

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

TUESDAY

FEBRUARY 12, 2007

The Regular Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN, Chairperson  
ANTHONY J. HOOD, Vice-Chairperson  
GREGORY JEFFRIES, Commissioner  
JOHN PARSONS, Commissioner (NPS)  
MICHAEL G. TURNBULL, Commissioner (AOC)

ZONING COMMISSION STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER  
JOEL LAWSON  
STEVE COCHRAN  
KAREN THOMAS  
ARTHUR ROGERS  
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

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

6:52 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is the February 12, 2007, public meeting of the Zoning Commission of the District of Columbia. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners Mike Turnbull, Greg Jeffries, and John Parsons.

Copies of our meeting agenda are available to you and they are in the wall bin by the door. I would just like to remind folks that we don't take any public testimony at our public meetings unless we specifically ask someone to come forward.

Please be advised that the proceeding is being recorded by the court reporter and also being webcast live so I ask you to refrain from making any disruptive noises in the hearing room so as not to disturb the recording. I would ask you to

1 also turn off all beepers and cell phones.

2 I have one or two things to change  
3 on the agenda. First, we'll take the action  
4 on the minutes at the end of the meeting.  
5 This is under proposed action, Case No. 06-27,  
6 that will be postponed to a special public  
7 meeting on February 26 at 6:00 p.m. The  
8 Commission did not receive all the submissions  
9 in time to review it for this evening so that  
10 will be removed from our agenda.

11 Just for efficiency that will  
12 become apparent later, under proposed action  
13 Case No. 05-05 will be moved to the end of  
14 proposed action. Under final action Case No.  
15 02-51A will be moved to the second item after  
16 06-13. I think other than that, that are all  
17 the changes I have to make.

18 Mrs. Schellin, did you have any  
19 preliminary matters?

20 MS. SCHELLIN: Just the one item  
21 that we are going to add to correspondence.

22 CHAIRPERSON MITTEN: Oh, yes.

1 Thank you. That letter is from ANC-6A, I  
2 believe. Okay, so an additional item under  
3 correspondence.

4 All right. Then we are ready to  
5 go to the Office of Planning monthly status  
6 report.

7 MS. STEINGASSER: You have the  
8 status report before you. We are happy to  
9 stand on the record and answer any questions.  
10 There is nothing particularly new that was not  
11 included last month.

12 CHAIRPERSON MITTEN: Okay. Thank  
13 you. Any questions for the Office of Planning  
14 on their status report? Anybody have any  
15 questions? We'll move on and if there are any  
16 questions they can come up at the end.

17 On our consent calendar we have  
18 Case No. 05-24A and these are some  
19 modifications that are being requested as  
20 minor modifications to the East Gate Family  
21 Housing which you will remember we had a  
22 discussion about the placement of driveways

1 and so on.

2 We heard that case and now DDOT is  
3 refusing to sign off on the configuration  
4 granting the public space permits and the  
5 configuration that was approved so  
6 modifications are necessary in order to gain  
7 DDOT's approval.

8 I'm not really sure why we are  
9 revisiting these things since DDOT has  
10 participated in the case but maybe another  
11 thing to add to our list of ongoing  
12 frustrations with DDOT.

13 Any questions for the Office of  
14 Planning on the proposal? Then I would move  
15 approval of the minor modifications in 05-24A.

16 VICE CHAIR HOOD: I'll second.

17 CHAIRPERSON MITTEN: Any  
18 discussion? All those in favor please say  
19 aye.

20 BOARD MEMBERS: Aye.

21 CHAIRPERSON MITTEN: Those  
22 opposed, please say no.

1 Mrs. Schellin.

2 MS. SCHELLIN: Staff will record  
3 the vote five to zero to zero to approve  
4 consent calendar action in Case No. 05-24A.  
5 Commissioner Mitten moving, Commissioner Hood  
6 seconding, Commissioners Jeffries, Parsons,  
7 and Turnbull in favor.

8 CHAIRPERSON MITTEN: Thank you.  
9 The first item under hearing action is Zoning  
10 Commission Case No. 05-35.

11 Good evening, Ms. Thomas.

12 MS. THOMAS: Good evening, Madam  
13 Chairman, Members of the Commission. The  
14 Office of Planning is recommending set down of  
15 Application 06-45. The applicant in this case  
16 has consolidated 8.1 acres of vacant lot in  
17 the neighborhood between Hillsdale and Fort  
18 Stanton, S.E.

19 187 units are proposed to be  
20 developed of two and three-bedroom townhomes  
21 and the related map amendment is requested to  
22 rezone the property from R-3 to R-5A. We

1 commend the applicant for meeting with OP many  
2 times to try to address our concerns with this  
3 project including the Commission's earlier  
4 consent regarding the extent of impermeable  
5 surface proposed on the site.

6 The project has subsequently been  
7 redesigned to include dedicated public streets  
8 which require street width designed to DDOT  
9 standards. In some cases they are now  
10 narrowed and required by DDOT and would  
11 require waivers from DDOT prior to  
12 construction.

13 The new plans show a reduced  
14 roadway in parts but then increasing the  
15 number of homes. This, in turn, has allowed  
16 for a corresponding increase in the affordable  
17 housing component of the project. There are  
18 five sizes of townhomes with rear and front-  
19 loaded garages and up to 226 pieces would be  
20 provided in this development.

21 The landscaping on this site has  
22 shown improvement. The landscaping of the

1 steeply sloped area of the site with up to  
2 four modular retaining walls is an integral  
3 feature of the severe topography of the site.

4 The street frontage of the homes  
5 as well as some alley areas show small  
6 landscape areas in front of the homes in  
7 support of the streetscape. In any given  
8 block the homes vary in height and facade as  
9 an effort to provide a varied streetscape.

10 The applicant has stated that the  
11 intent is to focus views on the greenscape as  
12 one enters a new subdivision from both Stanton  
13 and Elvins Road. Access to the upper portion  
14 of the site is accommodated by stairs and a  
15 walkway as shown in the landscape plan and a  
16 top lot has also been included.

17 The exiting and drawn plan both  
18 support the new residential community as a  
19 significant contribution to the District's  
20 housing capacity and Ward 8 housing  
21 revitalization.

22 It's location on metro accessible

1 roads and within a mile of the Anacostia and  
2 Congress Heights metro stations support DDOT's  
3 pedestrian initiative for the District's  
4 neighborhoods as this development will include  
5 sidewalks to connect to the abutting  
6 established residences.

7 With respect to the amenities the  
8 proposal will provide market rate townhomes  
9 for moderate income residents, an important  
10 factor in support of family retention in the  
11 District. DHCD's financing would support  
12 affordable housing for lower-income residents.

13 Another amenity we identified was  
14 the dedication of public streets into the  
15 District's transportation network. OP also  
16 understands that the community is in support  
17 of this development and there are ongoing  
18 discussions with the neighborhood to finalize  
19 an amenities package which could include  
20 contributions to the elementary school.

21 We have asked the applicant to  
22 focus on water conservation measures in its

1 site design as well as other environmental  
2 benefits and OP is generally supportive of the  
3 design and the project is well within the  
4 matter of right standards of the R-5A district  
5 and the majority of the R-3 zone district  
6 requirements. Some flexibility is requested  
7 for the side yard and rear yard in some  
8 instances.

9 Overall, this development will be  
10 a significant contribution to the District and  
11 Ward 8 housing needs. The development  
12 supports small group principles by creating a  
13 range of housing opportunities and choices,  
14 takes advantage of compact building design as  
15 opposed to land consumptive development and a  
16 direct development towards an existing  
17 community already served by infrastructure and  
18 mass transit.

19 The proposed PUD is not  
20 inconsistent with the elements of the plan and  
21 OP recommends that the application be set down  
22 for public hearing. Thank you.

1 CHAIRPERSON MITTEN: Thank you,  
2 Ms. Thomas.

3 Questions for Ms. Thomas or  
4 comments? Mr. Parsons.

5 MR. PARSONS: Well, I thank you  
6 for your hard work in bringing this along  
7 because I think the treatment on that steep  
8 slope is far superior than what we had last  
9 time.

10 You mentioned in your report that  
11 one of the public benefits and amenities is  
12 stormwater control. I'm looking at C.09 in  
13 the application and I really don't see that  
14 commitment. What I see is storm filters.  
15 That is, filtering the stormwater but not  
16 retaining it. If we could work a little more  
17 on that, I think before we get to the hearing  
18 it would be helpful.

19 CHAIRPERSON MITTEN: Anyone else?  
20 Mr. Turnbull.

21 MR. TURNBULL: Thank you, Madam  
22 Chair. I guess my comment is there is a lot

1 of asphalt. It seems like there's a lot of  
2 streets and alleys. I don't see a lot of --  
3 I just see it as a very busy place with  
4 automobiles and taking care of cars more than  
5 lifestyle for living and people to enjoy the  
6 neighborhood.

7 It just seems oppressive in a way  
8 with the amount of roads. I just wish there  
9 was a way they could make the plan looser and  
10 have more green space. It just seems like  
11 there is a road and there's like an alley and  
12 then there's a road and an alley and a road  
13 and an alley and it all just comes together.  
14 It's kind of like snakes and ladders with  
15 roads and alleys.

16 I mean, I guess I don't see a lot  
17 of open green space. There are a few areas  
18 but a lot of it is just mainly just getting  
19 your car around the street and then going back  
20 into the alley. It seems like even worse than  
21 a grid pattern in a normal city. At least  
22 there you could have open space and here I

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1 don't see that happening as much.

2 CHAIRPERSON MITTEN: Did you  
3 discuss that with the applicant? Is that a  
4 concern that you have?

5 MS. THOMAS: We did have that  
6 discussion. In one part the width of the  
7 streets was a problem. They tried to narrow  
8 the streets somewhat. If they are going to  
9 build to DDOT standards, the streets have to  
10 meet DDOT width specifications.

11 CHAIRPERSON MITTEN: I think some  
12 of the concerns are, just as a for instance,  
13 there is a block of houses. We move, I'll  
14 just say, on the page if we are looking at  
15 C.02 so there's a block of houses that is  
16 facing Pomeroy and then there's the houses  
17 that back up to them and then there's another  
18 set that are on this private road.

19 They have an 18-foot wide alley  
20 behind them and there is a little something  
21 that blocks the alley halfway through the  
22 block so the alley has to be two ways.

1       Instead of making that a loop that could be a  
2       one-way alley so that cars could go through  
3       instead of being blocked behind those  
4       townhouses.

5               I think that's the kind of thing  
6       that Commissioner Turnbull is focusing on is  
7       that we have streets that are 22 feet wide or  
8       24 feet wide and then we have alleys that are  
9       18 feet wide because they are almost all two-  
10      way. I don't know if there is a way to make  
11      the alley system more efficient so we don't  
12      have to have so many -- so much paving.

13              Anything else, Commissioner  
14      Turnbull?

15              MR. TURNBULL: No, that was it.  
16      Thank you, Madam Chair.

17              CHAIRPERSON MITTEN: Mr. Parsons.

18              MR. PARSONS: I did want to ask on  
19      L1.00 which is a rendering of the site plan,  
20      there are three locations where the alleys, if  
21      you will, seem to intersect with green as  
22      though there's grass growing in the alley. Do

1 you follow me? I can point to it. One, two,  
2 and three.

3 MS. THOMAS: Yes.

4 MR. PARSONS: What are those?

5 MS. THOMAS: It's an attempt to  
6 provide some green space in the alley system  
7 as well so they did try to increase green  
8 space in the alley.

9 MR. PARSONS: So the alley doesn't  
10 go through then? These are curved grassed  
11 areas?

12 MS. THOMAS: Yeah.

13 MR. PARSONS: Oh, I see. I  
14 thought maybe they were the paver block or  
15 something with grass growing in the joints.

16 MS. THOMAS: No.

17 MR. PARSONS: So these become  
18 dead-end alleys, if you will?

19 MS. THOMAS: Yeah.

20 MR. PARSONS: Okay. All right.  
21 We'll talk about that at the hearing.

22 CHAIRPERSON MITTEN: That's what

1 my comment was going to be. They are saying,  
2 "We introduced green space into the alleys,"  
3 but what you are doing is you are making the  
4 alleys wider so I don't know what the tradeoff  
5 is exactly.

6 Anyone else? Mr. Jeffries.

7 MR. JEFFRIES: My typical question  
8 around affordability east of the river is just  
9 making certain that we are clear about what  
10 the delta is between the 80 percent of area  
11 median income and the market rate. I just  
12 want to get a sense of size of the proffer  
13 there.

14 Then the typical bio Hardi-Plank.  
15 I'm just curious as to how much of that is  
16 going to -- you know, if we can get a reading  
17 of just percentages and so forth between that  
18 and masonry.

19 I would probably concur with  
20 Commissioner Turnbull that I do think this  
21 site plan has improved dramatically but there  
22 still seems to be something missing and it

1 might be sort of increased amounts of green  
2 space or something. That could be it.  
3 Hopefully the applicant will just take another  
4 look at the site plan.

5 I don't think it needs to be  
6 completely restructured but there might need  
7 to be some insertion of some sort of gathering  
8 place or something could somehow be a place  
9 where not just the members of this compound  
10 play but perhaps some of the residents outside  
11 of it.

12 I don't feel very strongly about  
13 that because I do think the applicant is not  
14 really asking for a lot of relief here but  
15 it's something to talk about.

16 CHAIRPERSON MITTEN: Anyone else?  
17 Mr. Hood, any comments?

18 VICE CHAIR HOOD: Madam Chair,  
19 with all the comments so noted I will move  
20 that we set down Zoning Commission Case No.  
21 05-35.

22 CHAIRPERSON MITTEN: I'll second

1 but I just have a couple of things.

2 VICE CHAIR HOOD: That's fine but  
3 I wanted to put a motion out there.

4 CHAIRPERSON MITTEN: I appreciate  
5 that. There is an interesting difference in  
6 language between the applicant's submission  
7 and the Office of Planning Report. When the  
8 applicant speaks of affordability it says at  
9 least one-third of the units will be  
10 affordable several times. The Office of  
11 Planning says up to one-third the number of  
12 times. I'm just wondering if the proffer has  
13 been nailed down.

14 Then on page 1 of the applicant's  
15 submission it says that the affordability will  
16 be 50 percent, 60 percent, and 80 percent of  
17 the area median income. Is there going to be  
18 gradations of affordability or is it really  
19 all at 80 percent?

20 MS. THOMAS: I can clarify that.

21 CHAIRPERSON MITTEN: Okay. Then  
22 on the issue about the street widths, I think

1 since I'm not confident that we will know at  
2 the conclusion of the case whether or not DDOT  
3 will accept the waiver or would waive the  
4 street widths and accept them as public  
5 streets for maintenance purposes so I think  
6 we'll need to know what is the implication if  
7 DDOT does not grant the waiver for the  
8 project.

9 Okay. Anyone else? Any other  
10 discussion? Then all those in favor please  
11 say aye.

12 BOARD MEMBERS: Aye.

13 CHAIRPERSON MITTEN: Those  
14 opposed, please say no.

15 Mrs. Schellin, it's unanimous.

16 MS. SCHELLIN: Staff will record  
17 the vote five to zero to zero to set down  
18 Zoning Commission Case No. 05-35.  
19 Commissioner Hood moving, Commissioner Mitten  
20 seconding, Commissioners Jeffries, Parsons,  
21 and Turnbull in favor. This is being set down  
22 as a contested case.

1           CHAIRPERSON MITTEN: Thank you. I would  
2 just note for the Office of Planning's  
3 information that in this case there are  
4 special exceptions being sought in the context  
5 of this PUD and there are some additional  
6 referrals that are required under those  
7 special exceptions, a notable one being the  
8 Board of Education. I just want to make sure  
9 all the referrals are made. Thanks.

10                 Next under hearing action is Case  
11 No. 05-37 and this is Capitol Place at 2nd and  
12 3rd and H Streets, N.E. Mr. Parker.

13                 MR. PARKER: Good evening, Madam  
14 Chairman, Members of the Commission. For the  
15 record, my name is Travis Parker. This is a  
16 previously set-down case. In working with the  
17 neighborhood the applicant was requested to do  
18 some significant scaling back of the southern  
19 portion of the project. In doing so they have  
20 taken some density off the southern half of  
21 the site and scaled back the zoning request to  
22 leave the southern half of the site as C-2A.

1           They have replaced that density  
2           per the neighborhood's request in the  
3           northwest corner of the property and added  
4           some additional height in that area that  
5           requires them to request rezoning in that  
6           portion of the property to C-3C.

7           The zoning changes have  
8           necessitated another set-down hearing for this  
9           project. We don't change our recommendation.  
10          We have no problem with the proposed changes  
11          and recommend set down of the application.

12                   CHAIRPERSON MITTEN: Thank you.

13                   Questions or comments for Mr.  
14           Parker?

15                   VICE CHAIR HOOD: Yes, Madam  
16           Chair.

17                   Mr. Parker, the applicant is  
18           proffering an amenity package. That package  
19           talks about microgrant program. Are you  
20           familiar with that?

21                   MR. PARKER: Is that under the  
22           historic preservation? Is that part of the --

1 are you talking about the historic  
2 preservation?

3 VICE CHAIR HOOD: It's actually on  
4 page 10 of this in the middle which is dated  
5 January 12, 2007. Page 10. It's behind a  
6 blank page actually.

7 MR. PARKER: I see. Yes.

8 VICE CHAIR HOOD: Page 9 and then  
9 it talks about public benefits. The very next  
10 page is blank and then after that is page 10.

11 MR. PARKER: I see it. Yes.

12 VICE CHAIR HOOD: I guess it's  
13 one, two, three, four, five, the sixth bullet  
14 down talks about the microgrant program.

15 MR. PARKER: Um-hum.

16 VICE CHAIR HOOD: Actually, the  
17 way I interpret it is they are paying people  
18 on the square to help them improve their  
19 property and give them a low interest rate.

20 MR. PARKER: Agreed. I believe  
21 this was one of the negotiations with the  
22 neighborhood to help some of the historic

1 fabric of this community be repairs and  
2 maintained by the existing homeowners.

3 VICE CHAIR HOOD: Okay. I guess  
4 when it comes to final, I mean before we get  
5 to the hearing, is there a limit for each  
6 property? We may need to look at it.

