

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

PUBLIC MEETING

+ + + + +

MONDAY

JULY 30, 2007

+ + + + +

The Special Public 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 J. HOOD	Vice-Chair
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)
MICHAEL G. TURNBULL	Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN	Secretary
DONNA HANOUSEK	Zoning Specialist
ESTHER BUSHMAN	General Counsel

OFFICE OF PLANNING STAFF PRESENT:

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

JENNIFFER STEINGASSER
JOEL LAWSON
STEVEN COCHRAN
TRAVIS PARKER
KAREN THOMAS
MATT JESICK
ARTHUR RODGERS
MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN BERGSTEIN, ESQ.
JACOB RITTIG, ESQ.

The transcript constitutes the minutes from the Special Public Meeting held on July 30, 2007.

TABLE OF CONTENTS

I. Preliminary Matters, Ms. Schellin (None)

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

II.	Status Report, Office of Planning	6
	A. Office of Planning - Zoning Regulations Rewrite - Results of Public Roundtable & Process Recommendations	
III.	Consent Calendar, Ms. Schellin (None)	
IV.	Hearing Action, Office of Planning	
	A. Z.C. Case No. 07-16 (2300 Pennsylvania Ave., L.L.C. - Consolidated PUD @ Square 5560)	17
	B. Z.C. Case No. 07-20 (Office of Planning - Map Amendment @ Kingman Island)	25
	C. Z.C. Case No. 05-23A (NoMa West Residential I, LLC - Modification to PUD @ Square 3576, Lot 815)	30
V.	Proposed Action, Ms. Schellin	
	A. Z.C. Case No. 06-41 (Camden Development - Consolidated PUD & Related Map Amendment @ Square 653, Lot 111)	48
	B. Z.C. Case No. 04-33B (Office of Planning - Text Amendment to the Inclusionary Zoning Provisions)	52
VI.	Final Action, Ms. Schellin	
	A. Z.C. Case No. 07-08 (Text Amendment to Allow Temporary Parking Lots in the CG Overlay)	74
	B. Z.C. Case No. 07-04 (Text Amendment to Repeal Section 801.7(k))	81

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

C. Z.C. Case No. 06-31 (The John Akridge Development Co. on behalf of 5220 Wisconsin, LLC - Consolidated PUD & Related Map Amendment @ 5220 Wisconsin Ave. N.W.)	82
D. Z.C. Case No. 06-45 (DCHA & CEMI-NMI Highlands - Consolidated PUD & Related Map Amendment)	85
E. Z.C. Case No. 06-23 (ANC 6A - Text Amendment re: Eating Establishments)	87
F. Z.C. Case No. 06-36A (Office of Planning - Map Amendment Squares 2676, 2677 & 2684)	88
VII. Correspondence, Ms. Schellin	
A. Letter from Councilmember Mendelson re: certificate of occupancy for CBRFs	89
B. Z.C. Case No. 05-37 (Letter from Holland & Knight re: postponement of hearing to October 1, 2007)	90
VIII. Adjourn	92

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
 1323 RHODE ISLAND AVE., N.W.
 WASHINGTON, D.C. 20005-3701

P R O C E E D I N G S

6:41 P.M.

1
2
3 CHAIRPERSON MITTEN: Good evening,
4 ladies and gentlemen. This is the July 30,
5 2007 Public Meeting of the Zoning Commission
6 of the District of Columbia. And my name is
7 Carol Mitten and joining me this evening are
8 Vice-Chairman Anthony Hood and Commissioners
9 Mike Turnbull, John Parsons, and Greg
10 Jeffries.

11 Copies of our meeting agenda are
12 available to you and they're in the wall bin
13 by the door.

14 I'd just like to remind folks that
15 we don't take any public testimony at our
16 meetings, unless the Commission specifically
17 requests someone to come forward.

18 I'd like to advise you that the
19 proceeding is being recorded by the court
20 reporter and is also being webcast live, so we
21 ask you to refrain from making any disruptive
22 noises in the hearing room during our meeting
23 and that includes beepers and cell phones. So

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 if you would turn those off now, we would
2 appreciate it.

3 Ms. Schellin, any preliminary
4 matters before we start?

5 MS. SCHELLIN: No, ma'am.

6 CHAIRPERSON MITTEN: Okay, and I
7 don't think we have any changes to make to our
8 agenda, so we're ready to go the first item
9 which is the Status Report by the Office of
10 Planning and this is -- you've given us a
11 written report as follow-up suggestions about
12 how to proceed on the rewrite of the zoning
13 regulations.

14 And I don't know if you wanted to
15 say anything else, Ms. Steingasser or Mr.
16 Parker?

17 MR. PARKER: Nothing else, but on
18 the topic of the zoning review, I think the
19 biggest thing that we learned from the
20 roundtable were that there are a lot of people
21 with a lot of separate and different issues
22 that they'd like to see changed in the
23 regulations.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Moreover, in the past few years
2 we've seen through public schools and garages
3 and eating establishments that we can't make
4 changes to one particular part of the
5 ordinance without looking at the whole thing.
6 So the process that we'd like to recommend is
7 one of examining the entire ordinance from the
8 perspective of the different issues that it
9 addresses, be they low-density residential,
10 commercial corridors, downtown PUDs, etcetera,
11 etcetera. And to do that with everything
12 starting out on the table, not to say that
13 everything would necessarily be changed or
14 even that anything would necessarily be
15 changed, but we feel that it's important to
16 start out looking at the broadest possible
17 issues with an open mind to different ways to
18 solving zoning problems.

19 And the way that we want to -- or
20 that we propose tackling that is through a
21 multi-tiered public process. We propose doing
22 task force, setting up task force similar to
23 the Comprehensive Plan task force, one that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 community representatives would be appointed
2 by Council people and business and developer
3 interests would be proposed either by Council
4 people or by their various governing bodies.
5 That remains to be worked out and we'd be
6 happy to hear suggestions.

