

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

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MONDAY

JUNE 11, 2007

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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	Chair
ANTHONY HOOD	Vice Chair
GREGORY N. JEFFRIES	Commissioner
MICHAEL G. TURNBULL	FAIA, Commissioner (OAC)
JOHN PARSONS	Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist
ESTHER BUSHMAN	General Counsel

OFFICE OF PLANNING STAFF PRESENT:

HARRIET TREGONING, Director
JENNIFER STEINGASSER
JOEL LAWSON
TRAVIS PARKER
KAREN THOMAS
ARTHUR JACKSON
MATT JESICK
TOM ARMSTRONG

OFFICE OF ATTORNEY GENERAL PRESENT:

JACOB RITTIG, ESQ.
LORI MONROE, ESQ.

The transcript constitutes the Minutes
from the Regular Meeting held on June 11,
2007.

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

6:39 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is the June 11th, 2007, meeting of the Zoning Commission of the District of Columbia.

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

Copies of our meeting agenda are available too. 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.

I'd also like to advise you that the proceeding is being recorded by the Court Reporter and is also being Webcast live. Therefore, we ask you to refrain from making any disruptive noises in the hearing room

1 during our meeting and I'd ask you to turn off
2 all beepers and cell phones at this time for
3 the same reason.

4 Mrs. Schellin, do you have any
5 preliminary matters?

6 SECRETARY SCHELLIN: No, ma'am.

7 CHAIRPERSON MITTEN: Thank you.

8 There's one change I'd like to
9 make. Well, it's not a change, it's just to
10 take a matter out of order on our agenda. And
11 that is under Correspondence. We have a
12 request for some guidance regarding the
13 modifications that have been made in Case No.
14 04-14 and we will take that matter up at our
15 July meeting.

16 And in the meantime we would ask
17 that the Office of Planning review that letter
18 and give us any comments or advice you'd like
19 on that in time for our July meeting. So, I
20 just want to give you a chance to weigh in and
21 advise us on the changes that have been
22 proposed.

1 And then just a little change in
2 the order of things.

3 Under Proposed Action we'll take
4 up cases 06-23 and 06-45 first. And then the
5 third case under Proposed Action will be Case
6 No. 06-31. So, everything is still in place
7 or it's still on the agenda, just has moved
8 around in its place.

9 Okay. So, now we're ready for the
10 monthly report by the Office of Planning.

11 Ms. Steingasser.

12 MS. STEINGASSER: Madam Chair,
13 Commissioners, we don't have anything specific
14 to highlight this evening, but we are
15 available for questions. The report is in
16 front of you at the dias.

17 CHAIRPERSON MITTEN: Okay. Thank
18 you.

19 Any questions for Ms. Steingasser
20 on the status report from the Office of
21 Planning?

22 COMMISSIONER PARSONS: I wondered

1 how the study of the embellishments on top of
2 buildings was coming with the National Capitol
3 Planning Commission.

4 MS. STEINGASSER: We're not
5 participating in any particular study of that.
6 We are working with them on Height Act issues.
7 Is that what --

8 COMMISSIONER PARSONS: I'm not
9 sure what you call it, but it has to do with
10 these new horizontal embellishments that are
11 being put on top of buildings.

12 MS. STEINGASSER: They've been
13 doing some research on the Height Act itself.
14 We have not met to go over the results of that
15 but I imagine would come from that, so at this
16 point I have nothing.

17 COMMISSIONER PARSONS: Thank you.

18 CHAIRPERSON MITTEN: Anyone else
19 have any questions from Ms. Steingasser?

20 Anyone else have any questions?

21 Okay. We're ready to move on
22 then.

1 And the first case under Hearing
2 Action is Case No. 04-05. And this is the
3 Text and Map Amendments for Reservation 13.

4 MR. ARMSTRONG: Yes, hello. I'm
5 Tom Armstrong with the Office of Planning.

6 I've been preparing the proposed
7 Hill East District.

8 Just to give you an overview of
9 the process. The original Hill East Master
10 Plan was prepared in 2002. There was an
11 initial setdown of a proposed district with
12 some draft design guidelines in 2004.

13 Since then we felt -- we've been
14 working on it over the past nine months and we
15 felt that enough time had passed since the
16 initial setdown that we would bring it back to
17 you to essentially re-set it down and restart
18 the public hearing process.

19 The Hill East District is proposed
20 as a stand alone base zone, not an overlay.
21 And it's based on the principles that are
22 found in the 2002 Master Plan.

1 Specifically, just to give you an
2 overview of the major sections of the proposed
3 District. The uses allowed would enable a
4 mixed use neighborhood to be developed with a
5 mix of residential and commercial uses allowed
6 throughout the District. Then, within that
7 there are some special exceptions to
8 specifically limit specific uses such as
9 education and health care which are limited up
10 to the north along Independence Avenue.

11 The center of the site along C
12 Street is reserved more for residential in
13 character. And then we also address the
14 correctional facilities that exist out there
15 today and are expected to remain over the long
16 term with their own sort of sub-district
17 within this District.

18 One of the key issues and features
19 has been developing appropriate standards for
20 the density and building heights for this
21 area. And with that we've used again the
22 Master Plan as a guide.

1 In the Master Plan is talks about
2 having a range of building heights that
3 actually -- the building heights rise as the
4 topography of the site falls. When you're
5 working from west to east from 19th Street
6 down towards Water Street, the topography of
7 the site actually drops 35 to 45 feet. And
8 the Master Plan talked about a series of tiers
9 where as the site drops, the building heights
10 would increase. So, that in combination would
11 work to screen the taller buildings along
12 Water Street and would act as a visual screen
13 for the rest of the Capitol Hill East
14 neighborhood that lies west of 19th Street.

15 So, we've replicated that with
16 three sub-districts that sort of step up the
17 building heights from a four-story maximum to
18 a seven-story maximum to a ten-story maximum.
19 And with that we have appropriate FAR and
20 maximum building height standards to go with
21 that tiering.

22 And then we've also placed the

1 correctional facilities in their own sub-
2 district with their own set of FAR and
3 building heights that are basically based on
4 an industrial zone category.

5 We've also looked at in our
6 discussions with the neighborhood, there was
7 a desire to have certainty with respect to the
8 building heights and the FAR. And so what
9 we've proposed is to incorporate any IZ
10 bonuses that a project might be eligible for
11 within these base FAR and building heights.
12 And also to have the provision that no
13 additional building height or FAR would be
14 permitted through the PUD process.

15 The other major aspect of this
16 proposed district are the building design
17 standards. And the previous setdown was based
18 on the concept of a form-based code which
19 essentially is a set of specific design
20 standards that look at how the building
21 interacts with the street frontage. And these
22 particular set of building standards are based

1 on two different types of street frontage.
2 What we call primary street frontage and
3 secondary street frontage.

4 The primary streets are
5 essentially the perimeter streets,
6 Massachusetts Avenue, Water Street and
7 Independence Avenue. The secondary streets
8 are more of the internal streets. And the
9 idea is that along the primary streets, we
10 would have -- we would want to create a
11 continuous street wall with a more store front
12 character to create an active and interesting
13 pedestrian environment. And that internal to
14 the site these building standards would be
15 relaxed a bit so that it would enable to
16 create a more residential character within
17 that neighborhood.

18 And going along with that, we also
19 look at regulating the location of ground
20 floor retail where we have a hierarchy of
21 three different types of locations where
22 ground floor retail is required in locations

1 such that -- as those that face the Metro
2 Station along 19th Street or at the foot of
3 Massachusetts Avenue facing out at the
4 Monument Circle and the Riverfront Park.

5 Other locations where ground floor
6 retail would be allowed such as along the
7 primary street, along the rest of the extent
8 of Massachusetts Avenue where it would be an
9 option element but yet the building would
10 still be required to have the same sort of
11 ceiling -- ground floor ceiling heights and
12 ground floor windows and building entrances so
13 that you could -- it would not preclude
14 putting retail there in the future when the
15 market develops for that type of use.

16 And then in addition to that,
17 there would be locations where retail would be
18 prohibited on some of the internal streets,
19 again, to reinforce the residential character
20 of portions of the neighborhood.

21 And with that, that is my sort of
22 summary overview and I would be happy to take

1 any of your questions.

2 CHAIRPERSON MITTEN: Thank you.

3 I haven't met you before and I
4 don't know that you've been before the
5 Commission before so welcome, Mr. Armstrong.
6 You get a nice juicy case to work on.

7 Okay. Questions from the
8 Commission?

9 COMMISSIONER TURNBULL: Madam
10 Chair?

11 CHAIRPERSON MITTEN: Mr. Turnbull.

12 COMMISSIONER TURNBULL: I guess
13 kind of coupling on what Mr. Parsons had
14 brought up just before in the previous
15 discussion on embellishments, in Chapter 28 of
16 Reservation 13 on the code, there is very
17 precise guidelines for articulation of
18 buildings. And I mean it's clearly that these
19 are to be very classicly designed buildings.
20 Whether they're on a primary or secondary
21 street, they call for the building facade
22 shall articulate a clear base, middle and top

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1 which is very precise. And we call for a
2 minimum change of plane of six inches.

3 I think getting back to what Mr.
4 Parsons had said, this would be an opportunity
5 to talk about the roof line and the
6 embellishments. And I don't think that's
7 really addressed. But that has always been a
8 concern and I think this would be an
9 opportunity to deal with it in this section.

10 CHAIRPERSON MITTEN: Is that
11 something that -- that's something we would
12 like you to give some additional consideration
13 for --

14 MR. ARMSTRONG: Okay.

15 CHAIRPERSON MITTEN: -- in
16 preparation for the hearing.

17 MR. ARMSTRONG: Okay. Thank you.

18 MS. STEINGASSER: I would ask,
19 however, on page 19 of 43, 2808.5 does
20 replicate the same language that's used
21 throughout the code about architectural
22 embellishments such as towers --

1 MR. ARMSTRONG: Which page?

2 MS. STEINGASSER: 19 of 43.

3 There's a little discussion on --

4 MR. ARMSTRONG: There are two sets
5 of the code. One is just a clean version and
6 then the second one is what I call an
7 annotated version that has sort of some
8 background information on the facing pages
9 which is the sort of second volume in your
10 packet that Jennifer is referring to.

11 CHAIRPERSON MITTEN: Correct me if
12 I'm wrong, but the text that's included in
13 Chapter 28 mirrors the text that's in the
14 zoning ordinance already. Right?

15 MR. ARMSTRONG: Yes. Yes.

16 CHAIRPERSON MITTEN: So, I think
17 what Mr. Turnbull is saying. Well, now
18 there's an occasion to talk about that in more
19 detail because we're so focused on the design
20 within this area. So, I think he recognizes
21 the text that's been proposed but looking for
22 a little bit more of a discussion about the

1 implications of that.

2 Is that correct, Mr. Turnbull?

3 COMMISSIONER TURNBULL: That's
4 correct. Thank you, Madam Chair.

5 CHAIRPERSON MITTEN: Okay. Anyone
6 else?

7 Mr. Jeffries?

8 COMMISSIONER JEFFRIES: I'll stay
9 on this whole design discussion and it's
10 really around the foreign based codes. And
11 I'm just curious. I mean, this is really just
12 for ground floor to really maintain some level
13 of standard for ground floor? Or does it
14 encompass the entire wall of the building?

15 MR. ARMSTRONG: It encompasses the
16 entire -- especially, the entire street wall
17 of the building. There are standards in here
18 to require basically a minimum of two stories
19 facing the street level to really reinforce
20 that street wall.

21 There are provisions in here such
22 as for cases where there might be above-grade

1 parking structures to line them with active
2 uses or architectural to make it look like a
3 building as opposed to a parking structure.
4 So, it really gets into that whole street wall
5 going all the way up.

6 COMMISSIONER JEFFRIES: Above-
7 grade parking spaces. Parking structures.

8 MR. ARMSTRONG: It provides for
9 that. Once they get out there, if they
10 determine that the subsurface conditions for
11 whatever reason, contamination, ground water,
12 whatever, prohibits below-grade parking,
13 that's the preferred option.

14 COMMISSIONER JEFFRIES: Okay.

15 But we do not expressly prohibit
16 above-grade structures. But we say, if there
17 is a case where you need to do that, you need
18 to line it with office or residential space so
19 that it's screened from view from the
20 sidewalk, especially along primary streets.

21 COMMISSIONER JEFFRIES: My only
22 observation is, you know, I mean clearly, I

1 think, there needs to be guidelines. But I
2 just want to make certain that we're not
3 creating a bit of a box such that, you know,
4 we're not getting the variety of design and so
5 forth along the ground floor.

6 I mean, sometimes this stuff needs
7 to be organic to some degree. I don't know
8 how you figure that into this. It would not
9 be, I think, a good thing that, you know, we
10 have standards such that they're so strict
11 that we can't get the variety of store fronts
12 and articulation or things of that sort.

13 So, I just wanted to put that out
14 as a --

15 MR. ARMSTRONG: Right.

16 COMMISSIONER JEFFRIES: -- general
17 observation.

18 And also it would be good to, for
19 me at least, and I know we had this
20 discussion. I think it was a round table in
21 terms of foreign based codes. I think we did
22 have some examples.

1 If we can pull some of those up.
2 I just want to see the result of other areas,
3 municipalities that reflect the use of foreign
4 based codes and what we actually got or what
5 particular place got.

6 So, that's one thing.

7 And then the other question is how
8 much of this is driven by actual sort of
9 market demand? I mean, the planner -- the
10 master plan consultant, what was it -- was it
11 purely around planning? Was there any sort of
12 market-driven work that was superimposed over
13 any of this? Or does that come later?

14 In terms of, you know, retail.
15 How much retail?

16 MR. ARMSTRONG: How much retail
17 demand.

18 I think, first of all, in getting
19 to this point with this proposed, we have been
20 working closely with AWC and their staff as
21 they move forward to prepare the site and
22 prepare our piece for developers. And so

1 we've coordinated with them to make sure that
2 we provide enough structure of framework but
3 yet they can operate within that and there is
4 some flexibility.

5 The ground floor retail locations
6 are -- is one such characteristic --

7 COMMISSIONER JEFFRIES: Right.

8 MR. ARMSTRONG: -- where we did
9 not want to require it before the market is
10 ready to provide it.

11 COMMISSIONER JEFFRIES: Right.

12 MR. ARMSTRONG: And that's why we
13 focused the requirement on just the Metro
14 Station and then to anchor the foot of
15 Massachusetts Avenue. But to allow the
16 flexibility along other locations to let the
17 market develop organically as the site
18 develops and not have a project held up
19 because they can't find a tenant for all of
20 that ground floor retail.

