

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

MAY 14, 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)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist

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OFFICE OF PLANNING STAFF PRESENT:

JENNIFFER STEINGASSER
STEVE COCHRAN
TRAVIS PARKER
MAXINE BROWN-ROBERTS
ARTHUR ROGERS
MATT JESICK

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Regular meeting held on May 14, 2007.

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2. Z.C. Case No. 07-10 (ANC 6A -
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3. Z.C. Case No. 07-11 (Forest
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4. Z.C. Case No. 07-12 (George
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5. Z.C. Case No. 07-13 (Trustees of the Corcoran Gallery of Art & MR Randall Capital, LLC - Consolidated PUD & Related Map Amendment at 65 I Street, S.W.)

6. Z.C. Case No. 07-14 (Israel Manor, Inc. - Text Amendment to Section 223 to Include Garages on Single Family Home Lots in the R Districts)

B. Order Published:

1. Z.C. Order No. 06-24 (Level 2 Development, LLC)

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Adjourn

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P R O C E E D I N G S

6:41 P.M.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is monthly meeting of the Zoning Commission of the District of Columbia. Today is May 14, 2007.

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

Copies of our agenda are available to you and they're in the wall bin by the door. I'd just like to remind folks that we don't take any public testimony at our meetings, unless the Commission specifically requests someone to come forward and I'd also like to remind you that we're being recorded by the Court Reporter, and also being webcast live, so I'd ask you to turn off all beepers and cell phones at this time so as not to disrupt our meeting.

Ms. Schellin, are there any

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1 preliminary matters before we go ahead?

2 All right, and this evening I
3 don't have any changes to make to the agenda,
4 so we're read to proceed to the Status Report
5 by the Office of Planning, Ms. Steingasser.

6 MS. STEINGASSER: Madam Chair,
7 Commissioners, the Status Report is before
8 you. We're happy to answer any questions. I
9 would also like to note that we have put out
10 an advertisement for the Zoning Comprehensive
11 Rewrite Roundtables to begin to get feedback
12 from the community. There's a meeting
13 scheduled on June 12th and July -- I'm
14 waiting for my cue from the Office of Zoning.

15 But one in both June and July to begin to
16 get that feedback.

17 MS. SCHELLIN: Sorry, that's June
18 21st and July 12th.

19 CHAIRPERSON MITTEN: June 21st and
20 July 12th, great. Looking forward to that.

21 Any questions for the Office of
22 Planning on the Status Report?

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1 VICE CHAIR HOOD: Madam Chair, on
2 that about the roundtable of the rewrite, I
3 had suggested and I'll make this suggestion
4 publicly that we invite the Board of Zoning
5 Adjustment because we're going to be hearing
6 public comment and I think it would be good
7 for them also, at least extend the
8 invitation.

9 CHAIRPERSON MITTEN: I think
10 that's very worthwhile.

11 VICE CHAIR HOOD: And the other
12 issue is we have a lot of cases on the BZA
13 and I've witnessed four of them which deal
14 with Ward 8 with R-5-A and I wanted to ask
15 Ms. Steingasser, do you have -- is there a
16 study or something that the Office of
17 Planning is looking at?

18 MS. STEINGASSER: Yes, sir. There
19 is. We've hired a summer intern who is going
20 to help us start doing a land use analysis of
21 the appropriateness of the R-5-A on both Ward
22 7 and 8 east of the river, which is where

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1 most of it is located. We've noticed a real
2 disparity in the type of development that's
3 characteristic of the neighborhoods and
4 what's actually permitted under the R-5-A and
5 then what we're seeing come through. So we
6 will be looking at that as part of the comp.
7 plan consistency and that will begin this
8 summer.

9 VICE CHAIR HOOD: Do we expect a
10 completion? Do you know if we may have a
11 completion date? Do we have a date that
12 we're looking to target?

13 MS. STEINGASSER: I don't have a
14 target date. I can probably begin to focus
15 that down for you by next month, but the
16 summer intern is just for the summer, so we
17 hope to have that analysis completed by the
18 end of August so we can begin meeting with
19 the ANC and looking at the alternate zones
20 that may be appropriate for early next fall,
21 this fall.

22 VICE CHAIR HOOD: Thank you.

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1 Thank you, Madam Chair.

2 CHAIRPERSON MITTEN: Does anyone
3 else have questions for Ms. Steingasser?

4 Okay, thank you very much. We're
5 ready to move to hearing action then and the
6 first case under Hearing Action is Case No.
7 04-33B and these are further text amendments
8 related to Chapter 26 which is the
9 inclusionary zoning chapter.

10 Mr. Rogers is here to make the
11 presentation.

12 MR. ROGERS: Good evening, and
13 thank you, members of the Zoning Commission.

14 My name is Art Rogers and I'm the Senior
15 Housing Planner for the D.C. Office of
16 Planning. Steve Cochran and I are here
17 tonight to recommend for your consideration
18 language that refines and expands the D.C.
19 zoning regulations, Chapter 26, inclusionary
20 zoning.

21 There are three basic types of
22 amendments before you. First is expanding

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1 the IZ requirements and into the R-2 zone
2 district. Second, there are refining
3 amendment to improve the text and provide
4 greater clarity. And then finally, there's
5 language for each overlay that states how the
6 bonus and the affordable set aside are
7 calculated and the appropriate height and lot
8 occupancy for flexibility.

9 Tonight, I will give a brief
10 introduction to the IZ in the R-2 zone
11 district and the refining amendments and
12 Steve Cochran will go with the language for
13 the overlay zones, after which our testimony
14 we'll be happy to answer any questions you
15 have.

16 The Office of Planning researched
17 expanding IZ into the R-2 zone district at
18 the request of the Zoning Commission. In our
19 supplemental report dated November 2, 2006,
20 OP provided the Zoning Commission with basic
21 information on how IZ typically works in
22 single-family detached and semi-detached

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1 developments and how it might work in D.C.

2 In our subsequent testimony, OP
3 advises the Zoning Commission that OP would
4 provide the Commission further analysis and
5 recommend language to be considered for set
6 down.

7 OP recommends that the R-2 be set
8 down for public hearing for several reasons,
9 including OP's previously stated concepts of
10 equity, simplicity, and effectiveness. But
11 two basic conclusions of our preliminary
12 analysis. First, there exists parcels in the
13 District in the R-2 zone that are
14 sufficiently large to build 10 or more units
15 which would be the trigger for IZ. And
16 second, and perhaps most important, the forum
17 that's permitted by IZ is very comparable to
18 what currently exists in many of the R-2
19 neighborhoods of the District. And that's
20 demonstrated, I think in the attachment of
21 our report.

22 OP's analysis of the R-2 also led

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1 to an important refinement to the R-3 and R-4
2 zones. OP looked more closely at the site
3 plans of existing lots in all three of those
4 zones and found that they were comparable to
5 -- excuse me, let me back up. In all three
6 of those zones, they were comparable in area
7 to that permitted by IZ and concluded that
8 shallower lots with the required width which
9 is normally required, were much more common
10 than narrower and deeper lots which is what
11 we originally proposed for the R-3 and R-4.

12 OP therefore recommends that the
13 shallower lots, which meet the width
14 requirements be permitted as a matter of
15 right, but the narrower and deeper lots to
16 accommodate the bonus density be permitted by
17 special exception. And that is just simply
18 according to the standard special exception
19 tests.

20 Over the past year, -- so that's
21 the R-2. Over the past year, since the
22 Zoning Commission approved IZ regulations, OP

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1 has worked with developers on specific cases,
2 heard from neighborhood representatives and
3 finally worked with the Mayor's office, the
4 Office of the Attorney General and the
5 Council to introduce and
6 pass legislation that empowers the Mayor to
7 administer an inclusionary zoning program.
8 Some of what we're proposing tonight is our
9 refinements as a result of all of those
10 efforts.

11 First, there are the conforming
12 amendments that establish a common language
13 between the zoning regulations including
14 income definitions in Chapter 24 and the
15 Inclusionary Zoning Implementation Act of
16 2006 and I think just having briefly talked
17 to the Attorney General, we'd have to tweak
18 them a little bit more.

19 Second, OP is proposing
20 refinements to the set aside requirements.
21 Previously, the set aside requirements were
22 based on the full matter of right development

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1 or the achievable bonus density. This
2 language meant that mixed use projects would
3 have to provide affordable units based on
4 their retail or nonresidential square
5 footage. In addition, since lot occupancy
6 changes -- lot and height occupancy changes -
7 - lot occupancy and height changes were made,
8 the full 20 percent bonus is achievable at
9 least theoretically.

10 Therefore, there was potentially
11 an interpretation of achievable which would
12 result in always basing the set aside on the
13 full 20 percent bonus, whether it was really
14 achieved or not, and that was not our intent.

15 So therefore, in consultation with
16 the OAG, OP is recommending that language be
17 refined to the greater of the gross floor
18 area devoted to residential use or the bonus
19 density utilized as opposed to bonus --
20 achievable bonus density. In combination
21 with this, OP also recommends the deletion of
22 Section 2606 which requires developers to go

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1 to the BZA for a one-for-one reduction in
2 requirement for each square foot of bonus
3 density that cannot be accessed due to site
4 conditions, even if they were otherwise
5 meeting the set aside calculation.

6 For instance, a developer would
7 potentially have to go to the BZA even if
8 they were receiving an 19 percent bonus just
9 to get the reduction to the required 50
10 percent of that bonus. This would
11 unnecessarily burden the developer and
12 potentially swamp the BZA with cases that
13 otherwise meet the regulations.

14 Third, OP is recommending bonus
15 height of ten feet to the C-2-C and SP-2 zone
16 districts. These zones have essentially the
17 same base FAR and envelope constraints as the
18 W3NCR. But we're not given the height and
19 OP's initial text that was approved by the
20 Zoning Commission. Our architectural
21 analysis last year for the mapping portion of
22 04-33 demonstrated the difficulties and the

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1 negative effect on light and air of using a
2 90 percent lot occupancy to achieve the
3 bonus. For this reason, OP is recommending
4 that the C-2-C and SP-2 zones also be
5 permitted up to a height of 100 feet.

6 In our public hearing report, OP
7 will provide the same mapping and
8 architectural analysis conducted for our
9 report dated September 26, 2006.

10 Finally, OP is recommending
11 greater flexibility in the off-site
12 provisions permitted through the Board of
13 Zoning Adjustment. OP recommends that within
14 the census tracts, the BZA may approve off-
15 site compliance through combined lot
16 covenants, enabling the requirement to be
17 transferred without actually owning the site.

18
19 And now Steve Cochran will talk
20 about the amendments to the overlays.

21 MR. COCHRAN: Thanks, Art. OP's
22 recommendations on overlays gives specific

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1 application to the approach that we outlined
2 in that September 26th report that Art
3 mentioned. Any related modifications to any
4 overlay would cause no changes in building
5 types or building envelope changes to the
6 smallest possible amount in order to avoid
7 impacts on neighborhood form, at least as
8 much as possible.

9 Calculate the IZ bonus from the
10 FAR restrictions of overlays where the matter
11 of right development is restricted and
12 calculate the IZ bonus from the base zone for
13 overlays with density incentives and give the
14 IZ bonus priority over those overlay
15 incentives. For all this, we assumed a
16 maximum permitted lot occupancy of 80 percent
17 and a 11 foot floor to floor average when
18 determining the number of stories of the
19 height needed to accommodate the bonus
20 density.

21 Analysis divides the overlays into
22 three categories. Those with density

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1 restrictions, those with density incentives,
2 and those that permit combined lot
3 development.

4 We'll look first at the overlays
5 with the density restrictions. There are
6 seven of these overlays. The Capitol
7 Interest, Cleveland Park, Eighth Street, Fort
8 Totten, Naval Observatory, Reed-Cooke, and
9 Woodley Park overlays.

10 If we start from those overlays
11 restrictions to the base zones, OP then
12 proposes maximum FAR increases ranging from
13 0.18 in the Naval Observatory overlay to 1.0
14 in one zone of the Fort Totten overlay. Lot
15 occupancy increases range from none in the
16 Eighth Street overlay to 15 percent in the
17 Cleveland Park and some other overlays.

18 High increases range from none
19 from the Capitol Interest overlay to the 10
20 feet in one of Woodley Park's overlays --
21 zone districts. The complete list is in the
22 table that's on page 11 of our report. And

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1 then the specific language for those overlays
2 follows on pages 12 to 14. Let's look at the
3 overlays with density incentives, but without
4 combined lot provisions, because I'll get to
5 the combined lot provisions a little bit
6 later.

7 There are four overlays that
8 provide density increases as incentives for
9 certain uses. These are the hotel
10 residential overlay, the 14 H Street, N.E.,
11 Tacoma overlay and the Georgia Avenue
12 overlay. There are also two more overlays
13 that provide density increases as incentives
14 and they also permit combined lot
15 development. I'll get to those as I said.

16 If we give priority to the
17 inclusion area zoning bonuses and then add on
18 the individual overlays bonuses which is the
19 principle that we have been working with in
20 our September report and that the Zoning
21 Commission seemed to endorse, we wind up with
22 the proposed maximum FAR increases over and

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1 above those now proposed by the overlays,
2 ranging from 0.2 in the HR overlay, the hotel
3 residential overlay, to 1.2 FAR increase in
4 the H Street overlay.

