of the design before -- for
25 purposes of taking it to the Historic Preservation

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1 Review Board.

2 VICE-CHAIRMAN HOOD: And they all --
3 through that, the discussions, were they all in
4 agreement with R-4 zone?

5 MS. STEINGASSER: We've not heard
6 independently from the Neighborhood Association or the
7 Capitol Hill Restoration Society as to which -- what
8 their feelings are in the design or the down-zoning.

9 PARTICIPANT: We've met with the ANC.
10 That was the main group that brought the petition to
11 us.

12 VICE-CHAIRMAN HOOD: Okay, so from what
13 I'm hearing, are we moving prematurely? Or would we
14 be moving prematurely? I know, my colleagues we
15 haven't discussed it but I'm just curious.

16 MS. STEINGASSER: I don't know how to
17 answer that.

18 CHAIRPERSON MITTEN: Okay, thank you.

19 CHAIRPERSON MITTEN: Mr. Turnbull?

20 COMMISSIONER TURNBULL: I guess I'm still
21 confused as to what we're trying to achieve. We've
22 got a property which is now R-5-D, which has a large
23 structure on it. ANC is recommending R-4. You're
24 recommending R=5-B, but it sounds like no matter what
25 happens, we're still going to end up with a non-

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1 conforming use when we're finished.

2 PARTICIPANT: That would be the case. We
3 went with R-5-B because it is -- since this action was
4 brought as a zoning consistency action. R-5-B is the
5 upper limit of what is considered moderate density
6 residential which is what the generalized land use map
7 designated the site to be. We have expressed our
8 concern to the ANC that creating a non-conforming
9 structure on this site does not -- creating zoning on
10 the site that would make this structure non-
11 conforming, we think, does not move toward achieving
12 what the neighborhood is trying to achieve in terms of
13 a building that's compatible with the architectural
14 style and scale of the neighborhood.

15 But we've expressed that to the ANC. The
16 ANC has indicated that they don't share that opinion.

17 CHAIRPERSON MITTEN: Anyone else
18 questions? The hearing -- Mr. Hood is suggesting that
19 we may be acting a little prematurely. I have some
20 questions that I'd like to have answered before we
21 take any action the perhaps you could help us with.
22 One is, I don't know if you have -- since the site
23 seems to be sort of divided in A and B on the one hand
24 and everything else to the south on the other, I don't
25 know if you can divide it this way or you can --

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1 however, you think would be most helpful to
2 communicate to the Commission, but I'd be interested
3 in knowing what the existing density is on those two
4 portions of the site, so that we have a better grasp
5 of what the effect in terms of non-conformity as to
6 density would cause.

7 Then I'd also like to have an explicit
8 analysis and this is something that I don't think is
9 going to be too difficult to do, just as I was asking
10 you about the opportunity for conversion to multi-
11 family under the ordinance, given the 900-square foot
12 rule, if it were zoned R-4, an analysis of under R-4,
13 here's all the things you could do with the building
14 as it is, under R-5-B here's all the things you could
15 do with the building as it is, because I mean, your
16 concern is -- the concern that the Office of Planning
17 has articulated is very real because no one is going
18 to tear down a building that's twice as big as what
19 they have now only to replace it with something
20 smaller. I just don't see that.

21 But I think it would help guide us in
22 terms of what to set down and what the effect of
23 putting in place the R-4 zone, what the impact would
24 be. I'm not quite ready to move forward on it and I
25 think whatever sense of urgency might have been

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1 compelling this to get -- to have this special meeting
2 tonight has been allayed by the fact that HPRB hasn't
3 given their blessing yet and we have time to take a
4 look at this.

5 Is this something -- I don't know, any
6 comments from the Commission on that?

7 VICE-CHAIRMAN HOOD: I would concur with
8 you, Madam Chair, but then I remember your comments
9 earlier about how the ANC and the Applicant and the
10 Office of Planning and neighborhood all work together
11 to get to a point. And I know being from the
12 community myself, I know often times it takes a long
13 time for that to happen and one of the things that you
14 said was about derailment. I don't want us to derail
15 what's already been done and we have to start from
16 ground -- back to the very beginning. So I would
17 agree with you, Madam Chair.