21 COMMISSIONER JEFFRIES: Right.

22 Yes.

1 I mean, that's -- I mean, we all
2 like retail. I mean, you know -- but, you
3 know, there is clear reality that --

4 MR. ARMSTRONG: Right.

5 COMMISSIONER JEFFRIES: -- where
6 certain retails would like to go and so forth.
7 So, just want to make certain that they are
8 somehow part of some of this discussion
9 because when we get too far out in this
10 planning process, not have something
11 superimposed that is market driven is a
12 concern.

13 And the other piece is the
14 correctional facility. I'm not really that
15 familiar with this area. So, I'm just real
16 curious about, you know, how the correctional
17 facility sort of merges with this new
18 development.

19 I mean, I see where it is and I'm
20 clear on G1, G2 and K1 in terms of the -- I
21 think there was a -- but, I mean sub-
22 districts. But I just want to be very clear

1 about, you know, the merger between the
2 correctional facility and that.

3 And I don't know. I see trees and
4 things of that sort, but I'm just curious that
5 we, you know, sort of blow that up and really
6 focus on sort of how all that works.

7 So, that's just an observation.

8 MR. ARMSTRONG: Okay.

9 COMMISSIONER JEFFRIES: I think
10 that's it, Madam Chair.

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

13 Anyone else?

14 Mr. Parsons?

15 COMMISSIONER PARSONS: Well, let
16 me first say that the Park Service is
17 committed to what you report in your report.
18 That is this notion of a land exchange to give
19 Water Street more of a better connection to
20 Independence Avenue.

21 And I'm struggling with the Master
22 Plan which called for, you know, a C Street

1 Neighborhood. And showed throughout the
2 majority of that area what I believe were row
3 houses. But now when we go to parcels H we're
4 at 80 feet and then D and I were at 110 feet.

5 How do we get from the Master Plan
6 to these heights which don't seem to have the
7 same sense of neighborhood?

8 MR. ARMSTRONG: Well, actually
9 we've made a couple of adjustments from
10 working with the Master Plan framework. And
11 I would specifically note that what we've
12 actually done with Square H is to pull it --
13 pull that line, the sort of first tier, HE1
14 Sub-district to pull that line across and
15 include H in the lowest category. Whereas, in
16 the Master Plan it was in the middle category.

17 If you look on Page 18 of 43 you
18 will see reduced versions of the illustrative
19 Master Plan and the sort of story hierarchy
20 that's in the Master Plan that actually shows
21 what was Square H to be programmed for four to
22 seven stories. And that doesn't quite match up

1 with the perception of whether that's row
2 houses or two over two flats or whatever is
3 being depicted there on the illustrative plan.

4 And so exactly to sort of address
5 your point about the character of the C Street
6 Neighborhood is we pulled that lowest Sub-
7 district, we pulled Square H into that lowest
8 Sub-district and to sort of have that lower
9 density character to fit in there.

10 WE also took in the HE2 Sub-
11 district, we set the minimum building height
12 at 40 feet so that it's conceivable that you
13 could have two or two flats and sort of begin
14 to get some of that row house character within
15 a 40 foot building height.

16 COMMISSIONER PARSONS: So, help
17 me. Which map then prevails? What are we
18 going to advertise?

19 I'm looking at the map of Page 9.
20 I'm not sure what I'm looking at.

21 MR. ARMSTRONG: Well, if you look
22 at Exhibit B that follows the first chapter of

1 -- it's a color map.

2 COMMISSIONER PARSONS: I'm
3 handicapped. I'm in black and white.

4 MR. ARMSTRONG: That is -- that is
5 what we are proposing be the controlling --

6 COMMISSIONER PARSONS: I see.

7 MR. ARMSTRONG: -- map of the Sub-
8 districts. And that has been sort of the
9 evolution of the Master Plan and trying to
10 reconcile the character, the illustrative plan
11 with that building height map and the Master
12 Plan.

13 COMMISSIONER PARSONS: So, the no-
14 man's land between H and I is 80 feet?

15 MR. ARMSTRONG: We would have a
16 maximum of 80 feet. Yes.

17 COMMISSIONER PARSONS: And then
18 you step to 110 on I?

19 MR. ARMSTRONG: On I with -- on I
20 there would be another step back on the 110
21 side of I.

22 COMMISSIONER PARSONS: Right.

1 Well, let's talk about setbacks.

2 There's a diagram which I can't
3 find at the moment that talks about going from
4 80 to 110 feet and setting back 12 feet. That
5 doesn't seem to be adequate to me. Why 12
6 feet?

7 MR. ARMSTRONG: We were -- between
8 the two transitions, we were keeping the
9 consistent sort of 12 feet -- step it back 12
10 feet before rising up from going from 50 to 80
11 or from 80 to 110. We were just trying to be
12 consistent.

13 We were also working on --

14 COMMISSIONER PARSONS: Consistent
15 with what?

16 MR. ARMSTRONG: Between the two
17 transitions.

18 COMMISSIONER PARSONS: Yes. But
19 why 12 feet in the first place/ Why not 20 or
20 a one-to-one setback?

21 MR. ARMSTRONG: In that case we re
22 going off the previous prepared draft design

1 guidelines that were prepared in 2004 that was
2 part of the initial setdown report that had
3 the cross sections and diagrams that showed
4 that setback.

5 COMMISSIONER PARSONS: Well, I may
6 have missed that. But I'll let you know I
7 disagree with that.

8 MR. ARMSTRONG: Okay.

9 COMMISSIONER PARSONS: Okay.
10 Thank you.

11 CHAIRPERSON MITTEN: Okay. I have
12 a few questions that I hope won't be too
13 disjointed.

14 First is, you know, when we had --
15 you weren't here for this one. But when we
16 had the text and mapping case, when we created
17 and then mapped what's now W0, which is the
18 lowest impact zone and it's on the waterfront.
19 We had some testimony that encouraged us to
20 incorporate low impact development guidelines.
21 And at the time we weren't prepared to do
22 that. But it strikes me that for two reasons

1 on Reservation 13 that it might be time to do
2 that which is, one, that the site is
3 controlled by the District Government and,
4 two, because this is a waterfront-oriented
5 neighborhood.

6 And I just wonder if you had given
7 any thought to that and if not, would you?

8 MR. ARMSTRONG: I think, yes. We
9 had given thought to it in the course of this
10 because, at least right now, AWC is the lead
11 District agency on developing the site and
12 they have established their own environmental
13 standards for their development projects. We
14 were relying on that package of standards to
15 be that, rather than essentially trying to
16 create an isolated set of standards that only
17 applies to one part of the zoning code.

18 That was the primary reason.

19 CHAIRPERSON MITTEN: Well, I'd ask
20 you to rethink that because it's time for the
21 zoning code to start to reflect these
22 principles and this seems to be a good way to

1 get the foot in the door for the future.

2 And I understand about AWC's
3 guidelines, but just as we or as you all have
4 proposed that we integrate the IZ guidelines
5 here and they have their own rules in that
6 regard, I think it's time to -- I don't want
7 there to be an elaborate process of --

8 MR. ARMSTRONG: Right.

9 CHAIRPERSON MITTEN: --
10 integrating it. But if we could make some
11 headway.

12 For the hearing, I think we're
13 going to, as far as the street grid, I think
14 we're going to need to understand a little bit
15 better about how Water Street is going to
16 function because I don't know that there was
17 a consensus or a decision that was made about
18 Water Street when we considered this before.
19 And also some of those streets have been
20 reoriented. So, for instance, 21st Street
21 used to be -- you used to be able to go
22 completely through from Massachusetts Avenues

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1 to Independence and now that's not the case.
2 So, if that could be developed for us when we
3 take this up at the hearing.

4 MR. ARMSTRONG: Okay.

5 I think just to clarify.

6 Specifically, with 21st Street,
7 the change since the Master Plan was the
8 decision to make Ann Archibald Hall an
9 historic landmark and to preserve it.
10 Whereas, the Master Plan as based on the
11 assumption that it would be demolished.

12 And so 21st Street has been
13 adjusted so that the park was shifted over so
14 that now you can look down 21st Street through
15 the park and have Ann Archibald Hall be the
16 landmark building at the end of the vista as
17 viewed from the park or even from Independence
18 Avenue.

19 CHAIRPERSON MITTEN: Okay. I
20 understand that from the vista perspective,
21 maybe not so much from the transportation
22 perspective.

1 MR. ARMSTRONG: Right.

2 CHAIRPERSON MITTEN: But I'll look
3 forward to learning more about that.

4 Now, I'm on the text itself. And
5 I'm looking at the -- just the plain version
6 of the text. So, I'm on page 5 of 19 in 2804.
7 And you've introduced into the special
8 exception criteria architectural design which
9 is not typically -- special exceptions are
10 use-related. And I'm just concerned about
11 introducing design concept that's not really
12 use-related.

13 I'll let you guys think about
14 that.

15 Later on 2804.4, again, you have
16 things that are not use-related. Design,
17 appearance and signs, although signs, I guess,
18 under certain circumstances could be
19 considered to be use-related.

20 Is there -- did I perhaps overlook
21 it? Is there some kind of signage controls
22 later on?

1 MR. ARMSTRONG: No. There is not.

2 CHAIRPERSON MITTEN: Okay. Well,
3 we're either going to deal with signs
4 wholesale or not at all, I guess, and I think
5 we let -- we're getting more into dealing with
6 signs. So, just give that some thought.

7 Okay. For 2804.5, talking about
8 hospitals.

9 I think because we'll be debating
10 this at some point -- perhaps debating this at
11 some point in the future.

12 In letter B, first of all, I think
13 it should be that there should be a report by
14 the Department of Health as opposed to
15 Department of Human Services regarding the
16 need.

17 But I think that if what is
18 intended by demonstrated need for the facility
19 is a certificate of need, because that's a big
20 debate that I know went on before, you either
21 need to say that or you need to say that we
22 don't mean a certificate of need. Otherwise,

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1 we'll be the ones having to arbitrate that and
2 we don't have that expertise.

3 In 2804.6 and 2804.7 you don't
4 make reference to the fact -- there's no verb
5 or -- there's no verb in either of those
6 sentences. So, it doesn't say health care
7 facility and community service center shall be
8 permitted in the HE District as a special
9 exception. So, that's just an editing issue.

10 I notice that under 2804.8,
11 Private School -- Public or Private College or
12 University, you don't repeat the special
13 exception criteria from Section 210 that are
14 related to, you know, number of students,
15 faculty and so forth. And I'd just ask you to
16 think about that because we're making a
17 distinction if we don't and I'm not sure that
18 that's intended.

19 Under 2804.10, Correctional
20 Facilities. Among the things -- this is for
21 additions to existing correctional facilities
22 or new ones, I suppose, which are unlikely.

1 But among the things that will be judged is
2 that the facility is designed so it's not
3 likely to become objectionable to surrounding
4 and nearby property because of noise, traffic
5 or parking.

6 There are things about those
7 facilities that are objectionable as they sit
8 there and noise could be one. And a stark
9 example is the fact that they test their siren
10 once a week or something.

11 So, I think there has to be
12 something about the existing condition as a
13 baseline.

14 2804.11 and you're including
15 Utilities and Supporting Infrastructure
16 Facilities, and then you give a series of
17 examples. I think you need to specifically
18 state whether you intend that it co-generation
19 facility would be included in that list or
20 excluded in that list.

21 Now, I'm in the Density and
22 Building Envelope Standards, 2808.3.

1 Are all the streets that will be
2 constructed within Reservation 13 going to be
3 dedicated as public streets?

4 MR. ARMSTRONG: That is my
5 assumption and my understanding from AWC.

6 CHAIRPERSON MITTEN: Okay. And
7 then do you happen to know whether the street
8 widths that will be dedicated will accommodate
9 the heights proposed in the table in 2803.3
10 under the Height Act?

11 MR. ARMSTRONG: Yes.

12 CHAIRPERSON MITTEN: Okay. And
13 then in that regard I assume there's going to
14 be subdivision either piecemeal or overall.

15 When the lot -- and maybe there
16 won't be a single. I don't know how you're
17 going to manage it, but what street, which
18 street will Building N front on for height
19 measurement purposes?

20 MR. ARMSTRONG: I would believe
21 that there is a street. I don't know that it
22 has a name, but there is a street proposed to

1 encircle Square L and that it would front on
2 that.

3 CHAIRPERSON MITTEN: Well, and the
4 reason I ask that is because as you think
5 about the height for corrections and that
6 little street that goes behind L looks like it
7 would probably be pretty narrow. Just think
8 about how those two work together.

9 2808.10, Minimum Lot Dimensions.
10 The text talks about minimum lot dimensions
11 for row buildings only. And all other
12 buildings will not have minimum lot dimension
13 requirements. And I wondered if you intended
14 to exclude public schools because we recently
15 had a case on that. So, I ask you to give
16 that some consideration.

17 2811.1B. At grade surface parking
18 lots are prohibited within the Hill East
19 District unless the surface parking lot is
20 accessory to an existing use or building
21 within the HE District as of the date of
22 adoption and permitted as a temporary use for

1 a period of five years by the Board.

2 So, there's two things that
3 trouble me about that. One is, sounds like
4 all the surface parking lots that exist have
5 to get special exceptions from the Board,
6 otherwise they're prohibited. So, it doesn't
7 sound like there's a grandfathering provision.

8 And then I'm wondering if the
9 District is prepared to phase out all the
10 surface parking lots within five years, if
11 there is no grandfathering provision?

12 MR. ARMSTRONG: this portion of
13 the code was designed to address as the site
14 redevelops the needs to move around the
15 parking.

16 CHAIRPERSON MITTEN: Right.

17 MR. ARMSTRONG: And so it may be
18 a case where it's not an existing parking lot,
19 but you would demolish a building and put a
20 temporary lot on that location so that you
21 could put in the Massachusetts Avenue street
22 or something to that effect.

1 So, it isn't designed to
2 necessarily -- I mean, the existing lots are
3 there in their location. It's designed to
4 govern how those lots move around as the site
5 develops.