5 Lot occupancy increases range from
6 an addition of 5 percent in the Georgia
7 Avenue overlay to 15 percent in the Tacoma
8 overlay. There are only two height increases
9 proposed in addition to increases already
10 included in the overlays. These are the five
11 foot height increase in the C-2-B portion of
12 the H Street overlay and a 10-foot height
13 increase in the C-2-C portion of the H Street
14 overlay. The remaining portion of that
15 overlay, the C-2-A zone would remain the same
16 as it currently is.

17 The complete list again for these
18 types of overlays is in the table on page 16
19 of our report and then there's detailed
20 language following on pages 18 and 19.

21 As the table indicates, there may
22 be some difficulty in two zoned districts of

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1 the H Street overlay in achieving the uses
2 for which the overlay gives incentives
3 without additional increases in the FAR and
4 we would be analyzing this further should you
5 set this down tonight.

6 Finally, we get to the overlays
7 with combined lot provisions. As you know,
8 combined lot provisions permit two sites to
9 be considered as one in order to transfer
10 uses and intensities of uses between the
11 sites, as long as the total required of
12 permitted uses are met when the sites are
13 considered as a whole.

14 Both the Uptown Arts and the
15 Capital Gateway overlays provide for a height
16 FAR and bonuses in order to promote certain
17 uses. Two zoned districts within the Capital
18 Gateway overlay and all the zoned districts
19 within the Arts overlay also permit combined
20 lot development at set higher, yet limited,
21 FARs for the combined lot sites.

22 If the IZ bonus density must be

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1 used for affordable housing, before the bonus
2 density can be used for preferred overlay
3 uses, as OP has recommended, and as you've
4 previously concurred, there would be very
5 little bonus density available in the Arts
6 overlay to use as an incentive for that
7 overlay's preferred uses, even with combined
8 lot development.

9 In CG, while in practice there
10 would be little impact of IZ on the bonuses
11 in that overlay, there would likely be
12 reductions in the residential sites'
13 abilities to engage on combined lot
14 developments. This leaves us with a bit of
15 future work to do on the overlays.

16 Should the Commission set down
17 these proposals for a public hearing, we'll
18 explore the following in our final report:
19 the impact of the proposed FAR, lot
20 occupancy, and/or height increases on
21 overlays that current restrict base zoning;
22 the impact of indirectly reducing the H

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1 Streets and the Arts incentives for certain
2 uses by the IZ bonuses having priority over
3 the original overlays bonuses.

4 And finally, the implications for
5 reducing the utility of combined lot
6 development, particularly in the Capital
7 Gateway overlay and that concludes our report
8 for tonight. We'd be happy to answer any
9 questions.

10 CHAIRPERSON MITTEN: Thank you.
11 Any questions for Mr. Rogers or Mr. Cochran?

12 Does anyone have any questions?

13 Mr. Parsons?

14 COMMISSIONER PARSONS: I wanted to
15 focus quickly on Fort Totten. I thought when
16 we did the Fort Totten overlay when we
17 restricted the heights to 80 feet it was
18 based on the view from Fort Totten out over
19 the city. I may be mistaken, but here we're
20 proposing an increase of 10 feet in that
21 zone. It's something I just wanted to
22 explore in the hearing and I thought I'd let

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1 you know, but to make sure that we're not
2 intruding on the underlying purpose of this
3 overlay.

4 CHAIRPERSON MITTEN: Anyone else?
5 Mr. Jeffries?

6 COMMISSIONER JEFFRIES: I have a
7 question for Mr. Rogers. In terms of the
8 inclusion of the R-2 zone, any projections as
9 to how many additional affordable units we
10 could pick up in terms of inclusion of the R-
11 2?

12 MR. ROGERS: Not at this time. I
13 mean as we said in our report, there were
14 about 10 sites currently large enough,
15 greater than 30,000 or 40,000 feet where 10
16 units could be built and therefore trigger
17 IZ. But there were a lot of sites that are
18 adjacent to each other and developable, but
19 they're not assembled. And so we have to dig
20 a little bit deeper and find out exactly what
21 their production would be.

22 Those are primarily over in east

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1 of the river.

2 COMMISSIONER JEFFRIES: That's
3 what I wanted to know. Okay, thank you.

4 VICE CHAIR HOOD: Madam Chair, I
5 just wanted to thank the Office of Planning
6 for looking into the R-2 zone. I'm glad to
7 see what you came back with. I appreciate
8 that. Thanks.

9 CHAIRPERSON MITTEN: Anyone else?
10 I just wanted to reinforce Mr. Parsons
11 comment and it's not isolated for me to Fort
12 Totten, but in the case of the neighborhood
13 commercial overlay of which Cleveland Park
14 overlay is one, both in the purpose of the
15 overlay itself and then in the Cleveland Park
16 overlay they talk about compatibility with
17 the historic fabric.

18 And the pivotal issue seems to
19 always be height and when we start talking
20 about giving more flexibility and I just am
21 concerned as Mr. Parsons is about eroding the
22 original purpose. The same thing is true of

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1 8th Street. And the same thing -- although
2 they don't mention it specifically for
3 Woodley Park, but Woodley Park is a
4 neighborhood commercial overlay, so the
5 underlying purpose in 1300.3(c) is
6 articulated there too.

7 When I was reading about the HR
8 overlay, it just made me wonder why we're
9 still giving incentives to build hotels so
10 could we as part of this whole exercise
11 decide whether or not we want to keep doing
12 that? Because it was ironic. I went back to
13 say okay, why were we doing that again? And
14 the purpose is to build hotel rooms in
15 proximity of the new convention center and
16 the irony is that the site for the convention
17 center hotel is not in the HR overlay. So I
18 just don't like that that even exists if
19 that's not our intent, even if people aren't
20 building hotels in those areas.

21 And then I wondered if as was -- I
22 think Mr. Cochran mentioned that in the CG

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1 overlay and I think -- in the CG overlay in
2 particular, it was mentioned that the IZ may
3 have -- be an impediment for folks to be able
4 to use the combined lot provisions and I
5 would like us to decide whether or not that
6 should be a basis for getting off-site
7 relief. So I want it to be specifically
8 articulated, yes, we think that's an
9 appropriate basis, or no, it's not. So if
10 you could give that some thought, too.

11 And that's all I have.

12 Does anyone else have any more
13 questions?

14 All right, then we have
15 recommendation to set down Case No. 04-33(b)
16 for public hearing with additional study to
17 be done by the Office of Planning and I would
18 so move.

19 COMMISSIONER TURNBULL: Second.

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

22 Any discussion? All those in

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1 favor, please say aye.

2 (Chorus of ayes.)

3 Aye. Those opposed, please say
4 no.

5 (No response.)

6 Ms. Schellin, it's unanimous.

7 MS. SCHELLIN: The vote is
8 recorded as five to zero to zero to set down
9 Zoning Commission Case No. 04-33(b) as a
10 rulemaking case. Commissioner Mitten moving,
11 Commissioner Turnbull seconding,
12 Commissioners Hood, Jeffries, and Parsons in
13 favor.

14 CHAIRPERSON MITTEN: Thank you.
15 The next case is Case No. 06-30 which is the
16 Pollin Memorial Community Development, LLC
17 request for PUD and related map amendment.

18 Mr. Jesick?

19 MR. JESICK: Thank you, Madam
20 Chair

21 --

22 COMMISSIONER PARSONS: Madam

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1 Chair, I think I should report that I have to
2 recuse myself because the National Park
3 Service is actually an applicant in this
4 case.

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

7 Mr. Jesick, go ahead.

8 MR. JESICK: Thank you, Madam
9 Chair, Members of the Commission. My name is
10 Matt Jesick. As you mentioned, this is an
11 application for a consolidated planned unit
12 development and a related map amendment.

13 The Zoning Commission originally
14 considered this application in July of 2006,
15 but the application was not set down at that
16 time and I'll get into the reasons why in a
17 moment.

18 First, I would like to just very
19 briefly go over the main details of the case
20 and then after that I'll get into a little
21 bit of the background of how we got to where
22 we are today.

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1 The project is located in Ward 7,
2 west of the Parkside development and about a
3 quarter mile west of the Minnesota Avenue
4 Metro Station.

5 The proposal is to develop 125
6 affordable and workforce rental and ownership
7 units. This will be a mix of mostly row
8 houses with a few flats and small apartment
9 buildings thrown in. The applicant is
10 requesting some zoning relief such as side
11 yard relief and rear yard relief in
12 conjunction with the PUD. And they are
13 asking to apply the R-5-A zoning to parcels
14 that are currently unzoned.

15 Now again this was originally
16 considered in July of last year and at that
17 time the Commission expressed concerns about
18 one, the jurisdiction of who controls the
19 land; two, the location of flood plain on the
20 site; and three, the designated land use of
21 the property in the comprehensive plan.

22 Regarding the jurisdiction

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1 question, the District of Columbia is the
2 owner of the property. However, in 1950,
3 jurisdiction was transferred to the National
4 Park Service for the portion of the site west
5 of Anacostia Avenue. And again, the National
6 Park Service is now an applicant.

7 On the issue of a flood plain,
8 there is some flood plain on the site and
9 some of the residential units are proposed to
10 be located in what is today flood plain. The
11 applicant however will comply with 20 DCMR
12 Chapter 31. This is the chapter which
13 governs construction in flood plains. And
14 the Office of Planning will, however,
15 continue to work with the Department of the
16 Environment if the Commission chooses to set
17 this case down in order to minimize impacts
18 to the flood plain and nearby wetlands.

19 In regards to the comprehensive
20 plan, the future land use map designates this
21 site for medium density residential on the
22 east side of Anacostia Avenue and moderate

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1 density residential on the west side. The
2 generalized policy map shows that the east
3 side of Anacostia Avenue is suitable for a
4 neighborhood enhancement area and the west
5 side, or to the west of Anacostia Avenue, is
6 appropriate for parks and open space.

7 Other policies from various
8 elements of the comprehensive plan are in
9 support of the application including policies
10 from the land use and housing chapters of the
11 plan. And on balance, the Office of Planning
12 feels that residential uses are appropriate
13 in this location.

14 So in summary, the project will
15 make a significant contribution to affordable
16 housing in the District. It will also
17 redevelop an outdated public housing project
18 and the application is not inconsistent with
19 the goals of the comprehensive plan. And
20 with the new information provided by the
21 Applicant and the concurrence of the National
22 Park Service, the Office of Planning

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1 recommends that this case be set down for a
2 public hearing.

3 CHAIRPERSON MITTEN: Thank you,
4 Mr. Jesick. Any questions from the
5 Commission for Mr. Jesick?

6 Mr. Hood?

7 VICE CHAIR HOOD: Madam Chair, I
8 still have the same concern about the
9 building on the flood plain.

10 Mr. Jesick, and I guess we could
11 deal with this during the hearing, in
12 replacing an existing establishment, do we
13 know what any water damages, what's already
14 there and second phase of the question, not
15 necessarily looking for an answer today, but
16 do we know of any other properties that were
17 built under Chapter 31 that govern the flood
18 plain? I would like to get some examples of
19 that.

20 I'll tell you why. West Virginia
21 Avenue, and I'm sure Chapter 31 was in place
22 then, they built some town homes some years

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1 back, about ten years ago. And it's just
2 nothing -- people bought those homes and
3 there's just -- it's been nothing but a
4 problem. The basements are always flooded
5 when we have a heavy storm. The point is I
6 would hate to sit here and be a part of any
7 construction and I know in four or five years
8 that they are going to have problems with
9 water. So I'm not conducive to even being a
10 part of that. So I'm going to be looking for
11 that at the hearing, some answers to that,
12 and I'm sure Chapter 31 was in place on West
13 Virginia Avenue. If you go by there now,
14 it's a parking lot for the Bethesda Baptist
15 Church. So that is a major concern of mine.

16

17 CHAIRPERSON MITTEN: Anyone else?

18 Mr. Turnbull?

19 COMMISSIONER TURNBULL: Madam

20 Chair, I would concur with Commissioner Hood.

21 If almost one-fifth of the units are going
22 to be built in the flood plain, so a

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1 significant amount of homes that the Zoning
2 Commission is going to have to buy off on, I
3 think that's a great responsibility. I mean,
4 can these people even get flood plain
5 insurance for their homes? I think it -- I
6 think we need some more serious thought on
7 that.

8 CHAIRPERSON MITTEN: Just to add
9 my concern. One of the things that is --
10 that you said in the written report is that
11 the Applicant has committed to elevate the
12 grade of the site such that the lowest
13 habitable space of any home is no less than
14 one and a half feet above the elevation of
15 hundred year flood. Unfinished basements, if
16 they start out as an unfinished basement,
17 they're not technically habitable, but people
18 don't expect their basements to flood.

19 So to me there is -- there
20 shouldn't be anything built that we could
21 predict would flood with any kind of -- that
22 we could predict would flood. So I think

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1 just to have all that sufficiently clarified
2 would be helpful.