7 We'd also propose that each issue
8 group that's defined, each issue that's
9 defined as part of the zoning rewrite have its
10 own separate working group and these would be
11 more broadly participatory. The public would
12 be able to sit in, listen in and each working
13 group would meeting in an intense, one, two,
14 or three-month period depending on the breadth
15 of the subject and start from a position of
16 looking at the goals of the city and get down
17 to actually drafting proposed regulations.
18 And those would then be turned not only to the
19 task force, but to the public as a whole
20 through what will ideally be an interactive
21 web-based function where we can search and
22 review language on line. The public would be
23 able to participate in reviewing the language

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and offering comments.

2 And then finally, we'd have
3 regular public meetings, be they here at the
4 Zoning Commission. We expect to visit every
5 ANC that would like to have us and regular
6 charette-style meetings as needed as well.

7 That's where we're at right now
8 and I'd be really interested to hear your
9 suggestions and questions.

10 CHAIRPERSON MITTEN: Any questions
11 for Mr. Parker?

12 Mr. Hood?

13 VICE-CHAIRPERSON HOOD: Madam
14 Chair, I just wanted to ask Mr. Parker, the
15 last statement kind of made me a little
16 nervous. You were doing fine until you said
17 any ANC that would like to have us. I think
18 we need to press that issue.

19 MR. PARKER: Okay.

20 VICE-CHAIRPERSON HOOD: Because
21 some people don't recognize the importance of
22 it. So Office of Planning, just how you deal
23 with the Comprehensive Plan Task Force, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 think that went very well. We had a cadre of
2 different walks of life in the room, from
3 those that know, those that don't know, and it
4 was an educational process for a number of
5 people. But I think Ms. Steingasser and Mr.
6 Parker, we need to really push -- and Ms.
7 Thomas and Mr. Cochran -- we need to really
8 push going to -- Mr. Lawson and whoever else,
9 Mr. Rodgers, Mr. Goins, whoever I missed, but
10 seriously on the ANC, when you say whoever
11 would like to have us. You know how ANCs are.
12 They volunteer and we really need to push.

13 MR. PARKER: And I actually intend
14 to make -- to schedule a meeting with each and
15 every individual ANC. I mean as much as
16 they'll allow us to come and present and to
17 encourage their participation, we welcome it.

18 VICE-CHAIRPERSON HOOD: And to
19 save some time, you may want to go to the --
20 they have a general session, and then work
21 with ANC Office. That may save you some time.
22 Maybe you can get the ANC and the Ward all
23 together at one time. That will save you from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 having to go to all however many it is.

2 MR. PARKER: Absolutely.

3 VICE-CHAIRPERSON HOOD: Okay,
4 thank you.

5 CHAIRPERSON MITTEN: Anyone else,
6 questions?

7 Mr. Parsons?

8 COMMISSIONER PARSONS: I'm
9 concerned with a sentence in your report that
10 says "all of this leads us to the conclusion
11 that regardless of whether the policies found
12 in the document change at all, a fundamental
13 reorganization or rewrite is necessary"
14 because I did not hear that from our
15 roundtable. Of course, I've been at this a
16 while so I'm used to what I see. But I don't
17 see that we should be concluding at this point
18 that a fundamental reorganization and total
19 rewrite of these regulations is necessary and
20 this conclusion at this early date seems
21 premature to me.

22 MR. PARKER: And I would agree
23 with you that not -- maybe -- I think the word

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 rewrite is misleading. I think what you did
2 hear at the roundtable was a lack of clarity.
3 Everyone says they have a hard time finding
4 what they need to find and understanding what
5 they do find.

6 And one of the main things that we
7 want to tackle and that we've heard and that
8 we've found for ourselves is just a difficulty
9 in working your way through the ordinance.
10 It's gotten so convoluted and so many cross
11 references and back and forths and different
12 sections applying to the same issue. That's
13 what that is intended to convey, that we need
14 to look at how things are organized and try
15 and address single issues in single places.

16 COMMISSIONER PARSONS: So that
17 sounds like a major edit to me, rather than
18 the word "rewrite".

19 MR. PARKER: Absolutely, and it
20 may have just been a mistake with the word
21 "rewrite."

22 COMMISSIONER PARSONS: Then I must
23 offer that I'm -- and I don't know if you're

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 going this way, but I would caution that I
2 think you shouldn't. This current fad of
3 form-based codes to me is not right for this
4 city. It's right for Columbia Pike. It's
5 right for Rockville Pike, but to me, I would
6 go for overlay zones, as cumbersome as they
7 are, than to try that kind of approach and
8 that's what I gathered with fundamental
9 rewrite and organization, that maybe we're
10 going in that direction.

11 MR. PARKER: I have no bias
12 towards form-based coding whatsoever.

13 COMMISSIONER PARSONS: That's
14 good.

15 (Laughter.)

16 MR. PARKER: And hopefully no
17 biases towards anything else.

18 CHAIRPERSON MITTEN: Anyone else?
19 The one thing, and I don't know where this
20 might fit in to the process or if it fits into
21 this process or a different kind of process,
22 but using the ordinance either as it is or as
23 it will be is really just in large measure

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it's a series of algorithms like if this, then
2 that, and keep going and what not.

3 And one of the problems about the
4 ability of DCRA to do plan review is that it's
5 largely these algorithms exist in the brain of
6 the reviewer and if you're missing an
7 algorithm or two, then you miss something
8 important and it also makes it difficult for
9 the public. But because it's that kind of if
10 then sort of analysis, it's something that a
11 computer can do very easily. So I don't know
12 if there's a role at some point to say how
13 much of this can be automated for everyone's
14 benefit. So you just plug in here's the zone,
15 here's some basic things and it leads you
16 through a series of plug in another fact. And
17 so that we have greater consistency, both of
18 what is presented to DCRA, what is understood
19 by the community and then what is actually
20 analyzed by DCRA. So I just toss that in for
21 whatever it's worth at this point.

22 But I mean I think we said this
23 the last time that you had such a successful

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 process in rewriting the Comprehensive Plan
2 and the fact that you're modeling this very
3 much on that is I think the direction that we
4 all want you to go in. We endorse the -- I
5 think everyone here endorses the process that
6 you've laid out.