6 CHAIRPERSON MITTEN: Okay. And
7 maybe no change is necessary. I would just
8 worry that someone would read that and then
9 since there aren't any Certificates of
10 Occupancy for any uses on Reservation 13 that
11 I'm aware of, that somebody would come back
12 and say that an existing parking lot was
13 somehow in violation of that provision.

14 So, I don't know. That's kind of
15 a legal question that you can follow up on for
16 me if you would.

17 Anyone else have any comments or
18 questions?

19 Mr. Parsons.

20 COMMISSIONER PARSONS: I just
21 wanted to follow up on your measuring of
22 building heights.

1 It would be my desire, I guess, to
2 have no building higher than 110 feet as
3 measured from Water Street overlooking the
4 park. And I wanted to make sure that we don't
5 end up in a measuring circumstance with a
6 falling topography that we end up with 130 or
7 140 feet as measured from Water Street.

8 Well, maybe you already know the
9 answer to that.

10 MR. ARMSTRONG: Yes. If you look
11 at 2808.4, which is one page 9 of the clean
12 version of the code, this is an issue that
13 came up in our discussions with the Capitol
14 Hill Neighborhood. And what we've come up
15 with is a provision that when you measure the
16 building height you measure it from the lowest
17 point of the square or lot.

18 And this particularly comes into
19 play on Square C where the northeast corner or
20 the northwest corner is 15 to 20 feet higher
21 than the southeast corner. And if you had a
22 massive building that occupied that whole

1 square, it would pull the heights from that
2 corner and you would wind up with the 130 foot
3 building facing Water Street.

4 And what this provision is
5 designed to do is to get -- to make sure that
6 that building is 110 feet at that point but
7 also to encourage or require that these
8 squares be broken up into smaller building
9 lots and to get the building forms to break up
10 to further, you know, articulate the buildings
11 and provide space and break in alleyways and
12 such.

13 COMMISSIONER PARSONS: Thank you.

14 CHAIRPERSON MITTEN: All right.

15 Anyone else?

16 Mr. Jeffries.

17 COMMISSIONER JEFFRIES: Who is the
18 Applicant?

19 MR. ARMSTRONG: The Office of
20 Planning.

21 COMMISSIONER JEFFRIES: Not AWC?

22 MR. ARMSTRONG: Not AWC. No.

1 COMMISSIONER JEFFRIES: Okay.

2 Thank you.

3 CHAIRPERSON MITTEN: Okay. Anyone
4 else?

5 Thank you very much, Mr.
6 Armstrong.

7 MR. ARMSTRONG: All right. Thank
8 you.

9 CHAIRPERSON MITTEN: All right.

10 We have a recommendation from the
11 Office of Planning to set down Zoning
12 Commission Case No. 04-05, which is the Text
13 and Map Amendment for the Hill East District.

14 COMMISSIONER JEFFRIES: Second.

15 CHAIRPERSON MITTEN: And I would
16 so move.

17 Thank you, Mr. Jeffries, for the
18 second.

19 Any discussion?

20 All those in favor, please say
21 aye.

22 (AYES)

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

3 Mrs. Schellin.

4 SECRETARY SCHELLIN: The staff
5 would record the vote five to zero to zero to
6 set down Zoning Commission Case No. 04-05,
7 Text and Map Amendment for Reservation 13.

8 Commissioner Mitten moving,
9 Commissioner Jeffries seconding.
10 Commissioners Hood, Parsons and Turnbull in
11 favor. And this will be set down as a rule-
12 making case.

13 CHAIRPERSON MITTEN: Thank you.

14 Next is Case No. 07-10, and this
15 is a requested Text Amendment to the H Street
16 Northeast Neighborhood Commercial Overlay
17 District. And we, if you recall, had
18 considered as a -- this came to us as a piece
19 of correspondence at our last meeting where we
20 had a request for an emergency text amendment
21 which we did not take up. And now the
22 proposal is before us for setdown as a text

1 amendment. And Ms. Thomas is handling it for
2 the Office of Planning.

3 MS. THOMAS: Yes. Good evening,
4 Madam Chair, Members of the Commission.

5 The Office of Planning at this
6 time is not supporting a Text Amendment as
7 proposed by ANC 6A.

8 What has been proposed is to add
9 Section 1327 to the text which, in effect,
10 would suspend acceptance by the Office of
11 Zoning for any application of zoning within
12 overlay for a period of five years.

13 We are sensitive to the petition
14 as expressed concern that there is immediate
15 danger to the overlay's intent posed by
16 applications for rezoning.

17 I would point out that zoning
18 permits map amendments which are consistent
19 with the Comp Plan and it is a legal document
20 which guides the Zoning Commission decision-
21 making and the recommendations of the Office
22 of Planning.

1 On the one hand we believe a
2 restriction would preempt the very purpose of
3 the public hearing process. And on the other
4 the 2006 Comp Plan does not address a
5 moratorium or suspension of map amendments but
6 it does provide strong guidance for the re-
7 development of the H Street Benning road
8 Corridor including clear language about the
9 scale and sensitivity of development in the
10 neighborhood.

11 We have been advised by the Office
12 of the Attorney General that a moratorium must
13 advance an important objective of the
14 Commission and it is typically imposed when a
15 particular area is undergoing some type of a
16 change with a need to maintain a status quo.

17 However, while this area is under
18 going change, the Commission has already
19 undertaken the H Street study and reviewed its
20 needs and established the Overlay District to
21 respond and encourage development in the area.
22 So, we don't believe -- we do believe that a

1 proposed overlay will be contrary to the
2 intent of the overlay and we wouldn't
3 recommend the Commission set it down this
4 petition.

5 Thank you.

6 CHAIRPERSON MITTEN: Thank you.

7 Any questions for Ms. Thomas?

8 Okay. I understand the concern on
9 ANC 6A and I think the principal concern that
10 they have right now, the urgent concern that
11 they have right now relates to a PUD that is
12 up for a hearing in September which is Case
13 No. 05-37. And I would encourage them to
14 voice their concerns at the time that we have
15 for public hearing.

16 I think putting a moratorium in
17 place sort of to lock down an overlay that we
18 might have just put in place is just not the
19 way to go and there is due process issues and
20 other issues. And I think a big concern of
21 theirs seems to be that PUDs are going to be
22 brought forward that will sort of circumvent

1 the invent of the H Street Overlay and in
2 certain cases -- we have Dupont Circle and we
3 now have the Hill East Overlay pending, there
4 are provisions put in place where PUDs cannot
5 be used to seek more density and more height
6 than is allowed by the underlying zone. And
7 I think and I'm not suggesting that I'm
8 advocating for that, but that is a more
9 appropriate proposal to put in front of the
10 Commission than asking for an outright
11 moratorium. Because one of the beauties of
12 zoning to me is that anybody has the
13 opportunity to petition the Commission for a
14 Text Amendment or a Map Amendment and it's a
15 very equalizing process that way. It doesn't
16 require anyone to sponsor an application. And
17 it advances on its merits or not.

18 So, having a moratorium where
19 things are just outright never considered by
20 the Commission I don't think is the
21 appropriate way to go.

22 So, I'd ask others for their

1 thoughts.

2 COMMISSIONER PARSONS: I would
3 completely agree with your analysis.

4 CHAIRPERSON MITTEN: Okay. Is
5 there anyone else who differs?

6 VICE CHAIR HOOD: I think you said
7 it all, Madam Chair. The word "moratorium"
8 gives me great pause.

9 A lot of effort went into the
10 overlay, H Street, and everything the Office
11 of Planning, Office of Zoning and others have
12 put a lot of effort. And I think you're
13 exactly correct.

14 The appropriate thing to do if
15 specific cases come down, I think that the
16 community, ANC 6A can come down at that point
17 in time and deliver their opinion at that time
18 and we'll weigh that on its own merits.

19 CHAIRPERSON MITTEN: Okay. As you
20 know, I've heard from three commissioners who
21 are on the record as not supporting the
22 setdown and as you know, before we deny a case

1 for setdown, we allow the party -- the
2 requesting party to come forward.

3 Is Mr. Luna here? Commissioner
4 Luna?

5 Okay. I just want to note for the
6 record that the individual who is authorized
7 to represent the ANC in this matter is not
8 present. So, we will not hear from the ANC
9 before we take our vote.

10 And so I would move to deny
11 setdown in Case No. 07-10.

12 VICE CHAIR HOOD: Second.

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

15 Is there any further discussion?

16 All those in favor please say aye.

17 (AYES)

18 CHAIRPERSON MITTEN: Those
19 opposed, please say no.

20 Mrs. Schellin.

21 SECRETARY SCHELLIN: The staff
22 would record the vote five to zero to zero to

1 deny setdown in Zoning Commission Case No. 07-
2 10.

3 Commissioner Mitten moving,
4 Commissioner Hood seconding. Commissioners
5 Jeffries, Parsons and Turnbull in favor of
6 denial.

7 COMMISSIONER JEFFRIES: Excuse me.
8 Can I correct that. I'm not participating in
9 this particular case.

10 SECRETARY SCHELLIN: Okay. Then
11 we will record the vote, four to zero to one
12 to deny setdown in Zoning Commission Case No.
13 07-10.

14 Commissioner Mitten moving,
15 Commissioner Hood seconding. Commissioners
16 Parsons and Turnbull in favor of denial.
17 Commissioner Jeffries not voting.

18 CHAIRPERSON MITTEN: Okay. Thank
19 you very much.

20 The third case for Hearing Action
21 is Case No. 07-14A. And this is in response
22 to some additional study that we asked the

1 Office of Planning to conduct that arose out
2 of the discussion that we had on Case No. 07-
3 14.

4 Mr. Jackson.

5 MR. JACKSON: Good evening, Madam
6 Chair and Members of the Board -- Commission,
7 I'm sorry.

8 On May 14th, the Zoning Commission
9 expressed concern about a rezoning application
10 before them submitted by Israel Manor,
11 Incorporated, that it was too narrowly focused
12 on a proposed future housing site.

13 And the Commission asked the
14 Office of Planning to consider whether the
15 abutting property to the northeast which was
16 a bank branch site should be considered for
17 consideration -- to include for consideration.

18 The Office of Planning went
19 further and reviewed whether other properties
20 south of Rhode Island Avenue, N.W., and east
21 of the railroad right of way should be
22 considered for this zoning consistency case.

1 After reviewing those properties,
2 the Office of Planning narrowed the selections
3 down to two sites which included the entire 22
4 acre shopping center site instead of a portion
5 that was submitted in the original application
6 and the adjacent bank branch property for
7 rezoning for consistency.

8 With that, the Office of Planning
9 has modified the recommendation to be that we
10 now recommend that the Zoning Commission
11 schedule a public hearing to consider a
12 proposed zoning map amendment from general
13 industrial and commercial light industrial to
14 commercial business center, C2B, for lots 56
15 and proposed lot 817 on square 3848 and lots
16 800, 801, 802 on square 3854, to make these
17 properties consistent with the generalized
18 land use map of the Comprehensive Plan
19 Amendment Act of 2006.

20 That's a brief summary of our
21 research and we are available to answer
22 questions.

1 CHAIRPERSON MITTEN: Thank you,
2 Mr. Jackson.

3 Any questions for Mr. Jackson?

4 Any questions?

5 Okay. Mr. Hood.

6 Oh, I'm sorry.

7 VICE CHAIR HOOD: I was going to
8 make a motion, Madam Chair.

9 CHAIRPERSON MITTEN: Please do.

10 VICE CHAIR HOOD: That we set down
11 the revised recommendation from the Office of
12 Planning for Zoning Commission Case No. 07-14
13 -- A, I'm sorry, A.

14 COMMISSIONER PARSONS: Second.

15 CHAIRPERSON MITTEN: Thank you Mr.
16 Parsons and I want to thank Mr. Jackson for
17 doing that additional work for us. I think it
18 was very worthwhile.

19 Is there any discussion?

20 Then all those in favor of setting
21 down Case No. 07-14A please say aye.

22 (AYES)

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

3 Mrs. Schellin.

4 SECRETARY SCHELLIN: The staff
5 would record the vote five to zero to zero to
6 setdown Zoning Commission Case No. 07-14A.

7 Commissioner Hood moving,
8 Commissioner Parsons seconding. Commissioners
9 Jeffries, Mitten and Turnbull in favor. And
10 this too will be a rule-making case.

11 CHAIRPERSON MITTEN: Thank you.

12 And now as I said earlier, the
13 items for proposed action will be taken up in
14 the following order: 06-23 followed by 06-45
15 and then 06-31. And I did not participate on
16 the first two cases so Mr. Hood will be taking
17 over for the moment.

18 VICE CHAIR HOOD: All right.
19 Thank you, Madam Chair.

20 Again, proposed action on Zoning
21 Commission Case No. 06-23. This is an ANC 6A
22 Text Amendment for Eating Establishments.

1 Mrs. Schellin.

2 SECRETARY SCHELLIN: The staff has
3 nothing further.

4 VICE CHAIR HOOD: Okay. I will
5 try to recap as best as I can.

6 If you remember, colleagues, we
7 had the -- I think just a rough draft of who
8 submitted ANC 6C first opposed the text as
9 written requesting a postponement. 3G
10 supported the text with three technical
11 corrections.

12 Office of Planning supplemental
13 report we got a letter from the Restaurant
14 Association. Woodley Park also -- community
15 association weighed in. They agree with
16 overall thrust but opposes the text as is.
17 Look for some revisions.

18 ANC 6B supported the text with
19 further refinements. ANC 3C requested the
20 text be reworked and attach a resolution with
21 different concerns.

22 Lindsley Williams also opposed the

1 text amendment and attached a rework text.

2 Stanton Park Neighborhood
3 Association expressed some concerns. So,
4 there was some concerns, but once I found --
5 I had asked for a chart. But let me say this
6 for the public record.

7 I want to thank Mr. Parker for
8 really pulling that together. I know it
9 really helped me to pull this together once I
10 understood what I was doing. But I can assure
11 you that Mr. Parker laid it out for us. And
12 I will tell you that a lot of concerns, at
13 least the way I see it, were some were
14 implemented and some were not. But what I
15 would like to do is just look at supplemental
16 that we received May 23rd, 2007. We can
17 start there.

18 I would like for us to --
19 everybody have that in front of them from the
20 Office of Planning? May 23rd, 2007.
21 Supplemental Report for Text Amendments.