7 MR. PARKER: I can certainly find  
8 that out.

9 VICE CHAIR HOOD: If I had a  
10 property, I would like to get the whole 150 so  
11 that is something we might need to narrow  
12 down.

13 That's really all I have, Madam  
14 Chair.

15 CHAIRPERSON MITTEN: Thank you.

16 Mr. Jeffries.

17 MR. JEFFRIES: Just adding to that  
18 a bit, you basically said you are not really  
19 certain because it looks like it's one of  
20 these -- when it says grant and then it says  
21 loans it looks like one of those forgivable  
22 loan programs. We probably need to get a lot

1 more information on that to figure what that  
2 is.

3 MR. PARKER: I can provide that.

4 CHAIRPERSON MITTEN: Including how  
5 it's going to be administered.

6 MR. JEFFRIES: How it's going to  
7 be administered and who is going to make the  
8 decisions. It's like its own operation.

9 CHAIRPERSON MITTEN: Anybody else?

10 MR. PARSONS: Looking at page 11  
11 in the booklet I see this collision going on  
12 between the loading dock, parking entrance,  
13 and the parking entrance at Station Place  
14 across the street. I'm sure DDOT will look at  
15 that but it just seems like, as I recall, this  
16 was the major parking entrance to Station  
17 Place. Isn't it?

18 MR. PARKER: I believe so. That  
19 is basically the only place on site to access  
20 the loading. Nothing can be done obviously  
21 from the bridge so everything has to be  
22 accessed from 2nd Street. It's just a matter

1 of whether that is directly across from or  
2 further down from the Station Place entrance.  
3 DDOT does have this application and they will  
4 be making several recommendations.

5 MR. PARSONS: Okay. Thank you.

6 CHAIRPERSON MITTEN: Mr. Turnbull.

7 MR. TURNBULL: Madam Chair, I want  
8 to congratulate Mr. Parker. I don't know if  
9 it was your discussions or it was the  
10 applicants but all the green roofs.  
11 Congratulations.

12 MR. PARKER: The applicant  
13 certainly made the proffer.

14 MR. TURNBULL: And they are going  
15 for LEED certification also.

16 MR. PARKER: Absolutely.

17 MR. TURNBULL: Very good.  
18 Congratulations.

19 MR. PARKER: We'll pass that on to  
20 them.

21 CHAIRPERSON MITTEN: And just as  
22 it plays out through the hearing process, not

1 unlike if that is being proffered as an  
2 amenity, then there is going to need to be  
3 since it's uncertain at the point of issuing  
4 the certificate of occupancy, there will need  
5 to be a mechanism like the escrow that has  
6 been proffered in Florida Rock. Okay. If  
7 there is no further --

8 MR. JEFFRIES: Just a quick  
9 observation. On page 45 the corner of the  
10 drawings, I would just want to point out just  
11 an observation. This building looks like it's  
12 getting terribly close to not looking quite  
13 residential so, you know, just make certain it  
14 has the right treatments and so forth so that  
15 one can clearly identify it as residential.  
16 That's my only comment.

17 CHAIRPERSON MITTEN: Okay. Then I  
18 would move approval of Case No. 05-37 for set  
19 down.

20 MR. TURNBULL: Second.

21 CHAIRPERSON MITTEN: Thank you,  
22 Mr. Turnbull.

1 Any further discussion or  
2 questions? All those in favor please say aye.

3 BOARD MEMBERS: Aye.

4 CHAIRPERSON MITTEN: Those opposed  
5 please say no.

6 Mrs. Schellin.

7 MS. SCHELLIN: Staff will record  
8 the vote five to zero to zero to set down  
9 Zoning Commission Case No. 05-37.  
10 Commissioner Mitten moving, Commissioner  
11 Turnbull seconding, Commissioners Hood,  
12 Jeffries, and Parsons in favor. This is also  
13 a contested case.

14 CHAIRPERSON MITTEN: Thank you.

15 Next is Case No. 07-03. This is a  
16 text amendment to clarify Section 401  
17 regarding minimum lot dimensions in the R  
18 districts.

19 Mr. Parker.

20 MR. PARKER: Good evening again.  
21 Section 401.1 of the Zoning Regs. allows the  
22 expansion of buildings on lots not meeting the

1 minimum lot area or lot width. A recent  
2 decision by the BZA in Appeal 17532 finds that  
3 this section implicitly includes the right to  
4 change the expanding building to any other use  
5 in the zone category regardless of how much  
6 lot area or width the new use would require.

7 OP believes that there is a  
8 fundamental conflict created by this  
9 interpretation. By that I mean Section 401.1  
10 only kicks in when buildings on nonconforming  
11 lots have an expansion.

12 While a change of use on a  
13 conforming lot or on a nonconforming lot  
14 without an expansion to something requiring  
15 more lot area or lot width would require a  
16 variance. Simply adding on to the building  
17 would relieve someone of that burden. This is  
18 an inconsistency that kind of needs examples.

19 Suppose that I have two  
20 neighboring single-family townhouses in the R-  
21 4 district. One sits on an 18-square-foot  
22 conforming lot, or 18-foot-wide conforming

1 lot, and the other on a 16-foot nonconforming  
2 lot.

3 To sell either of those to a new  
4 use would require more lot width without an  
5 expansion would require me to get a variance.  
6 Things like a church, a museum, a dormitory  
7 are all matter of right in R-4 but require  
8 more lot width and lot area.

9 To sell those for those use would  
10 require a variance. On the 18-foot conforming  
11 lot to even expand the building and change it  
12 to one of those uses would require a variance.

13 However, under the reading of  
14 401.1 in front of us, doing an expansion on  
15 the nonconforming lot so making the building  
16 larger would by itself relief that burden of  
17 variance that the other three situations would  
18 entail.

19 OP feels that this is a  
20 consistency that wasn't intended in the  
21 original 401.1 section and we propose language  
22 to clarify that by adding a second sentence

1 that basically says the lot area requirements  
2 of 401.3 must be met when the building is  
3 being converted to a use that would require  
4 more lot area or more lot width than is on the  
5 building's lot. I would be happy to answer  
6 any questions that you have.

7 CHAIRPERSON MITTEN: Thank you.  
8 Without getting into the details of the appeal  
9 I strongly advocate that the Commission set  
10 this case down and also in so doing that we  
11 hear it on the 5th of April with the other  
12 changes to the R-4 District and I'll deal with  
13 how we get there with the waivers required  
14 after the discussion is over.

15 Any questions or comments? Okay.  
16 Then I move that we set down Case No. 07-03  
17 for hearing and that we waive the posting and  
18 notice requirements in terms of the length of  
19 time not that they be posted but that they be  
20 reduced to 30 days from 40 days required in  
21 Sections 3014.1 and 3015.3 and that we permit  
22 the immediate publication of the hearing

1 notice without having to wait 20 days from the  
2 filing of the OP report as required by 3013.1.  
3 I would ask for a second.

4 MR. PARSONS: Second.

5 CHAIRPERSON MITTEN: Thank you,  
6 Mr. Parsons. Any discussion? All those in  
7 favor, please say aye.

8 BOARD MEMBERS: Aye.

9 CHAIRPERSON MITTEN: Those  
10 opposed, please say no.

11 Mrs. Schellin.

12 MS. SCHELLIN: Staff will record  
13 the vote five to zero to zero to approve set  
14 down in Case No. 07-03. Commissioner Mitten  
15 moving, Commissioner Parsons seconding,  
16 Commissioners Hood and Jeffries and Turnbull  
17 in favor. This is going to be set down as a  
18 rulemaking case.

19 CHAIRPERSON MITTEN: Thank you.

20 Next is Case No. 07-04 which is  
21 also a welcomed text amendment regarding  
22 Section 801.7(k) in the CM District.

1 MS. STEINGASSER: I'll be giving a  
2 brief presentation on that case. The  
3 Commission has asked us several times over the  
4 last couple months to bring this case forward  
5 for deletion of this section. We did a little  
6 research and found out that the amendment went  
7 into effect in 1972 but has never actually  
8 been used for a temporary detention or  
9 correction facility so we are recommending it  
10 be set down for public hearing for its  
11 consideration of deletion.

12 CHAIRPERSON MITTEN: Thank you. I  
13 think the confusion it has caused has  
14 certainly outweighed the benefits since it has  
15 never been used for its proper purpose. I  
16 would move that we set down Case No. 07-04 for  
17 public hearing.

18 VICE CHAIR HOOD: Madam Chair,  
19 I'll second it and ask for discussion.

20 CHAIRPERSON MITTEN: Please.

21 VICE CHAIR HOOD: I just want to  
22 thank the Office of Planning. I'm not sure if

1 I was mainly the Commissioner that asked about  
2 this but I really appreciate the Office of  
3 Planning bringing this to us so we can, as the  
4 Chairperson said, deal with a lot of the  
5 confusion this has caused to some  
6 neighborhoods here in the city. Thank you.

7 CHAIRPERSON MITTEN: All those in  
8 favor, please say aye.

9 BOARD MEMBERS: Aye.

10 CHAIRPERSON MITTEN: Those  
11 opposed, please say no.

12 Mrs. Schellin.

13 MS. SCHELLIN: Staff will record  
14 the vote five to zero to zero to set down  
15 Zoning Commission Case No. 07-04.  
16 Commissioner Mitten moving, Commissioner Hood  
17 seconding, Commissioners Jeffries, Parsons,  
18 and Turnbull in favor. This, too, is being  
19 set down as a rulemaking case.

20 CHAIRPERSON MITTEN: Thank you.

21 For the next item on Hearing  
22 Action Mr. Hood will lead the discussion. I

1 have a conflict and will not be participating.

2 MR. JEFFRIES: Vice Chair, I also  
3 have a conflict on this case and will not be  
4 participating.

5 VICE CHAIR HOOD: Okay. Mr.  
6 Turnbull, Mr. Parsons, are you guys all right?  
7 Good. We have a quorum.

8 Zoning Commission Case No. 02-38,  
9 Waterfront Associates, LLC, modification to  
10 first state and second stage PUD and related  
11 map amendment 401 M St., S.W., Waterside Mall.

12 Mr. Jesick.

13 MR. JESICK: Thank you, Mr. Chair,  
14 and members of the Commission. My name is  
15 Matt Jesick. The applicant for Case 02-38A  
16 has submitted an application with three  
17 distinct parts, a PUD related zoning map  
18 amendment, a first stage PUD modification, and  
19 a partial second stage PUD. These are all to  
20 facilitate the redevelopment of the Waterside  
21 Mall site with a mix of uses totally about 2.5  
22 million square feet.

1           The Office of Planning recommends  
2           that the Zoning Commission set down the  
3           application for a public hearing.     The  
4           application is consistent with several  
5           specific policies in both the existing  
6           comprehensive plan and the pending  
7           comprehensive plan that call for the  
8           redevelopment of the Waterside Mall.

9           The application is also consistent  
10          with some basic principles of the  
11          comprehensive plan including the redevelopment  
12          of under-utilized sites, development near  
13          Metro, the provision of affordable housing,  
14          and environmental protection.

15          I'm just going to real quickly go  
16          through some of the details of the case  
17          because it is very complicated.    In July of  
18          2003 the Zoning Commission approved 02-38  
19          which approved the development with a 4.33 FAR  
20          for seven office buildings and one residential  
21          building on the site.

22          In the first stage modification

1 before us this evening the applicant is  
2 seeking to change the use program to four  
3 office buildings and four residential  
4 buildings. They would also reconfigure some  
5 of the buildings to increase public open space  
6 near the Metro entrance and perpendicular to  
7 4th Street.

8 To do that they are seeking to  
9 increase building heights along 4th Street  
10 from 79 feet to 94 feet and from six stories  
11 to eight stories. In order to accomplish that  
12 they are seeking a zoning map amendment. The  
13 original PUD remapped the four corners of the  
14 property from C-3B to C-3C. The applicant is  
15 seeking to rezone the remainder of the site to  
16 C-3C as well to allow height greater than 90  
17 feet.

18 The final part of the application  
19 is the second stage PUD which seeks approval  
20 for the specific design of the four middle  
21 buildings on the site, that is the east and  
22 west 4th Street office buildings and the two

1 remaining towers on the property which would  
2 be reskined and used for residential use. The  
3 second stage PUD also includes the public and  
4 private open spaces associated with those  
5 buildings.

6           Regarding the design OP does not  
7 object to the form, the massing, the height,  
8 etc., for the project or the use mix as  
9 proposed with the first stage PUD and the  
10 related map amendments. For the second stage  
11 PUD OP is generally supportive of the  
12 architecture and the design of the proposal.

13           Regarding the comprehensive plan,  
14 in addition to meeting several of the major  
15 themes of the existing comprehensive plan, as  
16 I mentioned, the application meets some  
17 specific policies calling for the  
18 redevelopment of Waterside Mall both in the  
19 existing comprehensive plan and in the new  
20 comp plan.

21           For example, the new comprehensive  
22 plan says that the mall should be redeveloped

1 with a mix of uses and locally serving retail  
2 and should be connected to the surrounding  
3 community so the proposed development is not  
4 inconsistent with either comprehensive plan.

5 I would just like to touch on a  
6 few issues that we have spoken with the  
7 applicant about and we'll continue to work  
8 with them if the Commission chooses to set the  
9 application down. The applicant has committed  
10 to achieve LEED Silver on the two 4th Street  
11 office buildings and we commend them for that.

12 We would like to see a little more  
13 detail on the environmental features of the  
14 other buildings, especially those that are  
15 contained in the current second stage PUD.  
16 The applicant is constructing a new rooftop  
17 structure on the existing towers.

18 This is another issue that I would  
19 like to talk about real quick. The structure  
20 extends, however, to the northern wall of the  
21 building and on the applicant's plans they are  
22 referring to that as an architectural

1 embellishment but we certainly need more  
2 information on that because right now OP is  
3 looking at those as rooftop structures.

4 Another issue I would like to  
5 touch on this evening is the issue of the  
6 grocery store. As you know, there is an  
7 existing Safeway on the property and the  
8 original PD had a condition stipulating that  
9 this development would provide a grocery store  
10 as long as there was no other grocery store in  
11 the neighborhood with the neighborhood being  
12 defined as that area south of the freeway both  
13 near S.E. and S.W.

14 Because of the rapidly changing  
15 conditions in both of those areas, OP feels  
16 that it is probably appropriate that there be  
17 more than one grocery store in that geographic  
18 area and we will continue discussions with the  
19 applicant about perhaps altering the  
20 definition of neighborhood so that can be more  
21 narrowly defined so we can have more of a  
22 guarantee of a grocery store in this location.

1           Regarding the amenities, the  
2 applicant is listing the amenities as the  
3 reopening of 4th Street, the major  
4 revitalization of the Waterside Mall site, the  
5 provision of retail and housing on the  
6 property. The applicant is citing urban  
7 design as an amenity, the maintenance of the  
8 public parks on the north side of the  
9 property, and the first source agreement and  
10 LSDBE.

11           As you know, the amenity package  
12 evaluation is based on the amount of  
13 development gained through the application.  
14 In this instance although the applicant is  
15 gaining height through the PUD, they are  
16 actually well below the potential FAR for a C-  
17 3C zoned site. OP feels the amenity package  
18 is appropriate for set down.

19           Again, the application is not  
20 inconsistent with the goals of the  
21 comprehensive plan and OP is recommending that  
22 the case be set down. This is a very detailed

1 application. I've just touched on a few of  
2 the main points that I think are most  
3 important but I am happy to take any  
4 questions.

5 VICE CHAIR HOOD: Thank you, Mr.  
6 Jesick. You are absolutely correct that it is  
7 very detailed and it's all over the place to  
8 some degree. In your summary recommendation,  
9 let me ask you, you said we are doing a map  
10 amendment of first stage PUD modification.  
11 I'm with you there. Then it says a partial  
12 second stage PUD. I wasn't quite clear. Is  
13 that because of the lease with the grocery  
14 store there? Is that one of the factors?

15 MR. JESICK: I think it is simply  
16 referring to that they are seeking a second  
17 stage PUD for four of the eight buildings on  
18 the site as well as the associated public and  
19 private open spaces. They would come back in  
20 the future for second stage PUDs on the  
21 remainder of the site.

22 VICE CHAIR HOOD: And the future

1 being 2020. That's the cutoff.

2 MR. JESICK: The way the applicant  
3 has proposed it they would need to get the  
4 final second stage approval by December 31,  
5 2020. That is the date of the Safeway lease  
6 expiration.

7 VICE CHAIR HOOD: I recall when we  
8 did the first stage PUD having a discussion  
9 about the length of time, whether it was 17  
10 years or 20 years. I would encourage the  
11 applicant if this is set down that we revisit  
12 that. I know there are some other things that  
13 are going to drive that but that is something  
14 we really need to look at because I think, at  
15 least at that time, we had five of us and that  
16 was one of our concerns.

17 The other thing that I have is it  
18 appears as though, and I want to make sure I  
19 understand what is happening here. It appears  
20 as though, the way I read it, is that the  
21 Northeast Mall, as they call it now the  
22 Northwest Mall, and all those different little

1 other sections, are now going to be demolished  
2 all except for the east and west and four  
3 residential buildings as opposed to four  
4 commercial.

5 Now, I would ask applicant also to  
6 look at it because there seems to be quite a  
7 bit of residential going down in that area.  
8 With all that residential that already exist  
9 I'm not sure if the market would be conducive  
10 to it even though I know that's not really an  
11 issue but I just hate to see them come back  
12 and change those four residential pieces and  
13 then we have six office buildings as opposed  
14 to the four that's in front of us now so I'm  
15 hoping that they revisit that and look at that  
16 more closely. You want to comment?

17 MR. JESICK: Well, one bit of  
18 flexibility that the applicant is asking for  
19 is for the northwest building to be either  
20 residential or office. The base scenario is  
21 residential but they have asked for that  
22 flexibility.

1                   VICE CHAIR HOOD: Okay. So they  
2 asked for that up front. All right. I will  
3 go to my colleagues but I know there is a  
4 height issue there but we'll come back to  
5 that.

6                   Anybody have any questions of Mr.  
7 Jesick?

8                   MR. TURNBULL: Mr. Jesick, I just  
9 have one quick question. You said that the  
10 applicant is going to be going for LEED  
11 Silver?