3 In the letter from the Park
4 Service, which is the Applicant's Exhibit C
5 to their April 26th submission, Ms.
6 Bloominthal references NPS and the Applicants
7 have developed a plan that calls for a
8 significant portion of the property to be
9 devoted to NPS and a youth golf and learning
10 facility. I got the plans out from the prior
11 -- you know, when we considered this last
12 year and I don't see that kind of facility on
13 the site.

14 Can you fill me in?

15 MR. JESICK: We don't have any of
16 those details either, but we are in touch
17 with Ms. Bloominthal at the National Park
18 Service and we can certainly get whatever
19 plans they have to date. I think at this
20 point it is more of a concept.

21 CHAIRPERSON MITTEN: Where would
22 it be?

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1 MR. JESICK: I believe in the
2 portion of the former site, which is west of
3 where development will be taking place.

4 CHAIRPERSON MITTEN: So in the
5 flood plain?

6 MR. JESICK: Correct.

7 CHAIRPERSON MITTEN: It all comes
8 back to the flood plain. And then finally on
9 the drawings on S-13 and S-14 just by way of
10 example, there is reference made to privacy
11 fences that will be built at the rear of the
12 units and I think given our intense interest
13 in fences between properties I think we need
14 to see what those are going to look like.

15 Anyone else, then? All right. We
16 have a recommendation from the Office of
17 Planning to set down case number 06-30 and I
18 would so move.

19 COMMISSIONER JEFFRIES: Second.

20 CHAIRPERSON MITTEN: Thank you,
21 Mr. Jeffries.

22 Any discussion? Then all those in

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1 favor please say aye?

2 (Chorus of ayes.)

3 Those opposed please say no?

4 VICE CHAIR HOOD: Abstain.

5 CHAIRPERSON MITTEN: Thank you,

6 Mr. Hood.

7 Ms. Schellin?

8 MS. SCHELLIN: Staff will record
9 three to zero to two to sit down Zoning
10 Commission Case Number 06-30 as a contested
11 case, Commissioner Mitten moving,
12 Commissioner Jeffries seconding, Commissioner
13 Turnbull in favor, Commissioner Hood
14 abstaining, not voting, Commission Parsons,
15 having recused himself not voting.

16 CHAIRPERSON MITTEN: Thank you.

17 The next case is case number 07-13 and this
18 is the proposed PUD and related map amendment
19 for Randall School. And before Ms.
20 Steingasser makes her presentation I would
21 just like to say that I was very involved in
22 this in my former employment with the

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1 District and I found as I was reading it that
2 I'm actually not unbiased about the outcome,
3 so I attend to recuse myself and Mr. Hood
4 will conduct the discussion.

5 VICE CHAIR HOOD: Okay, thank you,
6 Madam Chair. Zoning Commission case number
7 07-13, Trustees of the Corcoran Gallery of
8 Art & MR Randall Capital, LLC consolidated
9 PUD and related map amendment as Square 643S.

10

11 Ms. Steingasser?

12 MS. STEINGASSER: Commissioners,
13 the Office of Planning is recommending set
14 down for the application of a consolidated
15 PUD and related map amendment for the
16 property at 65 R Street, N.W., from the R-4
17 to C-3-A. It's also known as the Randall
18 Junior High School site. It includes a
19 portion of that building. The city sold the
20 property to the Corcoran who has since
21 partnered with Monument Realty to develop the
22 site. The site consists of approximately

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1 80,000 square feet of space to be used by the
2 Corcoran School for Arts Education and arts-
3 related uses. And the remainder of the
4 property will be used for residential uses.

5 Of that square footage for
6 residential which is approximately 340,000
7 square feet, 20 percent must be set aside for
8 low to moderate income households. The
9 proposed plan is consistent with those
10 requirements and has been reviewed for design
11 by the Historic Preservation Review Board
12 which gave conceptual approval in April.

13 Zoning-wise, the property is
14 consistent with the moderate density
15 designation of the land use map. It has an
16 FAR proposed at 4.3 and a height of 90 feet
17 and a lot occupancy of 70 percent.

18 The applicant is requesting fairly
19 moderate relief. The rear yard, side yards
20 and court are the only relief requested. The
21 flexibility requested is for density and
22 height. The comp. plan designates the land

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1 for medium density residential on the new
2 land use map that calls for four to seven
3 stories, but also allows for taller buildings
4 when they're surrounded by permanent open
5 space.

6 This property is adjacent to the
7 Randall Recreation Center which is under the
8 jurisdiction of the National Park Service, so
9 we're fairly comfortable with that
10 designation.

11 It's also consistent with the land
12 use elements of the comp. plan for efficiency
13 of land, housing, urban design, improvements
14 to the public realm which it's respecting --
15 by respecting the original right-of-way of
16 First Street and setting back so that it
17 maintains at least that L'Enfant grid.

18 The proposing amenities which
19 include art uses by the Corcoran which will
20 have a community component, the 20 percent
21 set aside for affordable housing, first
22 source, LSDBE, significant preservation

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1 element for the school itself, the revenues
2 generated both by construction, the permanent
3 residents and jobs created, pedestrian and
4 bike paths and green aspects of the building
5 design itself. There are some issues and OP
6 will continue to work with the applicant
7 concerning the various street scape and
8 recreational amenities. We're also
9 interested in the environmental benefits such
10 as stormwater runoff controls and the design
11 improvements that are also being proposed as
12 green.

13 We've heard from the adjoining
14 property owner across the street which also
15 has an approved PUD and they they've
16 expressed some concerns about the service
17 area that's being projected into H Street
18 which is partially closed and will be working
19 with them to make sure that there's no
20 interference between this project and that
21 project and access to the fields.

22 That's it.

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1 VICE CHAIR HOOD: Thank you, Ms.
2 Steingasser.

3 Colleagues, any questions of
4 Office of Planning?

5 Mr. Parsons?

6 COMMISSIONER PARSONS: It's, I
7 think, pretty well known at this point that
8 the Randall School playground which is to the
9 north and east of this project is to be
10 transferred to the District of Columbia.

11 MS. STEINGASSER: Yes.

12 COMMISSIONER PARSONS: Are there
13 any plans that you know of for that that
14 would conflict with this project?

15 MS. STEINGASSER: I know of no
16 plans that would conflict with this project.

17 Any plans that would go forward, we would
18 obviously coordinate with this project and
19 the existing PUDs across the street.

20 COMMISSIONER PARSONS: Because
21 this project probably relies on the views
22 across this landscape to the north and east

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1 of the Capitol dome and the PEPCO -- no,
2 Verizon facility -- the freeway, but I assume
3 they're not naive in knowing that there's
4 something that may happen on this site.

5 MS. STEINGASSER: Yes. That would
6 be my assumption. I don't think they're
7 assuming that that land will stay vacant
8 forever, but I think -- the adjoining
9 property owner.

10 COMMISSIONER PARSONS: All right,
11 now I'm wondering about the penthouse on the
12 north side. I don't quite understand it. Of
13 course, it probably wouldn't surprise you
14 that I'm troubled with the advertising on the
15 roof. I just think that's a nonstarter for
16 me, having the Corcoran have the opportunity
17 to have their name on the roof of a building
18 is just unacceptable. But the penthouse
19 itself seems to be an extension of the
20 facade. I should have the drawing in front
21 of me to help me, actually A-18 is probably
22 the best expression of that. And the floor

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1 plan it says or the roof plan it says that
2 this is going to contain lockers for the
3 pool. And of course, there's no pool that's
4 evident on the roof, but I'm wondering what
5 do we know about that?

6 MS. STEINGASSER: We've also
7 wrestled with the appearance of that wall and
8 the extension of that roof structure up there
9 and have -- and are still working with the
10 architecture on those details. The HPRB
11 also, I think, had some concerns about how
12 that particular wall read. And as they
13 finish their concept -- they've got their
14 concept approval, but there are still some
15 design refinements that they're expecting and
16 I think this will be done of them that you
17 see when we come back --

18 COMMISSIONER PARSONS: Concept
19 approval from who?

20 MS. STEINGASSER: From the HPRB,
21 the Historic Preservation Review Board.

22 COMMISSIONER PARSONS: I'm more

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1 concerned about the south side than the north
2 side, maybe.

3 MS. STEINGASSER: It is the north
4 side has triggered -- I mean it's the south
5 side that has triggered the designation, but
6 it's the north side that everyone is
7 wrestling with with some of the design
8 elements.

9 COMMISSIONER PARSONS: I see.
10 Because I can't think of another --

11 MS. STEINGASSER: The south side
12 is the old school that will be preserved.
13 The north side is where most of the height is
14 being located and that's where I think people
15 are --

16 COMMISSIONER PARSONS: So pool
17 lockers, I'm looking at A-4 now, but I guess
18 this is the first time we've seen a
19 mechanical penthouse that includes this kind
20 of facility. I assume that includes
21 bathrooms, showers, or whatever. Let's look
22 at that a little more closer when we get to

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1 the hearing.

2 MS. STEINGASSER: We will. We'll
3 also look at it relative to the new text
4 amendment when we deleted the -- repealed the
5 recreation requirement. We allowed for an
6 expanded use of the penthouse structures for
7 recreational uses.

8 COMMISSIONER PARSONS: Aha! This
9 is our first.

10 MS. STEINGASSER: And this is our
11 first.

12 COMMISSIONER PARSONS: Response.
13 Okay, thank you.

14 VICE CHAIR HOOD: Any other
15 questions?

16 Commissioner Jeffries?

17 COMMISSIONER JEFFRIES: I
18 typically like the architectural design of
19 Mr. Baranes, but I'm somewhat disappointed
20 with what I'm seeing here, particularly the I
21 Street view or the southern view, I think
22 that's what you're calling it. Somehow I

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1 don't think the old and the new are meshing
2 quite well. It doesn't seem like the new is
3 really being the proper backdrop to what is
4 old and being preserved.

5 I just find it somewhat
6 problematic. Now I don't feel strongly
7 enough not to vote in favor of a setdown, but
8 I do want to clearly send the message that at
9 least for this Commissioner, I'm somewhat
10 dissatisfied with this elevation and
11 considerably.

12 And then secondly, I just want to
13 make certain, given that there are very
14 distinctive uses that are going to be taking
15 place here that I'm clear about the
16 delineation, where students are going and
17 artists are going and where the residents are
18 going. I just want to make certain that the
19 delineation is clearly marked.

20 I think you mentioned the
21 landscaping. Perhaps what I'm seeing here is
22 -- I mean this is very preliminary, but it

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1 just comes up quite short. So I think this
2 needs a lot of work from where I sit, so --

3 VICE CHAIR HOOD: Any other
4 questions? Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Thank you,
6 Commissioner Hood.

7 I would agree with both the
8 Commissioner Jeffries and Commissioner
9 Parsons in their comments. I think that when
10 you look at the south elevation this is a
11 PUD. We're expecting the architecture to
12 reflect a higher sensibility and again, I
13 think it's as Commissioner Jeffries says,
14 it's a little light. You don't quite feel
15 the meshing of the historic aspect in the
16 other building. There's just something with
17 either the way it's set in or the coloring of
18 it that just doesn't seem to -- the setting
19 is not reflective of what you think it should
20 be.

21 And the north elevation is a very
22 stark contrast and as Commissioner Parsons

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1 has stated earlier that the -- it almost
2 seems like the wall plane of the building
3 that the penthouse is morphing into another
4 floor and it's becoming something distinct
5 from being a penthouse. There's something
6 else going on up here. And I would agree
7 about the lettering also is not appropriate
8 for this.

9 But I guess the other thing that I
10 would have liked to have seen is that up on
11 the roof, more of a green roof. I don't see
12 any of the things that we looked at before on
13 other projects, on PUDs where we're seeing a
14 tremendous sustainability in getting green
15 roofs and that kind of quality that is
16 lacking on this. And I think for something
17 as significant and as big as this, we ought
18 to be -- there ought to be some more.
19 There's really, there's nothing really called
20 out. I think it's -- it would behoove the
21 applicant to go back and restudy their roof
22 and to give us something, in light of what

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1 we've seen in other projects of what we're
2 looking for.

3 VICE CHAIR HOOD: Any other
4 comments?

5 COMMISSIONER JEFFRIES: Again, the
6 southeast view, from -- there was talk at
7 some point, I remember in the Williams
8 Administration about that field being like
9 some youth-oriented baseball field. I don't
10 know what the plans are now, but my suspicion
11 is that this site is going to be somewhat
12 figural, that you will see it from a lot of
13 different angles and so it should be
14 thoughtful and certain parts of this, I mean
15 it looks like a dormitory.

16 COMMISSIONER PARSONS: Mr.
17 Chairman, I think we've got enough concern
18 here about this that maybe we ought to wait a
19 month and get the applicant to respond to
20 this. It's just not as refined as so many of
21 the PUD applications that we normally see.
22 It just doesn't seem to be advanced enough in

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1 the elevations and now the concern about the
2 green roof, the sign, the penthouse issues
3 that maybe we should allow the applicant to
4 respond, rather than relying on something
5 that happens at the hearing later.

6 VICE CHAIR HOOD: Let me just echo
7 your concern about the sign. I'm sure we're
8 not going to come up and propose that. When
9 I saw that I said oh no, that's a no started,
10 as you said.