22 Okay. And what I was going to do.

1 I had outlined this with different concerns
2 and comments from the different ANCs and
3 Advisory Neighborhood Commission 3G and I
4 tried to look and see if any of them concerned
5 me or I wanted to make sure we put them in the
6 text. But, again, I go back to Mr. Parker.

7 For example, I think it was 12
8 seats, Matter of Right prepared for, you know,
9 they had asked for 12 seats and I think they
10 wanted up to 18 seats. I think that has been
11 put in. So, anyway, let's start at this
12 point.

13 Let me start from the beginning
14 and we'll just run through it briefly. And if
15 anybody has any concern or pause, we can
16 revisit that. And I'm sure everyone has read
17 the submittals that were presented to us from
18 the different organizations. So, we won't
19 have to get too bogged down.

20 Section 199, Definitions. 199.1
21 is admitted as follows. You see what is
22 highlighted. Fast Food Establishments, the

1 place of business and it goes on to say other
2 than a prepared food shop where food is
3 prepared on the premises.

4 I will tell you one of the
5 recommendations I think that came from
6 Lindsley Williams and I think it's been taken
7 care of. And I think he mentioned putting it
8 in alphabetical order and I think that has
9 been done.

10 And, Mr. Parker, you can weigh in
11 since a lot of this was your good work. You
12 can weigh in at any point in time and kind of
13 assist us as we kind of run through this.

14 MR. PARKER: I'd be happy to go
15 through the changes that were made if you'd
16 like that?

17 VICE CHAIR HOOD: Well, I don't
18 know if we need to get -- what is the pleasure
19 of my colleagues, because I was prepared to
20 run through it. But since you incorporated
21 it, it might be a little faster.

22 MR. PARKER: Certainly.

1 VICE CHAIR HOOD: I might move a
2 little slower.

3 Okay. Let's do that.

4 MR. PARKER: The first one and the
5 one that we spent the most time on was the
6 issue of cooking as a separation between
7 restaurants and fast food and the prepared
8 food shop.

9 A lot of people had problems with
10 defining that and so we made an attempt to
11 take out that term and have defined prepared
12 food as food that is assembled but not heated
13 by means other than microwave or toaster. And
14 so that defined the prepared food shop.

15 We also made changes to remove
16 some items -- some types of uses from fast
17 food including movie theaters, grocery stores
18 that have fast food type uses as secondary
19 uses within a larger use.

20 And I have received further
21 comments on that issue in particular from some
22 of the neighborhood groups and they would like

1 some language to be expanded to not just
2 include carry out. Right now the term is
3 carry out secondary to another use. And uses
4 like movie theaters have food that isn't
5 necessarily carried off the premises.

6 So, we would be willing to
7 supplement and change that language with a
8 final order.

9 VICE CHAIR HOOD: Mr. Parker, let
10 me just interrupt.

11 You mentioned that you received.
12 Was that from ANC 3C? Nancy MacWood, I
13 believe?

14 MR. PARKER: That was from 3C and
15 Woodley Park.

16 VICE CHAIR HOOD: Oh, and Woodley
17 Park. Okay.

18 MR. PARKER: Yes. I have four
19 issues here that we had received after the
20 report was submitted and after the written
21 record had closed. That was the first one.

22 The second one was a need to

1 define the terms, subordinate and secondary to
2 layout a threshold where a subordinate use
3 becomes a primary use. And the suggestion has
4 been from the neighborhood groups that that be
5 set at 25 percent. And we'd be happy at the
6 Commission's request to incorporate some
7 language to that effect.

8 VICE CHAIR HOOD: Mr. Parker, I
9 tell you what concerns me.

10 MR. PARKER: Sure.

11 VICE CHAIR HOOD: What we have
12 here is what we've digested and those things
13 that came in afterwards. Let's just go with
14 what we have here --

15 MR. PARKER: All right.

16 VICE CHAIR HOOD: -- and there
17 will be another opportunity for us to
18 incorporate those.

19 MR. PARKER: Let's do that.

20 VICE CHAIR HOOD: I do not want us
21 to take proposed action on something we have
22 not even seen.

1 MR. PARKER: Fair enough.

2 VICE CHAIR HOOD: Okay.

3 MR. PARKER: The other major
4 changes that have taken place in the report in
5 front of you under 3 -- under the fast food
6 establishment definitions. We have changed
7 the language of the characteristics that would
8 satisfy a fast food.

9 We've also made some technical
10 corrections to Chapter 7, Chapter 13 and as
11 you mentioned, we changed the matter of right
12 threshold for a prepared food shop from 12
13 seats to 18 seats.

14 We did not create a separate
15 category for cafeteria. And the reasoning is
16 laid out in the report, nor did we attempt to
17 create amnesty for existing CFOs that do not
18 fall within defined categories. And that
19 reasoning is laid out within the report. I'm
20 happy to discuss either of those further if
21 the Commission would like. And then we've
22 made other wording changes as requested.

1 COMMISSIONER TURNBULL: Well, Mr.
2 Parker, do you feel that the changes are
3 sufficient that we should not go forward with
4 this?

5 MR. PARKER: I think -- I'm
6 willing to consider -- like I mentioned.

7 There were four other issues that
8 were raised after the deadline closed. And
9 I'm willing to submit to the Board's opinion
10 on whether we should address those further.
11 And I can bring those up or not as you see
12 fit.

13 VICE CHAIR HOOD: Unless my
14 colleagues differ how I would like to proceed.

15 What we have in front of us is
16 what we have in front of us. Those four that
17 came in after the fact there's another 30-day
18 -- is it 30 days? Is another 30-day period
19 and those comments will be incorporated.

20 But I would like for us to move
21 unless it's going to significantly change some
22 action that we take here tonight so we can

1 kind of at least get something out there.

2 We're narrowing the scope down
3 because it was all over the place and I
4 appreciate everybody's comments. But we
5 narrowed the scope down. And there will be
6 another period of time for people to make
7 comments.

8 COMMISSIONER JEFFRIES: I mean, I
9 think this is -- I think in the third
10 paragraph of the supplemental report by OP,
11 this is a I mean seemingly -- I mean, simple,
12 but it's a very complicated issue. And I
13 don't think it's any real perfect solution to
14 this.

15 So, I think we can continue down
16 this road for another three or four months.
17 And so I agree, Chairman, that you know, we
18 should just move forward and, you know,
19 revisit what we need to, you know, in final
20 action.

21 VICE CHAIR HOOD: Any other
22 comments?

1 MR. PARKER: No.

2 VICE CHAIR HOOD: Okay. We have
3 what's proposed in front of us a May 23rd,
4 2007, with the amendments. And, again, I want
5 to thank Mr. Parker for going through that.
6 And all those who made contributions in
7 providing responses to the text and helping us
8 to rework it because I think it was a joint
9 effort.

10 But I will ask Mr. Gorman if at
11 anytime and I will say this -- it's the same
12 thing I've said in other cases. If there is
13 something that we've done to upset the apple
14 cart, I would hope that the Office of Planning
15 would bring it to our attention and bring it
16 back to us as fast as possible so we can deal
17 with it accordingly.

18 Okay. All right.

19 I will move approval of Proposed
20 Action in Zoning Commission Case No. 06-23
21 with the Text Amendments -- with the Text
22 Amendment revisions and ask for a second.

1 COMMISSIONER JEFFRIES: Second.

2 VICE CHAIR HOOD: It's been moved
3 and properly seconded.

4 All those in favor.

5 (AYES)

6 VICE CHAIR HOOD: Any opposition?

7 So ordered.

8 Staff, would you record the vote.

9 SECRETARY SCHELLIN: The staff
10 records the vote four to zero to one to
11 approved Proposed Action in Zoning Commission
12 Case No. 06-23.

13 Commissioner Hood moving,
14 Commissioner Jeffries seconding.
15 Commissioners Parsons and Turnbull in favor.
16 Commissioner Mitten not voting, having not
17 participated.

18 VICE CHAIR HOOD: Okay. One
19 second, get everything shuffled.

20 Okay. Our next -- our next case
21 under Proposed Action is Zoning Commission
22 Case No. 06-45. D.C. Housing Authority and

1 CEMI-NMI Highlands - Consolidated PUD and
2 Related Map Amendment.

3 Mrs. Schellin.

4 SECRETARY SCHELLIN: Staff has
5 nothing further.

6 VICE CHAIR HOOD: Okay.
7 Colleagues, we have in front of us a Proposed
8 Action on Case No. 06-45. And I'll just run
9 down some things that we asked for
10 specifically.

11 If you all remember, this was a
12 mixed income housing and community outreach
13 project that was done. Okay.

14 Forgive me. I have the wrong
15 thing in front of me.

16 Okay. Okay.

17 This was a project improvement
18 community mixed income housing and community
19 outreach effort with one of the questions we
20 asked in this particular case. But anyway, we
21 asked for a number of different things.

22 We spoke about Green Communities,

1 construction management plans, storm water
2 management plan. And one of the things that
3 I most remember about this case was the issue
4 about the street going all the way through.
5 And also we asked to put in some traffic
6 calming measures.

7 Okay. But, anyway, that's what I
8 remember about the case and I will open it up.
9 And we have a submittal dated May 10th, 2007.

10 Any comments?

11 COMMISSIONER TURNBULL: Thank you,
12 Mr. Hood.

13 I know that one big question by
14 several of the neighbors was the through
15 traffic and we talked about -- there was a lot
16 of concern about speed bumps or keeping the
17 cul de sac.

18 We do see here that the -- we do
19 have the -- a traffic calming guidelines in
20 that the Applicant has expressed a willingness
21 to work with DDOT and the Foxhall Place
22 neighbors in assessing and coming to what I

1 think an equitable solution, a suitable
2 solution for this.

3 So, other than them working with
4 them, I don't know what else we could -- I
5 mean, to me I think that's a fair gesture to
6 keep working to solve that. I mean, I think
7 the street needs to go through. So, again,
8 I'm not sure what that solution is going to
9 be, the concern by the intersection and maybe
10 it's even before at the street previously, the
11 cross street. But at least I see the
12 Applicant has a willingness to at least come
13 up with a solution that would hopefully be
14 equitable to everybody.

15 VICE CHAIR HOOD: One of the
16 things, Mr. Turnbull. I'm glad you brought
17 that up.

18 One of the things that jogs my
19 memory was the neighborhood. The community
20 mentioned and I think it was Ms. Garrett,
21 mentioned that they were going to be losing
22 four or five parking spaces. But in the

1 traffic study it mentions that if they open up
2 the street they'll be gaining approximately
3 20.

4 So, I think that may be a plus.
5 And as you stated, they were more concerned
6 about the traffic. And also in the traffic
7 study it said that people who went down in
8 that area would not exactly go that way to go
9 home. So, I think it was a very persuasive
10 traffic study and I don't think that would put
11 me in much of a delay as far as that is
12 concerned.

13 Any other comments?

14 Let me do this. Let me back up
15 and tee this up. I want to make sure we all
16 remember.

17 This was a PUD-related map
18 amendment to R5B to accommodate a 1.1 FAR
19 which is allowed in the R5A with a PUD and to
20 accommodate a 45 foot maximum height which
21 exceeds which is allowed in R5B without a PUD.

22 The second thing they asked for

1 was relief from the side yard.

2 The third thing is relief from the
3 rear yard requirements. And also relief from
4 41.6 to allow two or more principal dwellings
5 on a single lot.

6 The Office of Planning also
7 believed and I think we can go ahead and move
8 forward with this relief, that the front yard
9 requirements in 2516.5 was also necessary.
10 And I think the Applicant I believe addressed
11 that and I think it was -- Ms. Thomas ,if you
12 could chime in and tell me that, I think the
13 Applicant did address that concern that the
14 Office of Planning had.

15 MS. THOMAS: Yes. I believe they
16 did.

17 VICE CHAIR HOOD: Okay. Okay.

18 COMMISSIONER TURNBULL: The other
19 thing, Mr. Hood, is that we did get -- we had
20 raised concerns about the green criteria
21 designs and we did get a packet of information
22 describing some of the mandatory and the

1 optional points that they would be reaching
2 for their green design.

3 VICE CHAIR HOOD: Okay. Mr.
4 Parsons, I know you had an issue about -- you
5 asked them to redesign. Did you approve the
6 retaining wall? I know that was an issue.

7 COMMISSIONER PARSONS: Oh, yes.
8 That was at setdown. We resolved that during
9 the hearing on that. Yes.

10 VICE CHAIR HOOD: I'm just trying
11 to make sure we cover all the --

12 COMMISSIONER PARSONS: Yes.

13 VICE CHAIR HOOD: Also about the
14 storm water? I take it the Applicant has
15 responded sufficiently?

16 COMMISSIONER PARSONS: Yes.

17 VICE CHAIR HOOD: Okay. And, Mr.
18 Turnbull, you have -- your fine with the LEED
19 certification?

20 COMMISSIONER TURNBULL: Yes.

21 VICE CHAIR HOOD: Okay. Well, I'm
22 not going to prolong this any longer. But if

1 everybody is fine, we might as well just go
2 ahead and move forward and approved Proposed
3 Action.

4 Any other comments?

5 Any other discussion?

6 Okay. I think the Applicant has
7 answered our questions at least in the
8 following submittal and I would move for
9 Proposed Action on Zoning Commission Case No.
10 06-45 and ask for a second.

11 COMMISSIONER TURNBULL: Second.

12 VICE CHAIR HOOD: Any further
13 discussion?

14 Any further discussion?

15 I will ask though that -- I want
16 to make sure we cover everything. That the
17 community also mentioned about traffic
18 mitigation signs because of the kids I guess
19 getting attuned to the street going through.

20 I would ask before final, maybe
21 the Applicant and I think I asked this at the
22 hearing, to look at that and see how they can

1 coordinate with the city to maybe put some
2 signs up at least until everyone becomes
3 adjusted to the street going on through.

4 Okay. It's been moved and
5 properly seconded.

6 All those in favor?

7 (AYES)

8 VICE CHAIR HOOD: Any opposition?

9 So, staff, would you record the
10 vote?

11 SECRETARY SCHELLIN: Yes. Staff
12 would record the vote three to zero to two to
13 approve Proposed Action in Zoning Commission
14 Case 06-45.

15 Commissioner Hood moving,
16 Commissioner Turnbull seconding. Commissioner
17 Parsons in favor. Commissioner Jeffries and
18 Mitten not voting, having not participated.