7 MS. STEINGASSER: I would like to
8 add, just to put everyone's mind at ease
9 because we have gotten a lot of startled
10 reaction to the phrase comprehensive rewrite.
11 We do plan to have a comprehensive review. We
12 don't plan to rewrite every single word, but
13 it will be a comprehensive review and we've
14 made notes to ourselves to use the word review
15 instead of rewrite. But we agree, form-based
16 coding is something that may be right for
17 small areas, but it probably is not going to
18 be -- but we will look at it to make sure we
19 understand that issue, as a review, exactly.

20 (Laughter.)

21 But I couldn't agree with you
22 more, Ms. Mitten. The usability of the code
23 has become really important and it now kind of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 functions as a legal document and less as a
2 user's document. And we've been struggling
3 with some of those same issues as we've been
4 pulling pieces out like CBRS. We've been
5 trying to make a user's guide for CBRS and
6 just pulling all those things out, you see the
7 logic of what they were trying to achieve, but
8 by the time it's woven into the spaghetti of
9 the legal framework and the regulatory
10 structure, it's really difficult to define
11 that. So we're sensitive to what you're
12 describing just how someone uses this
13 document.

14 MR. PARKER: And a big part of
15 what we'll be doing is working with the Office
16 of Zoning. They are taking a look at how the
17 regulations are laid out and how they can be
18 accessed in the future and so we'll certainly
19 help them in whatever way we can and work
20 together with them to make it as usable as
21 possible.

22 CHAIRPERSON MITTEN: Great.

23 COMMISSIONER JEFFRIES: But I do

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 want to make certain there's clarity about
2 sort of what OP's role and what the Office of
3 Zoning's role is. What's your understanding
4 of that?

5 MR. PARKER: Well, we're looking
6 at what's in the regulations. We're looking
7 at the policies and the wording and how
8 everything is understood in the regulations.
9 And they're taking a look at how the
10 regulations can best be accessed and
11 eventually looking at organization and
12 indexing and usability. And so a lot of that
13 will be hand in hand and a lot of that will
14 come later. I think there's a lot to be done.
15 We're working right now with them on different
16 types of software that can be used to not only
17 in the public process, but then eventually by
18 OZ in keeping the regs up to date. And so, a
19 lot of what we're doing is going to be a
20 symbiotic relationship.

21 COMMISSIONER JEFFRIES: Some
22 overlap as well.

23 MR. PARKER: Very much so.

1 COMMISSIONER JEFFRIES: Thank you.

2 COMMISSIONER TURNBULL: Are you
3 going to at some point issue a schedule or a
4 time line as far as milestones that you're
5 looking to try to achieve?

6 MR. PARKER: Yes. I think we
7 absolutely will. I think right now what we're
8 thinking is trying to get the task force rev'd
9 up around the October period and start with
10 looking at issues, maybe the first couple of
11 working groups in the November-December time
12 period of this year. After that, we'll see
13 how things go, but we're aiming, we're
14 shooting at between one and three months'
15 meeting time for an issue group and depending
16 on how many of those there are, at this point
17 two to three years likely total. But we can
18 lay out, as we learn more and as we set up a
19 work plan, we'll present that to you at a
20 regular basis.

21 COMMISSIONER TURNBULL: Okay,
22 thanks.

23 CHAIRPERSON MITTEN: Anyone else?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Thank you very much.

2 MR. PARKER: Thank you.

3 CHAIRPERSON MITTEN: Okay, now we
4 have three items up tonight for hearing
5 action. And actually a couple of them we've
6 seen before in one form or another. So the
7 first one is Case No. 07-16, and this is 2300
8 Pennsylvania Avenue.

9 Ms. Thomas?

10 MS. THOMAS: Yes, good evening,
11 Madam Chair, members of the Commission. The
12 Office of Planning is recommending that the
13 Commission set down for public hearing the
14 revised proposal for the redevelopment of 2300
15 Pennsylvania Avenue, S.E. for identified lots
16 in Square 5560. The property is currently
17 zoned C-2-A and the development is now
18 proposed within the C-2-A PUD guidelines.

19 As requested by the Commission at
20 its July 9th meeting, Applicant has reduced
21 the density of the apartment structure,
22 including a number of units from 144 to 112
23 units. The FAR has been reduced from 4.79 to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 3.15 and also the number of stories, from
2 seven to five.

3 Relief is now being requested from
4 the rear yard requirements, the lot occupancy,
5 the FAR and the loading platform requirements.

6 As before, 100 percent of the
7 units would be dedicated towards affordable
8 housing for residents with incomes of up to 60
9 percent of the area median income and these
10 are projected as rental units. We would
11 continue to work with the Applicant to refine
12 the design or any other issues outlined in our
13 recommendation and the Applicant has been
14 advised to meet with DDOT as part of the
15 preliminary design review requirement they
16 have in place right now which would require
17 additional details regarding public space
18 areas, streetscape lighting and utilities.

19 And I would be happy to take any
20 questions. Thank you.

21 CHAIRPERSON MITTEN: Thank you,
22 any questions for Ms. Thomas?

23 The study of Pennsylvania Avenue

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that we were talking about the last time we
2 took this up earlier this month that you guys
3 are doing, when is that expected again?

4 MS. THOMAS: In September.

5 CHAIRPERSON MITTEN: In September,
6 okay.

7 Mr. Parsons?

8 COMMISSIONER PARSONS: Well, this
9 is vastly improved -- thank you if you had
10 anything to do with that. I assume you did.
11 I'm concerned about the color. They get down
12 into that. I mean, the blues of last month
13 have turned to the reds and yellows. I'm not
14 sure why.

15 MS. THOMAS: I think that probably
16 represents the two different types of brick
17 colors they intend to use. As it says, I
18 think it states that there are two different
19 color bricks.