11 But let me just put my issue on
12 the table. When we talk about traffic on I
13 Street, between Delaware Avenue and South
14 Capitol Street, we have an inspection
15 station, very seldom do we have backups at
16 the inspection station, but I'm thinking
17 about that which takes us down to one lane
18 and I'm thinking about traffic that already
19 leaves out. I just need to know from a
20 traffic consultant, this is not necessarily
21 directed to you, Ms. Steingasser, before the
22 applicant, who is I'm sure going to have a

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1 traffic consultant.

2 I'm hoping they don't come down
3 here and tell me that this level of service
4 at South Capitol Street and I is a level of
5 service A. That's the reference point.
6 That's where we're going to start because
7 I've been down I Street many days and I'm
8 hoping that we put some common measures in
9 place and we can start from that point and we
10 can have a hearing as far as transportation
11 from that point on. So that's my reference
12 point.

13 I'm very concerned about that. So
14 do my other colleagues agree with Mr.
15 Parsons' point?

16 COMMISSIONER JEFFRIES: Yes, I
17 actually, I thought I was the only one that
18 had such a response, but listening to
19 Commissioner Turnbull and so forth, I think
20 it's probably wise that we send this one
21 back.

22 VICE CHAIR HOOD: Let me do this.

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1 Ms. Steingasser, are we putting anybody in
2 an awkward situation? We'd rather put them
3 in an awkward situation now than put them in
4 one later.

5 MS. STEINGASSER: I can honestly
6 speak for the applicants and say they would
7 rather be set down and scramble at their end
8 than not be set down. However, I believe
9 July is already scheduled for hearings
10 anyway, so there is a little play because of
11 the August break. That may give some cushion
12 if we can get this back before the Commission
13 and get it set down in June. I'm sure the
14 applicant would prefer set down.

15 VICE CHAIR HOOD: I understand.
16 If they get it to us, Ms. Schellin, and maybe
17 prior, as long as all the notification
18 requirements are in place, I don't think we
19 need any, but if they do it, give it to us
20 prior, we may be able to take this at a six
21 o'clock meeting for set down? We'll be
22 amenable to that, I'm sure my colleagues

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1 would be. If that would help expedite it a
2 little bit.

3 MS. STEINGASSER: We'll let them
4 know.

5 VICE CHAIR HOOD: Okay. I've been
6 informed we need to set a date for the
7 submissions.

8 MS. SCHELLIN: I think we need to
9 find out from the applicant how much time --

10 VICE CHAIR HOOD: Do we need to do
11 that publicly or can we work on that off-
12 line?

13 MS. SCHELLIN: Yes, I think we can
14 work that out with the applicant.

15 VICE CHAIR HOOD: Okay.

16 MS. SCHELLIN: After they consult
17 with their architect.

18 VICE CHAIR HOOD: Okay.

19 MS. SCHELLIN: Okay, they'll
20 contact us when it's done.

21 VICE CHAIR HOOD: Okay, so again,
22 Zoning Commission Case No. 07-13 is being

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1 postponed and we'll deal with that -- we'll
2 leave that up to staff. Thank you.

3 Thank you, Madam Chair.

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

6 Next case for hearing action is
7 Case No. 07-14 and this is a map amendment in
8 Square 3848.

9 Mr. Jackson?

10 MR. JACKSON: Madam Chairman, and
11 Members of the Zoning Commission, my name is
12 Arthur Jackson. I'm a development review
13 specialist in the District of Columbia Office
14 of Planning and I will present a brief
15 summary of the Office of Planning's
16 preliminary report of this application.

17 You have our full report before
18 you. Briefly, the Israel Manor, Incorporated
19 has filed an application on behalf of
20 Brentwood Outlets, LLC., the applicant,
21 requesting that the Zoning Commission
22 consider to rezone an area of a proposed Lot

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1 817 on Square 3848 from general industrial
2 and commercial light industry, that's CM-2 to
3 commercial business center or C-2-B.

4 The stated goal of this
5 application is to change the existing zoning
6 to make it more consistent with the
7 generalized land use map of the Comprehensive
8 Plan Amendment Act of 2006. The current
9 pattern of CM-2 at M zoning on the property
10 only allows retail, commercial and
11 manufacturing uses and no new residential
12 uses. However, the generalized land use map
13 and comprehensive plan adopted in 2006,
14 according to the 2006 amendment, shows the
15 subject property within the Rhode Island
16 Metro land use change area, an indication
17 that the existing pattern of land uses in
18 zoning should be considered for change.

19 The specific future plan
20 designation is for mixed use consisting of
21 medium density residential and medium density
22 commercial land uses.

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1 The proposed C-2-B district would
2 allow a mixture of residential and commercial
3 uses to a low to moderate density. This
4 change

5 --

6 VICE CHAIR HOOD: There seems to
7 be a problem. I've been having this problem
8 for a while and I don't know if anybody else
9 has a problem hearing.

10 CHAIRPERSON MITTEN: Could you
11 pull your mic closer?

12 VICE CHAIR HOOD: Maybe it's not
13 just you, Mr. Jackson. I've been having it
14 for a few moments.

15 MR. JACKSON: Okay, sorry. All
16 right, is that better?

17 CHAIRPERSON MITTEN: Not a whole
18 lot.

19 Is there a way to turn the volume up?

20 MR. JACKSON: Is that better?

21 VICE CHAIR HOOD: Is the audience
22 having a problem? Maybe we need to sit in

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1 the audience?

2 (Laughter.)

3 MR. JACKSON: Is this better?

4 CHAIRPERSON MITTEN: Try and speak
5 up a little bit too. I'm sorry.

6 MR. JACKSON: How about that?

7 CHAIRPERSON MITTEN: Just go
8 ahead.

9 MR. JACKSON: The proposed C-2-B
10 district would allow a mixture of residential
11 and commercial uses to a low-to-moderate
12 density. Is that all right? Okay.

13 The range of uses allowed under
14 the proposed zoning would not be inconsistent
15 with the new land use policy map designation.

16 The zone changes also support a number of
17 other policies in the plan and certain
18 principles of smart growth. Based on this
19 information, the Office of Planning
20 recommends scheduling this application for
21 public hearing.

22 That concludes my summary of the

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1 final report -- of the preliminary report for
2 this application.

3 CHAIRPERSON MITTEN: Thank you,
4 Mr. Jackson.

5 Any questions or comments for Mr.
6 Jackson?

7 CHAIRPERSON MITTEN: I have a
8 general concern which is the manner in which
9 we're going to proceed to make the -- do the
10 consistency cases to the zoning map following
11 the comprehensive plan and I've two concerns.

12 One is just from an efficiency standpoint.
13 If we have a whole series of individual
14 cases, then that's a lot more hearings than
15 we probably need to -- than the Commission
16 needs to have and that the public needs to
17 attend. And then I'm also concerned about
18 taking a look sort of without the broader
19 context of what is intended for a given area,
20 taking one site without considering the whole
21 area.

22 So I don't know if you all have

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1 thought about that, but my preference would
2 be -- this area in particular seems to be
3 fairly discrete, would be to take a little
4 extra time and look at it in its totality.

5 MR. JACKSON: Well, one
6 characteristic that we took into
7 consideration of this property is that it is
8 -- it's a portion of the property, it's
9 identified as part of the existing Brentwood
10 site and it's --

11 CHAIRPERSON MITTEN: Existing
12 what? I'm sorry.

13 MR. JACKSON: I'm sorry. Existing
14 Brentwood center site. It's already part of
15 an essentially commercial development. It's
16 bordered on one side by Rhode Island Avenue.
17 It's bordered by the road by Washington
18 Terrace, I believe, and of course the
19 Brentwood -- I'm sorry, the Rhode Island
20 metro development to the south and then
21 there's a commercial use or a bank building
22 to the north.

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1 Since it is so discrete and seems
2 to be infill to an existing spot along the
3 frontage, this would appear to be a project
4 that could be
5 -- would probably be as easily addressed as
6 insular use as opposed to even a broader
7 context. Because the impacts would be
8 limited on all sides because to the south and
9 east is developed and to the north it's along
10 a major right-of-way.

11 CHAIRPERSON MITTEN: Well, then
12 maybe you can answer me a specific question.

13 Given I take your point, it's a good point.

14 Would it be your intention to recommend C-2-
15 B zoning for the Bank America branch site,
16 because that's what is that going to fill in
17 to be?

18 MR. JACKSON: I see what you're
19 saying. We had not looked at anything but
20 the proposal before us and --

21 CHAIRPERSON MITTEN: I think the
22 expectation that someone would have would be

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1 well, we have PUD related map amendment to C-
2 2-B to the west and then if we say that this
3 should be C-2-B, then the expectation would
4 be that the Bank of America branch site
5 should be C-2-B, in which case let's just do
6 that. And if not, then I'd like to know what
7 your intentions would be. I'm really
8 concerned about just looking at this on its
9 own.

10 MR. JACKSON: I guess the only
11 observation that I would make is if you look
12 at the map that we included in the back in
13 terms of the comprehensive plan designation.

14 I think what your saying -- actually, this
15 probably enforces your point because the
16 comprehensive plan designation actually does
17 run along the property line which would
18 essentially be the branch bank. So I think
19 the point is well taken.

20 CHAIRPERSON MITTEN: Thanks. I
21 like your point, you like my point. We're
22 going to get along fine.

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1 (Laughter.)

2 MS. STEINGASSER: We have been
3 very concerned about the proliferation of
4 these small map amendments, because we've
5 been contacted by a lot of neighbors, a lot
6 of ANCs, and we don't have the manpower to do
7 these one at a time. Because we're taking on
8 the comprehensive rewrite of the zoning regs,
9 one thing we wanted to do before we go
10 through an exercise of rezoning great areas
11 of the city is to understand what zoning
12 districts are we going to have to use.

13 We know we need new R-4s. We know
14 the Commission has expressed concern about
15 the C-2-B and the jump between it and
16 especially within it's PUD context, and the
17 densities and whether we need -- which our
18 gut is that we do need additional commercial
19 zones. We need additional residential zones,
20 and we probably need additional mixed-use
21 zones that have a flip in densities where
22 it's not necessarily residential heavy, but

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1 maybe it's office heavy with residential
2 zone.

3 So our position has been if the
4 ANCs want to come forward with kind of a
5 comprehensive look at some of the areas
6 within their boundaries where they have taken
7 the lead on doing the leg work and the
8 posting, that we would consider those one at
9 a time. But otherwise, we're expecting to do
10 a comprehensive analysis as part of the
11 zoning reg rewrite. So it would be at least
12 a year before we would be bringing anything
13 outside of the R-4 and this east of the river
14 R-5-A case forward.

15 CHAIRPERSON MITTEN: Well,
16 actually what you're saying reinforces my
17 concern then, which is I don't want us to go
18 just because people are in front of us asking
19 for something to do something that later we
20 might regret because we didn't take a little
21 pause and you know, if we're creating new
22 zone districts there might have been

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1 something that we would have preferred doing
2 but because, you know, circumstances got
3 ahead of us.

4 So what I would like to propose to
5 my colleagues is that we put this off and
6 that the Office of Planning and in
7 cooperation with the Office of the Attorney
8 General and so on, come to us with a strategy
9 for managing these requests that is not --
10 that doesn't not involve piece-mealing it.
11 Because I just -- I'm just very concerned. I
12 don't know if my colleagues share my concern,
13 but if we find that the tools in our toolbox
14 are outdated, I don't want to keep using
15 them.

16 MS. STEINGASSER: Could I add two
17 points to that?

18 CHAIRPERSON MITTEN: Sure.

19 MS. STEINGASSER: This particular
20 project does have a public financing element
21 that does has a fairly short time clock on
22 it. So that's one of the reasons that is

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1 moving a bit ahead of the rest of the center.

2 The other way that we have looked at it in
3 some cases is that we can't really do
4 anything that we can't undo in two years.
5 You know, we'll be revisiting the map
6 amendments city-wide in another year to two
7 years.

8 So some of the things we planned
9 to move forward, like the new R-4 district,
10 we feel there is just too much pressure on
11 some neighborhoods to wait and delay and the
12 commercial zones we'll be looking at. But we
13 will always have an opportunity in a year or
14 two years to visit these things in a more
15 comprehensive -- so if it's not working
16 today, we can fix it in another two years.
17 Not that that is a good school of thought for
18 land use planning, I just must say --

19 (Laughter.)

20 It does kind of give us a little
21 bit of safety of getting some things
22 protected while we move forward with the

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1 comprehensive rewrite.

2 CHAIRPERSON MITTEN: Okay, let me
3 hear from my colleagues.

4 VICE CHAIR HOOD: Madam Chair,
5 while I understand what you're saying, the
6 spirit that you're saying it, but it appears
7 to me, and I'm sure this is just me thinking
8 this way, but every time we come to a case in
9 a certain area, I'm not going to say which
10 area it is. I know nobody wants to hear it,
11 but I sit up here all the time. We always
12 rezone these -- we do away with the M zoning
13 and the CM zoning all over the city.