12                  MR. JESICK: They have committed  
13 to achieve LEED Silver on the two 4th Street  
14 office buildings.

15                  MR. TURNBULL: Those are the only  
16 two of the four that we are looking at in the  
17 first stage?

18                  MR. JESICK: The modified first  
19 stage includes all eight buildings. The  
20 second stage PUD includes the four buildings  
21 across the middle.

22                  MR. TURNBULL: So we are going for

1 two of eight?

2 MR. JESICK: That's what they have  
3 committed to so far. OP has asked them for  
4 more detail on additional environmental  
5 amenities that they may be providing.

6 MR. TURNBULL: One of the  
7 rendering sort of shows that four of the  
8 buildings could have green roofs. It is hard  
9 to really tell. That is with the huge  
10 penthouses.

11 MR. JESICK: Yes. I believe the  
12 existing towers could potentially have green  
13 roofs placed on them but I don't believe --

14 MR. TURNBULL: They haven't  
15 committed to that?

16 MR. JESICK: I don't think that  
17 has been committed to.

18 MR. TURNBULL: And you are still  
19 going to pursue on the enclosures on the roof?

20 MR. JESICK: Yes, we will.

21 MR. TURNBULL: The ellipses look  
22 rather large.

1                   MR. JESICK:     We do need more  
2 detail on the elliptical rooftop structures.  
3 They have asked for flexibility in providing  
4 two different heights on those structures. We  
5 just need to find out exactly why that is.

6                   MR. TURNBULL:   Okay. Thank you.

7                   VICE CHAIR HOOD:   Mr. Parsons.

8                   MR. PARSONS:     I'm looking at  
9 figure 2.3 which is in smaller booklet of the  
10 two that were presented. The renderings of  
11 these two new amenities, the east and west  
12 plaza, look very attractive but here we are  
13 seeing that the plaza to the west is actually  
14 serving the parking garage for the office  
15 building. The one to the east, I guess, is  
16 serving the loading dock of residential but I  
17 don't know as it gains access to a parking  
18 garage.

19                   MR. JESICK:     I believe it is  
20 accessing the residential parking garage for  
21 the east tower.

22                   MR. PARSONS:     Is that what this

1 ramp is?

2 MR. JESICK: Correct.

3 MR. PARSONS: It's a two-way ramp.  
4 I'm sorry. I thought that was a loading dock.  
5 So I'm wondering and I guess there is no way  
6 to reverse this, to somehow get the  
7 residential to the south on the west plaza.

8 Isn't this a common parking garage  
9 across both the underside of that blue  
10 building? Maybe it's undesirable but  
11 certainly if we are going to have a pedestrian  
12 amenity it seems like office parking is not  
13 the way to go.

14 MR. JESICK: I can certainly raise  
15 that with the applicant how flexible their use  
16 program is.

17 MR. PARSONS: Now I want to deal  
18 with an issue that I don't fully understand.  
19 I remember when we took action on the first  
20 stage we talked about the computation of  
21 zoning of this whole project as though it was  
22 one building.

1 I think that was for FAR purposes.  
2 Now we find, or I think I find, that now we  
3 are computing it for height and we are taking  
4 the height from M Street to apply to 4th  
5 Street. Is that your understanding?

6 MR. JESICK: Yes, that's my  
7 understanding.

8 MR. PARSONS: Of course, we have  
9 taken recent action on the Zoning Commission  
10 in other cases to say you're not going to do  
11 that unless you are connected above grade.  
12 That is, below grade connections are not going  
13 to be used for measuring heights.

14 Here we've got a specific  
15 regulation that is really only intended to  
16 deal with FAR. I want to make sure that we  
17 are not tripping ourselves up for something in  
18 the future. If 4th Street was to be used as  
19 a measuring height for the two buildings  
20 fronting on 4th Street, how much height would  
21 be lost?

22 MR. JESICK: I believe over all

1 from M Street to what is essentially K Street  
2 on the north there is a drop of, I believe,  
3 about five feet over the entire site.

4 MR. PARSONS: What I meant was the  
5 width of 4th Street plus 20 what do we get?

6 MR. JESICK: 4th Street is 90 feet  
7 in width so 110 feet would be the maximum  
8 height under the Height Act. The applicant  
9 would not lose any height. The buildings  
10 along 4th Street the office buildings are 94  
11 feet but the residential buildings of NE and  
12 NW are 114 feet so those would probably need  
13 to come down.

14 MR. PARSONS: Could you look into  
15 that? I don't want to -- I mean, it's a good  
16 project and so forth but I certainly don't  
17 want to find a month from now that we have set  
18 a precedent here of something we will be sorry  
19 for. Thank you.

20 VICE CHAIR HOOD: Thank you, Mr.  
21 Parsons. I think we have addressed that  
22 height issue and I appreciate that.

1 Did you want to add anything?

2 MR. TURNBULL: No. I would agree  
3 with Commissioner Parsons that I wouldn't want  
4 to -- what was originally set up as an FAR, I  
5 guess, when it was originally conceived of as  
6 looking at it from the standpoint of FAR, I  
7 wouldn't want that to suddenly be used for  
8 changing a height and introducing height into  
9 the mix of the picture here.

10 VICE CHAIR HOOD: Mr. Bergstein,  
11 let me just ask you, are we proceeding in a  
12 fashion -- we are asking OP to look at it.  
13 Are we moving into waters we shouldn't be  
14 going down or are we causing any problems that  
15 may show up the night of the hearing?

16 MR. BERGSTEIN: Well, no. Well,  
17 it depends on how that regulation is going to  
18 be interpreted. If you share OP's  
19 interpretation, the applicant's  
20 interpretation, then that regulation extends  
21 not just to the remnants of Waterside Mall  
22 that is left after demolition but all the new

1 structures that are being built in that space  
2 and that is the interpretation that has been  
3 proffered to you.

4 If you were to later decide on a  
5 more narrow interpretation, that wasn't meant  
6 to control height for the entire area but just  
7 for the portions of Waterside Mall that would  
8 be left after demolition, then it sounds like  
9 there might be need for the applicant to  
10 modify the design.

11 Of course, this only deals with  
12 zoning issues and doesn't regulate Height Act  
13 issues at all because the Zoning Commission  
14 obviously can't modify how the zoning  
15 administrator interprets what a building is  
16 for the Height Act. That would be the main  
17 concern that at some point you decide to take  
18 a more narrow approach to the regulation than  
19 as been suggested to you, it might require a  
20 change in the design.

21 VICE CHAIR HOOD: Okay. All  
22 right. Thank you.

1           Any other questions of OP? All  
2 right. I move that we set down Zoning  
3 Commission Case No. 02-38A with the  
4 modifications and the discussion that took  
5 place be incorporated. I would ask for a  
6 second.

7           MR. TURNBULL: Second.

8           VICE CHAIR HOOD: It has been  
9 moved and seconded. All those in favor aye.

10          BOARD MEMBERS: Aye.

11          VICE CHAIR HOOD: Any opposition?  
12 So ordered. Staff, would you record the vote.

13          MS. SCHELLIN: Staff will record  
14 the vote three to zero to two to set down  
15 Zoning Commission Case No. 02-38A.  
16 Commissioner Hood moving, Commissioner  
17 Turnbull seconding, Commissioner Parsons  
18 agreeable and Commissioners Jeffries and  
19 Mitten not voting having recused themselves.  
20 This is to be set down as a contested case.

21          VICE CHAIR HOOD: Okay. We'll ask  
22 our other colleagues to come back and join us.

1 CHAIRPERSON MITTEN: Okay. Now we  
2 are ready for a proposed action and the first  
3 case under proposed action is Case No. 04-14  
4 which is the Florida Rock PUD. I'll just grab  
5 my stuff. I want to say a few things.

6 I just wanted to remind folks of  
7 the sort of background of this which is that  
8 we have seen this over a long period of time  
9 but we had a first stage PUD that included a  
10 number of design guidelines that the applicant  
11 has attempted to incorporate into this  
12 proposal but those design guidelines did  
13 predate the design of the stadium and the  
14 final design of the South Capital Street  
15 Bridge realignment.

16 The applicant in working with the  
17 Office of Planning and AWC and so forth had  
18 delayed the hearing for eight months trying to  
19 work through accommodating this project to  
20 those changes.

21 The main issues, and there may be  
22 others, that we struggled with throughout the

1 hearing were the view corridor from the  
2 stadium, the balance of commercial and  
3 residential uses, parking. We also talked  
4 about the phasing and the ability to deliver  
5 certain components of the project prior to  
6 completion of the bridge realignment and the  
7 construction of the oval.

8 The amenities that are summarized  
9 in the applicant's proposed findings of fact  
10 and conclusions of law include an affordable  
11 housing component, the construction of the  
12 esplanade along the river, the viewing pier,  
13 contribution of approximately \$3.7 million to  
14 AWC for design and construction of the 1st  
15 Street plaza, LEED certification,  
16 transportation management program, and the  
17 typical employment of District -- commitment  
18 to a good faith effort to employ District  
19 residents and use LSDBEs. With that summary  
20 I'll open it up for discussion.

21 Mr. Parsons.

22 MR. PARSONS: Madam Chairman, this

1 is probably one of the most important  
2 decisions this Commission is going to make in  
3 a long, long period of time because this is  
4 setting the stage for what is going to occur  
5 along the Anacostia River.

6 I'm very concerned with the  
7 outcome of where we have come from. The  
8 original design that we approved in the first  
9 stage relied on 1st Street to come through the  
10 project and it was its axis to recognize 1st  
11 Street and its axial relationship north.

12 We postponed this case for an  
13 evaluation of the contextual analysis of what  
14 was going on to the north, essentially a  
15 stadium. Of course, the stadium has occupied  
16 1st Street so there is really no relationship  
17 between 1st Street as we knew it in the  
18 beginning and now. I think I talked about  
19 this a little bit at the hearing of whether we  
20 are hanging on to this 1st Street, penetrating  
21 this project and separating it in two halves.

22 What I had hoped was that the

1 response would be to respond to the design of  
2 the stadium. That is, the grand stairway  
3 coming out of right field, if you will. The  
4 response was to knock a few stories off, if  
5 you will, on the upper level of the east  
6 building.

7 Certainly the response of retail  
8 is a good one and a natural thing to do  
9 obviously with these changed circumstances.  
10 I'm still concerned about the overall mix of  
11 the project. I think there is too much office  
12 in it and what a great opportunity for more  
13 retail -- I mean, for more residential here.

14 I'm concerned. I mean, the only  
15 way that anybody is going to get a view of the  
16 stadium with this project as it is designed  
17 now is just as you come across the South  
18 Capital Street Bridge and down to the oval it  
19 surprises you. One could say it frames it.

20 Rather I had hoped, and I think we  
21 had all hoped, that this stadium on the river,  
22 as it has been championed, could be seen from

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1 the South Capital Street Bridge in a full and  
2 open way. The only way to get that view is to  
3 go way up the Anacostia.

4 I think one of the renderings  
5 showed that, the one with the ship in it. You  
6 really need to get way up the Anacostia before  
7 you see the stadium so the result is a  
8 blockage of the celebration, if you will, of  
9 the stadium. I appreciate all the efforts  
10 that were undertaken. My first notes on this  
11 case are in 1995 when there were only two  
12 buildings and now it's four.

13 I think this is a classic changed  
14 circumstance that we should not continue on  
15 this path, but rather ask the applicant to  
16 revisit it. I don't mean to go all the way  
17 back to stage one and put them through a two-  
18 stage process but bring a consolidated  
19 proposal back to us that responds at least to  
20 some of my concerns. That is where I am on  
21 this.

22 CHAIRPERSON MITTEN: Thank you,

1 Mr. Parsons.

2 Anyone else? Mr. Jeffries.

3 MR. JEFFRIES: Well, I think  
4 during the hearing I made it pretty clear to  
5 the applicant that I am sort of coming in in  
6 the middle of a movie and was, too, also  
7 having a lot of difficulty with the  
8 development program, in particular the mix.

9 Given the insertion of the  
10 baseball stadium at this location, it seems to  
11 me that it is probably a missed opportunity  
12 here. I see this area more as sort of a civic  
13 place and less of so much office so I am still  
14 concerned about the amount of office here. I  
15 clearly understand the constraints that the  
16 applicant has around retail.

17 Of course, I would like to see  
18 more retail and I think they have really  
19 stepped out and tried to have as much retail  
20 as possible. I really think that this part of  
21 -- I think we need to get residential water  
22 views. I would like to see more residential

1 here.

2 I would like to see District  
3 residents enjoying a lot of the waterfront  
4 here. Of course, I see all the office that is  
5 coming along M Street and that is quite  
6 appreciated but I think this should really  
7 take on a different look. I, too, with the  
8 baseball stadium and how the site plan is  
9 configured I just think there is probably a  
10 better urban design plan for this area.

11 I would agree with my colleague  
12 that I think -- I would hope that this  
13 applicant perhaps can go back and take another  
14 stab at this. Again, on a consolidated basis,  
15 I think this is a very important site and I  
16 don't think we can just get caught up in  
17 process and so forth. We need to really make  
18 certain this is right.

19 CHAIRPERSON MITTEN: Thank you.

20 Commissioner Turnbull.

21 MR. TURNBULL: Thank you, Madam  
22 Chair. I guess I just want to maybe ask my

1 colleagues so I'm clear. From a land use  
2 objective the office use is out of place. It  
3 should be -- the hotel is obviously a use that  
4 would be all right and residential would be  
5 the preferred use but retail commercial, the  
6 office aspect of it, is something that is  
7 taking away the prime use of that land for a  
8 more beneficial nature for the District.

9 I'm trying to structure -- I mean,  
10 they have been going down the road on this.  
11 I haven't been here for all that long and I'm  
12 just trying to see with the ballpark there now  
13 and the land use we see as primarily  
14 residential, hotel, recreational, civic? I'm  
15 just trying to clarify, Mr. Jeffries.

16 MR. JEFFRIES: I mean, clearly I'm  
17 fine with their being some amount of office  
18 but, you know, 54 percent I just think that is  
19 a little bit much. Again, I see this as now  
20 with the baseball stadium in place here and it  
21 is such a catalytic element of this area, I  
22 really think that the use to the south, I

1 mean, really needs to really complement it and  
2 really take up those days when the baseball  
3 stadium is not in use.

4 I just think this Commission has a  
5 clear responsibility to be the keepers of this  
6 and make certain that we get this right. I  
7 think one office building I could perhaps live  
8 with but I really do think that the  
9 overwhelming use should, again, be for  
10 District residents to enjoy the water views.

11 MR. TURNBULL: The office would be  
12 more structured away from the riverfront  
13 toward the ballpark as one option. I'm not  
14 trying to suggest a design. From a standpoint  
15 residential would be the preferred use.

16 MR. JEFFRIES: I think residential  
17 would be the preferred use and I would like  
18 the applicant to sit down with the architect  
19 and figure out another urban design scheme for  
20 this with an eye towards something more civic  
21 oriented with residential.

22 MR. TURNBULL: Yeah. I guess I'm

1 just trying to clarify in my mind. I've sat  
2 in on two hearings on this and they have had  
3 the office mix in there already and did we  
4 just miss it in the last two? I'm just trying  
5 to --

6 MR. PARSONS: Maybe I can help.  
7 Originally this project started without any  
8 ballpark, without any Capitol Gateway Overlay,  
9 without any Anacostia waterfront plan created  
10 by the mayor, as you are aware of. It was all  
11 office. They were trying to lure the  
12 Department of Transportation or some other  
13 agency, federal agency, to come here as  
14 pioneers, if you will, on the riverfront.

15 That, of course, didn't happen.  
16 You know where DOT went so it's evolved. At  
17 the first instance there was no residential  
18 because of the square footage requirement that  
19 they had for the office tenant.

20 As it has gone along, it has  
21 gained more residential, a hotel, not that is  
22 a substitute for residential, but at least

1 it's 24-hour liveliness. I think what we're  
2 saying is now with a baseball stadium in place  
3 do past decisions really guide us?

4 MR. JEFFRIES: It seems to me that  
5 they are moving in the right direction but  
6 perhaps not quite gotten there yet.

7 MR. TURNBULL: Okay. Thank you.

8 CHAIRPERSON MITTEN: Let me also  
9 just try to put this in maybe the broader  
10 context which is absent the PUD, because there  
11 is a PUD related map amendment as part of this  
12 which would rezone the site to C-3C, and  
13 absent that this would be in the CGW-2  
14 district. I don't remember what the overlay  
15 does to this but in general W-2 is a matter of  
16 right FAR limit of four half of which can be  
17 nonresidential.

18 What we have in the proposal is  
19 4.4, not that different than under the zone  
20 that would be in place. The balance is struck  
21 somewhat in favor of office which is what you  
22 are reacting to. The proposal is 1.76 FAR of

1 residential in this case being hotel and the  
2 apartment.

3 Then the office, the  
4 nonresidential, is 2.64 FAR. What I am  
5 hearing is I think as we come back and back  
6 again to this neighborhood that we really do  
7 what that balance struck strongly to make sure  
8 that we are defending the balance in favor of  
9 residential, or at least giving the  
10 residential its fair shot at the share of the  
11 zoning or the density for the area.

12 I don't hear anybody reacting  
13 necessarily to the math of it, just like maybe  
14 where the math has been arranged. What was my  
15 other thought? Just in terms of the civic,  
16 what I'm hearing Mr. Jeffries say is that it  
17 is -- the civic for you is the presence of it  
18 but also that it's for citizens.

19 MR. JEFFRIES: Right. Absolutely.

20 CHAIRPERSON MITTEN: Okay. And I  
21 think the other thing that is maybe making us  
22 feel a little bit -- I will say Mr. Parsons

1 has been vastly outspoken against the project  
2 in its various phases, but when we dealt with  
3 this last when we were going through and  
4 struggling when they were back for a time  
5 extension and we were concerned about denying  
6 it outright because of what is going to happen  
7 to this really, really important site on the  
8 waterfront, the applicant came back and  
9 basically said, "If you don't let us maintain  
10 a lot of this density and what we have  
11 proposed, then you will be stuck with a  
12 concrete batching plant for as long as we feel  
13 like it."

14 The Office of Planning really was  
15 put in an awkward position but they went back  
16 and tried to negotiate the best design  
17 guidelines they could and I think the  
18 applicant came to the table in good faith.  
19 The Office of Planning certainly negotiated  
20 that in good faith.