19 VICE CHAIR HOOD: Oh, I didn't
20 know it was just three of us. I was wondering
21 why I didn't hear from you.

22 CHAIRPERSON MITTEN: Thank you.

1 Now, we're ready for the last case
2 under Proposed Action which is Zoning
3 Commission Case No. 06-31. And this is the
4 PUD at 5220 Wisconsin Avenue.

5 And I believe we have all the
6 submissions that came in after the closing of
7 the record. And to start with, we have a
8 request from ANC 3E to reopen the record to
9 receive ANC 3E's resolution authorizing
10 Commission Eldridge to testify. And, I guess,
11 I'll begin by moving to reopen the record to
12 accept the submission and ask for a second.

13 COMMISSIONER PARSONS: Second.

14 CHAIRPERSON MITTEN: Is there any
15 discussion?

16 All those in favor, please say
17 aye.

18 (AYES)

19 CHAIRPERSON MITTEN: Those
20 opposed, please say no.

21 Mrs. Schellin.

22 SECRETARY SCHELLIN: The staff

1 would record the vote five to zero to zero to
2 reopen the record to accept the ANC's filing.

3 Commissioner Mitten moving,
4 Commissioner Parsons seconding. Commissioners
5 Hood, Jeffries and Turnbull in favor.

6 CHAIRPERSON MITTEN: Thank you.

7 I do want to note for the record
8 that the issue -- I think the issue about
9 Commissioner Eldridge actually testifying came
10 up at one point. But the specific request to
11 seek retroactive approval from the ANC was
12 because the testimony was beyond the scope of
13 the ANC resolution. And that was what the
14 objection came from. And that has not yet
15 been resolved.

16 So, I am just going to leave the
17 matter pending and the parties can take -- we
18 understand the objection and the parties can
19 take whatever actions are available to them
20 depending on the outcome of our discussion
21 here that they feel are appropriate.

22 So, let me just being by sort of

1 recapping the request and the positions of the
2 various parties.

3 This was a request from the
4 Akridge company for a PUD and Related Map
5 Amendment at 5220 Wisconsin Avenue. The
6 existing zoning is R5B and the PUD-related map
7 amendment would be to C2B.

8 We had the ANC and Friendship
9 Neighborhood Association as parties in
10 opposition and we had Ward 3 vision as a party
11 in support.

12 The site is roughly a half acre of
13 land. It's 22,500 square feet and the
14 proposal is to build 60 to 70 residential
15 units, 13,200 square feet of ground floor
16 retail space to a density of -- total density
17 of 5.25 FAR and a height of 79 feet which was,
18 if you recall, five stories along Wisconsin
19 Avenue going up to seven stories and then
20 there's a section at the rear where it's three
21 stories.

22 The total number of parking spaces

1 would be 92 to 104 with 1.2 spaces per
2 residential unit, 15 retail spaces, three
3 visitor spaces and two car-sharing spaces.

4 Loading and parking would be
5 accessed by the alley at the rear.

6 There were three areas of
7 flexibility requested. The rear yard, they
8 are providing less than the 15-foot required
9 rear yard.

10 The lot occupancy of 80 percent
11 required for floors with residential use is
12 not being met, only as an average. And then
13 the loading berth if you'll remember, they
14 were requesting flexibility not to provide the
15 required 55 foot berth.

16 The public benefits and amenities
17 that were being proffered include affordable
18 housing in the amount of 6,800 square feet
19 devoted to housing for individuals making 80
20 percent -- maxing out at 80 percent of the
21 AMI. A \$500,000 contribution to the Lisner
22 Home for the maintenance of affordable housing

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1 for indigent elderly.

2 Facade enhancement to the adjacent
3 PEPCO Substation. \$100,000 contribution to
4 Janney School. A construction management
5 plan. \$30,000 to IONA Senior Services for
6 their bus. LEED certification which if you'll
7 read the proffer carefully in their Findings
8 of Fact and Conclusions of Law which I think
9 dilutes the proffer of LEED certification
10 relative to what was articulated at the
11 hearing.

12 Landscaping and public space,
13 transportation management, including two car-
14 sharing spaces and a \$40,000 contribution to
15 DDOT to hire a Friendship Heights
16 Transportation Management Coordinator. First
17 source agreement with DOES and a Memorandum of
18 Understanding to use local small disadvantaged
19 business enterprises with the Local Business
20 Opportunity Commission.

21 The opposition. I'll deal with
22 this broadly and we can deal with it in more

1 detail as the conversation progresses.

2 The major issues are height,
3 density, traffic and lot occupancy. There's
4 strong opposition from many neighbors in the
5 immediate area.

6 The ANC was opposed in part
7 because they did not get the opportunity to
8 coordinate the vetting of the amenities.
9 There's a series of specific traffic concerns
10 which we will get to. And in general the
11 height and density concerns related to the
12 fact that the contention of the parties in
13 opposition is that the height and density far
14 exceeds the appropriate heights and densities
15 for a site that would be within the Friendship
16 Heights Regional Center and this is just
17 outside the Regional Center.

18 And there is also concern that the
19 amenities that were being proffered were weak
20 including such issues as the PEPCO -- the
21 proffer of upgrading the PEPCO substation
22 being self-serving.

1 We had a submission -- the final
2 submission that spoke about LEED certification
3 actually also being self-serving in the sense
4 that it's a way of -- that people are doing it
5 voluntarily to distinguish their projects.
6 That as I said earlier, that some of the
7 proffers, the contributions -- financial
8 contributions were not vetted with the ANC,
9 that the retail space is not an amenity and
10 that the affordable housing being proffered
11 is, in fact, already plentiful at the target
12 income level in the neighborhood.

13 So, I thought the best way to
14 start off the conversation in order to decide
15 the level of detail that would come after is
16 to talk about the Commission's level of
17 comfort with what is being proposed; namely,
18 the rezoning and the height and density. And
19 I think that there's a lot of -- this is a
20 classic case of doing quotations from the
21 Comprehensive Plan.

22 And because on the one hand we

1 have the very strong desire of the party in
2 opposition and the ANC that something that's
3 very responsive to the existing context. And
4 when I say existing context I mean what is
5 build there today throughout this little
6 corridor from the subject property north to
7 the Maryland line, that that be viewed as the
8 context against which this development should
9 be judged.

10 And we had testimony from the
11 Office of Planning and others that, in fact,
12 there's another context that should be
13 considered which is a future context.

14 And there has been a shift in the
15 Comprehensive Plan. If you look at the
16 generalized land use map that was in place
17 with the previous Comprehensive Plan, which
18 called for low density commercial use, that
19 there has been a shift in the future land use
20 map in the new Comprehensive Plan that calls
21 for both low density commercial in combination
22 with medium density residential.

1 So, there's a shift in direction
2 as relates to this property specifically, but
3 also the properties to the north that are
4 considered to be in the regional center are
5 designated now in the future land use map for
6 medium density residential and medical density
7 commercial uses.

8 So, to me a very important part of
9 the context in which this development should
10 be evaluated is the future of this little
11 corridor as it goes north to the Maryland
12 line.

13 And I think we had testimony at
14 the public hearing from Ms. Steingasser about
15 the way that, if you look at, rather than the
16 existing heights of buildings and we have a
17 fair amount of testimony in the record and we
18 have some good exhibits from the opposition
19 that show the heights and densities of the
20 various things as they now exist.

21 That if you look at the context
22 that would be provided if zones were in place

1 and developments existed that built out the
2 zoning envelope as it is envisioned to be,
3 that this project would fit appropriately in
4 that. And I don't think the height or density
5 is out of scale with a site that is just
6 immediately adjacent to the regional center.
7 Because I do believe it's transitional.

8 I think the heights and densities
9 within the regional center should exceed
10 what's being proffered here.

11 Among the concerns we heard also
12 were the relationship between the adjacent
13 properties and the subject property at the
14 height of 79 feet. And so there was a
15 gentleman who came, whose name I don't recall
16 but he lived on Connecticut Avenue and he came
17 and talked about the fact that they have tall
18 buildings along Connecticut Avenue and they
19 have single-family dwellings immediately
20 adjacent.

21 So, one thing I did do because I
22 found that curious and I thought, well, what

1 do we map as a matter of right in terms of
2 what kind of tension do we set up as a matter
3 of right on the map as it exists now?

4 So, I looked at Connecticut Avenue
5 in particular and there's a couple of
6 stretches that I think are informative for
7 this discussion. They're both R5D. One is a
8 stretch of R5D along Connecticut Avenue
9 between Elliott and Albemarle. And R5D as a
10 matter of right permits a height of 90 feet.
11 And immediately adjacent to that little
12 corridor are areas zoned R1A and R1B which is
13 a height of 40 feet.

14 So, there we have a disparity of
15 50 feet in height that there's no controls.
16 There's no setbacks that are required. It's
17 just -- it's -- it's potentially very
18 proximate.

19 There's another stretch between
20 Livingston and Joycelyn where this R5D is
21 adjacent to R1B.

22 Now, I will acknowledge because I

1 don't want to suggest I'm not aware of the
2 fact that what goes with those heights is also
3 -- it's not 100 percent lot occupancy, so
4 there are different lot occupancy
5 requirements.

6 Another thing I just want to throw
7 in and then I'll open it up for this more
8 general discussion is, a lot of the
9 comparisons that were being made for the
10 subject property related to the existing R5B
11 zoning. But I don't think anyone was
12 suggesting that R5B is the appropriate zone in
13 light of the land use map. And so we talked
14 about -- we had testimony that C2A would be an
15 appropriate base zone.

16 So, I think there are certain
17 aspects of this proposal that are best
18 compared to C2A and among those are things
19 like 100 percent lot occupancy. Because in a
20 C2A zone and even in the proposed zone at C2B,
21 what is required is that levels of the
22 building on which there is residential use

1 have a lot occupancy limitation. But the
2 first floor, in the event that it were --
3 first floor or another floor up were 100
4 percent in commercial use, they would be able
5 to occupy 100 percent of the site and I think
6 that's an important thing to recognize as
7 well.

8 And then finally -- I lied. I
9 wanted to say one more thing before I turn it
10 over is that when you think about the existing
11 context, I think we have to acknowledge what
12 we know is happening throughout the city. And
13 so we have, for instance, folks on Harrison
14 Street who live in the two-story multi-family
15 buildings that I believe is shown on the
16 opposition's -- one of the opposition's
17 exhibits shows that those buildings at 26 feet
18 and then compares it to the proposed
19 development.

20 But the fact of matter is that
21 under existing R5B zoning, those buildings
22 could be almost twice as high as they are now

1 as a matter of right. And we've seen many
2 places where development pressure has caused
3 either buildings to be torn down and replaced
4 or additions to be put on top. And so I just
5 don't think we should be bound by what's on
6 the ground today because there will be -- even
7 if there are no zoning changes, there will be
8 -- there's the potential for dramatically
9 increased heights and densities on the
10 properties relative to what exists today.

11 So, what I'd like to encourage at
12 this point is just some conversation about
13 whether or not the Commission shares my view
14 about the sort of context in which this
15 proposal is intended to be viewed, whether
16 it's the existing context in terms of the
17 built environment exclusively or future
18 development.

19 And then we can talk about some of
20 the finer points.

21 Anybody at all?

22 Mr. Jeffries.

1 COMMISSIONER JEFFRIES: Well, I
2 was particularly struck with the commentary
3 from Ms. McCarthy and comments around this
4 whole business of consistency and I kept sort
5 of -- it was a nagging thing for me as I look
6 at the map. Existing map is R5B and somewhat
7 baffled by, you know, how this stretch, this
8 small stretch is an R5B, which is, you know,
9 from what I see, what I understand of
10 Wisconsin Avenue as being a fairly busy,
11 highly traveled commercial corridor that this
12 patch seems to be to me to be very
13 inappropriate.

14 And this whole notion of sort of
15 looking at existing versus sort of future land
16 use, I think is more forward-thinking, you
17 know, as the District, you know, really looks
18 at, you know, all areas to really promote some
19 of the policy initiatives. More housing, more
20 retail.

21 I don't think any area should be
22 exempt and I certainly think this area should

1 be particularly an area that is so close to
2 Maryland Avenue and we're seeing such, you
3 know, retail seepage there.

4 I was also struck with the
5 commentary from the gentleman who made the
6 comparison between this area and Connecticut
7 Avenue. I thought it was very compelling and,
8 you know, I drive up and down Connecticut
9 Avenue quite a bit and to know that there are,
10 you know, residential districts that, you
11 know, R1 and R2 that is next to the R5D.
12 Again, with the one acknowledgement, Madam
13 Chair, about, you know, lot occupancy. You
14 know, understanding that these things can co-
15 exist, I think it's a very appropriate to
16 really look at this what is currently an R5B
17 is at a base is a C2A and perhaps even a C2B.

18 So, I would agree with your
19 analysis of really sort of looking forward as
20 relates to this area. And, again, you know,
21 no area really being exempt, particularly an
22 area that is, you know, part of a transit-

1 oriented location. We have to build those
2 areas out and we can't treat this area any
3 differently than we might treat any other
4 area.

5 So, those are my comments.

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

8 Anyone else?

9 VICE CHAIR HOOD: One of the
10 things, Madam Chair, when we talk about and I
11 can tell you even to this point I'm not sure
12 where I am because I want to make sure we do
13 the right thing. Because when I got off of
14 the Metro and I mentioned this, when I got off
15 the Metro at Columbia Heights, it was almost
16 like I had to take a step back and it really
17 bothered me. And I'm going to hope -- and I
18 know with this transition and what the
19 Comprehensive Plan is speaking in terms of,
20 and I think it was outlined also in the OP
21 Report. It talks about maintaining heights
22 and densities and establishing proposed

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1 regional centers which are appropriate to the
2 scale.

3 But then it also talks about how
4 you operate in a transit-oriented development.
5 I know it sits right, I guess, within a few
6 feet of a Metro stop. But one of the things
7 I've been baffling with after I got off the
8 Metro at Columbia Heights, I wanted to make
9 sure that this same thing doesn't happen over
10 here.

11 But then I start trying to figure
12 out within my mind. Well, what was the issue?
13 Why does it look like as soon as I get off the
14 Metro, everything is going to fall on top of
15 me?

16 Then I started looking at the
17 street widths. So, there may be some other
18 facets -- other facets here in this area. But
19 I will tell you one of the concerns as we move
20 forward is I take great pause in not -- I'm
21 not going to say we made a mistake. Maybe
22 it's just an Anthony Hood needs to get used to

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1 what we did or what was done at the Columbia
2 Heights Metro.