14 Whenever it comes to a project in
15 this specific area, there's a pause for the
16 cause. I really think that we need to be
17 consistent and while I understand what you're
18 saying at that point, but I would have to --
19 if we study and we pause as you've mentioned,
20 the pause may take three, four, five more
21 years.

22 You know, we've studied to study

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1 to study, and in other jurisdictions in the
2 city we have moved forward. I think this is
3 just a small piece and if we find out that we
4 need to revisit, then we will. I have never
5 seen anyone in this city in other wards come
6 down and say that we don't want to do away
7 with C-M-1 or M zoning because of the
8 undesirable uses that go on in those areas.

9 I'm sure no one from Ward 5 is
10 saying we don't want do away with M zoning
11 and -- at least I hope they're not, as much
12 as I've been done here fighting, let's make
13 sure that we're consistent across the board.

14 We do that all over the city and
15 unfortunately when it comes to Ward 5, I'm
16 not directing my point just to you, but I'm
17 just saying in general, it seems like we
18 always have to pause for the cause.

19 I think that this is another
20 example of being able for this particular
21 ward who is inundated with N uses and C-M-1
22 uses, which are heavy industrial, trash

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1 transfer stations, and the like, to maybe do
2 away with some of that, like other wards in
3 the city. That's my two cents worth.

4 CHAIRPERSON MITTEN: Mr. Parsons?

5 COMMISSIONER PARSONS: Did you
6 want to elaborate on that? I'm kidding.

7 Well, why couldn't we look at the
8 Bank of America here at the same time? I
9 mean, its current zoning is inconsistent as I
10 read the map. Is there any harm done with
11 that? At least we're not coming back to look
12 at this site two years from now. At least
13 it's a little more common sense about it, I
14 think.

15 COMMISSIONER JEFFRIES: Because I
16 mean we really should not, I mean, Ms.
17 Steingasser, you brought up financing
18 concerns I mean in terms of timing and so
19 forth, but obviously as a map amendment case,
20 I mean, we really shouldn't be looking at
21 those issues but I think Commissioner Parsons
22 makes a good point. I mean, if this is

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1 somewhat of a consistently kind of thing, you
2 know, perhaps we could look at that site.
3 You know?

4 At least it would just somehow
5 give more credence that the Commission is
6 making a statement, you know, about
7 appropriateness of zone.

8 MS. STEINGASSER: Okay, we will be
9 happy to take a look at the whole Brentwood
10 shopping center as a consistency action and
11 perhaps if the previous application gets
12 scheduled for a special meeting, we can tack
13 this one on and at least save a couple of
14 weeks to that same meeting, if that happens,
15 otherwise, we'll bring it back.

16 CHAIRPERSON MITTEN: I think that
17 would be great. But I just -- not to lose
18 the point that Mr. Parsons was helping me
19 make is the Brentwood Shopping Center site
20 doesn't appear and I could be wrong, doesn't
21 appear to include the Branch Bank. So it's
22 the Branch Bank that I'm more worried about,

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1 since the shopping center is already largely
2 developed. So just as long as we get that in
3 there and I just wanted to assure my
4 colleague, Mr. Hood, that my intention is not
5 to retain industrial zoning, but to make sure
6 that we're thoughtful about putting the
7 appropriate zoning to replace that on the
8 map.

9 So then we can defer this to be --

10 VICE CHAIR HOOD: Did we agree to
11 defer? Maybe I didn't understand.

12 CHAIRPERSON MITTEN: I think we
13 have a general consensus to defer. I believe
14 Mr. Jeffries is in favoring of deferring --

15 VICE CHAIR HOOD: Are you going to
16 call a roll?

17 CHAIRPERSON MITTEN: Let me finish
18 -- to include at a minimum the Bank America
19 Branch site. Mr. Parsons suggested it. I
20 agree, so we can take a vote if you like or
21 we can just do it by consensus and perhaps
22 Mr. Turnbull would like to weigh in.

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1 MR. BERGSTEIN: Madam Chair, just
2 a point of procedural issue here.

3 CHAIRPERSON MITTEN: Okay.

4 MR. BERGSTEIN: This application
5 and it is an application, was filed by the
6 owner of the site and therefore if it was
7 just this application it would be a contested
8 case.

9 CHAIRPERSON MITTEN: I see.

10 MR. BERGSTEIN: If you're going to
11 look at another site then I assume that the
12 Office of Planning would be the petitioner
13 for that site which would be a rulemaking.
14 So either you'd have two proceedings, one a
15 rulemaking for one site; the other a petition
16 for the other, or you put the two together
17 and make it a petition in its entirety. But
18 I just want to point out that you do have a
19 different set of circumstances governing the
20 procedures of each case.

21 CHAIRPERSON MITTEN: Thank you. I
22 think we can sort that out if we wind up

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1 deferring it, we can sort that out, depending
2 on what the Office of Planning decides
3 because they would end up becoming the
4 applicant for both if we combine it. That
5 would be the only solution.

6 Mr. Turnbull?

7 COMMISSIONER TURNBULL: Madam
8 Chair, I would just agree with you. I think
9 that -- going -- if you look at the
10 generalized land use plan and then if you go
11 to the aerial view, I think the aerial view
12 of the site sort of I think reflects better
13 what Commissioner Parsons is saying about
14 making it all seek -- and if the Office of
15 Planning is going to study that, I think I
16 would go along with that.

17 CHAIRPERSON MITTEN: Thank you.
18 Mr. Hood, did you want us to take a vote
19 about that?

20 VICE CHAIR HOOD: No, I understand
21 the vote, but what I was saying, Madam Chair,
22 is that Ms. Steingasser, I thought, gave us

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1 an option. She said she would attach the
2 amendment or whatever we need to do, attach
3 it to this, so I could see us moving forward
4 because if we went on a study, when are we
5 going to be done with it?

6 CHAIRPERSON MITTEN: They're going
7 to take a position and they need a little
8 time to decide what their position is going
9 to be. It's not a lengthy process that we're
10 talking about.

11 VICE CHAIR HOOD: Okay, two weeks.

12 CHAIRPERSON MITTEN: You can get
13 Ms. Steingasser on the record about how long
14 --

15 VICE CHAIR HOOD: She nodded her
16 head.

17 MS. STEINGASSER: Two weeks.

18 VICE CHAIR HOOD: Because I was
19 thinking we could set it down -- never mind.
20 Never mind. Thank you.

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

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1 MS. SCHELLIN: Madam Chair, if I
2 may, if we could go ahead and announce, the
3 special public meeting for the last case
4 number 07-13 will be set for Thursday, May 24
5 at 6 o'clock p.m. The applicant advised that
6 they already have drawings that address all
7 of the plans that -- all of the concerns that
8 were stated on the dais, so they're ready to
9 move forward.

10 CHAIRPERSON MITTEN: Okay, then
11 Ms. Steingasser, do you think you all could
12 be ready by the 24th?

13 MS. STEINGASSER: Actually, we're
14 already late. We would have had to file by
15 close of business --

16 CHAIRPERSON MITTEN: I think we
17 can waive our rules since you're cooperating
18 with our desires and if you could get us
19 something by two days before, is that
20 possible?

21 MS. STEINGASSER: Yes. We can get
22 it earlier than that.

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1 CHAIRPERSON MITTEN: Okay, thank
2 you. All right, then I think we're ready to
3 move to Case No. 07-15 and this is an
4 amendment to Section 223 regarding garages on
5 single-family house lots.

6 Mr. Parker?

7 MR. PARKER: Good evening, Madam
8 Chair, Members of the Commission. I'm Travis
9 Parker with the Office of Planning. We've
10 seen an increasing number of BZA cases
11 involving additions of detached garages that
12 would normally be able to come in under 223,
13 but the existing language in Section 223
14 refers to additions and doesn't have anything
15 that allows detached garages or other
16 accessory structures. So we've proposed
17 language that would allow that. I've had
18 discussions with OAG and the public hearing
19 notice will probably have simpler language
20 than what's in the report before you, but
21 accomplish the same goals.

22 One comment that we've heard is

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1 that we should not just include garages, but
2 all accessory structures so any sheds or pool
3 houses or garages that would come in and be
4 under the allowable lot occupancy could be
5 allowed as a special exception and we'd be
6 happy to advertise that in the alternative.

7 I'll be happy to take any
8 questions.

9 CHAIRPERSON MITTEN: Thank you.
10 Does the proposed amendment include not only
11 building a new garage or accessory structure,
12 but an enlargement to the accessory
13 structure?

14 MR. PARKER: Yes. Any addition to
15 existing buildings on the lot or new
16 buildings on the lot within the lot occupancy
17 provided under 223.

18 CHAIRPERSON MITTEN: Okay.

19 MR. PARKER: Is the intent.

20 CHAIRPERSON MITTEN: Anyone else
21 have questions for Mr. Parker?

22 Mr. Turnbull?

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1 COMMISSIONER TURNBULL: Thank you,
2 Mr. Parker, this is going to help on BZA
3 quite a bit. I really appreciate that.

4 MR. PARKER: I do what I can.

5 COMMISSIONER TURNBULL: Two hour
6 hearings on a case for a garage gets to be a
7 little annoying after a while. Thank you.

8 CHAIRPERSON MITTEN: Okay, then I
9 would move that we set down Case No. 07-15
10 with the language, as amended.

11 And could I get a second?

12 COMMISSIONER PARSONS: Second.

13 CHAIRPERSON MITTEN: Thank you,
14 Mr. Parsons.

15 Any discussion? All those in
16 favor, please say aye.

17 (Chorus of ayes.)

18 Aye. Those opposed please say no.

19 Ms. Schellin.

20 MS. SCHELLIN: Staff will record
21 the vote five to zero to zero to set down
22 Zoning Commission Case No. 07-15, as amended,

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1 as a rulemaking case. Commissioner Mitten
2 moving, Commissioner Parsons seconding,
3 Commissioners Hood, Jeffries, and Turnbull in
4 favor.

5 CHAIRPERSON MITTEN: Thank you,
6 Ms. Schellin.

7 Next is proposed action and the
8 first case under proposed action is Case No.
9 03-12C/03-13C which is the second stage
10 application for a portion of the Capra
11 Carrollsburg site which is the office
12 building at 250 M Street, S.E.

13 So just to remind folks, because
14 this is a second stage approval in the
15 original order the site was approved for,
16 this is the southern part of Square 769 and
17 consistent with finding of fact number 30,
18 the southern portion of square 769 was
19 approved for an office building of ten
20 stories containing 236,000 square feet of
21 gross floor area which is generally what we
22 have before us, so this is largely design

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1 review. And we had asked that at the
2 conclusion of the hearing that the applicant
3 revisit certain things and they have in
4 response to the concerns expressed by the
5 Commission made various modifications
6 including changing the curtain wall and
7 increasing the amount of glazing. They moved
8 the Pepco vault which was interfering with
9 the retail space and the public space
10 adjacent to us. They brought the retail
11 space out to the edge of the build-to line on
12 M and Second Streets and they enhanced the
13 design for the retail space and included
14 canopies and there's a greater emphasis on
15 the relationship of the property to the Canal
16 Blocks Park.

17 So I'd like to have the
18 Commissioners that spearheaded the discussion
19 on this to comment on the revised design, if
20 you would.

21 Mr. Parsons or Mr. Jeffries?

22 COMMISSIONER JEFFRIES: Well, I do

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1 appreciate the material change. It's a
2 cooler, it's a slightly more modern building
3 and I see that there has been some
4 delineation at the corner and I also think
5 that -- it has a much more modern feel to it
6 and it's hard to get a better sense in terms
7 of pedestrian level what's going on there,
8 but by and large, I think it's considerable
9 improvement over what was submitted before.

10 And Madam Chair, this is not a
11 PUD. I mean this is simply part of our
12 Capital Gateway --

13 CHAIRPERSON MITTEN: This is --
14 the Arthur Capra Carrollsburg PUD has --

15 COMMISSIONER JEFFRIES: This is
16 the second stage --

17 CHAIRPERSON MITTEN: Yes, this is
18 the second stage of a piece of that.

19 COMMISSIONER JEFFRIES: Okay,
20 okay.

21 COMMISSIONER PARSONS: I find it
22 improved. This new element. The wing

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1 extending off the elevation, I guess could be
2 construed as a cornice, but I seem to recall
3 that the cornice regulations allow a 52-inch
4 extension out over the facade. I have no way
5 of evaluating whether this is a 52-inch
6 extension or not.

7 I don't know whether the Office of
8 Planning or anybody has any chance to look at
9 it, but I don't want us to approve something
10 that's going to be used later as well, here's
11 what the Commission thinks is good.

12 CHAIRPERSON MITTEN: Sure.

13 COMMISSIONER PARSONS: I think in
14 this particular case with the facade tilted
15 back, that --

16 CHAIRPERSON MITTEN: Maybe I could
17 just suggest something and then we could ask
18 Mr. Cochran to respond. But if you look on
19 A1.09 or A1.10, what we'll call a cornice,
20 the projection, it seems -- the building is
21 kind of canted back so that the cornice, if
22 you will, actually just goes to the property

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1 line. It doesn't stick out past the property
2 line.