21 Now we have a base ball park and  
22 there is no way they are going to be batching

1 concrete here in the median term. I think  
2 that is part of why we are feeling a little  
3 more empowered to be strong about this so I  
4 agree with you in terms of the mix.

5 I think we need more residential  
6 here, more real residential, not hotel. I  
7 just want to make sure if we send the  
8 applicant back that we are being as specific  
9 as possible about what we would like to see.

10 If we are satisfied with the  
11 overall density but we are not satisfied with  
12 the mix, what balance should be struck, 50  
13 percent? I mean, right now I don't know what  
14 the percentages are but let's say it's 60/40  
15 and 40 percent is hotel and apartment. Is 50  
16 percent going to satisfy us?

17 VICE CHAIR HOOD: I have not had a  
18 chance to comment.

19 CHAIRPERSON MITTEN: I'm sorry.

20 VICE CHAIR HOOD: That's okay.  
21 Let me just say this and I'll be very brief.  
22 If I was the applicant, you would have the

1 concrete plan and the asphalt batch because I  
2 think this Commission -- I know one of my  
3 colleagues mentioned about -- I'm not trying  
4 to personalize this but we have sent this  
5 applicant back a number of times.

6 When I first came on this  
7 Commission, I don't want to say I was the  
8 deciding vote because there was three others.  
9 Florida Rock was here when I first got here  
10 and I've been here going on nine years. I  
11 understand things have to flourish and the  
12 stadium is actually helping things move in a  
13 different direction.

14 I agree with Mr. Parsons to a  
15 point. Some of the things that are  
16 transposing in that neighborhood have changed  
17 and it is time for us to revisit that. I  
18 agree with that. But early on when they first  
19 came in front of this Commission there was  
20 nothing going on over there period. I think  
21 this applicant has listened to us.

22 They went back and had a mix about

1 residential and office space. That is not my  
2 expertise but I think what we have in front of  
3 us is a good design to help get jump-started.  
4 The stadium is the main nucleus but this  
5 applicant also has a mixed-use project that  
6 can help also jump-start.

7 That may trigger some other things  
8 that may start happening in the area which I  
9 do not know of but I can tell you that if I  
10 was the applicant and going back and forth so  
11 much, yeah, I would just leave -- I bought  
12 that actually when they told us they were  
13 going to do that. I think you all remember.

14 I believed the applicant that they  
15 were going to do that. If I was the applicant  
16 I would be in the posture or position to go  
17 ahead and just leave that down there.  
18 Cigarette plant -- I'm sorry, cement plant --  
19 I'm thinking about my neighborhood. A cement  
20 plant, an asphalt plant, I would just leave it  
21 down there and go with it.

22 CHAIRPERSON MITTEN: Thank you,

1 Mr. Hood.

2 I think, you know, the applicant  
3 in this case is in the unfortunate but the  
4 fortunate situation of they have like this  
5 premiere site so that is the fortunate part  
6 and the unfortunate part is we are really  
7 struggling to get it right. That is why we  
8 have spent so much time on it is because when  
9 you get it wrong you are stuck with it for a  
10 really long time.

11 VICE CHAIR HOOD: I ride past a  
12 few buildings all the time, Madam Chair, that  
13 we got wrong. Believe me. There's only two  
14 actually. There's only two. There used to be  
15 one but there's only two.

16 CHAIRPERSON MITTEN: We don't want  
17 to make it any more. I think that is the  
18 concern.

19 MR. JEFFRIES: Well, Vice Chair, I  
20 appreciate your comments and clearly I think  
21 we would like to be in the position where the  
22 developers and the applicants can have

1 predictability and have a sense that the  
2 process is clear and so forth. Perhaps this  
3 has been somewhat haphazard in a way but I  
4 have to stay focused on the fact that we have  
5 to just focus on the end result.

6 This project will be here  
7 hopefully for many, many years. I would err  
8 on the side of having somewhat of a process  
9 that has not been great. I would rather live  
10 with that than to live with perhaps the wrong  
11 sort of land use and development project in  
12 such a critical key pivotal location.

13 VICE CHAIR HOOD: Commissioner  
14 Jeffries, let me ask you a question. I don't  
15 do this and maybe I'm not as up to speed as  
16 everybody else but what makes this combination  
17 so wrong? Do we need to see more residential?  
18 Explain to me what makes this wrong. I'm not  
19 putting you on the spot. I'm asking you so  
20 maybe I can understand.

21 MR. JEFFRIES: Well, I mean, you  
22 know, a lot of office users are not District

1 residents. They live in other parts of the  
2 Metropolitan area. I would like to see people  
3 who live here who are paying taxes be able to  
4 enjoy some of the views that will be offered  
5 in this really special location.

6 Again, I think Madam Chair said  
7 it. I think this area is for citizens and I  
8 think it needs to have somewhat of a civic  
9 motif to it. Residential, retail, I could  
10 probably live with some level of office as  
11 long as it is placed strategically but for me  
12 I just really think this should be a place  
13 mainly for District residents and for them to  
14 enjoy the views and as a gathering place.

15 I think it needs to move in that  
16 direction. I just think office -- you know,  
17 I mean, it's great during the day. I mean,  
18 office clears out and I think it will just  
19 perhaps take on a different look. I know that  
20 Mr. Kaplan spoke about Bethesda Row and how  
21 successful that was with retail and office but  
22 I think there is a different context there and

1 starting point than what we have here.

2 VICE CHAIR HOOD: Okay. We can go  
3 back and forth but I'll just yield, Madam  
4 Chair.

5 Thank you, Commissioner Jeffries.

6 CHAIRPERSON MITTEN: Thank you. I  
7 think we have a sentiment, not maybe a  
8 consensus, to send this back to the applicant  
9 and so I want to focus on those areas that we  
10 would like them to focus on. I had left off  
11 asking about what mix would satisfy the  
12 Commission in terms of residential uses versus  
13 nonresidential uses. Can I get some feedback?

14 MR. PARSONS: In your previous  
15 analysis or description of the W zone and your  
16 comparison with what they have provided, I  
17 don't recall that hotels were a use that we  
18 considered to be residential but help me with  
19 that.

20 CHAIRPERSON MITTEN: My  
21 recollection, and I didn't have the text of  
22 the Capitol Gateway Overlay in front of me,

1 was when we did the W zones in the overlay.  
2 Let me just step back a second. We have two  
3 sets of mixed-use zones that are in the  
4 Capitol Gateway area.

5 We have the W and we have the CR.  
6 As those exist just as matter of right zones,  
7 hotel counts as residential use in both of  
8 those sets of zones. When we mapped the  
9 Capitol Gateway Overlay, I believe what we  
10 said was in CR.

11 I remember having a specific  
12 discussion about the westend that in the CR  
13 zone that we would not allow hotels to count  
14 for the residential requirement but in the W  
15 we would along the waterfront because we felt  
16 there might be more demand for hotels along  
17 the waterfront. Back in the neighborhood we  
18 wanted to make sure we were actually going to  
19 get a neighborhood out of it.

20 Mr. Lawson, can you help me there?

21 MR. LAWSON: We're just trying to  
22 look at some of this right now but I believe

1 your interpretation is correct. I would want  
2 to check it against the final orders to make  
3 sure on this but I believe in the CR, you're  
4 right, hotel is not counted as residential in  
5 the CR area but it does count as residential  
6 in the W2 area.

7 CHAIRPERSON MITTEN: Within the CG  
8 Overlay?

9 MR. LAWSON: Within the CG  
10 Overlay, yes.

11 CHAIRPERSON MITTEN: I think  
12 that's right. In the W2 in this case if it  
13 were matter of right we would let the hotel  
14 count as residential.

15 MR. PARSONS: So now that we see  
16 it we don't like it is what we're saying to  
17 you which is not very helpful.

18 CHAIRPERSON MITTEN: Well, no.  
19 Just to review, the balance even including the  
20 hotel is still doesn't reach 50 percent.

21 MR. PARSONS: I understand but  
22 it's pretty close.

1 CHAIRPERSON MITTEN: Okay. I  
2 don't know. I said 60/40 but I don't know  
3 because I can't do that kind of math in my  
4 head.

5 MR. PARSONS: It certainly is a  
6 threshold. We need to say let's go back to  
7 the W zone.

8 MR. JEFFRIES: You're counting  
9 commercial. Retail is also commercial so that  
10 with what is office.

11 CHAIRPERSON MITTEN: Right. Why  
12 don't we deal with it this way. We have 4.4  
13 FAR. Would you like to see 2.2 hotel and  
14 apartment, half basically? That would be  
15 another .4 FAR. I don't know what that gets  
16 you in terms of buildings and so on but you  
17 still might -- you certainly wouldn't want a  
18 mixed-use building. That would be silly.

19 MR. PARSONS: You mean putting  
20 residential on the roof?

21 CHAIRPERSON MITTEN: I mean,  
22 having a building that was office part and

1 residential part. That probably wouldn't work  
2 very well. I just want to make sure that we  
3 are as specific as possible. We are not  
4 dictating what they do other than if we say we  
5 want at least 50 percent they could come back  
6 and do two residential buildings and one  
7 office building and kick it over, more heavily  
8 weighted in terms of residential.

9 I guess I would just want the  
10 amenity package, if you cared to, we could say  
11 that the way we would view a proposal that was  
12 weighted more heavily so more than 50 percent  
13 in favor of the residential versus  
14 nonresidential, then maybe some of these  
15 amenities they wouldn't become as important  
16 because the amenities cost money and one of  
17 the things that this applicants believes, I  
18 don't know if it's an accurate belief, but all  
19 through this I think they believe that  
20 commercial density in this location is worth  
21 more than residential density. I think that  
22 is an underlying truth for them.

1           MR. PARSONS: Yes. The pier out  
2 in the river didn't impress me as a real  
3 amenity because of the shoreline promenade and  
4 so forth and the U.S. Conservation Corps which  
5 is right upstream which has a similar access.  
6 I realize it isn't solely but, I mean, if  
7 there was an amenity to drop off the table,  
8 that would be it.

9           CHAIRPERSON MITTEN: I mean, just  
10 in thinking about that, I mean, the other ones  
11 are quite important. The affordable housing  
12 is very important to us. In this case it's  
13 9,600 square feet. It's not huge but it is  
14 important. The esplanade was quite important  
15 because it was quite wide and allowed for a  
16 lot of different uses along the river.

17           The contribution to AWC for the  
18 1st Street Plaza, I mean, we certainly want to  
19 see this 1st Street Plaza built but maybe that  
20 would be something. It's not that we don't  
21 want to see that built but they are one source  
22 of money, not the only source of money. Three

1 points of a million isn't going to get it  
2 built.

3 MR. PARSONS: Right.

4 CHAIRPERSON MITTEN: The LEED  
5 certification I know we are very attached to  
6 that, especially in a waterfront location, and  
7 the transportation management program is  
8 really pretty essential. Perhaps we could  
9 just leave it as we would want to see no less  
10 than 50 percent apartment and hotel and we  
11 would consider something above that as an  
12 amenity of the project if they exceeded that  
13 level of residential use.

14 MR. PARSONS: I agree.

15 CHAIRPERSON MITTEN: Then the  
16 placement of the buildings on the site I heard  
17 two sets of concerns, maybe three, from Mr.  
18 Parsons. One is that the views from the  
19 stadium. They worked hard to try and trim  
20 back the east office building but I think you  
21 were still troubled by the fact that they  
22 really didn't open it up in full response to

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1 the stadium. Then views of the stadium from  
2 either the bridge or the river were not fully  
3 accommodated. Is that accurate?

4 MR. PARSONS: Yes. I think I  
5 misspoke in my opening remarks. I called it  
6 1st Street. I meant Half Street.

7 CHAIRPERSON MITTEN: Okay.

8 MR. PARSONS: I don't know if any  
9 of you are persuaded but I would be willing to  
10 shrink the site to take advantage of building  
11 on Half Street so as to expose the stadium  
12 more than to continue to rely on this access  
13 through the middle of the site as much as it  
14 was an amenity when we started this but it no  
15 longer is.

16 CHAIRPERSON MITTEN: Can I get  
17 other thoughts on this? Mr. Jeffries.

18 MR. JEFFRIES: I just want to be  
19 very clear about the percentages of the  
20 existing uses in this proposal. What  
21 percentage is office? What percentage is  
22 retail? I just want to be clear on that

1 before we start.

2 CHAIRPERSON MITTEN: I don't have  
3 percentages.

4 MR. JEFFRIES: I assume you don't  
5 have them but I was probably looking to the  
6 Office of Planning.

7 MR. LAWSON: I'm sorry. I don't  
8 have those either.

9 MR. JEFFRIES: I just wanted to  
10 look at that before we start to set these --

11 CHAIRPERSON MITTEN: Mrs. Schellin  
12 is going to go get a calculator so that we can  
13 do some percentages but, in the meantime, can  
14 I get other thoughts about the view issue and  
15 where people are on that?

16 Well, you know, the problem is  
17 easier to solve if the buildings stay in place  
18 and the uses change as opposed to what Mr.  
19 Parsons is suggesting that the buildings need  
20 to be moved around. I think it is important  
21 that the applicant understand how the  
22 Commission feels about that.

1           MR. JEFFRIES: I do think there is  
2 another site plan configuration that can occur  
3 here. I would hope that the applicant could  
4 revisit that, particularly around the views.  
5 I guess I would concur but I don't --

6           CHAIRPERSON MITTEN: You're not  
7 going to propose --

8           MR. JEFFRIES: -- where it should  
9 be.

10          CHAIRPERSON MITTEN: Okay.  
11 Actually, we do. It's 60/40. The 1.76 FAR  
12 that is now devoted to hotel and apartment use  
13 is 40 percent of 4.4 which is the total. And  
14 roughly the FAR that is devoted to retail only  
15 is .09.

16          MR. JEFFRIES: So they are  
17 currently at 1.76 for residential.

18          CHAIRPERSON MITTEN: That's going  
19 to be .9. I'm sorry.

20          MR. JEFFRIES: Madam Chair, in  
21 terms of the FAR for residential and hotel  
22 uses, what are you proposing for FAR?

1                   CHAIRPERSON MITTEN: You know, I  
2 misspoke. I'm sorry. Let me try that one  
3 more time on the retail. It was 10 percent.  
4 The retail is 10 percent of the commercial but  
5 not 10 percent of the total. It's about 5  
6 percent of the total. I'm sorry. What was  
7 your question?

8                   MR. JEFFRIES: I was just looking  
9 at page 6, findings of fact, 30, and it says  
10 the residential and hotel uses are 1.76 FAR.

11                   CHAIRPERSON MITTEN: Right.

12                   MR. JEFFRIES: Were you in terms  
13 of direction we were going with, were you  
14 putting it in terms of FAR?

15                   CHAIRPERSON MITTEN: Well, given  
16 at the time I didn't have the calculator to do  
17 percentages. That is why I got the  
18 calculator. 1.76 equates to 40 percent of the  
19 total.

20                   MR. JEFFRIES: Okay.

21                   CHAIRPERSON MITTEN: So now we can  
22 talk in terms of percentages with a point of

1 reference.

2 MR. JEFFRIES: Okay.

3 CHAIRPERSON MITTEN: Okay. So  
4 what I have is that we would like to see no  
5 less than -- we are not comfortable with  
6 anything less than 50 percent residential  
7 which in this case is apartment or condominium  
8 and hotel. Anything above that in terms of  
9 actual livable living residential we would  
10 consider an amenity of the project.

11 We would like the site plan to  
12 better accommodate views of and from the  
13 stadium. And that we applaud the amount of  
14 retail use and more would be better but not --  
15 I think we went through the lower level retail  
16 and rejected that so we want proper retail if  
17 more is possible, and any concerns about the  
18 design or any of that. What I mean is the  
19 facade. I just don't want to leave anything  
20 unsaid.

21 MR. TURNBULL: Could you expand  
22 more on the view aspect?

1                   CHAIRPERSON MITTEN:     Well, Mr.  
2     Parsons is leading the charge on this one so  
3     would you mind?

4                   MR. PARSONS:     I'm just trying to  
5     make sure that as you come across the South  
6     Capitol Street Bridge you don't have to wait  
7     until you get to the bottom of the bridge to  
8     see the stadium and that is the way it is now.  
9     You pass by the hotel on the oval and that is  
10    the first glimpse you get as I grasp it.

11                  Certainly you can see the lights  
12    from the top of the Capitol Street Bridge.  
13    Then similarly the grand stairway coming out  
14    of right field of the stadium should be  
15    spilling down, in my view, into a park, into  
16    something that is a real public amenity.

17                  My compromise, if you will, to  
18    make that happen, is to get rid of the Half  
19    Street separation infield lot. Not take it  
20    away from the project but bring it together.  
21    I'm not designing it but that is what I'm  
22    proposing. In other words, the view up Half

1 Street is gone. There's nothing happening  
2 except the last three letters of the word  
3 "Nationals."

4 CHAIRPERSON MITTEN: What page are  
5 you on, Mr. Jeffries?

6 MR. JEFFRIES: On the third --  
7 fourth page. This is existing and proposing  
8 zoning map.

9 MR. PARSONS: If I could urge you  
10 to go to page 5 which is the design of the  
11 building, you see Half Street coming through  
12 the project, a major plaza in the middle of  
13 that compound. I'll be careful with my terms  
14 here but it's an inwardly focused space.

15 That's fine but not here, I guess.  
16 What I'm urging if we can trim the buildings  
17 back to afford views of the stadium, this is  
18 the place to go to gain the density, not to  
19 take it away from the project. That is all  
20 I'm suggesting. Similarly with the stub  
21 coming off down between the residential and  
22 the east office building. But, at the same

1 time, we don't want a beached whale here, an  
2 enormous building that's not broken up.

3 CHAIRPERSON MITTEN: Right.

4 MR. PARSONS: I appreciate that  
5 it's a difficult issue but I didn't feel you  
6 could ask for one and not give somewhere else.

7 CHAIRPERSON MITTEN: So your  
8 principle concerns are view from the bridge  
9 and access and view from the grand staircase  
10 because those have become -- those are very  
11 important focal points and Half Street fades  
12 by comparison with those.