3 And those are my comments.

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

6 Anyone else?

7 Commissioner Turnbull.

8 COMMISSIONER TURNBULL: Thank you,
9 Madam Chair.

10 I guess what was difficult in
11 looking at this site in context with the rest
12 of it is obviously the PEPCO Substation and
13 the WMATA Bus Yard, which very rough uses. I
14 mean, even for a residential neighborhood,
15 they are very -- but looking down the road and
16 how this street in the Comprehensive Plan has
17 seemed to develop, they're either going to go
18 away or something is going to change that.

19 And I think that when you look at
20 the development of this in relationship to
21 and, again, comparing it to Connecticut
22 Avenue, I think the context in looking at the

1 regional center and how that street develops,
2 I think there is enough evidence that we've
3 seen. I mean, if you weigh it back and forth
4 to support the C2B as a most progressive and
5 needed development along that street. I think
6 it makes sense.

7 CHAIRPERSON MITTEN: Anyone else?

8 Mr. Parsons?

9 COMMISSIONER PARSONS: Just in
10 going last means everything has been said.
11 But everybody hasn't said it.

12 It seems to me quite simple. I
13 mean, the Comprehensive Plan of 2006 which is
14 what is our guide, calls for medium density
15 residential amongst other things. And this
16 project fits that definition. Not only that
17 but they have stepped down to the rear to
18 recognize as is also called for in the
19 Comprehensive Plan a architectural recognition
20 of the adjacent land uses to the rear.

21 So, I feel that without repeating
22 what everybody else has said, that your

1 question about whether we should be weighing
2 this against existing use versus what the
3 Comprehensive Plan says, to me there's no
4 choice. That is, we need to look at what the
5 future brings to use rather than what exists
6 there today.

7 CHAIRPERSON MITTEN: Thank you.

8 I do want to deal with some of
9 these issues just in a little more detail
10 because we are required, as you know, to
11 address the issues raised by the ANC with a
12 certain degree of specificity.

13 And I wanted to just maybe round
14 out the conversation that we just had by
15 addressing some of the Comp Plan components
16 that are specifically cited by the ANC.

17 And among them is one about
18 Wisconsin Avenue and the manner in which new
19 development should be introduced into
20 Friendship Heights and Tenleytown and one of
21 the quotes from the Comprehensive Plan is that
22 any redevelopment along the corridor should

1 respect the scale of existing neighborhoods,
2 promote walkability and create a more
3 attractive street environment.

4 The impact of new development on
5 traffic, parking, infrastructure and public
6 services must be mitigated to the greatest
7 extent feasible and the scale and height of
8 new development on the corridor should reflect
9 the proximity to single-family homes.

10 So, here, you know, we're being
11 directed and there's various times when
12 similarly articulated policy statements are
13 made in the Comprehensive Plan and quoted by
14 the ANC. And I think that -- I don't think
15 this development is -- does not respect the
16 scale of the existing neighborhood,
17 notwithstanding the fact that the position of
18 the ANC is that the proposed building would
19 dwarf the buildings near it and be grossly out
20 of scale with the buildings directly across
21 the street.

22 I think that particularly when we

1 look to the residential buildings to the rear,
2 there's a couple of things that they've done.
3 They've -- the building steps down
4 significantly at the rear in response to the
5 residential neighborhood. And as I said
6 earlier, the matter of right height of the
7 buildings on Harrison Street that are zoned
8 R5B is roughly twice what they are -- in what
9 exists.

10 So, I just don't think it's
11 appropriate to be hamstrung by what exists if
12 it's significantly under -- a significant
13 under-development. And I just don't find that
14 the statements by the ANC are adequately or
15 accurately depict the condition that will
16 exist.

17 And, further, you know, to the
18 extent that they're speaking about buildings
19 across Wisconsin Avenue, I think that the --
20 that heights of the type that are proposed by,
21 you know, in this project are not
22 inappropriate as you transition out of the

1 regional center towards the really lower
2 density areas to the south on Wisconsin Avenue
3 that are sort of in between the Metro
4 Stations.

5 And in so doing, you know, there
6 was a lot of testimony that invoked the notion
7 of a buffer. Well, to me, this is a buffer.
8 This is a buffer from the higher density --
9 higher density mixed use development that
10 should occur at the regional center to these
11 areas that are farther to the south. And I
12 think that in this development it shows how
13 transitions even within a project can take
14 place that are responsive to the neighborhood.

15 So, I don't now if anyone wants to
16 say anything more about height or density than
17 what I did -- then what I have so far, but I
18 just wanted to specifically address some of
19 the policy statements that were highlighted by
20 the ANC.

21 Is there anything else on height
22 or density right now?

1 Mr. Hood.

2 VICE CHAIR HOOD: Madam Chair, I
3 can assure you I don't have right now
4 anything. But as was stated in the policy
5 map, that things will be changed in that area
6 from 2005 to I think 2025 were the dates.

7 But I do have an additional
8 question about the height and it probably
9 should have come through in the hearing. But,
10 again, I go back to my experience that I had,
11 you know, in Columbia Heights.

12 I was wondering -- I would like to
13 see. And I know this may not be the
14 appropriate time. It depends on what happens.

15 But one of the things that I would
16 like to see is what do I see when I get off
17 the Metro here. I don't know, what station is
18 this?

19 CHAIRPERSON MITTEN: Friendship
20 Heights.

21 VICE CHAIR HOOD: What do I see
22 when I get off of -- with this development, if

1 it went forward. What do I see? I want to
2 know what kind of experience that I would have
3 getting off. And I don't know if somebody
4 could supply me with something or how it would
5 work. But I want to know what do I see when
6 I get off the Metro.

7 CHAIRPERSON MITTEN: Do you mean
8 relative to this project?

9 VICE CHAIR HOOD: The comment
10 about heights. Relative to this project.

11 CHAIRPERSON MITTEN: Well, you
12 wouldn't see it when you came out of the Metro
13 because you'd have to walk down the street.

14 VICE CHAIR HOOD: Well, not
15 exactly. Well, not exactly when I came up.
16 But what would I see when I look around?
17 That's what I want to know.

18 And this doesn't really do it for
19 me. I'm going --

20 CHAIRPERSON MITTEN: Well, that's
21 a model of the existing. They would place
22 this in the existing context.

1 Is what you're looking for the
2 subject development placed in the existing
3 context or in the context that would exist if
4 the future land use map were fully realized?

5 VICE CHAIR HOOD: No. What's
6 happening now because I don't know what's
7 going to happen down the road. I mean, that
8 shift may change.

9 I want to know with this project
10 in place now. I walk down the block and look
11 around, what would I see?

12 COMMISSIONER JEFFRIES: Well,
13 excuse me.

14 VICE CHAIR HOOD: And I know about
15 the ones with all the heights. I just didn't
16 get the same experience. I guess I won't when
17 I do want a realization of actually looking --
18 looking at a picture. But I just want to see
19 the experience that I get. I just hope I
20 don't get the same experience that I got.
21 That's my only concern.

22 COMMISSIONER JEFFRIES: I tell

1 you, it's, you know, being a Columbia Heights
2 resident, you know, I come up that Metro and
3 I am quite pleased with the level of density
4 and activity and so forth. And so that's the
5 wonderful thing about being on the Commission
6 with very diverse perceptions and so forth.

7 Also, I do think there is some
8 clear differences between this neighborhood
9 and Columbia Heights. Columbia Heights is
10 considerably much more dense area. And
11 particularly the area that is around the Metro
12 up in Columbia Heights. And it's a lot of R4,
13 R5B residential that's adjacent to the
14 commercial corridor there.

15 But, you know, I really, you know,
16 Commissioner Hood, I respectfully disagree
17 with, you know -- I mean, I understand what
18 your experience is, but I think as relates to
19 really trying to build up these areas that
20 have a Metro to really start to get people to
21 be less reliant on their cars and vehicles.
22 I just think it's a very smart planning

1 initiative.

2 And, again, I think we have to
3 apply those same standards, you know,
4 throughout the District and not carve out an
5 area for this particular neighborhood.

6 And I have to also say looking at
7 the model photo, I mean, page 7 that was
8 submitted by Akridge, that really looks up --
9 looks north along Wisconsin Avenue and really
10 shows to me how the developer and architect
11 carved up this building to really be
12 respectful to all the various existing heights
13 that are here. Not only at 37 feet that's to
14 be back -- to the rear, but the 58 feet if
15 this is correct that's to the front.

16 I know some of the 79 foot height
17 is there. But I do think that the developer
18 has been -- has not created a monolithic
19 building, but has carved it up and has tried
20 to be very respectful.

21 I'm looking at, I forget how many
22 units we're talking about here. Sixty? How

1 many?

2 CHAIRPERSON MITTEN: Sixty to
3 seventy.

4 COMMISSIONER JEFFRIES: Sixty to
5 seventy.

6 I mean, you know, that just seems
7 to be a very reasonable development for me in
8 this location. And, you know, hopefully, this
9 wills et the stage and be sort of catalytic
10 for, you know, how other developers who will
11 come into this area will treat it. And that
12 is, you know, being very respectful to the R2
13 Zone by stepping down and so forth. But also
14 recognizing that this is a transitional area,
15 you know, from -- you know, from Maryland
16 coming down, that it is transitional. And it
17 starts to step down and I think that's the
18 appropriate treatment for height and density
19 in this area.

20 VICE CHAIR HOOD: Madam Chair, let
21 me just respond.

22 I appreciate your discussion with

1 me, Mr. Jeffries.

2 I don't -- one thing about me, I
3 don't do this all day. So, at 6:30 this is
4 what I get, other than what we read. So, I'm
5 looking at it from more or less of a layman's
6 point. You know, I go by what I see. And I
7 will tell you that I am definitely for high
8 density around Metro stations. Definitely, I
9 would agree with the TOD concept.

10 But, I think, different Metro
11 stations and stops and, again, I'm not saying
12 I have a problem. Because I just want to see
13 the experience that I get when I get off. I
14 think that is a very simple request. Maybe I
15 should have asked for it earlier, but again I
16 know you may utilize Columbia Heights a lot
17 more than I do, but I can just assure you that
18 from some who doesn't do this full time,
19 that's just my perspective on it. I'm not
20 saying that it's all bad. I may go up there
21 in a couple of months and keep going a few
22 times and then it may grow on me.

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1 But for me, I have to learn that.
2 and all I'm asking for is just a simple
3 request here. The experience that I would
4 get. That's all I'm looking for.

5 We only talk about what 79 feet.
6 I just want to know the experience that I'm
7 going to be getting, plus whatever else in on
8 the roof. But anyway.

9 COMMISSIONER JEFFRIES: If I might
10 add, Madam Chair and Vice Chair Hood.

11 You know, I've always appreciated,
12 you know, your contributions and how you, you
13 know, sort of engage, you know, the built-up
14 environment. And I'm respectful of that. You
15 know, I'm just really looking more towards --
16 and particularly around retail strategy.

17 I mean, you know, the District
18 really is just so under-served in terms of
19 retail. And, you know, the best retail
20 strategy is housing. You just need more
21 housing. You need more rooftops. And I just
22 -- I think that is just absolutely

1 appropriate.

2 You look at, you know, in Columbia
3 Heights all the stores that are planned for
4 that area. You know, you just need the
5 density and it would just make sense to be
6 around the Metro.

7 And so, again. I understand and,
8 you know, perhaps, you know, the developer --
9 the Applicant can, you know, perhaps, you
10 know, have renderings or something that really
11 talks about sort of how you experience it once
12 you come out of the Metro.

13 One of the things that I think
14 that, you know, the Applicant or any developer
15 that come before us is that they really try to
16 bring down these large-scale buildings by
17 having very sort of at the ground floor level,
18 you know, enough articulation. They bring the
19 scale down such that it doesn't feel so
20 monolithic and large.

21 And I think that this application
22 the developer has done that. I think, in

1 fact, I think the design of facade is quite
2 superior, quite frankly. But, so I think that
3 this particular application is really superior
4 and particularly around, you know, its
5 treatment of the facade and the building and
6 being very responsive to its overall
7 environment and context.

8 CHAIRPERSON MITTEN: Thank you.

9 Mr. Parsons.

10 COMMISSIONER PARSONS: Well, Mr.
11 Hood, I'm trying to understand what would help
12 you.

13 Do you have this booklet? Do you
14 have page 8?

15 VICE CHAIR HOOD: Page 8.

16 COMMISSIONER PARSONS: A series of
17 photographs to the model. And page 8 is a
18 photograph. Admittedly it's not at the
19 sidewalk level. But it's going north.

20 Is what you're asking for is a
21 photograph from the other end of model at
22 sidewalk level? Wouldn't that --

1 COMMISSIONER JEFFRIES: Well,
2 maybe a rendering.

3 COMMISSIONER PARSONS: -- do it
4 for you?

5 VICE CHAIR HOOD: I want to be
6 able to almost like the -- you're familiar
7 with the software the architects use? What is
8 called, CAD?

9 COMMISSIONER JEFFRIES: Autocad?

10 VICE CHAIR HOOD: Autocad? That's
11 kind of what I want. I want to be able to
12 experience that.

13 But, I mean, here's the thing.
14 I'm not going to belabor the point. I just
15 want to give myself a comfort level because I
16 will tell you. I think looking back at some
17 of the developments that I voted on, I might
18 have done something totally different. But,
19 you know, it's too late now. Everybody makes
20 mistakes.

21 But what I will tell you. I'm not
22 saying this is a mistake. I just want to get

1 a comfort level before I move forward. And
2 I'm only one vote. That's why the mayor
3 appoints three and the other two are Federal
4 people. I'm only one vote.

5 So, I just -- if you guys don't
6 agree with me, then we'll just move forward.
7 If I could have had a time or just to give me
8 a comfort level. That's all I'm asking.

9 CHAIRPERSON MITTEN: I think that
10 what the Commissioners down here are
11 struggling with now is just trying to
12 ascertain exactly what submission would give
13 you that comfort level. And I think maybe
14 what you're thinking of, Autocad is the thing
15 that does the drawing on a computer. It's not
16 -- but remember -- some kind of a simulation.

17 VICE CHAIR HOOD: Maybe that's
18 what I'm talking about. But I don't want to
19 put the Applicant through a whole lot of
20 simulation and everything. Just something so
21 when I come out I can look.