18 CHAIRPERSON MITTEN: Well, and also I
19 think maybe something the Office of Planning can do in
20 the meantime is find out, you know, exactly where --
21 yeah, where different groups are. I think that would
22 help us as well. I'm forgetting what date -- I know
23 our January meeting is kind of early. Is it the 9th?

24 MS. SCHELLIN: It's January 9th.

25 CHAIRPERSON MITTEN: Do you think you can

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1 get back to us by the 9th so that we could take this up
2 in January?

3 MS. STEINGASSER: Only if the Commission
4 is willing to accept a late filing.

5 CHAIRPERSON MITTEN: Yeah, I mean, we've
6 sort of been prepped for this, so --

7 MS. STEINGASSER: Yeah, the 10 days.

8 CHAIRPERSON MITTEN: Yeah. Not a problem.

9 VICE-CHAIRMAN HOOD: Well, that will give
10 everybody an opportunity during the holiday season.
11 I'm just asking. I mean, the 9th is fine, but I want
12 to make sure everybody has an opportunity because, you
13 know, getting the ANC together. I'm sure the ANC is
14 not mine. It takes us awhile to get together. They
15 don't have that problem.

16 CHAIRPERSON MITTEN: Well, I think one
17 thing is important to keep in mind, we're asking them
18 to gauge the level of support for what's been done so
19 far given that our action could have an impact on
20 this. We're not asking for an official position
21 because this is a set-down and we -- I mean,
22 basically, the ANC's official position is they're the
23 Petitioner and they're asking for R-4. I think that's
24 their official position. I think we're asking for a
25 measure of support from groups that are not the ANC

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1 for the projects that's going forward.

2 PARTICIPANT: I believe by then we
3 probably would have the transcript available from the
4 Historic Preservation Review Board meeting.

5 CHAIRPERSON MITTEN: Okay.

6 PARTICIPANT: That might be useful for
7 the Commission to take a look at and if that's
8 available more quickly, we can send that by the 10
9 days, but I know because of holiday schedules, it will
10 be hard to do the report before the 10 days, but we'll
11 see what we can do about that.

12 CHAIRPERSON MITTEN: Is it clear what
13 we're looking for? Is it clear to you what we're
14 looking for?

15 PARTICIPANT: I believe so.

16 CHAIRPERSON MITTEN: Okay.

17 MS. SCHELLIN: I just wanted to clarify
18 one thing, Madam Chair, this additional submission,
19 just to make sure that we don't get bombarded with
20 stuff from everyone else, do you want everything to go
21 through OP as far as the other groups, where they
22 stand so --

23 CHAIRPERSON MITTEN: Right, that would be
24 most helpful.

25 MS. SCHELLIN: That's all we're looking

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1 for is just an additional filing from them and not
2 from other people.

3 CHAIRPERSON MITTEN: Right.

4 PARTICIPANT: Actually, Madam Chair, I
5 said we understood what you were looking for but let
6 me just paraphrase it so that I'm certain.

7 CHAIRPERSON MITTEN: Okay.

8 PARTICIPANT: You want us to analyze if
9 the site is divided -- subdivided as that proposed
10 developer or the property owner was proposing, what
11 would be the existing density -- the existing density
12 on each of the two portions of the site and how would
13 the compare to R-4 or R-5-B as --

14 CHAIRPERSON MITTEN: Well, the way you had
15 it sliced, R-4, R-5-B, R-%-B with a PUD, R-5-D,
16 existing.

17 PARTICIPANT: Okay, and in terms of lot
18 occupancy density as the chart described. Then you
19 would also like us to analyze if the buildings remain,
20 what are the potential uses for the building under R-4
21 and R-5-B.

22 CHAIRPERSON MITTEN: Yes. Okay, anyone
23 else, final comments? Okay, so we'll take this up
24 again at our January 9th, public meeting and we're
25 adjourned now.

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1 (Whereupon, at 6:32 p.m. the above-
2 entitled matter concluded.)
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