13 MR. PARSONS: Yes, and the plaza  
14 created. You can see the stairway on this  
15 drawing coming down out of the stadium.

16 CHAIRPERSON MITTEN: Right.

17 MR. PARSONS: Where is it headed?

18 CHAIRPERSON MITTEN: Right.

19 MR. PARSONS: You've got to go  
20 left to get to the park.

21 CHAIRPERSON MITTEN: Anybody else  
22 have thoughts on that?

1                   VICE CHAIR HOOD: I want to make  
2                   sure I'm following this, Madam Chair. The  
3                   first thing is I know you are going to recap  
4                   this. We want to see more residential for  
5                   District residents. We want to push it back  
6                   for the Virginia residents to be able to see  
7                   the view to the stadium. That's what I'm --  
8                   I'm not being sarcastic. I'm just trying to  
9                   make sure I understand.

10                  MR. PARSONS: No, it's people  
11                  coming from Maryland.

12                  VICE CHAIR HOOD: Oh, Maryland.  
13                  Okay. I just wanted to make sure we are  
14                  sending the right signal.

15                  CHAIRPERSON MITTEN: Okay. If no  
16                  one says anything to the contrary, then the  
17                  views expressed by Mr. Parsons will be the  
18                  prevailing view.

19                  Mr. Turnbull.

20                  MR. TURNBULL: I guess my concern  
21                  is what Mr. Hood is saying, we are asking for  
22                  major surgery. I mean, if they have to do

1 something to the hotel building, that is a  
2 major job. If somehow trying to combine the  
3 residential building and the east office  
4 building and pushing it down, I mean, it just  
5 seems like it's a lot of work. I think it's  
6 major surgery on the site.

7 MR. JEFFRIES: But, quite frankly,  
8 I think you said it right, major surgery. I  
9 think it does need some surgery. I mean, I  
10 think we keep down this road of sort of  
11 incremental, you know, little change here,  
12 little change there and you're just not making  
13 -- you're not moving the ball up the field the  
14 way I see it. I do think that it requires  
15 some level of surgery. I just want to be very  
16 upfront about that.

17 CHAIRPERSON MITTEN: Let me just  
18 -- let's talk about this a little bit more.  
19 Mr. Parsons reminded us that when the project  
20 started it was bigger, as I recall. More  
21 density in the original project, and it was  
22 two buildings. Among the things that we urged

1 was that we wanted it broken up into some  
2 smaller pieces.

3 Now what is happening between  
4 pushing back on the east side and pushing the  
5 hotel, as Mr. Turnbull was just saying, we are  
6 kind of pushing it back together. What has  
7 become more -- what do you call that? I don't  
8 know what the word is that I want. You can go  
9 through the site. It's more --

10 MR. PARSONS: Articulated maybe is  
11 the right word.

12 MR. JEFFRIES: Madam Chair, I  
13 really do think we are being overly  
14 prescriptive here.

15 CHAIRPERSON MITTEN: No, we are --

16 MR. JEFFRIES: I don't think we  
17 need to design this from the dias here.

18 CHAIRPERSON MITTEN: I'm not  
19 trying to do that but I am trying to make sure  
20 that what we say today we understand the  
21 implications of it, first of all, because of  
22 where we have come from.

1 I mean, I'm not trying to design  
2 it either but I'm saying if you push it this  
3 way and push it that way, the space that you  
4 have created in the middle is going to go away  
5 and that was something that at some point we  
6 said we wanted because we wanted it to be  
7 easier to get through the site. We didn't  
8 want it to be monolithic. I'm just concerned  
9 about what is going to happen.

10 MR. PARSONS: As I recall, that  
11 decision was that Half Street, this great  
12 celebratory street, that people would come  
13 down from the Metro and this would be the  
14 arrival point at the terminus of Half Street  
15 at the river. Guess what? That's not  
16 happening so it's now First Street that is  
17 going to be that because of the stadium.

18 That is all we're saying.  
19 Although it's got a promenade along the  
20 riverfront and so forth and very inviting, it  
21 doesn't recognize the context of the stadium  
22 above -- to the north.

1 CHAIRPERSON MITTEN: Okay.

2 Anybody else?

3 MR. JEFFRIES: Madam Chair, you  
4 also asked the question -- you moved on the  
5 architecture?

6 CHAIRPERSON MITTEN: Yes.

7 MR. JEFFRIES: And my only concern  
8 -- I look at like page 37, 36A. My only  
9 concern, you know, given that these buildings  
10 are on the waterfront, I mean, it would be  
11 nice if there could be something sort of like  
12 a landmark or something that is sort of like  
13 placemaking. I just don't think that it  
14 should sort of melt in too much.

15 Again, I don't want to -- I'm not  
16 looking to design this but I think this is a  
17 figural place that will be seen from a lot of  
18 different locations so I think it needs to  
19 take on that kind of look.

20 Again, it's not infield design.  
21 It sits out and I think it needs to take on  
22 somewhat of a more sculptural look about it.

1 I mean, that is something that I think the  
2 architect, if the architect is here, we can  
3 talk about it.

4 It's just an observation I have.  
5 I looked at page 37 and it just seems just  
6 somewhat monotone to me. It might be the  
7 illustration and just how they've done it but  
8 it just looks rather safe from that distance,  
9 from that vantage point.

10 CHAIRPERSON MITTEN: Okay. But  
11 you're not looking for anything -- typically  
12 when people want to stand out in D.C. they do  
13 something along the roof line.

14 MR. JEFFRIES: Oh, let's not talk  
15 about roof lines.

16 CHAIRPERSON MITTEN: We're not  
17 looking for that though, right?

18 MR. JEFFRIES: But I just think,  
19 you know, I like contemporary modern buildings  
20 and so that is fine but I just think there  
21 needs to be something that, you know, as  
22 people are coming over the bridge that there

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1 is something that's identifiable that really  
2 talks about place.

3 I mean, I hope the architect knows  
4 what I'm talking about up here because I know  
5 it sounds rather obtuse but it just seems that  
6 there are just a couple of missing  
7 architectural elements to this overall  
8 building.

9 CHAIRPERSON MITTEN: You want  
10 somebody to say, "See that? That's Florida  
11 Rock."

12 MR. JEFFRIES: I mean, it's  
13 just --

14 CHAIRPERSON MITTEN: Not like,  
15 "See all those buildings over there?"

16 MR. JEFFRIES: I think it comes  
17 down to this location being somewhat civic  
18 oriented. You know, Commissioner Turnbull,  
19 I'm thinking about Chicago like this and I'm  
20 thinking about the plaza. What is -- it's  
21 escaping me. With the water wall?

22 CHAIRPERSON MITTEN: You mean

1 Millennium Park?

2 MR. JEFFRIES: Millennium Park.  
3 It just seems like there is something that  
4 should be in this area that is just sort of  
5 missing, something around that vision.  
6 Anyway.

7 MR. TURNBULL: I think your  
8 placemaking term was correct.

9 CHAIRPERSON MITTEN: Okay. I  
10 think we have taken this as far as we can.

11 MR. JEFFRIES: I think so.

12 CHAIRPERSON MITTEN: Okay. So our  
13 advice is that we need heavier weight of the  
14 mix of uses in favor of residential. We need  
15 better views of and from the stadium and a  
16 more prominent expression of place by the  
17 project as it faces the water.

18 VICE CHAIR HOOD: I just wanted to  
19 ask Mr. Parsons -- this is another question --  
20 about the view. Seriously, who will be trying  
21 to get the view, the people coming -- the  
22 experience coming across the bridge? Is that

1 what we are trying to get or somebody just on  
2 the property looking at it? Who are we trying  
3 to get to be able to see? If you understand  
4 my question.

5 MR. PARSONS: Well, I mean, are  
6 you concerned about people coming from out of  
7 town?

8 VICE CHAIR HOOD: No, no, no.

9 MR. PARSONS: This is a gateway to  
10 the city and here we've got a very special  
11 activity occurring. It's our baseball  
12 stadium. I'm not suggesting that when you  
13 come across East Capitol Street Bridge and  
14 view Kennedy Stadium that is needed or Florida  
15 Rock shouldn't be there.

16 It should be a park. Somebody  
17 should buy it and make a park out of it. I'm  
18 just saying that I hope there is some way to  
19 see this coming over South Capitol Street  
20 Bridge as the entrance to the city. If that's  
21 not possible, it's not possible because there  
22 is certainly the Capitol Dome, I don't mean to

1 minimize that, that will be seen from the  
2 bridge.

3 At this point you need to get into  
4 the circle, almost around this oval that is  
5 being designed, before it's there as I  
6 understand these exhibits. I'm just wondering  
7 if there is some way to accommodate that.

8 VICE CHAIR HOOD: I figure we were  
9 talking about the driver, the person, not  
10 necessarily the pedestrian that is on the site  
11 because sometimes you get an experience just  
12 looking at the top of the lights. You don't  
13 see the stadium a lot, at least I don't when  
14 I'm certain places in the city. RFK, for  
15 example.

16 You see the lights and it's  
17 intriguing to know, "Hey, look. Something is  
18 going on over there tonight." Sometimes it's  
19 not but the lights are just on. That is a  
20 good experience also and I'm just trying to  
21 figure out what your thinking was as far as  
22 exactly what we're looking at or what are we

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1 looking for.

2 MR. PARSONS: Now that you've  
3 pushed me --

4 VICE CHAIR HOOD: No, I don't want  
5 to push you any further.

6 MR. PARSONS: Now that you've  
7 pushed me, that is secondary to me to the  
8 grand stairway coming out of right field that  
9 it should come right down to the water  
10 somehow. That eastern end is more important  
11 when I'm talking about setbacks than the view  
12 from South Capitol Street Bridge. Thank you  
13 for pushing.

14 VICE CHAIR HOOD: I didn't mean to  
15 push but thank you for letting me know.

16 CHAIRPERSON MITTEN: Okay. Any  
17 other comments before we move on? Okay.  
18 Thank you.

19 As I said earlier, we're going to  
20 put emergency shelters at the end of proposed  
21 action and next is Case No. 06-08 and this is  
22 the Fort Lincoln/Gateway Village PUD which --

1 MR. JEFFRIES: Madam Chair, I'm  
2 not participating.

3 CHAIRPERSON MITTEN: Oh, yes. Mr.  
4 Jeffries is not participating. Okay. This  
5 project is for further build-out of the entire  
6 Fort Lincoln project. This is a 357-unit  
7 townhome and condominium development that  
8 provides certain benefits and amenities to --

9 VICE CHAIR HOOD: Is this working?  
10 Maybe they are trying to send you a signal,  
11 Madam Chair.

12 CHAIRPERSON MITTEN: Thank you,  
13 Mr. Hood. I guess we are going to share this  
14 mic now. There were a number of amenities  
15 that were being proposed including  
16 transportation, related amenities, and open  
17 space contribution to the rec center and so  
18 forth in the project, and a certain set-aside  
19 for 30 affordable units as well. I would just  
20 invite discussion on the proposal.

21 MR. PARSONS: Madam Chair, I'm  
22 disappointed in the response on the

1 stormwater. I guess what I was looking for is  
2 a commitment from those involved in the larger  
3 context. That is, the development of what are  
4 called regional stormwater ponds.

5 In the findings of fact and in the  
6 exhibits it simply diagrams what we saw here  
7 that night. It is a submission of the exhibit  
8 we had which is pretty rough. That is at Tab  
9 C.

10 This project is going to be built  
11 possibly without the benefit of a stormwater  
12 facility in place because there is no  
13 commitment to do that. Just by others if you  
14 know what I mean. That's what I was hoping  
15 and it is just not here unless I've missed  
16 something.

17 It's not in Tab C or D. D does  
18 show these bioretention filters and so forth.  
19 That is a step in the right direction on site  
20 but when the stormwater leaves the site, it's  
21 not quite clear whether these facilities will  
22 be available when the project is built.

1                   CHAIRPERSON MITTEN: I'm wondering  
2 what -- often the details of these things get  
3 worked out in the building permitting process  
4 when the Department of Health and now the  
5 Department of the Environment reviews the  
6 building plans and gets very specific. For  
7 instance, would nail down where within the  
8 site they would have these bioretention  
9 filters located and so forth.

10                   I'm just wondering what is it  
11 about this proposal that we wouldn't just  
12 allow it to go through the normal process and  
13 have the Department of the Environment ensure  
14 once the plans are fully developed where these  
15 facilities would go. That is the part I'm not  
16 quite getting with your concern.

17                   MR. PARSONS: Well, this is the  
18 second project we've approved putting more  
19 pressure on another agency to say, "Well, the  
20 Zoning Commission liked this. Why are you  
21 holding it up for lack of stormwater  
22 facilities?"

1           What I was hoping is during the  
2 past two months there would have been some  
3 progress and they could report to us that they  
4 now have a plan that is going to work and  
5 whoever is supposed to look at it, the Corps  
6 of Engineers or others. We had an impassioned  
7 plea from the Anacostia Watershed Society to  
8 look into this. It is slightly behind our  
9 jurisdiction and I was just frankly  
10 complaining that we didn't get a more  
11 affirmative response.

12           CHAIRPERSON MITTEN: Okay. So  
13 what is missing in part is that we don't know  
14 the reaction of the agency is. Is that  
15 correct? Whether this is going to be  
16 sufficient as it has been proposed.

17           MR. PARSONS: Right. Whether they  
18 are adequate to handle the runoff and when  
19 they are going to be built. That is why I  
20 asked Ms. Hagens. I said, "Who's in charge  
21 here?" She said she was and that's what I  
22 expected, a discussion coming back to us

1 saying, "Look, we sorted it out. Thanks for  
2 the heads-up," if you will. "Pond A does this  
3 and one, two, and three does the following."  
4 It's not here. Otherwise, the project is  
5 fine.

6 CHAIRPERSON MITTEN: Okay.

7 VICE CHAIR HOOD: Madam Chair, let  
8 me just add to that. I was wondering. I  
9 think Office of Planning, Mr. Parsons, in the  
10 notes had agreed to take a different look at  
11 it. I don't know if they did or not. Maybe  
12 we can go and see if they did or not.

13 Office of Planning, Mr. Jesick, I  
14 was given permission by the Chairman to ask  
15 you.

16 MR. JESICK: We have not consulted  
17 with the Department of the Environment at this  
18 point in the project. It is our understanding  
19 that Pond No. 3 will be in place when the site  
20 is constructed. Overall we were pleased with  
21 the applicant's inclusion of the low-impact  
22 design devices on site.

1           We felt that combined with the  
2 stormwater quality device already on place on  
3 the site and combined with the stormwater  
4 quantity pond that is to be constructed was an  
5 adequate stormwater system for the site.

6           MR. TURNBULL: Mr. Jesick, can I  
7 just clarify? When we are referring to the  
8 regional stormwater management pond, that is  
9 the one is in question as to the date on when  
10 that is going to be in place?

11           CHAIRPERSON MITTEN: No. 3, right.

12           MR. TURNBULL: Okay. You have no  
13 idea?

14           MR. JESICK: I don't have an exact  
15 date on that but it's my understanding from  
16 discussions with the applicant that would be  
17 in place by the time of construction.

18           MR. TURNBULL: Do you think we  
19 could get a commitment on that or a finding?

20           CHAIRPERSON MITTEN: Let me just  
21 say that in Condition No. 8 it has more detail  
22 than this but Condition No. 8 is describing

1 the low-impact features and the third bullet  
2 under 8 says that water quantity control will  
3 be provided off site in a proposed regional  
4 stormwater management pond.

5 I think what we can -- I think we  
6 are close enough to having the project fleshed  
7 out that if we could get a specific timing  
8 before the first certificate of occupancy is  
9 issued, we can just add some specificity to  
10 condition No. 8 and satisfy the concern.  
11 Would that satisfy you, Mr. Parsons?

12 MR. PARSONS: Yes.

13 CHAIRPERSON MITTEN: Okay.

14 MR. PARSONS: So what you're  
15 suggesting is that between proposed action and  
16 final action we get a more definitive third  
17 bullet?

18 CHAIRPERSON MITTEN: Yes, on  
19 Condition No. 8. There are just a couple of  
20 smaller items that I want to focus on. Maybe  
21 we can get a response from the applicant on  
22 these as well because there's a couple of

1 things that they are proposing to do and the  
2 nature of the project is such that the  
3 developer may be gone or going if these things  
4 are not accomplished.

5 Condition No. 3, for instance,  
6 this relates to the medians. This is in  
7 Condition No. 2. It's on page 17. It's the  
8 third bullet down, landscaping package along  
9 Fort Lincoln Drive. The applicant will  
10 contribute \$40,000 for planting and  
11 maintenance of a landscaping plan for the  
12 medians along Fort Lincoln Drive and 31st  
13 Place, N.E., adjacent to the project.

14 The applicant will agree to  
15 maintain this landscaping for a period of  
16 three years from the date of its installation  
17 but the developer could be gone by that time,  
18 the applicant, because if they are all sold  
19 out.

20 Then in Condition No. 12 there is  
21 a series of roadway improvements that are  
22 proposed to be constructed by the issuance of

1 the 100th certificate of occupancy. I'm  
2 pretty sure we hadn't seen that during the  
3 hearing phase.

4 I think there are way that these  
5 can be handled differently. For instance, in  
6 No. 12 I would want the roadway improvements  
7 to be constructed by the first certificate of  
8 occupancy so that the applicant is still very  
9 much involved. For the Condition No. 2 I  
10 think that could be satisfied by just insuring  
11 that there is a contribution.

12 Actually, I don't know how we  
13 could do that. I was going to say if they  
14 made a contribution to the homeowners  
15 association but you can't force the homeowners  
16 association to use it for three-year period of  
17 maintenance. That is something that I think  
18 we need a response from the applicant about  
19 how will be hold them accountable if the  
20 project has sold out by that time.

21 We will get more specificity on  
22 the timing of No. 8 and also the MOU with the

1 Department of Small and Local Business  
2 Development needs to be -- the timing of that  
3 needs to be -- actually 9 and 10 to the extent  
4 they haven't entered into it. I think we  
5 actually want signed agreements for nine and  
6 10 because it says they shall enter into it  
7 but doesn't say by when so I think we should  
8 get those for final action also.