22 And I agree, Mr. Parsons, maybe

1 this should help me, but it doesn't.

2 CHAIRPERSON MITTEN: Okay.

3 VICE CHAIR HOOD: Unless you just
4 want to walk me down the street?

5 COMMISSIONER PARSONS: No. I
6 meant -- I meant to get a photograph from the
7 other end of the model. That's what's
8 missing. That's what you're asking for. What
9 does it look like as I come out of the Metro?
10 And this is --

11 VICE CHAIR HOOD: Right.

12 COMMISSIONER PARSONS: -- a higher
13 level and the wrong end of the project.

14 COMMISSIONER TURNBULL: So, a
15 worm's eye view.

16 VICE CHAIR HOOD: Okay.

17 COMMISSIONER TURNBULL: You want a
18 worm's eye view? Is that what you're
19 referring to, Commissioner Parsons?

20 COMMISSIONER PARSONS: I guess
21 it's a worm's eye view.

22 COMMISSIONER JEFFRIES: No.

1 Seriously. There's bird's eye view and then
2 there's worm's eye view.

3 COMMISSIONER PARSONS: Yes.

4 VICE CHAIR HOOD: Learn something
5 different every time I'm down here.

6 CHAIRPERSON MITTEN: I didn't know
7 worms had eyes, but --

8 VICE CHAIR HOOD: Worm's eye view
9 and bird's eye view.

10 CHAIRPERSON MITTEN: Okay.

11 VICE CHAIR HOOD: I want Hood's
12 eye view actually.

13 Thank you, Mr. Turnbull for tell
14 me what I want.

15 But here's the thing. Depending
16 upon how we move, this is not a -- I better
17 not say that yet. Let me stop.

18 CHAIRPERSON MITTEN: Okay. We'll
19 come back to this.

20 All right. So, I think we've
21 discussed height and density. And now there's
22 numerous issues that were raised regarding

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1 traffic.

2 And, you know, there's the broad
3 issue about the fact that there's a lot of
4 traffic. And so there's the general issue of
5 there's a significant volume of traffic on the
6 street today.

7 Then there's the issue of there
8 will be substantially more cars when the
9 development in Montgomery County is completed.
10 And then there's the issue of the marginal
11 effect or the incremental effect of this
12 project. And all of that was getting
13 discussed and I think largely placed at the
14 feet of this developer, even though there's,
15 you know, what we should focus on, what the
16 Commission should focus on is the incremental
17 effect. And what DDOT should focus on is the
18 larger impact and, you know, sort of outside
19 the context of this specific case.

20 So, there's the big picture.
21 There is concern about cut-through traffic
22 because of the development in Maryland and

1 people are already using the residential
2 streets to bypass Wisconsin Avenue in certain
3 cases.

4 I'm just kind of lump all these
5 traffic issue together.

6 There's concern about queuing on
7 Harrison Street because the loading and the
8 access to parking will be through the alley
9 from Harrison Street.

10 There's concern about increasing
11 the usage of the alleys and that that would
12 somehow degrade the quality of life for the
13 individuals who live abutting the alleys.

14 There's a concern about parking
15 spaces -- taking parking spaces away from
16 residents.

17 If you remember, there is talk of
18 eliminating a couple of the spaces along
19 Harrison Street and also there's concern even
20 though it meets -- even though the parking
21 provided meets the requirements of the zoning
22 regulations, that there's insufficient visitor

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1 parking and that visitors would come and take
2 the parking spaces from the neighbors.

3 And I'll save the loading issue as
4 a separate item.

5 So, those parking -- those are the
6 traffic issues that were raised.

7 And would anybody like to address
8 those?

9 COMMISSIONER PARSONS: well, I was
10 going to say that we rely on DDOT for analysis
11 of these things. And on two occasions, two
12 reports, they came to the conclusion that
13 while this is a busy street obviously, that
14 this project wouldn't contribute because of
15 its use.

16 CHAIRPERSON MITTEN: Yes.

17 Anybody else?

18 I think, you know, what you're
19 saying is what happens often in cases is we
20 have -- you know, there are traffic experts on
21 both sides and we rely on DDOT to sort of be
22 our impartial arbiter or what's right and to

1 give us, you know, give us practical guidance
2 as well as policy guidance.

3 And they are not opposed to this
4 project going forward. And, frankly, I didn't
5 hear anything that would, you know, that would
6 really cause -- that would really be
7 attributable. Any of the significant adverse
8 traffic impacts being attributable to this
9 project with the exception perhaps of
10 increased and I don't mean inappropriately
11 increased traffic in the alleys.

12 And as I was preparing this, I
13 thought it was really interesting that it just
14 so happens today we take up the Reservation 13
15 case where there's a very concerted effort
16 which I applaud on the part of the Office of
17 Planning to get everybody in the alleys doing
18 all that loading and all those undesirable
19 things.

20 And here we have this sort of
21 funny, unusual -- funny not -- unusual
22 circumstance where among the things that we

1 were being told about is that kids are playing
2 in the alleys, which, you know, I don't think
3 that's a good idea. And that's not the
4 purpose of alleys, but children are playing in
5 these alleys. That pedestrians are using
6 these alleys as a shortcut to go to Metro
7 which people do. But that's not the purpose
8 of the alleys. And that somehow having, you
9 know, what you might call back of the house
10 type things that you actually don't want in
11 your front yard, having them in your backyard
12 is actually going to degrade your quality of
13 life. I just don't get that. I don't
14 understand that.

15 I think the greater degradation in
16 people's quality of life has been the
17 elimination of alleys and all the double
18 parking that goes on on commercial streets.
19 And the fact that they can't have their trash
20 picked up behind their house because the
21 alleys, you know is not made for it.

22 So, you know, this does what I

1 think -- this project does what alleys were
2 intended to do, which it puts all those things
3 behind and then as the Applicant articulated
4 in their -- one of their last submissions, is
5 that there's a whole bunch of other reasons
6 why using Wisconsin Avenue would not be a good
7 idea, which I think are overriding. But then
8 just to bring the point home all the way, we
9 had the ANC, I think, by way of a compromise
10 position, sort of keep suggesting that, oh, we
11 know it's not R5B. Let's look at C2A. Let's
12 focus on that.

13 Well, it's a question of degree.
14 But the fact of the matter is, you would still
15 have access to loading from the alley and
16 you'd still have access to parking from the
17 alley if you did a development on C2A.

18 So, you know, a few more cars more
19 or less is not to me a deal-breaker. So, I
20 just did not find that whole line of argument
21 particularly compelling.

22 Mr. Hood.

1 VICE CHAIR HOOD: Madam Chair, I
2 would agree. But, again, I think you really
3 brought my point home about what we talked
4 about earlier about the height and the
5 density.

6 You talked about alleys and what
7 the intended purpose. And you can correct me
8 I misunderstood you.

9 Certain neighborhoods alleys were
10 made to play in. At least the neighborhood I
11 grew up in, I can tell you that the alley was
12 basically -- no. I'm just saying. I'm just
13 showing you the relationship of neighborhoods,
14 I think, differ.

15 But my original point for even
16 hitting the mike was, we had a submission.
17 And, by the way, I do concur with DDOT. I
18 think there is a traffic issue that's already
19 there and I don't know how substantial that
20 this project will add to that with the
21 exception -- with the exception of the alley.
22 And I can't put my hands on it right now. If

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1 you look up you can see why.

2 CHAIRPERSON MITTEN: Is it a DDOT
3 submission?

4 VICE CHAIR HOOD: It was in a
5 submission. It was a color photograph that we
6 had. And somebody -- I don't know if it was
7 the opposition or whom, but they showed us a
8 photograph, I think, of the 20 foot alley and
9 they also showed us how the -- I think there
10 was a truck parked there.

11 CHAIRPERSON MITTEN: I think I
12 have it.

13 VICE CHAIR HOOD: I think they
14 were making a point to us.

15 CHAIRPERSON MITTEN: I think I
16 have it.

17 VICE CHAIR HOOD: This is it. Go
18 right to it. Yes. That is exactly an issue.
19 And I don't know how you resolve things like
20 that.

21 CHAIRPERSON MITTEN: Okay. Just
22 so everybody knows. This is in the PowerPoint

1 presentation from the Friendship Heights
2 Neighborhood Association and it's page 56 and
3 it shows a PEPCO truck parked illegally in the
4 alley that -- the 20-foot alley that provides
5 access from Harrison Street.

6 So --

7 VICE CHAIR HOOD: I guess my point
8 is and I'm not sure what all is going to be
9 involved with this. But these are potential
10 problems. And I know they happen -- they
11 happen all over the city.

12 CHAIRPERSON MITTEN: Yes.

13 COMMISSIONER JEFFRIES: It's urban
14 living.

15 VICE CHAIR HOOD: Right. I agree,
16 but this could be -- especially with that
17 usage of the alley and what it's going to be
18 used for for this project and for other things
19 that can cause a potential problem. How you
20 get around that, I don't know.

21 CHAIRPERSON MITTEN: Well, you
22 know, there was a fairly detailed analysis

1 that was done by the ANC following the
2 redesign and we'll talk about in a minute.
3 But the redesign of the loading area and then
4 the Applicant and the Applicant's third party
5 reviewer or whatever, the analysis that was
6 done regarding the movements of the trucks in
7 and out of the loading dock. And so then the
8 ANC took that information and then they did an
9 analysis of how many times there would be
10 conflicts with the trucks and the cars.

11 Now, normally when you say a
12 conflict you think about maybe things running
13 into each other. To me, if you're in an alley
14 and the alley is a 20-foot alley which is
15 adequate width for folks to get past each
16 other, then that's what you do. You just work
17 around each other.

18 It's, you know, in a time when
19 there might be heavier use which would be the,
20 I think, the morning rush hour was considered
21 to be the heaviest time and when there might
22 be loading going on or unloading going on as

1 well, that, you know, it's not like everybody
2 -- it's not bumper cars in the alley. It's,
3 you know, you see a truck like you see this
4 PEPCO truck. You go around the PEPCO truck
5 and you drive at at appropriate speed that
6 allows that to happen. I mean, that is urban
7 living.

8 COMMISSIONER JEFFRIES: Yes. I
9 think we all deal with that. I mean, I deal
10 with that constantly. I mean, you know, I
11 mean sometimes they take up too much space.
12 You got in your car and go, move your truck
13 over.

14 But, you know, you sort of
15 recognize that there are certain things that
16 come with living in the urban context.

17 CHAIRPERSON MITTEN: One of the
18 things that I remember specifically as I was
19 thinking about this is you remember the case
20 that we -- the PUD case that we had at North
21 Capitol and Florida. And one where we
22 redesigned the tower a bunch of times?

1 VICE CHAIR HOOD: Some of it was
2 redesigned.

3 CHAIRPERSON MITTEN: Okay. Well,
4 if you remember, so you have -- you have -- we
5 had North Capitol and we had Florida Avenue
6 and they had to make a choice about where they
7 were going to have their loading.

8 And the way that they worked the
9 loading is that they back out into the street.
10 So, they back out into Florida Avenue.

11 So, you know, in the hierarchy of
12 what could -- you know, of choices, this is
13 the best choice. And the choice would be the
14 same choice whether it was a C2B development
15 or a C2A development. It's just a question
16 of, you know, there might be a couple fewer
17 trucks if it was C2A and there might not be
18 because the bulk of these trucks on, you know,
19 a daily or a weekly basis are going to be
20 servicing the retail after the initial move
21 in, not the folks living there.

22 So, you know, I think some of

1 these things are -- they need to be
2 compromised and people need to drive, you
3 know, with a certain degree of caution in an
4 alley.

5 Okay. Is there anything else on
6 traffic? Okay.

7 Then, there was the issue about
8 the loading docks. And thanks to Commissioner
9 Turnbull pressing the point with the
10 Applicant, we do have the redesign for the
11 loading docks, which I think is a big
12 improvement.

13 And I think the principal -- well,
14 the ANC's concern is that it's just about
15 these conflicts that are created and that the
16 30-foot requirement is unenforceable.

17 I do want to just say because they
18 seem to be focusing on larger trucks being
19 used by PEPCO is it's not a prohibition on 30-
20 foot trucks in the alley unless DDOT wants to
21 put that kind of prohibition in place. It's
22 a prohibition on larger than 30-foot trucks

1 using the loading dock at the subject
2 property, which is enforceable.

3 So, is there anybody who wants to
4 have anything to say about the revised loading
5 plan or anything?

6 Okay.

7 COMMISSIONER JEFFRIES: It's
8 superior to what was done before.

9 CHAIRPERSON MITTEN: Yes.

10 VICE CHAIR HOOD: I do like that
11 improvement with the loading berth.

12 CHAIRPERSON MITTEN: Okay. And
13 the issue about lot occupancy at 100 percent
14 and, you know, they were raising the issue
15 about the fact that -- there were a number of
16 issues about the fact that there wouldn't be
17 green space and that, you now, on the one hand
18 they're proffering a LEED certification with
19 one hand and taking away with the other hand
20 what could be green space if they didn't
21 occupy the full site.

22 I don't find that particularly

1 compelling, largely for the reason that I said
2 earlier, which is if this was C2A and it was
3 100 percent commercial use on the first floor,
4 100 percent lot occupancy would be permitted
5 as a matter of right and we wouldn't be having
6 this discussion.

7 So, I don't find -- I don't find
8 that particularly compelling.

9 There's a number of issues that
10 they raise about the amenities which we can
11 talk about in detail if anybody wants to. I
12 would just say that -- and I tried to just
13 briefly suggest what they were when I gave my
14 opening summary. But I think when you look at
15 the balance -- when we're balancing the relief
16 being sought against the amenities and
17 benefits that have been proffered, the areas
18 of flexibility are pretty limited.

19 Rear yard, lot occupancy and
20 loading. And I don't think that -- that we're
21 in a situation where if one of the proffered
22 amenities is not particularly strong, that the

1 balance is upset by that.

2 So I, unless somebody wants to,
3 don't really intend to parse all that out.

4 Anybody have a desire to talk
5 about any specific amenity?

6 The one thing that I would like is
7 if the Applicant is serious about the LEED
8 certificate that they're proffering and I
9 wanted to -- and I hope they are, that in
10 their draft order in number 14 from the
11 decision section. The Applicant shall obtain
12 LEED certification for the project and then
13 they're going to post a certain amount in
14 escrow. And then it goes on to say.