20 COMMISSIONER PARSONS: I mean,
21 this was the color last month.

22 MS. THOMAS: Yes, well.

23 MS. STEINGASSER: I think it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 just

2 --

3 COMMISSIONER PARSONS: Maybe I'm
4 in my blue period, but this made more sense to
5 me.

6 MS. STEINGASSER: I think it's
7 just the computer graphics --

8 COMMISSIONER PARSONS: This is
9 rather startling.

10 MS. STEINGASSER: -- are a bit
11 harsh.

CHAIRPERSON MITTEN: Yes.

12 MS. STEINGASSER: There will be --
13 I think it's supposed to take more common
14 masonry of reds and beiges.

15 MS. THOMAS: It did say brick
16 color A and brick color B.

17 COMMISSIONER PARSONS: That's a
18 detail. I think it's now beginning to be the
19 appropriate scale to the surrounds. Thank
20 you.

21 CHAIRPERSON MITTEN: Anyone else?

22 COMMISSIONER JEFFRIES: Just
23 quickly. The only comment I just want to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 alert the Applicant to at the hearing is that
2 I really expect the pedestrian level, the
3 ground floor, I'd like to see decisively a lot
4 more articulation. I mean, I know these are
5 computer generated and obviously you had to
6 turn these around pretty quickly to get here
7 tonight. But there is an expectation that
8 there is some pedestrian experience as one
9 walks past this building.

10 Just in landscaping, these
11 canvases that I think the store front
12 canopies, perhaps more articulation amongst
13 the brick. But I just think that there needs
14 to be a bit more articulation and liveliness
15 along this ground floor. Perhaps they have
16 a plan, it's just that I want to make certain
17 that that's part of what we see at the
18 hearing.

19 VICE-CHAIRPERSON HOOD: Madam
20 Chair, I just want to associate myself and my
21 colleague's comments, Mr. Parsons, the details
22 that would come. I don't know if it's C, M,
23 Y, K, R, G, B or what we're looking at -- I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 hoping that that the Applicant would revisit
2 that and maybe go back to what we saw
3 previously. If that's in line with what my
4 colleague was saying. Thank you.

5 CHAIRPERSON MITTEN: I think that
6 they definitely made me more comfortable by
7 scaling this down. I still think it is
8 important that we see what the context is
9 going to be in light of the plan that Office
10 of Planning is preparing, and I think that
11 their advice about not scheduling the hearing
12 before November is also good because as we
13 noted when we took this up earlier this month,
14 there's still some detail work that needs to
15 be done and Mr. Jeffries was pointing that
16 out, too.

17 So that will give ample time for
18 this additional work to be done, because we
19 don't want them to come ill-prepared for the
20 hearing because that just protracts the
21 hearing process needlessly when people aren't
22 fully prepared. So if there are no further --
23 Mr. Turnbull?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Thank you,
2 Madam Chair.

3 I would just like to continue on
4 with that. I think that one of the things
5 that helps us is looking at either renderings
6 or sections in the context of the neighborhood
7 that gives us a pretty good idea of how this
8 building is going to fit in. I think those
9 kinds of renderings and drawings really make
10 our life a lot easier when we can see that.

11 CHAIRPERSON MITTEN: We'll
12 eventually ask for it, so it's easier just to
13 show us up front.

14 (Laughter.)

15 All right. If there are no
16 further comments or questions, then I would
17 move that we set down Case No. 07-16 as
18 revised by the Applicant.

19 COMMISSIONER TURNBULL: Second.

20 CHAIRPERSON MITTEN: Is there any
21 further discussion?

22 All those in favor please say aye.

23 Ms. Schellin.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Staff would record
2 the vote five to zero to zero to set down
3 Zoning Commission Case No. 07-16.
4 Commissioner Mitten moving. Commissioner
5 Turnbull seconding. Commissioners Hood,
6 Jeffries, and Parsons in favor. Just to add
7 that, or confirm rather, this is being set
8 down as a contested case.

9 CHAIRPERSON MITTEN: Yes, thank
10 you. Next is Case No. 07-20,
11 and this is a request by the Office of
12 Planning for map amendment for Kingman Island.

13

14 Ms. Thomas again.

15 MS. THOMAS: Yes, again. At this
16 time, the Office of Planning on behalf of the
17 Anacostia Waterfront Commission is
18 recommending that the Zoning Commission set
19 down for public hearing a proposed map
20 amendment to the W-0 District for both Kingman
21 and Heritage Islands, and related text
22 amendment to accommodate the development of a
23 public nature education center on Kingman

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Island, which is permitted as a matter of
2 right in the W-O District.

3 Because unzoned is a more
4 restrictive zoning designation, the operation
5 of the set down rule will not allow the
6 proposed center to be built unless and until
7 the Commission approves this case. The
8 petitioner has proposed the development of
9 Kingman Island and Heritage Island with a
10 publicly accessible park as mandated by the
11 National Children's Act of 1995.

12 A 15,000 square foot structure is
13 being designed to include a rooftop nursery,
14 exhibit areas, multi-purpose rooms, and
15 support facilities for various nonprofit and
16 public agencies that would provide programming
17 for the center.

18 EWC's time line projects the
19 required zoning to be in place by November
20 2007 for projected construction starting in
21 February 2008. As supported by the 2006
22 Comprehensive Plan, we are supporting the W-O
23 District as appropriate for this use with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 related minor zone text amendments which would
2 exempt these islands from the parking and
3 loading requirements due to the prohibition of
4 parking and parking related service and
5 activities of the Enabling Act.

6 Also, to provide an exception from
7 the waterfront's set back requirement for the
8 nature center, which is similar to that
9 prescribed for a water taxi or for structures
10 directly associated with a public accessible
11 wharf, dock, or pier. We're also proposing a
12 new text to permit the roof structure as
13 proposed in this building and the proposed
14 structure complies with the 40-foot height
15 requirement under section 930.1, as we do not
16 consider the 25-foot limit on height above the
17 water line to be applicable because it is
18 intended to apply to buildings completely in
19 or on the water.