9           Anyone else? Okay. With the  
10 provision that the applicant supplies the  
11 Commission with responses to the issues that  
12 we've raised related to stormwater management,  
13 the contributions in Condition No. 2 -- I'm  
14 sorry 2 and 12 and that we get the signed  
15 agreements for Conditions 9 and 10 between now  
16 and final action, then I would move approval  
17 of Case No. 06-08.

18           VICE CHAIR HOOD: Second.

19           CHAIRPERSON MITTEN: Thank you,  
20 Mr. Hood.

21           Any further discussion? All those  
22 in favor, please say aye.

1 BOARD MEMBERS: Aye.

2 CHAIRPERSON MITTEN: Any opposed?

3 Mrs. Schellin.

4 MS. SCHELLIN: Staff will record  
5 the vote five to zero to zero to approve  
6 proposed action in Zoning Commission Case No.  
7 06-08. Commissioner Mitten moving,

8 Commissioner Hood seconding, Commissioners --

9 I'm sorry. Actually, the vote  
10 should be four to zero to one. Sorry about

11 that. Commissioner Mitten moving,  
12 Commissioner Hood seconding, Commissioners  
13 Parsons and Turnbull in favor. Commissioner  
14 Jeffries not voting having not participated.

15 CHAIRPERSON MITTEN: Thank you. I  
16 am going to turn the mic back over to  
17 Commissioner Hood and he is going to take the  
18 Commission through proposed action on 06-24  
19 and 05-05. Then if you wouldn't mind doing  
20 the two cases for final action that I'm not  
21 participating in which would be 06-13 and 02-  
22 51A. This might help.

1                   VICE CHAIR HOOD:    Okay.    Thank  
2    you, Madam Chair.

3                   What    I    would    like    to    do,  
4    colleagues, is move back to proposed action  
5    for Zoning Commission Case 05-05.    Madam  
6    Chair, if I could do 05-05 first if you don't  
7    mind.

8                   CHAIRPERSON MITTEN:  I don't mind.

9                   VICE CHAIR HOOD:    Okay.    Thank  
10   you.  Colleagues, I would like to do Zoning  
11   Commission Case 05-05, Office of Planning Text  
12   Amendment re: Emergency Shelters.

13                  Mrs. Schellin.

14                  MS. SCHELLIN:   Staff has nothing  
15   to add.

16                  VICE    CHAIR    HOOD:            Okay,  
17   colleagues, we have a letter from the Office  
18   of Property Management which was actually  
19   dated October 24th and it's Exhibit 7.  The  
20   Office of Property Management is in support of  
21   proposed amendment of Chapter 8 of Title 11 of  
22   the District of Columbia.

1           It is extremely difficult to  
2 identify and obtain sites for emergency  
3 shelters in the District of Columbia. By  
4 aligning emergency shelters in CM-1 and CM-2  
5 districts the Zoning Commission will increase  
6 the number of potential locations for these  
7 facilities. This will be a great benefit to  
8 the District of Columbia as it implements its  
9 Homeless No More initiative.

10           I think we all are participating  
11 except for the Chairperson. I recall in the  
12 notes there was a discussion about -- you just  
13 let me know as I run through this. There was  
14 a discussion about warehousing folks in areas  
15 in the city where there were no amenities as  
16 in residential zones and a statute in the  
17 square with multiple facilities.

18           The Office of Planning did go back  
19 and they met with the Office of Property  
20 Management and another District agency --  
21 Human Services. Thank you, Ms. Schellin. I  
22 know it was another one. They in turn

1 submitted some revisions to the text to us  
2 expressing some concerns, Mr. Parsons, that  
3 you may have had and I know that I had and I  
4 think Mr. Turnbull also.

5 Mr. Jeffries, you're not  
6 participating, right?

7 MR. JEFFRIES: I'm participating.

8 VICE CHAIR HOOD: You're  
9 participating? Okay. Now, what is being  
10 proposed to us is not withstanding 802.21 the  
11 Board may approve up to one additional  
12 emergency shelter to be located in the same  
13 square as an existing emergency shelter for  
14 five or more persons only if the Board finds  
15 that the cumulative effect of the two  
16 facilities would not have an adverse impact on  
17 the neighborhood because of traffic, noise, or  
18 operations.

19 MR. PARSONS: That helps.

20 VICE CHAIR HOOD: Okay. Anyone  
21 else?

22 G. The Board may approve a

1 facility for between 151 and 300 persons, not  
2 including resident supervisors or staff and  
3 their families. If the Board finds that the  
4 program goals and objectives of the District  
5 of Columbia cannot be achieved by a facility  
6 of a similar size at a subject location and  
7 there is no other reasonable alternative to  
8 meet the program needs of that area of the  
9 District provided, then no shelter shall be  
10 approved that would increase the total number  
11 of emergency residents housed within the  
12 square to exceed 450 persons.

13 It goes on to say that OPM has an  
14 emergency shelter. They also have asked, and  
15 I believe the way I read it, for us to exempt  
16 the emergency shelter at 2210, or Adams Place,  
17 N.E. which, for the record, is the same place  
18 that we just did away with the provision  
19 earlier today or set down for a hearing which  
20 was used as a correctional facility, I  
21 believe, at the same time. Anyway, if I'm  
22 incorrect, I'm sure somebody will chime in.

1 Any problems with G?

2 MR. PARSONS: I'm troubled. Both  
3 you and I expressed a concern that we  
4 shouldn't go over 150. Then, of course, Mr.  
5 May came forward and made his impassioned plea  
6 so I guess the Office of Planning has  
7 responded. As I grasp this now, there could  
8 be two shelters in a square, one at 150 and  
9 one at 300.

10 Is that right? I mean, now we are  
11 up to 450 where you and I were concerned about  
12 150 in one square when we were in the hearing.  
13 I don't understand. Maybe we could ask the  
14 Office of Planning how did we get from 150 to  
15 450?

16 VICE CHAIR HOOD: Let's do this.  
17 It seems like we're going in a different  
18 direction. Ms. Steingasser, can you help us?

19 MS. STEINGASSER: We came away  
20 with the Zoning Commission's concerns not of  
21 150 but the fact that there was no limit on  
22 the number of shelters that could house 150

1 beds per square so it could just keep  
2 multiplying so the Commission asked us to look  
3 at capping the total beds within a square.

4 After working with Human Services  
5 and Office of Property Management and going  
6 through some of the statistics which we have  
7 noted down in the footnote about the homeless  
8 crisis in the District, we felt we needed to  
9 really expand those opportunities but put a  
10 cap on it that the Commission was comfortable  
11 with so we came up with 450 being the maximum  
12 on one square.

13 I guess another way to say it is  
14 it was in response to the actual agencies that  
15 provide the shelter. These were their figures  
16 that they felt were appropriate.

17 MR. PARSONS: Do we have  
18 situations now where we reach those numbers?

19 MS. STEINGASSER: Not that are  
20 being operated by the District. I'm not sure  
21 of the private facilities. I'm not sure what  
22 their counts are relative to each other. To

1 echo Mr. May's pleas, the homeless problem is  
2 only getting worse.

3 It's not getting better so it's  
4 really a difficult balance for the city to  
5 provide this service in an incredibly hot real  
6 estate market where it is very difficult to  
7 buy the land that is the most desirable which  
8 is near the Metro stations and near downtown  
9 where the homeless tend to spend their days.

10 We are trying to expand the  
11 options. We're not saying the homeless will  
12 be taken out to the industrial zones. We're  
13 just trying to provide alternatives to  
14 providing these shelters.

15 VICE CHAIR HOOD: Ms. Steingasser,  
16 I don't know if Mr. Parsons wants to chime on  
17 the number issue but why weren't we notified  
18 about 2210 when we had the hearing? Is this  
19 something that happened after the hearing? I  
20 specifically mentioned CM zone and certain  
21 areas where this exist and this was never  
22 brought up at the hearing by Mr. May who

1 testified.

2 MS. STEINGASSER: I don't know  
3 when 2210 opened.

4 VICE CHAIR HOOD: So it obviously  
5 opened between the hearing, which I'm not sure  
6 when it was.

7 MS. STEINGASSER: It may have  
8 opened under the Hypothermia Act.

9 VICE CHAIR HOOD: Now we are being  
10 asked to put a regulation but we are also  
11 being asked to exempt that 2210 Adams Street.

12 MS. STEINGASSER: That's correct.  
13 It is now serving as a shelter.

14 VICE CHAIR HOOD: And do we know,  
15 Ms. Steingasser, what is happening? I know  
16 they are bringing in people out of the cold  
17 which I think is -- you never know when I may  
18 be there but what happens during the day? Do  
19 they just go back outside? What happens  
20 during the day?

21 MS. STEINGASSER: Different  
22 facilities offer different options. Some have

1 daytime training. Some have -- there's a  
2 phrase for it where there are services to help  
3 people transition back from homelessness.  
4 There's education services, counseling,  
5 medical facilities, literacy programs.

6 It just depends on their  
7 clientele. Some of those happen during the  
8 day. Some of the private operators also  
9 provide different types of guidance,  
10 spiritual, educational in their facilities.  
11 A lot of them, though, are just purely, "Let's  
12 keep them alive through the night. Let's get  
13 them sheltered overnight." Then they are back  
14 outside during the day and then they come back  
15 in at night.

16 VICE CHAIR HOOD: Does the city  
17 provide transportation? 2210 Adams there's no  
18 major transportation or venue back there from  
19 Metro, busline, nothing.

20 MS. STEINGASSER: I don't know  
21 exactly they get out there. I know there are  
22 shelters that the city does provide

1 transportation for but I don't know how this  
2 one works.

3 VICE CHAIR HOOD: This is very  
4 unfortunate for me because I would like to  
5 know exactly because we don't want to create  
6 situations and put people in places where  
7 basically in the daytime they have nowhere to  
8 go. There's no program in place.

9 I understand you say there are  
10 programs this is so unfortunate that 2210  
11 apparently was in the process and we weren't  
12 even notified. We could have used that as a  
13 benchmark.

14 I'm familiar with 2210. When you  
15 come out of 2210 you pass a trash transfer  
16 station and that's pretty much it. I mean,  
17 you're going to have to walk to get to some  
18 transportation. Do they give them money to  
19 ride the vehicle -- I mean, to maybe look for  
20 a job?

21 MS. STEINGASSER: I believe they  
22 would use a bus but I guess what I would ask

1 is that Commission take proposed action. Let  
2 me get these questions answered for Mr. May on  
3 how 2210 operates in detail and then at the  
4 final action the Commission can make its  
5 ultimate decision on it.

6 VICE CHAIR HOOD: Okay. Let's  
7 make sure that we also -- Mr. Parsons, I'm not  
8 sure where you are with G.

9 Mr. Jeffries, do you have any  
10 comments? I'm not sure. Are you satisfied?  
11 Do we want them to revisit this?

12 MR. PARSONS: I'm softening, yes.

13 VICE CHAIR HOOD: You're  
14 softening?

15 MR. PARSONS: I'm softening.  
16 Possibly with 2210 we could grandfather it in  
17 rather than make an exception for it. I don't  
18 know if that is an alternative. We can talk  
19 about that at final action.

20 VICE CHAIR HOOD: Okay. I would  
21 take Mrs. Steingasser's suggestion and I would  
22 be willing to do that if my colleagues are

1 because it is very cold out there and we don't  
2 want to see anybody in the street.

3 Let me just say this to bring up  
4 another issue in your report. I'm not killing  
5 the messenger but it took me back to the solid  
6 waste facilities and it talks about they  
7 should be enclosed. I'm sure if you ask  
8 anybody who has gone back to 2210 there are  
9 facilities there that operate and they are  
10 wide open.

11 Again, we sit here all night and  
12 make regulations that people should -- I'm not  
13 beating up on Office of Planning but you can  
14 pass this on to the correct agency. Most  
15 places that operate are open all the time and  
16 that is something maybe we need to take back.  
17 I'm not sure how you can help us with that,  
18 Ms. Steingasser, but maybe you can.

19 MS. STEINGASSER: You're talking  
20 about the shelter?

21 VICE CHAIR HOOD: No, the transfer  
22 station.

1 MS. STEINGASSER: Oh, the transfer  
2 station.

3 VICE CHAIR HOOD: When I looked in  
4 your report, one of the issues that I think  
5 OAG said was not to worry about it because it  
6 was already being covered in the solid waste  
7 facilities regulations about enclosed  
8 operations. I can guarantee you 99 percent of  
9 the time it's open.

10 MS. STEINGASSER: I think by open,  
11 and maybe Mr. Bergstein can help on this, it  
12 means completely unenclosed, not just having  
13 the doors open or --

14 MR. BERGSTEIN: That's right.  
15 What's illegal now in the District of Columbia  
16 is what you might think of as a landfill which  
17 is different from a solid waste handling  
18 facility which is supposed to by regulation be  
19 enclosed in terms of where the trucks come in  
20 and where the weighing station is.

21 There are some currently existing  
22 injunctions against the District of Columbia

1 in terms of the implementation of the solid  
2 waste facilities. I don't know if the  
3 facility that you're talking about is the  
4 facility that has the injunction against the  
5 District.

6 VICE CHAIR HOOD: I'm not sure.  
7 It probably does but anyway -- thank you.

8 Colleagues, any other questions or  
9 comments on that? We can further discover  
10 this at proposed action. I would move  
11 approval -- final action. I'm sorry. I would  
12 move approval of Zoning Commission No. 05-05  
13 emergency shelters and ask for a second.

14 MR. TURNBULL: Second.

15 VICE CHAIR HOOD: It's been moved  
16 and properly seconded. Any further  
17 discussion? All those in favor?

18 BOARD MEMBERS: Aye.

19 VICE CHAIR HOOD: Any opposition?  
20 Staff, would you record the vote?

21 MS. SCHELLIN: Staff will record  
22 the vote four to zero to one to approve

1 proposed action in Zoning Commission Case No.  
2 05-05. Commissioner Hood moving, Commissioner  
3 Turnbull seconding, Commissioner Jeffries and  
4 Parsons in favor, Commissioner Mitten not  
5 voting having not participated.

6 VICE CHAIR HOOD: Now we are going  
7 to move to Zoning Commission Case No. 06-24.  
8 This is Level 2 Development, LLC -  
9 Consolidated PUD at 2400 14th Street, N.W.

10 Ms. Schellin.

11 MS. SCHELLIN: Staff has nothing  
12 further.

13 VICE CHAIR HOOD: Okay. While I'm  
14 looking for my notes --

15 MR. JEFFRIES: Vice Chair, if I  
16 recall the discussion, Commissioner Turnbull  
17 had some concerns about the green roof or the  
18 amount of green roof.

19 VICE CHAIR HOOD: Yes.  
20 Commissioner Turnbull had asked for more  
21 clarification and to revisit the green roof.  
22 I think you had an issue with the street mix.

1 I'm sorry, union mix, not street mix. Then  
2 street perspectives. We may have dealt with  
3 this but I --

4 MR. JEFFRIES: I left that meeting  
5 with really just one issue and that was really  
6 the green roof.

7 VICE CHAIR HOOD: Okay. Mr.  
8 Turnbull, would you like to take the lead?

9 MR. TURNBULL: Thank you, Mr.  
10 Hood. We did get a clarification. It's still  
11 not where I would like it to be considering  
12 recent developments by other applicants with  
13 LEED certification and green roofs but they  
14 show an extra area.

15 I thought they had 4,000 or maybe  
16 it was only 2,400. I forget how many square  
17 feet they had when they first came but they  
18 are showing 4,000 square feet now with  
19 flexibility requested but that is a very small  
20 percentage of the overall roof. It's  
21 something but it's not substantial considering  
22 the size of the roof area.

1           They have put in some information  
2           about what they are going to be going for.  
3           Again, it's something. They have committed to  
4           some very minimum standards in the LEED  
5           guidelines but I think it's something. We're  
6           trying to get more people to get more and I  
7           guess this is a step in the right direction.  
8           I wish there had been more in there myself but  
9           it's a step in the right direction, I guess.

10           MR. JEFFRIES: Well, Vice Chair  
11           Hood, I don't know if you have any comments  
12           but I would move approval of Zoning Commission  
13           Case No. 06-24, Level 2 Development, LLC,  
14           Consolidated PUD at 2400 14th Street, N.W.

15           VICE CHAIR HOOD: We have a  
16           motion. I would second that motion. It's  
17           been moved and properly seconded. Any further  
18           discussion? All those in favor?

19           BOARD MEMBERS: Aye.

20           VICE CHAIR HOOD: Any opposition?  
21           Staff, would you record the vote?

22           MS. SCHELLIN: Staff will record

1 the vote three to zero to two to approve  
2 proposed action in Zoning Commission Case No.  
3 06-24. Commissioner Jeffries moving,  
4 Commissioner Hood seconding, Commissioner  
5 Turnbull in favor, Commissioners Mitten and  
6 Parsons not voting having not participated.

7 VICE CHAIR HOOD: Okay. Thank  
8 you.

9 We are going to move right into  
10 final action. Zoning Commission Case No. 06-  
11 13, 1000 Connecticut Avenue, Consolidated PUD  
12 at 1000 Connecticut Avenue, N.W.

13 Ms. Schellin.

14 MS. SCHELLIN: We do have a  
15 request from the applicant requesting that the  
16 record be reopened. It's a letter dated  
17 February 2nd. They are just asking that the  
18 record be reopened to accept the corrected  
19 drawings that were submitted to NCPC.

20 VICE CHAIR HOOD: Okay. I want to  
21 make sure that what we have, colleagues, is  
22 exactly what the NCPC looked at. We have a

1 request and I would move that we open the  
2 record to accept the updated drawings that  
3 were presented to NCPC and ask for a second.

4 MR. JEFFRIES: Second.

5 VICE CHAIR HOOD: Moved and  
6 properly seconded. All those in favor?

7 BOARD MEMBERS: Aye.

8 VICE CHAIR HOOD: Any opposition?  
9 So ordered. You can record the vote. Thank  
10 you, Ms. Schellin, if you record the vote.

11 MS. SCHELLIN: Staff will record  
12 the vote four to zero to one to reopen the  
13 record in Zoning Commission Case 06-13.  
14 Commissioner Hood moving, Commissioner  
15 Jeffries seconding, Commissioners Parsons and  
16 Turnbull in favor, Commissioner Mitten not  
17 voting having not participated.