15 In the event that the Applicant
16 does not achieve LEED certification for the
17 project within 24 months after the date of the
18 certificate of occupancy for the project, the
19 security will be released to the District,
20 unless the District determines that the
21 sustainable features as build provide value.

22 I think that needs to be struck

1 because they either achieve it or they give up
2 the money. To me, anything else is -- who is
3 going to determine? You know, I just would
4 rather it be more cut and dry.

5 And I don't remember. I just
6 don't remember what it takes to get the
7 minimum number of points to get LEED
8 certification. They had proffered 26
9 originally. And if that's the minimum, then
10 that's fine. But if 26 exceeds the minimum
11 number, then the original proffer was 26.

12 So, if that could be clarified, I
13 think that would be a stronger --

14 COMMISSIONER PARSONS: I would
15 concur but you're suggesting removal of the
16 last two sentences of 14 then?

17 CHAIRPERSON MITTEN: I'm
18 suggesting removal of --

19 COMMISSIONER PARSONS: Security
20 will be released?

21 CHAIRPERSON MITTEN: A sentence
22 and a half.

1 COMMISSIONER PARSONS: All right.
2 From the security will be released?

3 CHAIRPERSON MITTEN: Yes.

4 COMMISSIONER PARSONS: And if such
5 finding is made, those two sentences.

6 CHAIRPERSON MITTEN: Actually,
7 yes. Actually, it would be a period after the
8 security will be released to the District.
9 And no one less and no if such finding is
10 made.

11 VICE CHAIR HOOD: Madam Chair, I'm
12 trying -- not to go back to transportation.
13 But what happened to the transportation
14 coordinator or did they say they couldn't do
15 it?

16 CHAIRPERSON MITTEN: No. That's
17 being -- I think that's -- just bear with me
18 a second.

19 VICE CHAIR HOOD: I think they
20 said they couldn't do it. But anyway.

21 CHAIRPERSON MITTEN: No. It's
22 number 12 in the decision section. And they--

1 I think we have a piece of correspondence that
2 talks about --

3 VICE CHAIR HOOD: Okay. That's
4 what it was. That was the discussion about
5 how they want to operate.

6 CHAIRPERSON MITTEN: Right.
7 Right. Right.

8 VICE CHAIR HOOD: Okay. I knew it
9 was something.

10 Okay. Thank you. I'm okay.

11 CHAIRPERSON MITTEN: Okay.

12 Anybody else?

13 I think I covered the substantive
14 issues that were raised or the issues that are
15 substantive for the Commission that were
16 raised by the ANC.

17 Unless somebody wants to, I'd just
18 as soon not deal with the fact that the ANC
19 was not the vetting or the sponsor for the
20 vetting exercise.

21 And I feel somewhat compelled to
22 address the score-keeping that was going on

1 with the opposition and the support. I think
2 there was this notion that if one side or the
3 other could get more letters in the record or
4 they could prove that the people in the
5 immediate vicinity were more opposed than
6 people that lived some place else, that that
7 would be a basis for our decision-making.

8 And I don't want to suggest that
9 the Commission is not interested in people's
10 opinions on these things because we certainly
11 are. But what we're compelled to do by the
12 regulations is to deal with the matters that
13 are before us in a careful and thoughtful way.
14 And I think that's why we're required to give
15 the ANC great weight because they give -- they
16 raise specific concerns and then we respond to
17 those specific concerns.

18 And I'm not always -- it's not
19 always clear that each individual who submits
20 a letter to the record is aware of all the
21 details involved.

22 And so I think by discharging our

1 obligations to give great weight to the ANC,
2 we have addressed the issue raised by folks in
3 opposition and with sort of, you know, the ANC
4 acting on their behalf. But I don't want
5 people to think that it's a scoring game
6 because there have been cases in the other
7 extreme where we've had lots of people in
8 support.

9 We've had the Office of Planning
10 in support. And the ANC in support and the
11 Commission has been troubled by an issue and
12 we have taken that on.

13 So, we try to deal with the
14 substance that is before us.

15 VICE CHAIR HOOD: Can I just add
16 to your comment, Madam Chair?

17 CHAIRPERSON MITTEN: Please do.

18 VICE CHAIR HOOD: Not that I
19 disagree with you, but I just wanted to add.
20 That we also are charged in our oath to
21 protect the residents of the District of
22 Columbia. So, I just think that needs to be

1 said. I don't want that to go without being
2 said.

3 CHAIRPERSON MITTEN: I agree. And
4 it's in the totality of what we do that, I
5 think, we're looking at the broad interests of
6 the residents in everything that we do. But
7 it's not always a narrow interest. Sometimes
8 it's a broader interest.

9 Any other concerns or issues?

10 Mr. Turnbull.

11 COMMISSIONER TURNBULL: Madam
12 Chair, thank you.

13 And I didn't comment before on the
14 loading dock issue. But -- and I know there
15 was even with the redesign, the ANC and the --
16 the opposition was still concerned that the
17 alley did not work or would not function as
18 well.

19 But I think given all things and
20 again looking at it, no matter what
21 development that this had been, I think that
22 the Applicant's addressing it by recessing the

1 loading dock more, widening it. Putting one
2 of the car shares into that load dock area.

3 I think they've done their due-
4 diligence on trying to make that work. And I
5 think, again, recognizing that it is an alley
6 and that it's difficult no matter what even
7 under normal conditions if someone double
8 parks. I mean, those are the issues and those
9 have to be worked around.

10 But I think that the loading dock
11 was successfully solved. I think they really
12 -- I mean, we had talked about angling it and
13 trying to shift it. But I think in the light
14 of the shape of the way things are, I think it
15 really did address the issue as well as it
16 could.

17 CHAIRPERSON MITTEN: Thank you.

18 Anyone else?

19 All right. Then I would move
20 approval of Case No. 06-31 and ask for a
21 second.

22 COMMISSIONER JEFFRIES: Second.

1 CHAIRPERSON MITTEN: Thank you.

2 Any further discussion?

3 VICE CHAIR HOOD: Discussion.

4 CHAIRPERSON MITTEN: Mr. Hood.

5 VICE CHAIR HOOD: Am I going to be
6 inclined to receive what I asked for before
7 final?

8 CHAIRPERSON MITTEN: I was going
9 to take that up after we vote.

10 VICE CHAIR HOOD: Well, that was
11 going to dictate what I was going to do.

12 CHAIRPERSON MITTEN: Okay. Okay.

13 Okay. Then we'll take it up now.

14 What I was going to suggest, Mr.
15 Hood, is that we would reopen the record, that
16 I move after we finished with this motion. I
17 will move to reopen the record to receive a
18 submission and we can describe what you're
19 interested in to the Applicant and we can give
20 them two weeks to provide it and that way we'd
21 have it time for final action and they will
22 either prevail upon you or not with the nature

1 of their submission to give you the comfort
2 level that you're seeking.

3 VICE CHAIR HOOD: Okay. All
4 right.

5 MR. RITTING: Madam Chair, I would
6 also like to suggest that you give the other
7 parties an opportunity to respond to the
8 submission.

9 CHAIRPERSON MITTEN: Okay.

10 MR. RITTING: This is a contested
11 case.

12 CHAIRPERSON MITTEN: Okay. That's
13 good. Yes.

14 And also I guess we would reopen
15 record in case the Applicant wants to revise
16 their proffer on the LEED certification. But
17 let's deal with that. I promise I'll make a
18 motion.

19 Let's deal with that after we
20 dispatch with this motion.

21 Is that all right?

22 VICE CHAIR HOOD: So, that's

1 already incorporated --

2 CHAIRPERSON MITTEN: I will make--
3 no. I'll make that a separate motion.

4 VICE CHAIR HOOD: No. We can just
5 go and include. Not that I don't trust you.

6 CHAIRPERSON MITTEN: Okay. Then I
7 would amend my motion and ask Mr. Jeffries to
8 accept an amendment that would reopen the
9 record to receive the additional submission
10 that Mr. Hood is seeking, either by way of a
11 simulation type of depiction that's sort of
12 animated or as Mr. Parsons had suggested a
13 Hood's eye view of the model looking south
14 from the Metro Station, whatever they can
15 provide within two weeks to try and give you
16 the comfort level that you're seeking.

17 And then the ANC and the parties
18 would have two weeks to respond. One week to
19 respond? One week to respond after that. And
20 Mrs. Schellin will give the dates after we do
21 this vote.

22 MR. RITTING: Just so the

1 Applicant is clear. It's a rendering looking
2 from --

3 CHAIRPERSON MITTEN: Right.

4 MR. RITTING: -- the Metro Station
5 back at the building --

6 CHAIRPERSON MITTEN: Right.

7 MR. RITTING: And showing the
8 context of the street.

9 CHAIRPERSON MITTEN: What it would
10 look like to a pedestrian approximately 6'2".

11 COMMISSIONER TURNBULL: Looking
12 south?

13 CHAIRPERSON MITTEN: Right.
14 Looking south.

15 VICE CHAIR HOOD: and let me say
16 this, Madam Chair.

17 If I don't -- if they don't
18 respond, understand anything was significant,
19 not that my feelings are going to be hurt.

20 CHAIRPERSON MITTEN: Okay. Okay.

21 COMMISSIONER PARSONS: I think we
22 better be careful here. I think what you

1 really want is something from the center line
2 of the road as though you were crossing the
3 street.

4 In other words, you could come out
5 of the Metro and not see this project. And
6 you want the feeling of the place, not
7 camouflaged by trees along the street and so
8 forth. I mean, that's what I would suggest.

9 I'm at a crosswalk on Wisconsin
10 Avenue looking south. What does it look like?
11 The fear that you won't get what you want.

12 COMMISSIONER JEFFRIES: Excuse me.
13 Does anyone know the width of Wisconsin
14 Avenue?

15 CHAIRPERSON MITTEN: Yes.

16 COMMISSIONER JEFFRIES: Is it --
17 is it --

18 VICE CHAIR HOOD: And you're
19 getting to my point now.

20 CHAIRPERSON MITTEN: I want to say
21 it's 120, but I'll tell you in a minute.

22 VICE CHAIR HOOD: What is the

1 width of 14th Street?

2 COMMISSIONER JEFFRIES: I'm pretty
3 certain it's not as wide as Wisconsin Avenue.

4 VICE CHAIR HOOD: Maybe that's the
5 issue.

6 COMMISSIONER JEFFRIES: Which goes
7 back to my point that, I mean, given the width
8 of the street, you know, there might -- I
9 might understand your feeling.

10 I mean, if 14th Street is like 90
11 feet or so, and you have all these tall
12 buildings then, of course, your impression
13 would be that, you know, while this looks
14 pretty dense and the tall buildings are all on
15 top of me. But if you're looking at, you
16 know, a wider thoroughfare with buildings.
17 And in many instances that might be even lower
18 than what you have at Columbia Heights.

19 You know, you might walk away
20 with, you know, not feeling so oppressed by
21 the height and so forth. But, again, I think
22 this is really up to the Applicant to sort of,

1 you know --

2 VICE CHAIR HOOD: And I thank you
3 for enlight -- and that's exactly what I'm
4 saying basically.

5 I'm looking at the street width
6 and I want to get there. I'm trying to get
7 that experience as much as i can.

8 COMMISSIONER JEFFRIES: Okay.

9 CHAIRPERSON MITTEN: Okay. and
10 then the other item would be the LEED
11 certification to the extent that they want to
12 change the proffer to be more -- or as we
13 suggested. Because we can't change the
14 proffer. It's a proffer. But we could
15 request that they change it.

16 So, you clear on the motion, Mrs.
17 Schellin? Okay. Good. That's very
18 important.

19 Is everybody who is about to vote
20 on the motion, clear on the motion?

21 COMMISSIONER JEFFRIES: And I will
22 second.

1 CHAIRPERSON MITTEN: And thank you
2 very much. You'll second -- you'll accept the
3 amendment.

4 Any further discussion?

5 Then all those in favor, please
6 say aye.

7 (AYES)

8 CHAIRPERSON MITTEN: Any opposed?

9 Mrs. Schellin.

10 SECRETARY SCHELLIN: The staff
11 would record the vote, five to zero to zero to
12 approve proposed action in Zoning Commission
13 Case No. 06-31 and to reopen the record to
14 accept the additional submission that Mr. Hood
15 has asked for and if the Applicant so desires
16 to respond regarding the LEED certification,
17 those filings will be due by 3:00 p.m., June
18 25th. And the parties will have until 3:00
19 p.m., July 2nd to respond.

20 Commissioner Mitten moving,
21 Commissioner Jeffries seconding.
22 Commissioners Hood, Parsons and Turnbull in

1 favor.

2 CHAIRPERSON MITTEN: Thank you
3 very much, Mrs. Schellin.

4 And now for Final Action the case
5 is 06-44 and I did not participate in that
6 case and Mr. Hood will handle that action.

7 VICE CHAIR HOOD: Okay. This is
8 Zoning Commission Case No. 06-44.

9 Mrs. Schellin.

10 SECRETARY SCHELLIN: Staff has
11 nothing further for this one.

12 VICE CHAIR HOOD: Okay. I think
13 we flushed this out quite a bit during our
14 proposed.

15 I will move approval of Zoning
16 Commission Case No. 06-44, the Text Amendment
17 to the Capitol Gateway Overlay and ask for a
18 second.

19 COMMISSIONER TURNBULL: Second.

20 VICE CHAIR HOOD: The move has
21 been moved and properly seconded.

22 All those in favor?

1 (AYES)

2 VICE CHAIR HOOD: Any opposition?

3 So ordered.

4 Staff would you record the vote?

5 SECRETARY SCHELLIN: The staff
6 records the vote four to zero to one to
7 approve Final Action in Zoning Commission Case
8 No. 06-44.

9 Commissioner Hood moving,
10 Commissioner Turnbull seconding.
11 Commissioners Jeffries and Parson in favor.
12 Commissioner Mitten not voting, having not
13 participated.

14 CHAIRPERSON MITTEN: Thank you.

15 And now we have a piece of
16 correspondence that we would like to
17 acknowledge the receipt of in Case No. 05-38.

18 And is there anything else, Mrs.
19 Schellin?

20 SECRETARY SCHELLIN: No, ma'am.

21 CHAIRPERSON MITTEN: Okay. Then I
22 think we can adjourn.

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Thank you for your participation.

(Whereupon, the above matter was
concluded at 8:56 p.m.)