3 Is that correct, Mr. Cochran?

4 MR. COCHRAN: That is correct,
5 Madam Chair.

6 CHAIRPERSON MITTEN: So whatever
7 the rules are about cornices, if they -- if
8 it's because they project out into public
9 space, this is still private.

10 COMMISSIONER PARSONS: You're
11 correct. I agree. Thank you.

12 CHAIRPERSON MITTEN: Okay. Anyone
13 else have further comments or lingering
14 concerns?

15 I just wanted to point something
16 out that we'll just have to clean up when we
17 -- when the order is finally written which is
18 we have proposed findings of fact and
19 conclusions of law from the applicant and as
20 I said the -- in the first stage approval an
21 FAR of 236,000 square feet was approved and
22 in this proposed order the -- on page four at

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1 Finding of Fact 19 it says that the building
2 will contain 200,780 square feet of gross
3 floor area which is fine . I don't think it's
4 a big issue. It doesn't have to match
5 precisely, but then in Finding of Fact 9 on
6 page 2 it says the FAR will be 7.21 and then
7 in the Conclusions of Law -- I'm sorry, in
8 the decision section, number five on page
9 nine, it says the FAR will be 7.43. So we
10 just need to clarify the precise measurement
11 of the building.

12 So if there are no lingering
13 issues or concerns, then I move approval of
14 Case No. 03-12C/03-13C.

15 COMMISSIONER TURNBULL: Second.

16 CHAIRPERSON MITTEN: Thank you,
17 Mr. Turnbull. Any further discussion?

18 All those in favor, please say
19 aye.

20 (Chorus of ayes.)

21 Aye. Those opposed, please say
22 no.

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1 Ms. Schellin?

2 MS. SCHELLIN: The vote is
3 recorded five to zero to zero to approve
4 proposed action in Zoning Commission Case No.
5 03-12C/03-13C. Commissioner Mitten moving;
6 Commissioner Turnbull seconding;
7 Commissioners Hood, Jeffries, and Parsons in
8 favor.

9 CHAIRPERSON MITTEN: Thank you,
10 Ms. Schellin.

11 Next is Case No. 06-47 and this
12 was a text amendment that we considered for
13 the R-4 District related to changes to the
14 minimum lot area requirements and this was
15 for conversions to multi-family from existing
16 single-family and then related lot occupancy
17 provisions. And we had a response from the
18 Office of Planning to recommendations that
19 were made at the public hearing. We had -- I
20 believe we had -- can you just help me here
21 with the filing dates. The record was closed
22 on what date? I'm sorry.

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1 MS. SCHELLIN: 4/19.

2 CHAIRPERSON MITTEN: Okay, the
3 record was closed on the 19th and we had a
4 late filing, notwithstanding the date of the
5 letter from AOBA. Is that correct?

6 MS. SCHELLIN: The Office of
7 Planning's report was just one day late.

8 CHAIRPERSON MITTEN: Okay. The
9 Office of Planning's report was filed one day
10 after the record closed and then we have the
11 letter from AOBA and they had testified, if
12 you recall, we left the record open
13 specifically to accommodate them and they
14 basically aligned themselves with the
15 concerns raised by Lindsey Williams.

16 So I would move that we reopen the
17 record to receive those two late filings.

18 COMMISSIONER PARSONS: Second.

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

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

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1 (Chorus of ayes.)

2 Aye. Those opposed. Please say
3 no.

4 MS. SCHELLIN: Staff will record
5 the vote five to zero to zero to reopen the
6 record to accept the two late filings
7 mentioned. Commissioner Mitten moving;
8 Commissioner Parsons seconding, Commissioners
9 Jeffries, Turnbull, and Hood in favor.

10 CHAIRPERSON MITTEN: Thank you.
11 So some of the recommendations that had been
12 made at the hearing were sort of giving more
13 flexibility to allowing conversions and
14 frankly, the reason that triggered this is
15 because we're trying to limit the number of
16 conversions unless the minimum standards are
17 met. So I'm not inclined to modify the
18 language further beyond what was proposed at
19 the public hearing.

20 Anyone else have comments?

21 COMMISSIONER PARSONS: I agree
22 with you, Madam Chair.

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1 CHAIRPERSON MITTEN: All right, if
2 there are no comments, then I would move
3 approval of Case No. 06-47.

4 COMMISSIONER PARSONS: Second.

5 CHAIRPERSON MITTEN: Thank you,
6 Mr. Parsons. Any discussion on the motion?

7 All those in favor, please say
8 aye.

9 (Chorus of ayes.)

10 Aye. Those opposed, please say
11 no.

12 Ms. Schellin?

13 MS. SCHELLIN: Staff will record
14 the vote five to zero to zero to approved
15 proposed action in Zoning Commission Case No.
16 06-47. Commissioner Mitten moving,
17 Commissioner Parsons seconding, Commissioners
18 Hood, Jeffries, and Turnbull in favor.

19 CHAIRPERSON MITTEN: Thank you.
20 The next case is 07-03 and this has to do
21 with the minimum lot dimensions in
22 Residential Districts for -- and this was

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1 triggered by the case that we had regarding
2 public schools. And we have the same issue
3 with the late filing of the AOBA letter here
4 and I would move that we reopen the record to
5 receive their letter. I would ask for a
6 second.

7 COMMISSIONER TURNBULL: Second.

8 CHAIRPERSON MITTEN: Thank you,
9 Mr. Turnbull.

10 Any discussion? All those in
11 favor please say aye.

12 (Chorus of ayes.)

13 CHAIRPERSON MITTEN: Any opposed?

14 Ms. Schellin?

15 MS. SCHELLIN: The staff would
16 record the vote 5 to 0 to 0 to reopen the
17 record in Zoning Commission Case No. 07-03 to
18 accept the old vote letter. Commissioner
19 Mitten moving; Commissioner Turnbull
20 seconding; Commissioners Hood, Jeffries, and
21 Parsons in favor.

22 CHAIRPERSON MITTEN: Okay. In

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1 this case we have a letter from Apple Tree
2 Institute for Education Innovation regarding
3 a request for basically a savings clause to
4 exempt their application, the application
5 that they had made to DCRA for a building
6 permit that was appealed and because they
7 don't want the -- if this amendment is
8 passed, they don't want this amendment to be
9 applied to their application.

10 And Mr. Bergstein, I always had
11 understood that whatever was in place, text
12 and map was at the time of an application was
13 what the application would be judged based
14 on. Is that not correct?

15 MR. BERGSTEIN: I don't believe
16 that is correct. There's no vesting at the
17 time an application is filed. What 3202.4
18 says is that a building that's authorized by
19 a building permit may be constructed in
20 accordance with the zoning regulations as of
21 the date the building permit is issued.

22 So if at any time while a building

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1 permit is being processed, there is a change
2 to zoning regulations whether it's by
3 emergency rulemaking or if there is a permit
4 rule that becomes effective through the
5 publication of an order, that does become the
6 zoning regulations and that a building permit
7 cannot be issued until the application, its
8 plans and its uses is in accordance with the
9 zoning regulations as in effect on the date
10 it is to be issued.

11 CHAIRPERSON MITTEN: Okay. Thanks
12 for the clarification. I'll certainly make
13 note of that for the future.

14 So in this case, this request to
15 basically be exempted from the application of
16 this rule, should it pass, to me, in sitting
17 on the appeal case, I had taken
18 responsibility as a Zoning Commissioner for
19 the fact that there had been an oversight and
20 it was in attempting to remedy the oversight
21 that this case was brought forward by the
22 Office of Planning.

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1 And so if in the -- at the end of
2 the day, if the Commission's intent is met,
3 then that is what I'm most interested in, not
4 in sort of preserving a loophole that was --
5 that existed because of an oversight. So I'm
6 not inclined to provide the savings clause.
7 And I'm ready to move forward on the text
8 amendment, but I'll hear from my colleagues
9 if there are any different opinions.

10 (No response.)

11 All right, then I move approval of
12 Case No. 07-03 and ask for a second.

13 COMMISSIONER PARSONS: Second.

14 CHAIRPERSON MITTEN: Thank you,
15 Mr. Parsons. Any discussion? All those in
16 favor, please say aye.

17 (Chorus of ayes.)

18 Those opposed, please say no.

19 Ms. Schellin?

20 MS. SCHELLIN: Staff would record
21 the vote 5 to 0 to 0 to approve proposed
22 action in Zoning Commission Case No. 07-03.

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1 Commissioner Mitten moving; Commissioner
2 Parsons seconding; Commissioners Hood,
3 Jeffries, and Turnbull, in favor.

4 CHAIRPERSON MITTEN: Thank you,
5 Ms. Schellin.

6 And then the next case I did not
7 participate in and Mr. Hood will take over.

8 VICE CHAIR HOOD: Thank you, Madam
9 Chair. This is Zoning Commission Case No.
10 06-35, the CSC 1229 through 1231 TRS, Inc.
11 consolidated PUD at 1227 through 1231 25th
12 Street, N.W.

13 Ms. Schellin?

14 MS. SCHELLIN: We do have a
15 request to accept a late filing at Exhibit 41
16 that was filed by the Friends of Francis
17 Fields.

18 VICE CHAIR HOOD: Okay. You know,
19 I think basically, I don't know -- we had
20 specific things that we had asked for and I
21 don't want to impugn the integrity of process
22 and do that. While I understand that it's

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1 basically their testimony, I think we would
2 be safe and cautious as to not accept it
3 because they've actually given us the
4 testimony and we had specific things in which
5 we asked for. Unless my colleagues feel
6 otherwise, I would say that we do not accept
7 it. And they have given us the testimony,
8 when they testified at the hearing.

9 Anybody feel strong about it?
10 Okay.

11 Can I get a vote? I move that we
12 not accept the late submittal from Friends of
13 Francis Fields and ask for a second.

14 COMMISSIONER JEFFRIES: Second.

15 VICE CHAIR HOOD: It's been moved
16 and seconded. All those in favor, aye?

17 (Chorus of ayes.)

18 Any opposition? So ordered.

19 Staff, would you record the vote?

20 MS. SCHELLIN: Staff will record
21 the vote four to zero to one to decline the -
22 - excuse me, to deny the request to reopen

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1 the record to accept the Friends of Francis
2 Fields' submission at Exhibit 41.
3 Commissioner Hood moving, Commissioner
4 Jeffries, Commissioners Turnbull and Parsons
5 in favor; Commissioner Mitten, not voting,
6 having not participated.

7 VICE CHAIR HOOD: Okay, thank you.
8 Let me just give a brief synopsis of what
9 this case was about. This was a conversion
10 of two office buildings into one residential
11 project and a renovation of a third office
12 building to remain as an office building.
13 The project will use the existing below-grade
14 two-story garage and the project amenities
15 are listed. We had specific requests in
16 which we asked for and I think exception one
17 that I think I found and I have questions on
18 that.

19 I think the applicant has
20 addressed most of our concerns. What I'll do
21 at this point, I know there were some
22 concerns about the trellis in the courtyard

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1 and I want to hear from those people who, the
2 chairperson who spearheaded that and see if
3 their needs have been met. I'll open up for
4 comment.

5 COMMISSIONER PARSONS: Mr.
6 Chairman, the entrance, I think, has been
7 significantly enhanced. It feels more
8 residential and less like an office park in
9 suburbia. So I guess which was my quote last
10 time.

11 What concerns me most is there's
12 no response to our comments about the trellis
13 on the roof and if we're to and I really
14 hesitate to do this, I'm ready to move
15 forward on the project, but in lack of a
16 response, I would request that we approve it
17 absent the trellis on the roof because they
18 made no response to our concerns, so in the
19 zoning as a blunt tool in design, I feel
20 strongly enough about it that I just -- it
21 adds to the height of the building and all
22 the other issues that we brought up last time

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1 and I think it -- I mean we even gave them
2 some design ideas to do the same kind of
3 thing they did on the office building to the
4 south, but they just didn't respond at all,
5 unless I'm missing something.

6 VICE CHAIR HOOD: Let me ask you
7 this, Mr. Parsons, would you be inclined to
8 do a -- I don't want to say a hybrid or
9 conditional approval and before final or do
10 you feel strongly enough to not move forward
11 and improve it without the trellis?

12 I know that's what you said, but
13 would you take it a step further, give them
14 an opportunity and let's give them an
15 opportunity before final because I will back
16 you on that, before final, that they address
17 the trellis.

18 COMMISSIONER PARSONS: Well, what
19 I had hoped is they'd come back without a
20 trellis or a trellis pulled back around the
21 penthouse or something of that nature, but
22 there it is.

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COMMISSIONER

JEFFRIES:

Commissioner Parsons now, I'm looking at a letter dated April 9th and the second bullet point. Now it says that the applicant has investigated whether the roof level trellis would cast additional shadows so forth and so on and that in order to ensure that no additional shadows are generated, the applicant has set back the northern line of the trellis approximately two feet.

Maybe that is obviously not appearing to be much in the scheme of things.

COMMISSIONER PARSONS: Well, I guess maybe our point was missed or maybe I didn't make it well enough. It wasn't about shadows on the buildings to the north. For me, it was the fact that it was increasing the apparent height of the building which it does.