18 VICE CHAIR HOOD: Okay. Thank  
19 you, Ms. Schellin.

20 We now have opened the record and  
21 now have the drawings that we will share with  
22 NCPC which basically clarify the architectural

1 embellishment of the roof edge. It says it's  
2 not a parapet and, therefore, does not violate  
3 the height act. I would ask Mr. Parsons if  
4 you could maybe shed a little more light on  
5 issue for us.

6 MR. PARSONS: We spent a lot of  
7 time on this at the Planning Commission  
8 because the staff recommendation was that this  
9 did exceed the allowable height. We had a  
10 great deal of debate and revised that action  
11 to say may exceed the allowable height because  
12 there was enough confusion that the majority  
13 wasn't sure about it and then urged the Office  
14 of Planning and the Planning Commission staff  
15 to work on this issue that I have been  
16 complaining about, frankly, these horizontal  
17 members that are coming in at the top of  
18 buildings.

19 Where we are used to vertical  
20 architectural embellishments they are now  
21 becoming horizontal and see if there is some  
22 definition of parapet or cornice or some other

1 definition that we could put into our own  
2 regulations to settle this out. That is, we  
3 don't have an adverse report back from the  
4 Planning Commission so I think we should be  
5 able to perceive.

6  
7 VICE CHAIR HOOD: Any further  
8 discussion? I don't think this is a show  
9 stopper but I think it's going to call into  
10 question for more review at a later time.  
11 With that, I will move approval of Zoning  
12 Commission Case No. 06-13 and ask for a  
13 second.

14 MR. JEFFRIES: Second.

15 VICE CHAIR HOOD: Moved and  
16 properly seconded. All those in favor?

17 BOARD MEMBERS: Aye.

18 VICE CHAIR HOOD: Any opposition?  
19 So ordered.

20 Staff, would you record the vote.

21 MS. SCHELLIN: Staff will record  
22 the vote four to zero to one to approve final

1 action in Zoning Commission Case 06-13.  
2 Commissioner Hood moving, Commissioner  
3 Jeffries seconding, Commissioners Parsons and  
4 Turnbull in favor, Commissioner Mitten not  
5 voting having not participated.

6 VICE CHAIR HOOD: Okay. We moved  
7 Zoning Commission Case No. 05-51A. This is  
8 Rhode Island Avenue Associates, 1st Stage PUD  
9 at Square 182.

10 Ms. Schellin.

11 MS. SCHELLIN: Just to correct  
12 that the Case No. is actually 02-51A.

13 VICE CHAIR HOOD: What did I say?

14 MS. SCHELLIN: 05, I believe. Oh,  
15 it's after 9:00. Okay, 02-51A. That's what  
16 I said, 02-51A? Okay.

17 Ms. Schellin.

18 MS. SCHELLIN: Staff has nothing  
19 further on that one.

20 VICE CHAIR HOOD: Okay. We have  
21 the final order in front of us but we have an  
22 issue on page -- it's Condition 7. If

1 everybody could just turn to Condition 7. We  
2 can actually just request the applicant for  
3 greater specificity on the \$100,000 proffer  
4 for affordable housing. I think that can be  
5 done at the stage two. Is that correct, Mr.  
6 Bergstein?

7 MR. BERGSTEIN: That is correct,  
8 sir.

9 VICE CHAIR HOOD: Any further  
10 discussion? I know we hashed a lot of this  
11 out during proposed. Do you want to hash it  
12 out again tonight or any further discussion?  
13 Okay. I move approval of Zoning Commission  
14 Case No. 02-51A and ask for a second.

15 MR. JEFFRIES: Second.

16 VICE CHAIR HOOD: So moved and  
17 properly seconded. All those in favor?

18 BOARD MEMBERS: Aye.

19 VICE CHAIR HOOD: Any opposition?  
20 So ordered.

21 Staff, would you record the vote.

22 MS. SCHELLIN: Staff will record

1 the vote three to zero to two to approve final  
2 action in Case No. 02-51A. Commissioner Hood  
3 moving, Commissioner Jeffries seconding,  
4 Commissioner Turnbull in favor, Commissioners  
5 Mitten and Parsons not voting having not  
6 participated.

7 CHAIRPERSON MITTEN: Thank you,  
8 Mr. Hood.

9 Okay. Next under final action we  
10 have Case No. 06-14 and this is Mid-Atlantic  
11 Realty Partners. NCPC decided to weigh in on  
12 a couple of issues in this case. The  
13 applicant has responded to the NCPC concerns  
14 and we need to reopen -- the first order of  
15 business is to reopen the record to accept the  
16 applicant's response to the NCPC issues and I  
17 would so move.

18 VICE CHAIR HOOD: Second.

19 CHAIRPERSON MITTEN: Thank you,  
20 Mr. Hood. All those in favor of reopening the  
21 record, please say aye.

22 BOARD MEMBERS: Aye.

1                   CHAIRPERSON     MITTEN:           Those  
2     opposed, please say no.

3                   Mrs. Schellin.

4                   MS. SCHELLIN:    Staff will record  
5     the vote five to zero to zero to reopen the  
6     record to accept the applicant's letter.  
7     Commissioner Mitten moving, Commissioner Hood  
8     seconding, Commissioners Jeffries, Parsons,  
9     and Turnbull in favor.

10                  CHAIRPERSON   MITTEN:     All right.  
11     Thank you. There were basically three issues  
12     that were raised. One is the use of the  
13     measuring point along New York Avenue which  
14     had various subissues contained therein.

15                  Issues of security concerns for  
16     the ATF building across the street and then  
17     the location of the garage entrance and  
18     loading docks and the inability or restricted  
19     opportunity to put a commemorative work in  
20     that area.

21                  The applicant has responded to  
22     NCPCs concerns which I think is an admirable

1 response. Unless there is discussion on the  
2 applicant's response, I would just move  
3 approval of Case No. 06-14 with the revised  
4 drawings as submitted by the applicant.

5 VICE CHAIR HOOD: Second.

6 CHAIRPERSON MITTEN: Thank you,  
7 Mr. Hood.

8 Any discussion? All those in  
9 favor, please say aye.

10 BOARD MEMBERS: Aye.

11 CHAIRPERSON MITTEN: Those opposed  
12 please say no.

13 Mrs. Schellin.

14 MS. SCHELLIN: Staff will record  
15 the vote five to zero to zero to approve final  
16 action in Zoning Commission Case 06-14.  
17 Commissioner Mitten moving, Commissioner Hood  
18 seconding, Commissioners Jeffries, Parsons,  
19 and Turnbull in favor.

20 CHAIRPERSON MITTEN: Thank you.

21 Then next is Case No. 06-26 which  
22 is the second Rocky Gorge PUD that we have had

1 before us. Just a couple of clarifications,  
2 I think. In Condition No. 6 the applicant is  
3 committing to grant an easement to DDOT to  
4 ensure public access to the private road and  
5 we simply need to put a time frame on that.

6 I would suggest that we prior to  
7 the occupancy because I don't know if they  
8 issue certificates of occupancies for  
9 townhouses and stuff. I'll just say prior to  
10 occupancy of the first unit just so we have  
11 that clear when they would grant that  
12 easement. If there is nothing else that  
13 anyone would like to raise, I would move  
14 approval of Case No. 06-26 with that provision  
15 regarding the easement.

16 MR. TURNBULL: Second.

17 CHAIRPERSON MITTEN: All those in  
18 favor please say aye.

19 BOARD MEMBERS: Aye.

20 CHAIRPERSON MITTEN: Those opposed  
21 please say no.

22 Mrs. Schellin.

1 MS. SCHELLIN: Staff will record  
2 the vote five to zero to zero to approve final  
3 action in Zoning Commission Case 06-26.  
4 Commissioner Mitten moving, Commissioner  
5 Turnbull seconding, Commissioners Hood,  
6 Jeffries, Parsons in favor.

7 CHAIRPERSON MITTEN: Thank you.

8 Next is Case No. 06-15 and this is  
9 the Abdo New York LLC PUD. We had requested  
10 a couple of -- that the applicant consider a  
11 couple of things that we raised when we took  
12 proposed action. The first was the relocation  
13 of existing businesses and that was Mr. Hood's  
14 concern.

15 If you see, the applicant has  
16 reported on the progress that has been made  
17 but there is not a commitment to assist,  
18 although they certainly have been assisting.  
19 Then we had some further discussion about the  
20 grocery store and the applicant is emphasizing  
21 that the grocery store is not being proffered  
22 as an amenity.

1 I have to admit it is hard to  
2 excise that from your brain. There is an  
3 additional condition that they proposed on  
4 page 3 of their February 5th submission that  
5 I think helps. It makes me feel a little bit  
6 more comfortable with the status of the  
7 grocery store.

8 Then we have this alternative  
9 design treatment for the building along New  
10 York Avenue on Building A. I would ask maybe  
11 Mr. Parsons whether he --

12 MR. PARSONS: That is to me a  
13 great improvement. I don't know whether  
14 others share that but if you don't have the  
15 old one, I have it here to compare. It no  
16 longer looks like it is overseeing an airport.

17 CHAIRPERSON MITTEN: Right. I  
18 like it. I do, too.

19 MR. JEFFRIES: So, Madam Chair, I  
20 would move approval of Zoning Case No. 06-15,  
21 Abdo New York, LLC, Consolidated PUD and  
22 related map amendment

1 VICE CHAIR HOOD: Second.

2 CHAIRPERSON MITTEN: Thank you,  
3 Mr. Hood.

4 VICE CHAIR HOOD: Discussion.

5 CHAIRPERSON MITTEN: Mr. Hood.

6 VICE CHAIR HOOD: Again, I would  
7 just ask -- I appreciate the applicant for  
8 mentioning about the relocation. I would ask  
9 them to continue to see what they can do in  
10 this process with what remains. Thank you,  
11 Madam Chair.

12 CHAIRPERSON MITTEN: Thank you,  
13 Mr. Hood.

14 I just want to clarify, Mr.  
15 Jeffries, that is with the revised building A?

16 MR. JEFFRIES: Yes.

17 CHAIRPERSON MITTEN: Okay. Then  
18 if there is no further discussion, all those  
19 in favor, please say aye.

20 BOARD MEMBERS: Aye.

21 CHAIRPERSON MITTEN: Opposed,  
22 please say no.

1 Mrs. Schellin.

2 MS. SCHELLIN: Staff would record  
3 the vote five to zero to zero to approve final  
4 action in Zoning Commission Case No. 06-15.  
5 Commissioner Jeffries moving, Commissioner  
6 Parsons seconding, Commissioners Hood, Mitten,  
7 and Turnbull in favor.

8 MR. JEFFRIES: Madam Chair, I  
9 would like to add that I think this case is a  
10 case of something that is place making if we  
11 need a definition.

12 CHAIRPERSON MITTEN: We know it  
13 when we see it, right? Okay.

14 Next is Case No. 06-46. If you  
15 remember, this is a project that we reviewed  
16 within the Capitol Gateway Overlay because of  
17 M Street and Half Street and so on so we have  
18 not taken proposed action in this case because  
19 it has a single vote.

20 Just to remind everyone what is  
21 involved, there are a couple of special  
22 exceptions that are being sought for the roof

1 structure setback along the edge of the  
2 buildings that face interior courts and then  
3 the setbacks along Half Street.

4 Then there's a serious of  
5 variances including a variance for residential  
6 recreation space, the desire to have fewer  
7 loading docks and berths that would then be  
8 required because, if you remember, they had  
9 quite a mix of uses and that was triggering a  
10 fairly high loading requirement.

11 There is a variance from the  
12 setback provisions of 1607.2 where a 20-foot  
13 setback above the height of 65 feet along Half  
14 Street is required. They are seeking a  
15 variance from the required ground floor -- the  
16 preferred uses on the ground floor and the  
17 accompanying issue is the street frontage  
18 along Half Street and this relates to the  
19 inclusion of the hotel lobby and various other  
20 uses that are not exempted from the frontage  
21 requirements.

22 Then the minimum height of the

1 first floor, floor to ceiling of 14 feet in  
2 certain locations. We raised a number of  
3 issues at the hearing and they had their post-  
4 hearing submission and they go into a number  
5 of explanations.

6 One of them is I think, at least  
7 based on the impression that I had at the  
8 hearing, they reduced, or at least minimized  
9 the amount of first floor space that needs to  
10 have that accommodation of the height so I  
11 think that's good. The other issues I think  
12 they've made their case in the submissions.

13 The one thing that I just can't  
14 bring myself to agree with is the four foot --  
15 let me just find it in here so I don't  
16 mischaracterize it. On page 12 they are  
17 articulating the reasons why they need the  
18 accommodation from the 20-foot setback.

19 I think the reason for the 12-foot  
20 setback on floors eight, nine, and 10 makes  
21 sense and they certainly, I think, have made  
22 their variance case for that particular

1 setback because of the combination of uses on  
2 the site and the configuration of the site and  
3 all of those things.

4 The four-foot set back that is the  
5 narrow architectural marker, I like it. I  
6 like the end result but I just can't justify  
7 that in the context of a variance. I just  
8 feel very strongly that the variance test has  
9 to be maintained regardless of whether or not  
10 you like the outcome so I can't support that  
11 particular variance. Other than that, I think  
12 they have made their case. I'll deal with the  
13 NCPC issue in a minute.

14 MR. JEFFRIES: Madam Chair, can  
15 you show me where that is?

16 CHAIRPERSON MITTEN: In the  
17 drawings?

18 MR. JEFFRIES: In the drawings.

19 MR. TURNBULL: A9A.

20 MR. JEFFRIES: A9A.

21 MR. TURNBULL: I think if you go  
22 to A9A it shows the two elevations.

1 CHAIRPERSON MITTEN: Yes.

2 MR. TURNBULL: It's got the Half  
3 Street elevation and the elevation that is the  
4 entrance for the hotel. You see the angled  
5 piece at the top?

6 MR. JEFFRIES: Excuse me but what  
7 exactly is that?

8 CHAIRPERSON MITTEN: It's an  
9 architectural embellishment.

10 MR. TURNBULL: I think that's  
11 where they had the name of the hotel at one  
12 point on the Half Street side.

13 CHAIRPERSON MITTEN: Let me see if  
14 I can find a different one.

15 MR. JEFFRIES: Well, I really like  
16 this project and I really like what the  
17 applicant has done. Madam Chair, I clearly  
18 understand the need to be very firm and strict  
19 around the variance test. I guess we are  
20 right here at final so either carve this out  
21 and say corrected and move forward.

22 CHAIRPERSON MITTEN: Right.

1                   MR. JEFFRIES:        I know that  
2 Commissioner Parsons and I don't quite agree  
3 on this one.

4                   MR. PARSONS:        Oh, they've made  
5 some changes.

6                   MR. JEFFRIES:        Okay. I didn't  
7 think they could make any level of changes  
8 that could make you happy. You've had lots of  
9 commentary.

10                  MR. PARSONS:        Most of my  
11 commentary went to these little places where  
12 retail wasn't occurring.

13                  MR. JEFFRIES:        Okay. So, anyway,  
14 I don't know if there are any more comments.

15                  CHAIRPERSON MITTEN: I just wanted  
16 to point out on A7 is where you can see where  
17 the four-foot setback is. You can see it in  
18 a different presentation. It's in the upper  
19 left-hand corner of the building on the right-  
20 hand side. That's where it is. How do you  
21 feel about the -- I mean, I really like it.  
22 I think this project is fantastic. I just --

1 MR. JEFFRIES: So make a motion  
2 and just carve it out and then we can move  
3 forward.

4 CHAIRPERSON MITTEN: All right.  
5 Thank you so much. Okay. Then I move that we  
6 approve Case No. 06-46 with the exception of  
7 the variance requested for the four-foot  
8 setback.

9 MR. JEFFRIES: Second.

10 CHAIRPERSON MITTEN: Any further  
11 discussion?

12 MR. PARSONS: I just want to thank  
13 them for the changes they made. I mean, they  
14 moved that, what was it called, retail  
15 shuttle.

16 CHAIRPERSON MITTEN: Yeah.

17 MR. PARSONS: They took the sign  
18 off. They moved the penthouse. I think they  
19 were very responsive.

20 MR. JEFFRIES: Perhaps you were  
21 very persuasive, Commissioner Parsons.

22 CHAIRPERSON MITTEN: Okay. And

1 just before we vote, I just wanted to take  
2 note of the fact that NCPC has a concern about  
3 the curbless treatment of Half Street. Even  
4 though we talked about it, it's really not  
5 within the Commission's control. Maybe  
6 someone will pass that on to DDOT.

7 Anyone else? Then all those in  
8 favor, please say aye.

9 BOARD MEMBERS: Aye.

10 CHAIRPERSON MITTEN: Those  
11 opposed, please say no.

12 Mrs. Schellin.

13 MS. SCHELLIN: Staff would record  
14 the vote five to zero to zero to approve final  
15 action in Zoning Commission Case No. 06-46.  
16 Commissioner Mitten moving, Commissioner  
17 Jeffries seconding, Commissioners Hood,  
18 Parsons, and Turnbull in favor. That is  
19 approving with the exception of the four-foot  
20 setback.

21 CHAIRPERSON MITTEN: Yes, thank  
22 you.

1                   Okay.           Case    No.    04-33A,  
2           Inclusionary Zoning.   We had some comments.  
3           We had comments from ANC-1C that the Office of  
4           Planning -- I guess they weren't sequential.  
5           They came in at the same time and they are  
6           slightly different.

7                   I just wanted to ask the Office of  
8           Planning in your recommendation amends the --  
9           well, it's not identical to ANC-1C.   Have you  
10          talked to them about what you're recommending  
11          instead and whether or not they are on board  
12          with your version of 1402.1?

13                   MR. RODGERS:    I met with them  
14          about two or three weeks ago and we discussed  
15          the issues.   One of their major concerns was  
16          they wanted the sites in the Reed-Cooke to go  
17          through the BZA for the special exception for  
18          the Reed-Cooke.   I explained to them that the  
19          intent of this was to create a by-right  
20          process.

21                   That is one of the points where we  
22          disagreed.   In general they supported the

1 income guidelines and the fact that we were  
2 keeping the percent required affordable the  
3 same way as it was expressed in the Reed-Cooke  
4 overlay.

5 CHAIRPERSON MITTEN: So in your  
6 report it says that you are going to revisit  
7 the Reed-Cooke overlay. When do you  
8 anticipate doing that?