20 A number of community groups have
21 been part of an advisory commission set up.
22 They have been involved in the planning of the
23 center, and the Applicant will continue to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 have discussion as the project moves along.

2 We don't have any major concerns
3 or issues with the proposed design at this
4 time, and we're recommending that the
5 Commission consider the W-O District for the
6 islands along with the minor text amendment as
7 proposed, as this action will be consistent
8 with the comp. plan and the land use map and
9 also the Waterfront Initiative.

10 Thank you.

11 CHAIRPERSON MITTEN: Thank you.
12 There's some information in your report about
13 ownership of part of, I guess, part of Kingman
14 Island. Is the entirety of the property
15 that's the subject of the application owned by
16 the District?

17 MS. THOMAS: Yes, both islands.
18 Yes.

19 CHAIRPERSON MITTEN:
20 Anybody have questions or comments?

21 COMMISSIONER PARSONS: Well, just
22 to say that this a long-awaited project and I
23 want to move that we set this down for a
public hearing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRPERSON MITTEN: Good for you.

2 VICE-CHAIRPERSON HOOD: Second.

3 CHAIRPERSON MITTEN: Okay, Mr.

4 Hood. Are there any comments or questions
5 before we vote? Okay, then all those in favor
6 please say aye.

7 (Chorus of ayes.)

8 Those opposed, please say no.

9 Ms. Schellin?

10 MS. SCHELLIN: Staff records the
11 vote five to zero to zero to set down Zoning
12 Commission Case No. 07-20. Commissioner
13 Parsons moving; Commissioner Hood seconding;
14 Commissioner Jeffries, Mitten, and Turnbull in
15 favor. I believe this will be a rulemaking
16 case?

17 CHAIRPERSON MITTEN: Yes. The
18 last item for hearing action is Case No. 05-
19 23A. This is a fairly significant
20 modification to the NoMa West Residential I,
21 LLC., I guess is the new caption for this PUD.

22

23 Mr. Cochran

1 MR. COCHRAN: Thank you, Madam
2 Chair.

3 CHAIRPERSON MITTEN: I'm sorry,
4 Mr. Jeffries?

5 COMMISSIONER JEFFRIES: I'm sorry.
6 For a second, Madam Chair, I just want to
7 disclose that for the record that I have an
8 investment property that's fairly close to
9 this so I just want to put that on the record.
10 It obviously won't have any impact on my
11 ability to review the case, but just to state
12 that.

13 CHAIRPERSON MITTEN: Thanks.

14 MR. COCHRAN: Thank you, Madam
15 Chair. Again, for the record my name is
16 Steven Cochran from the D.C. Office of
17 Planning. OP is recommending that you
18 schedule a public hearing on the proposed
19 major modifications for the PUD approved in
20 Case No. 05-23, the order for which was
21 published October 6, 2006.

22 Since the order was published, the
23 then contract purchaser has pulled out of the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 project. A new developer has a contract to
2 purchase the property. NoMa West, LLC --
3 excuse me, NoMa West 1, LLC, has a revised
4 vision for the PUD and is asking for major
5 modifications to the published order.

6 The request -- first, I'm going to
7 go through what you all approved very briefly
8 so that I can contrast it with what they are
9 asking for.

10 The requested revisions would
11 result in a somewhat smaller project that
12 retains all of the benefits and amenities of
13 the larger approved PUD. The scale is also
14 more similar to the surrounding neighborhood
15 than the approved PUD would have been.

16 The approved PUD would have had
17 three residential buildings rising from 7 to
18 11 stories, fronting on an Applicant extended
19 Q Street and on Harry Thomas Way. It would
20 also have three rows of town houses on that
21 extended Q Street and on Eckington Place.
22 There would have been 15,000 square feet of
23 retail at the corner of Eckington Place and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Harry Thomas Way. The project would have
2 contained 627 to 675 dwelling units, 8 percent
3 of which would have been affordable to low and
4 moderate income households.

5 Underground parking would have
6 been supplied for 750 to 796 vehicles. This
7 approved PUD was to produce a number of public
8 benefits and amenities, including an extended
9 Q Street from Eckington Place to Harry Thomas
10 Way, construction of a path connecting Q
11 Street, extended to the Metropolitan Branch
12 Trail and at approximately \$55,000 cost and
13 contributions totaling \$100,000 to six
14 institutions or programs.

15 As to the proposed major
16 modification for the PUD, the project enabled
17 by the proposed modifications would retain all
18 of the benefits and amenities of the approved
19 PUD, reduce the total square footage and
20 height of the buildings, and somewhat reduce
21 the ratio of parking spaces to residential
22 units. There would be between 540 and 660
23 apartments comprising 617,000 square feet.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Eight percent of these units would be
2 affordable.

3 The proposed new site plan and
4 facade design aimed to create a very urban
5 extension of Q Street with town house
6 emulating rhythms, multiple stoops, and other
7 direct entrances onto the street. The model
8 for this would be the streets like Church or
9 Corcoran Streets around Logan Circle.

10 The street would be constructed to
11 public standards, but may have to be a private
12 street at first until after DDOT completes its
13 current review of street classifications and
14 standards. The overall height of the
15 buildings would be five stories.

16 As OP notes on pages ten to 13 of
17 its setdown report, the proposed modifications
18 would be consistent with PUD evaluation
19 standards and with the comprehensive plan.
20 The issues that the applicant would need to
21 address before public hearing would include
22 working with DDOT and OP on specific design
23 elements of the Q Street extension, resolving

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 differences between the Applicant's request to
2 contribute \$55,000 towards the design and
3 construction of the MPT rail connection, and
4 the position that the Commission had expressed
5 in the adopted order, which was to have the
6 applicant be responsible for constructing the
7 path.

8 Another issue would be refining
9 the facade design in conjunction with OP,
10 reducing the impact of the portions of the
11 underground garage that rise above the ground
12 as topography changes, further specifying what
13 green elements there would be in the revised
14 project design, construction, and operation,
15 giving more details about the project's
16 relationship to the parcels to the immediate
17 north, considering the addition of an
18 approximately 1,000 square feet of deli and
19 convenience commercial space at the corner of
20 Eckington Place and Harry Thomas Way, and
21 finally narrowing the range within the number
22 of apartments proposed for consideration.