And it isn't some -- a trellis that's surrounding a swimming pool or has some other purpose other than a -- I guess a

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1 promenade if you will, around the -- beneath
2 it, for people to walk. So I just saw no
3 functional purpose to it other than an
4 architectural statement that I think is
5 unwelcome.

6 So yes, we could give them a
7 chance to come back with a revised drawing or
8 we could simply peel it away.

9 VICE CHAIR HOOD: I would be more
10 inclined, I would be more inclined -- we can
11 open up for discussion to give them an
12 opportunity to respond. I know that we're
13 going to final and either we'll approve it
14 without it or come back with some type of
15 design. That will give them the option.

16 I open it up for discussion.

17 Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Thank you,
19 Commissioner Hood.

20 I guess I was -- I think I had
21 mentioned at one point the comment about the
22 trellis affecting the neighbors on the north,

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1 but it came up during the testimony, a matter
2 of right, you, this is what we can do. But I
3 think Commissioner Parsons has got a very
4 good point that this is a feature that it
5 goes beyond just an accent to a pool area or
6 a deck area where people are that it's -- and
7 I think we were concerned about it at the
8 time when we saw it from that one elevation,
9 that one street elevation looking up and we
10 saw it. It really created this rather large
11 feature on the building.

12 So I would go along with Mr.
13 Parsons on that. Now how we want to resolve
14 that, I don't know. Do you want to approve
15 it, other than the trellis is fine.

16 VICE CHAIR HOOD: Mr. Parsons, now
17 I fully understand. I would agree with
18 approving this without it, so Commissioner
19 Jeffries, do you want to expand on that?

20 COMMISSIONER JEFFRIES: Yes, I
21 mean I think the overall architecture of the
22 building is quite superior and very, very

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1 nice and I would say that quite frankly, I
2 don't even know if it really needs that crown
3 on it. So yes, I think it's so incredibly
4 refined that I think we could probably go
5 forward.

6 I'm not comfortable -- I'd rather
7 the applicant -- I mean it's sort of their
8 job to let us know -- to design the building.

9 For us just to openly say let's just chop it
10 off, I'd like -- I'd at least like to have
11 the applicant say yes, we're fine with
12 chopping it off and be done with it. I mean
13 it looks like it would be fine without it,
14 but again, I'd really like the applicant to
15 be able to weigh in. So what's the problem
16 with us going forward with obviously, voting
17 on proposed, but that, you know, final
18 action, we would like there to be some
19 response to the trellis and obviously,
20 they've heard our comments this evening that
21 at least three of us up here would like for
22 them to remove it in its entirety.

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1 I'd just like to see some
2 concurrence from the applicant. I just don't
3 want the Commission to just lop this thing
4 off.

5 VICE CHAIR HOOD: So in other
6 words, what I stated first, you were rather
7 going that direction, giving them an
8 opportunity.

9 I think Mr. Parsons has already
10 said he can live with that. I'm not sure,
11 Mr. Turnbull --

12 COMMISSIONER TURNBULL: That's
13 fine. Because I think at the time when we
14 were deliberating on this, I think we all
15 agreed that the architecture and the design
16 of this building was of course quite well
17 done, their articulation of the facade and
18 everything was very well done. I think we
19 all liked it. So I think for the most part
20 we're in agreement that this building is well
21 designed. They modified the trellis at the
22 ground floor. I think we like it and I think

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1 there's only just one little -- for final
2 approval.

3 VICE CHAIR HOOD: Okay, so what
4 we'll do, before final, we'll take a vote
5 with the caveat and I'm sure the applicant is
6 listening that we need them to revisit the
7 trellis or come up with some other design.

8 They did mention -- Commissioner
9 Jeffries spoke about in their post
10 submissions about the roof level trellis
11 casting shadows and I believe Mr. Turnbull
12 you mentioned that was your issue.

13 COMMISSIONER TURNBULL: I think at
14 the time I may have brought it up. I don't
15 know if anybody else expanded on it, but I
16 remember talking about it and we got into
17 this matter of right issue and I don't think
18 we went -- I think we were just concerned
19 that it was from a development standpoint, it
20 was not the most conscientious attempt at
21 that one feature of trying to -- it seemed
22 like the whole other building was offering a

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1 lot of other aspects to it. And it seemed to
2 fall short as it got to the roof and said
3 well, hell with it, we're going to do it.

4 And I think that just made us feel
5 a little uncomfortable, at least it made me
6 feel a little uncomfortable.

7 VICE CHAIR HOOD: Okay, another
8 thing we asked them to address was the
9 entrance to the courtyard.

10 COMMISSIONER JEFFRIES: That's
11 fine.

12 VICE CHAIR HOOD: Okay, now I
13 think they've already -- I think there was a
14 typo or some confusion which was brought out
15 by the Whitman Place Condominium Residential
16 Owners Association about the peak hours and I
17 think the applicant clarifies that that was a
18 typo about the peaks and trips. I think that
19 was taken care of.

20 COMMISSIONER JEFFRIES: Mr.
21 Chairman, in the supplemental filing by the
22 Whitman Place Condominium, they speak about

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1 this enforcement mechanism tied to the
2 construction management agreement.

3 VICE CHAIR HOOD: I was going to -
4 - believe it or not, I'm organized.

5 COMMISSIONER JEFFRIES: Okay.

6 VICE CHAIR HOOD: I know it's hard
7 to believe, but yes, I'm organized.

8 Yes, we're going to get to that
9 and I'm just looking over this. Okay, we do
10 have a letter in the file from the Department
11 of Parks and Recreation confirming its
12 acceptance to the proffer of the Francis
13 Field.

14 Now Commissioner Jeffries, let's
15 go back to the construction management plan.

16 COMMISSIONER JEFFRIES: I just
17 wanted to get a sense from the Commission, I
18 mean this whole notion of the enforcement
19 mechanism should include --

20 VICE CHAIR HOOD: It's a proffer
21 and normally, we don't get into agreements.
22 In the past, we don't usually get into those

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1 agreements and the building codes set out
2 what is acceptable, construction or not, and
3 we can make it a condition, but we don't get
4 into the agreement. And I will tell you, I
5 don't believe this was proffered at first. I
6 think this was -- unless my memory escapes
7 me, but I believe this was a part of
8 something that came up during the hearing and
9 the applicant has agreed to do that as a
10 proffer and we don't get into enforcement of
11 proffers, but what I would ask is looking at
12 some enforcement mechanisms in the same tone
13 and spirit in which you were mentioning is
14 that they work together and hopefully maybe
15 get an ANC Commissioner and someone from the
16 Whitman Place Condominium Residential Owners
17 Association to be a part of that liaison. I
18 think that would be very helpful. And I'm
19 just asking, maybe they do that between now
20 and the final.

21 Some of the concerns were height.
22 I don't know if any of my colleagues have

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1 any issues with the height. If you remember,
2 when we started off, I think the ANC was --
3 and I'm going off memory here, the ANC was in
4 opposition and I think the friends were in
5 opposition but some kind of way during the
6 hearing I think people turned around or some
7 future meetings before they came in front of
8 us in support. The only people who were in
9 opposition were the Whitman Place Condominium
10 Residential Owners Association and they have
11 -- they're working on this agreement. And
12 what I would like to see, all we can do is
13 ask because they proffered it, is that
14 hopefully they have some finality to it
15 before we come back to final.

16 I would like to note that they
17 have some resolution with that before we take
18 final action. All we can do is ask and we
19 just have to weigh it for what it's worth.

20 Am I correct, Mr. Bergstein?

21 MR. BERGSTEIN: That's correct,
22 sir.

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1 VICE CHAIR HOOD: The only other
2 thing and I have in my notes here that we --
3 maybe we asked them to do this, that's
4 probably what it was. We also asked them to
5 do a transportation -- DDOT asked them to do
6 a transportation management plan. And I just
7 don't -- I don't have anything else on that.

8 I'm not sure if that was in the
9 DDOT report or not. But what I would ask
10 though is before final, if it was in the DDOT
11 report that they recommend it, then the
12 applicant who was silent on it in their post-
13 submittals let us know whether or not --
14 well, if they were silent on the final, then
15 we know that they didn't agree with DDOT and
16 I think that's where that came from. I have
17 it in my notes.

18 The loading dock. I think Mr.
19 Turnbull, was that you, the loading dock?

20 Move in and move outs, I think
21 that was the case, the issue rather.

22 COMMISSIONER TURNBULL: I think

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1 both buildings are served by one entrance. I
2 don't think we had a --

3 VICE CHAIR HOOD: Applicant
4 provides the following information regarding
5 the hours and limits of residential move in
6 and move outs and residential loading dock.
7 Move in and move out shall be done through
8 the building loading dock and on and on and
9 on. I'm not sure if that was an issue that
10 one of us raised or not. I just want to make
11 sure we're clear.

12 All right. It was something --
13 okay, they supplied it. I think it was
14 something we needed. We got the traffic data
15 synchronized, the hours of loading dock and
16 residential.

17 Okay, that's all I have unless
18 anyone has anything else. I would move
19 approval of the Zoning Commission Case No.
20 06-35 with the only thing that we're asking
21 for is comments on the trellis before final
22 action.

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1 COMMISSIONER JEFFRIES: Second.

2 VICE CHAIR HOOD: It's moved and
3 seconded. All those in favor. Aye.

4 (Chorus of ayes.)

5 VICE CHAIR HOOD: Any opposition?

6 So ordered.

7 Staff, would you record the vote?

8 MS. SCHELLIN: Staff will record
9 the vote four to zero to one to approve
10 Zoning Commission Case No. 06-35 and
11 discussed. Commissioner Hood moving,
12 Commissioner Jeffries seconding,
13 Commissioners Parsons and Turnbull in favor,
14 Commissioner Mitten not voting, having not
15 participated.

16 And Mr. Hood, if we could go ahead
17 and set a schedule for the response regarding
18 the trellis. I've been told that the
19 applicant can have that in one week, so if we
20 would set May 21st for them to do that and to
21 serve all parties and allow until May 29th
22 for the parties to respond.

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1 VICE CHAIR HOOD: Okay, and that's
2 only on that one issue?

3 MS. SCHELLIN: Only on the one
4 issue.

5 VICE CHAIR HOOD: So it's closed
6 only for that one issue. And the only people
7 to respond will be the parties.

8 MS. SCHELLIN: Right.

9 VICE CHAIR HOOD: Thank you.
10 Thank you, Ms. Schellin.

11 Does anybody want to ask the chair
12 to come back with us?

13 (Pause.)

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

16 Next we'll move to final action
17 and the first case under final action is a
18 request for a time extension in Case No. 04-
19 19A. I'm sure you'll all remember this.
20 This was the egg-shaped digesters.

21 Mr. Turnbull, maybe you didn't sit
22 on this case with us? It was quite exciting.

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1 It was interesting too. I learned
2 a few things.

3 So actually I was sad when I saw
4 in the paper that they couldn't get the money
5 because the bid was so high. So I think this
6 is a great project that I'd love to give them
7 time to figure out their economic issues and
8 I think they certainly meet the requirements
9 and also, it's not like there's some other
10 use that would be made in this -- for this
11 site because it's all controlled by D.C.
12 WASA.

13 So I would move approval of the
14 request for a time extension in Case No. 04-
15 19A and ask for a second.

16 VICE CHAIR HOOD: Second.

17 CHAIRPERSON MITTEN: Oh, Mr. Hood,
18 thank you.

19 Any discussion? All those in
20 favor, please say aye. Aye.

21 (Chorus of ayes.)

22 Those opposed, please say no.

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1 Ms. Schellin?

2 MS. SCHELLIN: Staff would record
3 the vote five to zero to zero to approve, I'm
4 sorry, final action in Zoning Commission Case
5 No. 04-19A. Commissioner Mitten moving,
6 Commissioner Hood seconding, Commissioners
7 Jeffries, Parsons, and Turnbull in favor.

8 COMMISSIONER TURNBULL: I did not
9 vote.

10 MS. SCHELLIN: I'm sorry, the vote
11 is four to zero to one. Mr. Turnbull did not
12 participate.

13 CHAIRPERSON MITTEN: You're
14 allowed to vote on the time extension, even
15 if you didn't participate in the case.

16 COMMISSIONER TURNBULL: Okay.

17 CHAIRPERSON MITTEN: So we're back
18 to five to zero to zero.

19 MS. SCHELLIN: Five to zero to
20 zero, yes, as originally stated.

21 CHAIRPERSON MITTEN: Thank you.
22 Next is Case No. 06-29 and this is the

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1 planned unit development at 1143 New
2 Hampshire Avenue which is the hotel with the
3 addition on the top and if you remember, we
4 had asked them to clarify their contribution
5 to the West End Library and we need to reopen
6 the record to accept the filing from the
7 applicant which was filed -- I think it was
8 one day late. So I move that we reopen the
9 record to receive the late filing from the
10 applicant.

11 Can I get a second?

12 COMMISSIONER TURNBULL: Second.

13 CHAIRPERSON MITTEN: Thank you.

14 Any discussion? All those in favor, please
15 say aye. Aye.

16 (Ayes.)