9 MR. RODGERS: Our intent is to  
10 bring back to the Commission language for all  
11 the overlays where they would need clarifying  
12 language on how the bonus would happen whether  
13 there are lot occupancy or height changes  
14 needed in a given overlay for an April  
15 setdown.

16 CHAIRPERSON MITTEN: This  
17 particular change is coming forward at this  
18 point why, because ANC-1C triggered it?

19 MR. RODGERS: Yeah, they raised  
20 the issue. I met with them and I reviewed  
21 their concerns. I thought that at least in  
22 the interim period we could keep the same

1 language with just slight tweaking rather than  
2 delete the whole section.

3 CHAIRPERSON MITTEN: Okay.  
4 Anybody have any thoughts on amending -- well,  
5 let's see. Yeah, amending this provision? I  
6 was just going to say can we do that? Can we  
7 amend that provision in the context of the IZ?

8 MR. BERGSTEIN: Yes, because the  
9 proposed rulemaking had suggested omitting  
10 that provision and the comment was --

11 CHAIRPERSON MITTEN: Oh, okay.

12 MR. BERGSTEIN: I just want to  
13 point out that the version that is the correct  
14 amendment is on page 11. For some reason a  
15 different version appeared in the actual -- in  
16 the way the final rule is written so I've got  
17 to conform that.

18 The actual change to 1402.1 is on  
19 page 11 of the proposed order. That basically  
20 makes the additional bonus that would have to  
21 go to BZA before now be provided automatically  
22 as part of the exclusionary zoning but it

1 would also be a mandatory requirement as well.

2 CHAIRPERSON MITTEN: Okay. I am  
3 inclined to favor the Office of Planning  
4 version which, as Mr. Bergstein just pointed  
5 out, makes it mandatory and it doesn't make  
6 folks have to go to the BZA and it allows the  
7 height differential.

8 So I move that we take final  
9 action in Case No. 04-33A with the amended  
10 language of 1402.1 as proposed by the Office  
11 of Planning on page 2 of their January 29,  
12 2007, supplemental report.

13 MR. TURNBULL: Second.

14 CHAIRPERSON MITTEN: Thank you,  
15 Mr. Turnbull.

16 Any further discussion?

17 MR. PARSONS: So, Madam Chairman,  
18 when we voted on this previously you recall we  
19 voted on two separate votes. One was historic  
20 and the other nonhistoric. The way this has  
21 to be packaged I'll have to vote against this  
22 tonight but only for that reason.

1 CHAIRPERSON MITTEN: Oh, okay.

2 MR. PARSONS: There's no reason to  
3 have two orders. It's okay but I just feel  
4 very strongly that this does not belong in the  
5 historic district.

6 CHAIRPERSON MITTEN: Okay. Thank  
7 you for reminding me. Okay.

8 Anyone else? All those in favor  
9 please say aye.

10 BOARD MEMBERS: Aye.

11 CHAIRPERSON MITTEN: Those  
12 opposed, please say no.

13 MR. PARSONS: No.

14 CHAIRPERSON MITTEN: Mrs.  
15 Schellin.

16 MS. SCHELLIN: Staff will record  
17 the vote four to one to zero to approve final  
18 action in Zoning Commission Case 04-33A with  
19 the revisions suggested by the Office of  
20 Planning supplemental report to Section  
21 1402.1. Commissioner Mission moving,  
22 Commissioner Turnbull seconding, Commissioners

1 Hood and Jeffries in favor, Commissioner  
2 Parsons opposed.

3 CHAIRPERSON MITTEN: Thank you.

4 Next we have pieces of  
5 correspondence. I would just call a little  
6 status report from a neighbor regarding Case  
7 No. 05-18 so we take note of that.

8 Then we have a motion for  
9 reconsideration in Case No. 05-30 from a group  
10 that is not a party to that case. I don't  
11 think it's properly before us. Unless someone  
12 disagrees, then I don't think we should take  
13 it up because the party that participated was  
14 called Citizens Aware Block Organization and  
15 the group that has submitted the motion for  
16 reconsideration was calling themselves Party  
17 Block Association. It's not clear who that is  
18 precisely. Unless someone feels differently  
19 I don't think we have a motion properly before  
20 us. Okay?

21 Then the final piece of  
22 correspondence that we were going to take up

1 was something from ANC-6A which we actually  
2 don't have in front of us yet, Mrs. Schellin.

3 MS. SCHELLIN: Actually, I did  
4 pass it out but maybe you didn't get it.

5 CHAIRPERSON MITTEN: I'm sorry.  
6 Mr. Parsons just handed me his copy. Thank  
7 you. This is basically making the Zoning  
8 Commission aware of a case that was before the  
9 BZA and the ANC is opposed to the decision  
10 made by the BZA. I guess I would just respond  
11 to this letter by saying that I was on that  
12 case and any action that is to be taken by the  
13 Commission I am well aware of what the options  
14 are there.

15 VICE CHAIR HOOD: Does that mean  
16 we're not going to deal with it?

17 CHAIRPERSON MITTEN: Yeah, there's  
18 no action to be taken by the Commission that  
19 is triggered by this letter anyway.

20 Now we have the approval of the  
21 minutes. We have minutes in two groups. One  
22 group that we all participated in is the

1 regular meeting minutes of September 11, 2006,  
2 October 16, 2006, and December 11, 2006. I  
3 would move approval of those minutes.

4 VICE CHAIR HOOD: Second.

5 CHAIRPERSON MITTEN: Thank you,  
6 Mr. Hood.

7 All those in favor, please say  
8 aye.

9 BOARD MEMBERS: Aye.

10 CHAIRPERSON MITTEN: Those opposed  
11 please say no.

12 Mrs. Schellin.

13 MS. SCHELLIN: Staff will record  
14 the vote five to zero to zero to approve the  
15 Zoning Commission meeting minutes listed in  
16 item A. Commissioner Mitten moving,  
17 Commissioner Hood seconding, Commissioners  
18 Jeffries, Parsons, and Turnbull in favor.

19 CHAIRPERSON MITTEN: Thank you.  
20 Then we have two where Mr. Parsons was not  
21 present and they are special public meeting  
22 minutes from September 25, 2006, and then the

1 regular public meeting minutes from November  
2 13, 2006. I would move approval.

3 MR. TURNBULL: Second.

4 CHAIRPERSON MITTEN: Thank you,  
5 Mr. Turnbull.

6 All those in favor, please say  
7 aye.

8 BOARD MEMBERS: Aye.

9 CHAIRPERSON MITTEN: Those opposed  
10 please say no.

11 Mrs. Schellin.

12 MS. SCHELLIN: Staff will record  
13 the vote four to zero to one to approve the  
14 meeting minutes listed under Item B of the  
15 agenda. Commissioner Mitten moving,  
16 Commissioner Turnbull seconding, Commissioner  
17 Hood and Jeffries in favor, Commissioner  
18 Parsons not voting having not participated.

19 CHAIRPERSON MITTEN: Thank you.  
20 Then the final item for us to take up tonight  
21 is the election of officers to the Commission  
22 which is what we do every year in February.

1 I am going to presume that if I were not being  
2 replaced that you would want me to be retained  
3 as Chair. I will just hold that as a thought  
4 of mine.

5 Given that is not going to -- that  
6 I am not going to be here and that we are  
7 aware of that fact as we sit here, I think  
8 that it's only appropriate that we elect  
9 people who we know will be serving as the  
10 Chair and the Vice Chair.

11 It would be my great pleasure to  
12 nominate Commissioner Hood who has been our  
13 long-standing Vice Chair to the Chair and to  
14 nominate Commissioner Jeffries as the Vice  
15 Chair and ask for a second.

16 MR. PARSONS: Second.

17 CHAIRPERSON MITTEN: Thank you,  
18 Mr. Parsons. Any discussion?

19 VICE CHAIR HOOD: Well, I would  
20 just say while I definitely appreciate it and  
21 I'm willing to serve in that capacity, and  
22 will be willing to serve in that capacity if

1 my colleagues agree, since we know what is  
2 coming down the pike and what's moving  
3 forward, I would rather for us to wait and  
4 hold off the election until the new member  
5 joins us but I want my colleagues to know that  
6 I am willing and ready to serve as the  
7 Chairman of the Zoning Commission like I did  
8 in the year 2000. I would just rather us wait  
9 and do that when that person comes in whoever  
10 it may be.

11 CHAIRPERSON MITTEN: Anyone else?

12 MR. JEFFRIES: I would concur.  
13 I'm just concerned about I don't know whether  
14 the Commission has taken a vote on officers  
15 with the knowledge that, you know, one of the  
16 seats is currently in play. I think that it  
17 would go a long way for us to sort of take a  
18 pause here and see sort of what happens in the  
19 next few months before we dive out into this  
20 determination at this point.

21 CHAIRPERSON MITTEN: I would like  
22 to move forward with this vote tonight. First

1 of all, we need to elect officers and that  
2 happens in February so I don't think there  
3 would be -- there is nothing to be gained from  
4 having a different slate of officers tonight.

5 I think continuity on the  
6 Commission is important. Commissioner Hood  
7 has been the Chair before and I had the  
8 pleasure of being the Chair for a long time  
9 and folks have deferred to me in the past to  
10 do that. I think Mr. Hood is very capable.

11 Commissioner Jeffries, I'm glad  
12 that you are willing to serve as the Vice  
13 Chair and I think that the continuity that  
14 provides is important. I don't think there  
15 will be any different outcome several months  
16 from now. I wouldn't want any different  
17 outcome several months from now so I would  
18 like us to take this vote this evening.

19 VICE CHAIR HOOD: Madam Chair, the  
20 other caveat to add to that is we don't know  
21 when this new person is going to come on and  
22 I think your leadership from my training has

1 done very well. Actually you have served in  
2 the capacity of Chairman of the Zoning  
3 Commission very well.

4 I think the city is better served  
5 by Carol Mitten passing by the Zoning  
6 Commission. If you have another month to  
7 serve as the Zoning Chairperson, I think that  
8 is how it should be. I will tell you, though,  
9 that when the new person comes on, and I know  
10 somebody in the pipeline, whoever it may be,  
11 I will be petitioning my colleagues to vote  
12 for me as Chairman of the Commission.

13  
14 Until then, I think that you do a  
15 fine -- it may be March or April or May, we  
16 don't know. We can take that vote. I would  
17 prefer that we take that vote when the new  
18 member comes on and still come upon your  
19 leadership until that transition happens.

20 Mr. Parsons has his mic keyed up.

21 MR. PARSONS: I do. I do.

22 VICE CHAIR HOOD: He's been around

1 for a while so I'm going to yield to him.

2 MR. PARSONS: I'm glad Carol  
3 mentioned it. I can't imagine any different  
4 outcome whenever we vote. I mean, it has long  
5 been the tradition of this Commission that a  
6 new member doesn't walk into a position of  
7 office, if you will. I can't imagine a  
8 different outcome by delaying. I still want  
9 to hold onto Carol like you are. For the  
10 record, he's not hold onto her.

11 VICE CHAIR HOOD: Actually, it's  
12 the other way around. They just can't see.

13 MR. PARSONS: But I have never  
14 seen the Commission delay a February election  
15 so I don't see the rationale for delaying  
16 other than to have Carol serve in the capacity  
17 of Chairman for another month or two weeks or  
18 whatever it is. The federal members don't  
19 often wade into this.

20 VICE CHAIR HOOD: You did in the  
21 year 2000. Trust me. The vote was three to  
22 two in the year 2000. You did. I've been

1 there in this row before.

2 CHAIRPERSON MITTEN: Mr. Jeffries.

3 MR. JEFFRIES: Commissioner  
4 Parsons, I mean, I know that you are steeped  
5 in tradition.

6 CHAIRPERSON MITTEN: Another  
7 euphemism.

8 MR. JEFFRIES: No, I didn't say  
9 that. You know, the officers might not --  
10 will more than likely be the same in another  
11 month or two. I just think for the new  
12 members, whoever that is who is coming on, I  
13 think it would just be a good faith gesture on  
14 the part of this Commission to just hold off  
15 in terms of taking this vote.

16 Again, I would agree with Vice  
17 Chair Hood that as long as we have you here,  
18 you know, you should continue to serve as  
19 Chair. It takes a lot of work off of us,  
20 frankly. I would like you to stay in place.

21 CHAIRPERSON MITTEN: I mean, I  
22 truly do appreciate your desire to have me

1 remain as Chair. I know it's not just because  
2 I do more work than you guys. This is  
3 something that means a lot to me to leave the  
4 Commission in good hands so with that I would  
5 like to move to a vote and we'll see how  
6 things fall out.

7 MR. JEFFRIES: Can we take two  
8 votes? Can we take a vote to see if we should  
9 vote and then take another vote?

10 CHAIRPERSON MITTEN: So you're  
11 moving to table is what you're moving

12 MR. JEFFRIES: Yes.

13 VICE CHAIR HOOD: I have another  
14 option. I'm going to put a motion on the  
15 table.

16 CHAIRPERSON MITTEN: We have a  
17 motion to table.

18 VICE CHAIR HOOD: Motion to table?

19 CHAIRPERSON MITTEN: If Mr.  
20 Jeffries can get a second, then we can vote on  
21 the motion to table. So the motion to table  
22 fails for lack of a second.

1 Mr. Hood.

2 VICE CHAIR HOOD: What I was going  
3 to suggest is that you remain the Chairperson  
4 for the longevity of your tenure until, I  
5 guess, the new person is sworn in. Then at  
6 that time we then have our election. Hold on.  
7 Let me do this.

8 MR. PARSONS: I think you went to  
9 second it.

10 VICE CHAIR HOOD: No, I did not.  
11 I've been there, too, Commissioner Jeffries.  
12 I would move that we keep the status quo as we  
13 have it to this date and upon the new member  
14 being sworn in that we move that Anthony Hood  
15 be the Chairperson and Commissioner Jeffries  
16 be the Vice Chairperson. I so move.

17 MR. PARSONS: I'll second that.

18 CHAIRPERSON MITTEN: So you're  
19 amending my motion is basically what it is?

20 VICE CHAIR HOOD: Until at the  
21 time it is official that you are no longer a  
22 member of this Commission.

1 CHAIRPERSON MITTEN: That you  
2 would automatically become Chair and --

3 VICE CHAIR HOOD: I'm putting the  
4 motion in place now so it wouldn't necessarily  
5 be automatic. We will have already made the  
6 motion.

7 MR. PARSONS: So we would vote at  
8 the next opportunity after a confirmation of  
9 another member.

10 VICE CHAIR HOOD: We can do that.

11 MR. JEFFRIES: That's not what he  
12 said.

13 VICE CHAIR HOOD: What I said was  
14 -- I was putting it all in one motion so we  
15 wouldn't even have to vote. It would be  
16 automatic.

17 MR. PARSONS: All right. I see  
18 Mr. Bergstein is rising out of --

19 MR. BERGSTEIN: Well, I thought  
20 where you was going was you were going to vote  
21 on an election but that the results of the  
22 election would not take effect until the time

1 at which a vacancy -- it's not a vacancy -- if  
2 and when a new member of the Zoning Commission  
3 is appointed. Is that what you're doing?

4 VICE CHAIR HOOD: That's what I'm  
5 doing.

6 MR. PARSONS: Is that legal? Can  
7 we do that?

8 MR. BERGSTEIN: I think you can  
9 have a staggered effective date on an election  
10 if that's what you care to do. In other  
11 words, you would have an election. General  
12 Counsel is looking at me oddly so you can  
13 chime in but there's no rules on how you hold  
14 an election in the Zoning Regulations. There  
15 is in the BZA but there's none in the Zoning  
16 Regulations. I don't see why a vote of this  
17 body could not have a staggered effective  
18 date.

19 MS. HANOUSEK: I was thinking.

20 MR. BERGSTEIN: Go right ahead.

21 MS. HANOUSEK: I was merely  
22 remembering my years on the council as a staff

1 member and the reluctance of the council to  
2 pass legislation that would bind a future  
3 council.

4 MR. BERGSTEIN: I don't think that  
5 is the case. In other words, if they voted  
6 today and it took effect today, it would not  
7 bind the future Commission as reconstituted.  
8 It would just be a matter of effect. What  
9 they are trying to do is to resolve a  
10 transition issue while retaining the status  
11 quo as long as they can.

12 I don't see that's binding a  
13 future Commission. It's their way of taking  
14 a vote that is traditionally taken in February  
15 and then giving effect to the result at a  
16 staggered date so they can keep the current  
17 leadership in place as long as they can if  
18 that is my understanding of what you are  
19 attempting to do.

20 VICE CHAIR HOOD: I would second  
21 that motion.

22 CHAIRPERSON MITTEN: That is what

1 Mr. Hood is trying to do. I'll accept that --  
2 we'll just consider that an amendment to my  
3 motion and I would accept that as an amendment  
4 to my motion.

5 Mr. Turnbull, will you accept  
6 that? All I can say is you really, really  
7 want me to stay as Chair for as long as  
8 possible. Right?

9 VICE CHAIR HOOD: Oh, yeah.

10 CHAIRPERSON MITTEN: I see. Okay.  
11 Then I think we're ready unless anyone has any  
12 further discussion. All those in favor of the  
13 amended motion please say aye.

14 BOARD MEMBERS: Aye.

15 CHAIRPERSON MITTEN: And those  
16 opposed please say no.

17 Mrs. Schellin.

18 MS. SCHELLIN: Staff would record  
19 the vote five to zero to zero to keep the  
20 election of officers as is until such time a  
21 new member is confirmed. Commissioner Mitten  
22 moving, Commissioner Parsons seconding.

1 I'm sorry, then it would change to  
2 Commissioner Hood as Chairman and Commissioner  
3 Jeffries as Vice Chair. Commission Mitten  
4 moving, Commissioner Parsons seconding,  
5 Commissioners Hood, Jeffries, and Turnbull in  
6 favor.

7 CHAIRPERSON MITTEN: Great. I  
8 just want to clarify one thing which is it  
9 should be expressed that I am no longer  
10 serving whether I'm replaced or whether the  
11 time period for me no longer to serve as  
12 expired.

13 Okay. That's it. We're  
14 adjourned.

15 (Whereupon, at 9:51 p.m. the  
16 meeting was adjourned.)

17  
18  
19  
20  
21  
22