23 OP believes that all of these

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 issues can be resolved before or during a
2 public hearing. OP therefore recommends that
3 the Commission set down this requested major
4 modification for a public hearing, and I'm
5 happy to answer questions you may have.

6 CHAIRPERSON MITTEN: Questions or
7 comments for Mr. Cochran? Mr. Jeffries?

8 COMMISSIONER JEFFRIES: So I'm
9 trying to understand sort of the driver of
10 just an all residential versus before where
11 there was -- I don't quite remember how much
12 retail was part of this.

13 MR. COCHRAN: Fifteen thousand
14 square feet of retail had been proposed. As
15 I recall, it was actually Commissioner Mitten
16 who wondered whether this much retail in that
17 location might actually prove feasible.

18 The Applicant and OP did a visit
19 to that site, as well as to several other
20 locations around the city for about four hours
21 one weekday. We discussed whether 800 to
22 1,000 square feet of retail might be
23 appropriate to include in their proposal at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the corner in order to serve both XM Radio and
2 some other users from the project for both
3 deli and convenience purposes, but the
4 Applicant said they would consider 800 to
5 1,000 square feet.

6 CHAIRPERSON MITTEN: I'm wondering
7 why the PUD related map amendment is still for
8 C-3-3 because my recollection, although it's
9 not perfect is that what was driving that
10 selection of a zone was to get the height and
11 now the height is not being pursued any more.

12 MR. COCHRAN: In our report we
13 noted that perhaps C-2-C might be a more
14 appropriate zone for this particular type of
15 development. The Applicant did not ask for
16 any revision of the map modification perhaps
17 because that would -- perhaps because they're
18 asking for as few changes as they can possibly
19 ask for from what you've already approved.
20 But OP would certainly take into consideration
21 whether C-2-C is more appropriate if you do
22 set it down.

23 Excuse me, I'm so sorry. C-2-C

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 would be completely inappropriate. I meant to
2 be saying C-3-A.

3 CHAIRPERSON MITTEN: Okay. I
4 guess the only comment that I would have and
5 this was really more to my colleagues because
6 I won't be here to remind you about it, but I
7 don't think it's an inconsequential change
8 that the lot occupancy has gone up
9 significantly.

10 So I think the way this is being
11 presented is looking at it literally in the
12 kind of a chart form. And all the stuff that
13 are usual hot buttons like height and density,
14 those are all less, but we also are losing
15 open space. And I just want the Commission to
16 be mindful of the fact so it's not really an
17 equivalent -- it's not really equivalent in
18 the sense that all the benefits and amenities
19 are being retained because if you think about
20 urban design, the urban design is being
21 changed in that significant aspect. So I just
22 mention that.

23 Mr. Hood?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE-CHAIRPERSON HOOD: Madam
2 Chair, I think your point is well taken and I
3 duly made note of that.

4 The other thing is, Mr. Cochran,
5 while I see you have this correctly everywhere
6 else. On the last page of your report, next
7 to the last page, attachments 1 and 2, just
8 one little correction. I want to make sure we
9 change Harris Thomas to Harry Thomas. And I
10 just don't want to -- because if we start
11 doing it now and on down the line years from
12 now it will be Harris Thomas and Harry Thomas
13 meant a lot to those of us in Ward 5 and
14 across the city. Thank you.

15 COMMISSIONER PARSONS: Madam
16 Chair, I wanted to pick up on your point. I
17 mean for the feel of the PUD that we approved
18 with its open spaces along -- what's the other
19 street? Q Street. Just had a sense of
20 community about it that's missing now. Why
21 have they traded off height for eliminating
22 these courtyards and entrances and public
23 space that existed before. I'd prefer the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 prior plan to be blunt about it. Not that I
2 would not have a public hearing on this new
3 concept, but the feeling of that place was
4 much different, much more palatable to me.

5 MR. COCHRAN: Do you want me to
6 address that? I couldn't tell whether that
7 was a question.

8 COMMISSIONER PARSONS: It is. Why
9 have they traded off height to lower the
10 height from -- where do we go? 110?

11 MR. COCHRAN: Yes.

12 COMMISSIONER PARSONS: Down to 65
13 feet and spread this architecture across this
14 landscape and have very little left in the way
15 of public street amenity.

16 MR. COCHRAN: There's a
17 considerable change in the construction type
18 for this project. It has a two-story
19 underground parking garage on top of which
20 would be five stories of stick built
21 construction. Certainly, the difference in
22 construction costs would be a consideration of
23 the Applicant and you know that construction

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 costs have gone up considerably since this
2 case started.

3 In terms of actual usable public
4 space, there may be more public space that's
5 actually usable in this because of the pocket
6 park at the intersection of Q Street and Harry
7 Thomas Way than there would have been in the
8 previous case. There would have been a
9 feeling of more openness, but most of that
10 openness consisted of entrance courts somewhat
11 like you see along Connecticut Avenue for the
12 Kennedy Warren. Or private open space that
13 would have been behind fences, iron fences.

14 There was only a very small public
15 open space on the north side of Q Street that
16 essentially consisted of a small alcove with
17 some benches.

18 Now with respect to the feeling of
19 this street, there would be a considerable
20 difference. This would be, in some ways a
21 much more urban street than the last one. The
22 last one would have been a series of
23 compression and expansion and compression and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 expansion. This one is all compression, much
2 more like the areas that you see around Logan
3 Circle, on the streets that are more like 60
4 feet wide. So the topological precedent
5 rather is more towards a street that's of the
6 same scale that the Applicant is proposing
7 than a street, than for a street that would
8 have to be a lot wider.

9 Can I try that again? Most of
10 what you're talking about occurs on wider
11 streets. What we're seeing the Applicant
12 propose occurs in Washington on narrower
13 streets, those that are comparable in width to
14 what the Applicant is proposing.