17 Those opposed, please say no.

18 Ms. Schellin?

19 MS. SCHELLIN: Yes, the vote is
20 recorded five to zero to zero to reopen the
21 record to accept Exhibit 46, the submission
22 from the applicant. Commissioner Mitten

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1 moving, Commissioner Turnbull seconding,
2 Commissioners Hood, Parsons, and Jeffries in
3 favor.

4 CHAIRPERSON MITTEN: Thank you.
5 Now we have the order before us and I just
6 would like to clarify one issue with the
7 Commission. There's a statement in the
8 applicant's proposed findings of fact and
9 conclusions of law regarding the trellis and
10 whether or not that constitutes a permissible
11 rooftop embellishment. Is there any dissent
12 as to that issue?

13 Okay, then if there are no further
14 concerns, I would move approval of Case No.
15 06-29 and ask for a second.

16 COMMISSIONER TURNBULL: Second.

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

19 All those in favor, please say
20 aye. Aye.

21 (Chorus of ayes.)

22 Those opposed, please say no.

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1 Ms. Schellin?

2 MS. SCHELLIN: The vote is
3 recorded five to zero to zero to approve
4 final action in Zoning Commission Case No.
5 06-29. Commissioner Mitten moving,
6 Commissioner Turnbull seconding,
7 Commissioners Hood, Jeffries, and Parsons in
8 favor.

9 CHAIRPERSON MITTEN: Thank you.
10 We have up next Case No. 06-27 and this is
11 the PUD and related map amendment in Square
12 54 which is the former G.W. Hospital site.

13 And we have -- we had asked for
14 just a clarifying submission between proposed
15 action and final action which applicant has
16 provided us of Exhibit 98. And I'd ask if
17 there are any lingering concerns from those
18 who wanted to see the additional design
19 submissions?

20 Any lingering concerns? Well,
21 then I'll move approval of Case No. 06-27 and
22 ask for a second.

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1 COMMISSIONER JEFFRIES: Second.

2 CHAIRPERSON MITTEN: Thank you.

3 And we also have a report from NCPC that says
4 the proposal is not inconsistent with any
5 federal interest or adverse to any federal
6 interest.

7 And if there is no further
8 discussion or no discussion, I'd ask for all
9 those in favor to please say aye. Aye.

10 (Chorus of ayes.)

11 Those opposed, please say no.

12 Ms. Schellin?

13 MS. SCHELLIN: The vote is
14 recorded five to zero to zero to approve
15 final action in Zoning Commission Case No.
16 06-27. Commissioner Mitten moving,
17 Commissioner Jeffries seconding, Commissioner
18 Hood, Parsons, and Turnbull in favor.

19 CHAIRPERSON MITTEN: Thank you.
20 Next is Case No. 05-38 which is the PUD and
21 related map amendment for Marina View Towers
22 and I think we are not at full strength on

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1 this one, is that right?

2 Mr. Jeffries did not participate.

3 Okay. We have a proposed order before us
4 and there's a few things that we should
5 clarify. I think we want to just be clear
6 that the rooftop pools are not an amenity. I
7 think that though the pocket parks can be
8 considered an amenity although I don't know
9 if the Commission agrees with me, but in
10 order to constitute an amenity, then it can
11 be aesthetic in nature and it can add to the
12 general attractiveness of the area and in
13 that sense the parks are, even if they're not
14 directly accessible to the public, and I
15 think in that sense I would support them as
16 amenities, although this case I don't think
17 is light on amenities. And so I just want to
18 make it clear for the record.

19 So is my rendering of it
20 sufficient, that it's an amenity. It would
21 qualify as an amenity. Is anyone opposed?
22 Okay.

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1 In the decision section, we've
2 been struggling with contributions to various
3 groups for things that may or may not be
4 delivered by the time the building permit is
5 issued or the Certificates of Occupancy are
6 issued. And in this case what the applicant
7 has suggested is that and this is in the
8 decision section, number three, that the
9 Commission would require the organizations
10 receiving a monetary contribution to present
11 that evidence to the Office of Zoning's
12 Compliance Review Manager and what that -- in
13 the context of a zoning order such as this
14 and we've been confronted with this before.

15 We're not in a position to compel
16 anyone other than the applicant to do
17 anything. So I don't know if anyone has any
18 suggestions about how this could be handled
19 differently. I suppose we could require the
20 applicant to obtain such representations from
21 the organizations rather than us requiring
22 those organizations to provide those

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1 representations.

2 COMMISSIONER PARSONS: From our
3 standpoint, the burden has to be on the
4 applicant.

5 CHAIRPERSON MITTEN: Right,
6 exactly. That's the point.

7 COMMISSIONER PARSONS: Yes.

8 CHAIRPERSON MITTEN: So I think if
9 we just compel the applicant to obtain those
10 representations --

11 COMMISSIONER PARSONS: Right.

12 CHAIRPERSON MITTEN: Then that
13 should be sufficient.

14 Mr. Bergstein?

15 MR. BERGSTEIN: Yes, that is
16 sufficient guidance. Thank you.

17 CHAIRPERSON MITTEN: Okay, thank
18 you. And then finally, notwithstanding the
19 fact that the property, as it exists, has not
20 been designated as a landmark. There is a
21 representation in the order that the towers
22 are historically and architecturally

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1 significant and we need to determine whether
2 or not their preservation is a benefit.

3 Does anyone have any thoughts on
4 that?

5 COMMISSIONER TURNBULL: I think
6 obviously preserving a building of historical
7 significance is important. Whether that
8 rises --

9 CHAIRPERSON MITTEN: I guess
10 that's the point. Is it historically
11 significant?

12 COMMISSIONER PARSONS: HPRB has
13 said there are contributing elements. It
14 didn't say they are historic elements of
15 historic significance.

16 CHAIRPERSON MITTEN: Okay.

17 COMMISSIONER PARSONS: So why
18 should we disagree with them.

19 CHAIRPERSON MITTEN: I just wanted
20 to clarify.

21 COMMISSIONER PARSONS: We have no
22 expertise, although we'd love to weigh in,

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1 but we shouldn't, right?

2 CHAIRPERSON MITTEN: Right. I
3 think the preservation of existing buildings
4 is a benefit and an environmental benefit
5 also because it's wasteful to tear buildings
6 down.

7 Okay, anything else? Then I would
8 move approval of Case No. 05-38 and ask for a
9 second.

10 COMMISSIONER PARSONS: Second.

11 CHAIRPERSON MITTEN: Thank you,
12 Mr. Parsons.

13 All those in favor, please say
14 aye. Aye.

15 (Chorus of ayes.)

16 Those opposed, please say no.

17 Ms. Schellin?

18 MS. SCHELLIN: Staff will record
19 the vote four to zero to one to approve final
20 action in Zoning Commission Case No. 05-38.
21 Commissioner Mitten moving, Commissioner
22 Parsons seconding, Commissioners Hood and

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1 Turnbull in favor, Commissioner Jeffries, not
2 voting having not participated.

3 CHAIRPERSON MITTEN: Thank you.
4 And I'd also just want to clarify that the
5 applicant has increased their amenity for the
6 study of the park to \$15,500.

7 All right, next is Case No. 06-02
8 and this is the PUD at 4136 Georgia Avenue.
9 And the applicant has indulged us yet again
10 in a revision to the exterior that we have in
11 a submission, Exhibit 39, dated May 7th.

12 So are there any lingering
13 concerns about the design that we have the
14 courage to discuss?

15 COMMISSIONER JEFFRIES: Madam
16 Chair, my suspicion is that building would
17 probably look better in real life than the
18 rendering, so I look at the elevations and so
19 forth. It probably will look better, but I
20 tell you, the applicant really needs to be
21 careful in the future with representation
22 because this leaves a lot to be desired.

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1 CHAIRPERSON MITTEN: All right,
2 then I would move approval of Case No. 06-02
3 and ask for a second.

4 COMMISSIONER TURNBULL: Second.

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

7 Any further discussion? All those
8 in favor, please say aye. Aye.

9 (Chorus of ayes.)

10 Those opposed, please say no.

11 Ms. Schellin?

12 MS. SCHELLIN: Staff will record
13 the vote five to zero to zero to approve
14 final action in Zoning Commission Case No.
15 06-02. Commissioner Mitten moving,
16 Commissioner Turnbull seconding,
17 Commissioners Hood, Jeffries, and Parsons in
18 favor.

19 CHAIRPERSON MITTEN: Thank you,
20 Ms. Schellin.

21 Finally, we have under final
22 action Case No. 07-06 and this is the

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1 response from the applicant in the sua sponte
2 that we took, the sua sponte review that we
3 took of BZA Case No. 17553.

4 Just to summarize what the
5 applicant is requesting is that we defer our
6 decision while they seek an expedited map
7 amendment which frankly I don't understand
8 what one has to do with the other. I think
9 if they can get a map amendment and the
10 project could move forward and move without
11 prejudging it, I don't have -- I'm not
12 opposed to that. I'm not opposed to that in
13 principle, but I think this case, the sua
14 sponte case stands on its own and I think we
15 should dispose of it.

16 So unless there are any opposing
17 views I would move that we take the action
18 that we indicated we would at our last public
19 meeting which is to reverse the BZA in
20 Application No. 17553.

21 COMMISSIONER JEFFRIES: Second.

22 CHAIRPERSON MITTEN: Thank you,

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1 Mr. Jeffries. Any further discussion?

2 VICE CHAIR HOOD: Yes, Madam
3 Chair. I would agree, but I was not fully
4 there yet with the Commission, but this
5 letter from the applicant about doing an
6 emergency map amendment or a map amendment
7 expedited, to be able to get to the ANC
8 quickly, let's me know that apparently there
9 may be something that I may have missed.
10 Maybe I have to rethink what Commissioner
11 Jeffries brought to us. I was inclined not
12 to agree. But now that I see this, this is
13 telling me that hey, wait a minute, maybe we
14 were incorrect. I'm not sure. I don't
15 understand why this letter was even
16 submitted, but anyway. That's just my
17 comment.

18 CHAIRPERSON MITTEN: I think in
19 the totality of it, what we see is that the -
20 - this is why this case was important is we
21 may be able to get to the outcome. It's the
22 same thing we had in another case, but the

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1 method that was used to get to the outcome
2 was flawed and the prerogatives that the
3 applicant is seeking to use now, which is a
4 map amendment are prerogatives that are
5 referred to the Zoning Commission, not to the
6 BZA, and that's what was the core of the
7 issue that Mr. Jeffries raised.

8 VICE CHAIR HOOD: And that's my
9 point. I had gotten there.

10 CHAIRPERSON MITTEN: Right.

11 VICE CHAIR HOOD: But with this
12 letter, it helped me get there.

13 CHAIRPERSON MITTEN: Okay, good.
14 Great. Any further discussion?

15 All those in favor, please say
16 aye. Aye.

17 (Chorus of ayes.)

18 Those opposed, please say no.

19 Ms. Schellin?

20 MS. SCHELLIN: Staff will record
21 the vote five to zero to zero to reverse the
22 BZA in BZA Case No. 17553. Commissioner

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1 Mitten moving, Commissioner Jeffries
2 seconding, Commissioners Hood, Parsons, and
3 Turnbull in favor.

4 CHAIRPERSON MITTEN: Thank you.
5 Then we have two pieces of correspondence.

6 MR. BERGSTEIN: Madam Chair?

7 CHAIRPERSON MITTEN: Yes.

8 MR. BERGSTEIN: I'm sorry, out of
9 an abundance of caution, I'd like to confirm
10 the stay that the Commission imposed at the
11 time the sua sponte remains in effect pending
12 the issuance of the final order in this case.

13 CHAIRPERSON MITTEN: Thank you for
14 the clarification, Mr. Bergstein. I think
15 that is our intent unless any of my
16 colleagues feel differently.

17 COMMISSIONER JEFFRIES: I could
18 not hear what Mr. Bergstein said.

19 CHAIRPERSON MITTEN: Mr. Bergstein
20 asked that the stay that we put in place, the
21 stay of the effectiveness of the BZA order
22 that we put in place at the time that we took

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1 the sua sponte review remain in place until
2 the issuance of the Zoning Commission order.

3 Yes, sir. Thank you.

4 So we have a piece of
5 correspondence from ANC 3F and this is a case
6 I'm not participating in, but I'm not going
7 to say anything that's other any procedural
8 which is we take notice of the letter and
9 would also just ask that the letter be given
10 to the Office of Planning as the applicant
11 for whatever action they care to take
12 regarding the letter.

13 And then we also have a letter
14 from ANC 6A regarding the appeal of the Apple
15 Tree case and this is more for informational
16 purposes than anything, I think, because
17 there are numerous occasions where there are
18 multiple layers of licensing, for instance,
19 in a child care center. There's the zoning
20 aspect of it, and then there's the licensing
21 of the child care center, and those two
22 things are distinctly different. The letter

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1 speaks the type of approval that isn't
2 germane to either the Board's or the
3 Commission's consideration. So I think we
4 can just take note of that and no action is
5 required.

6 Anything else? All right, then I
7 think we're ready to adjourn our May 14th
8 meeting. Thank you.

9 (Whereupon, at 8:41 p.m., the
10 meeting was concluded.)

11

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