15 COMMISSIONER PARSONS: So you
16 think this is more in keeping with
17 Washington's architecture?

18 MR. COCHRAN: I actually think
19 that this is in keeping with the types of
20 streets that we have in Washington, the ones
21 that are between the lettered streets, the
22 ones that have the small names downtown.

23 I wouldn't want to say that it's

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 more in keeping with Washington's architecture
2 because everybody has a different idea of what
3 Washington's architecture either is or should
4 be.

5 I do think that it will have an
6 animated street life with different entrances
7 and stoops coming down to the street.

8 COMMISSIONER PARSONS: All right,
9 thank you.

10 CHAIRPERSON MITTEN: Anyone else?
11 Mr. Jeffries?

12 COMMISSIONER JEFFRIES: Yes. I
13 thought I read somewhere in this report that
14 the architect was trying to maintain some
15 level of edge on Q Street that would be
16 consistent from the Q Street to the west and
17 so forth. I thought I read that somewhere,
18 but I think what Commissioner Parsons' concern
19 is, I mean I think if you look at the site
20 plan, the proposed modified site plan, it does
21 look -- I mean the lines look rather hard.

22 And I'm looking at figure seven
23 perspective and it's looking more playful.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I'm just wondering if there could be sort of
2 an installation of perhaps more bays or
3 something that sort of allows the wall to sort
4 of move a little bit as opposed to looking
5 like something that is -- has a pretty harsh
6 line.

7 And I think they're trying to
8 cover that a little bit in this perspective,
9 but I don't think it shows up in this -- the
10 proposed modified site plan. So I think this
11 thing is going to need a lot more detailed --

12 MR. COCHRAN: OP agrees.

13 COMMISSIONER JEFFRIES: Yes.

14 CHAIRPERSON MITTEN: Anyone else?
15 Mr. Turnbull?

16 COMMISSIONER TURNBULL: Madam
17 Chair, thank you.

18 I wanted to just carry on that
19 same line of conversation that we've been
20 talking about and I know Mr. Cochran, you had
21 talked about the architecture and how you're
22 going to work with the Applicant on issues.
23 I think when we get to this scale down, the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 massing of this, of these buildings, they're
2 now cheek and jowl against the properties to
3 the north, whereas before when we had the
4 townhouses we had that space, we had more open
5 air.

6 The architecture that we went
7 through with the former applicant worked out
8 fairly well and I think we all felt fairly
9 good that the architecture was reaching to a
10 point that we all felt comfortable with and
11 how it related to the neighborhood.

12 I think here what concerns me very
13 especially is that again the properties are
14 cheek and jowl up to the north and that's the
15 north elevation of buildings 100 and 200 and
16 a rather cementitious look that's just all the
17 way across. It's a little foreboding. It's
18 a little scary right now. I mean it just
19 seems a little harsh, especially you have an
20 R-4 neighborhood across on Eckington Place.
21 I mean it's like well, I guess the
22 manufacturing neighborhood, there's a parking
23 lot. We're just going down to minimalist

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 architecture.

2 So I think you had said you are
3 going to work with the Applicant, so I think
4 that that's -- I see that as a concern, as a
5 residential neighborhood, all of a sudden this
6 impact that's happening.

7 On building 100, I'll be a little
8 anal, I like that, on page 23 of the
9 Applicant's report, on paragraph 2, I'm not
10 sure if we're getting into ethnic design, but
11 if you look at sentence 2, page 23, paragraph
12 2, sentence 2.

13 MR. COCHRAN: Of the Applicant's
14 pre-statement?

15 COMMISSIONER TURNBULL: Right, the
16 Applicant's report dated June 7th.

17 MR. COCHRAN: Paragraph 2 --

18 COMMISSIONER TURNBULL: Paragraph
19 2 starts off "residents of the project" --

20 The second sentence says "Building
21 100 the warehouse style delivers the sheik."

22 MR. COCHRAN: I believe that word
23 would be pronounced "chic". Obviously,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 someone didn't know how to spell chic.

2 COMMISSIONER TURNBULL: If you
3 could convey that.

4 COMMISSIONER JEFFRIES: What page
5 is this? I have to see this.

6 MR. COCHRAN: It's on page 23.

7 COMMISSIONER TURNBULL: I believe
8 the word he's looking for is "chic."

9 MR. COCHRAN: C-H-I-C.

10 COMMISSIONER TURNBULL: Okay,
11 thank you.

12 CHAIRPERSON MITTEN: Does anyone
13 else have any comments or questions?

14 All right, then I would move that
15 we set down the amendment to order number 05-
16 23 so the major modification to that case and
17 I would like to set down C-3-A in the
18 alternative as the PUD-related map amendment.

19 VICE-CHAIRPERSON HOOD: Second.

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

22 Any further discussion?

23 All those in favor, please say

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 aye.

2 (Chorus of ayes.)

3 Any opposed?

4 Ms. Schellin?

5 MS. SCHELLIN: The staff records
6 the vote five to zero to zero to set down
7 Zoning Commission Case No. 05-23A as amended,
8 along with C-3-A as an alternative.
9 Commissioner Mitten moving; Commissioner Hood
10 seconding; Commissioners Jeffries, Parsons,
11 and Turnbull in favor. And to confirm, this
12 is being set down as a contested case.

13 CHAIRPERSON MITTEN: Yes. And
14 then the next two items for proposed action,
15 I did not participate in the cases and I would
16 just note that Mr. Jeffries didn't participate
17 in the Camden Development case either. So Mr.
18 Hood will lead the discussion in both of
19 these.

20 VICE-CHAIRPERSON HOOD: Okay,
21 thank you, Madam Chair. Zoning Commission
22 Case No. 06-41, Camden Development
23 Consolidated PUD, Related Map Amendment. It

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 is Square 653, Lot 111.

2 Colleagues, if you remember, we
3 had some issues. While we postponed our
4 proposed action the last time and hopefully
5 they have been addressed to your satisfaction,
6 but before I do that, Ms. Schellin.

7 MS. SCHELLIN: Staff just has one
8 item and that is Exhibit 59 which was
9 submitted to the record after the record was
10 closed and I just need to know whether you
11 want to open the record to accept that or if
12 Staff may return it.

13 VICE-CHAIRPERSON HOOD: I would
14 like -- I think the record was closed and if
15 Staff would just return the letter, that will
16 be sufficient.

17 Any other comments on that? Okay.

18 All right, Mr. Turnbull and Mr.
19 Parsons, I think had the issue of stepping up,
20 as we call it, of the architecture, I think on
21 the west side. So what I would like to do
22 since those issues were with my colleagues,
23 I'll open it up and see if they've been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 satisfied or are we still where we were?

2 Let me turn to whoever wants to go
3 first.

4 COMMISSIONER TURNBULL: Thank you,
5 Commissioner Parsons. Well, I do appreciate
6 the Applicant's new perspectives from O
7 Street, drawing 03 and 04. And I do
8 appreciate the rationale or the sort of the
9 design exercise of walking around the
10 building. I think some of these we had seen
11 before.

12 I'm not sure. I guess this is --
13 I mean looking at and looking at the -- you
14 can see, I think, where they want to go and
15 what they're trying to relate to, I guess,
16 trying to relate the back of the building to
17 some of the siting of the town homes and
18 they're trying to pick up the horizontal
19 element of that. I don't know if it totally
20 succeeds, but at this point I -- I mean part
21 of it still looks a little brutal at times,
22 but I guess they're dealing at one end with a
23 property line that someone could actually

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 build up on on one side. So I'm not sure.

2 I guess I -- I don't know how to
3 carry this. I think it's obviously a step in
4 the right direction, but I don't know,
5 Commissioner Parsons, what's your sense on all
6 of this?

7 COMMISSIONER PARSONS: Well, I
8 think these perspectives have helped al to and
9 now I better understand the context of what
10 they're building the case into which I'd like
11 to make comment on, but I won't.

12 And the horizontal banding on the
13 -- I'll call it the left side or the north
14 side, just that -- I think that's helped.

15 COMMISSIONER TURNBULL: Yes.

16 COMMISSIONER PARSONS: Which
17 didn't exist the last time.

18 COMMISSIONER TURNBULL:
19 Previously.

20 COMMISSIONER PARSONS: I move we
21 approve this application.

22 VICE-CHAIRPERSON HOOD: It's been
23 moved. Can we get a second?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Second.

2 VICE-CHAIRPERSON HOOD: Moved and
3 seconded. The only other thing I would add,
4 I tried to push Condition 5. While I didn't
5 necessarily agree with the response that was
6 from the Applicant, he mentioned that he had
7 all the agreements with the ANC, the
8 neighbors. Also mentioned about the fence.
9 I think that was taken care of, the affordable
10 housing. I think they adequately addressed
11 that concern.

12 The only other thing that I would
13 mention is on page two of the Applicant's
14 response to some of the things we mentioned
15 earlier, he mentions in here that I guess he
16 got some notion that if we did the PUD and I
17 understand about the limbo and everything, but
18 I took exception to the fact that it would
19 just be on easy street. He actually used the
20 words. I don't think it was from a
21 transcript, but it said that if it comes back
22 as a PUD, it would be easy for the record in
23 front of this Commission. I think a lot of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 thought goes into whatever this Commission
2 does.

3 I found out nothing down here is
4 easy street. So with that, with the motion
5 and properly seconded, all those in favor, use
6 the sign, aye.

7 (Chorus of ayes.)

8 Any opposition? So ordered.

9 Staff, would you record the vote?

10 MS. SCHELLIN: Yes. Staff records
11 the vote 3 to 0 to 2 to approve Proposed
12 Action in Zoning Commission Case No. 06-41.
13 Commissioner Parsons moving; Commissioner
14 Turnbull seconding; Commissioner Hood in
15 favor. Commissioners Jeffries and Mitten not
16 voting, having not participated.

17 VICE-CHAIRPERSON HOOD: Okay,
18 thank you. Moving right along with proposed
19 action, Zoning Commission Case No. 04-33B,
20 Office of Planning text amendment to the
21 inclusionary zoning provisions. This is
22 fairly new. We just had the hearing on this
23 on Thursday.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Ms. Schellin?

2 MS. SCHELLIN: Staff has nothing
3 further to add.

4 VICE-CHAIRPERSON HOOD: Okay, we
5 have the proposal in front of us and going
6 from memory, since the meeting was just
7 Thursday, I know Commissioner Parsons had an
8 issue with the height and I think it was the
9 H Street overlay, I believe it was.

10 COMMISSIONER PARSONS: Thank you.
11 Two things. One is the Fort Totten issue that
12 I mentioned with the site diagram and I asked
13 Mr. Rodgers whether the analysis included
14 penthouses and I think his answer was no. But
15 I went back to the regulations and the
16 regulations say that the height restrictions
17 that exist in this overlay currently at 80
18 feet, proposed now for 90, include the
19 penthouses. And I just wanted to say that for
20 the record, that we're not talking about 90
21 plus 15 here. We're talking 90 including 15
22 and I'm comfortable with that. And it also
23 says that any building in these vistas from

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Fort Totten will have a special OP report on
2 the appearance of the roof top structures and
3 so forth.

4 I still feel -- so I'm okay with
5 Fort Totten. I still feel very strongly that
6 the 8th Street proposal -- I disagree with.
7 And I think in the interest of time I would
8 just ask that we vote on that separately
9 unless you share my views. I certainly don't
10 want to vote against the whole inclusionary
11 zoning process over my concerns over 8th
12 Street.

13 VICE-CHAIRPERSON HOOD: And I want
14 us to look into that a little more. I think
15 the ANC shares your concern.

16 COMMISSIONER PARSONS: Yes.

17 VICE-CHAIRPERSON HOOD: And off
18 the top of my head, because unfortunately I
19 couldn't find my notes from Thursday, as
20 unorganized I can be sometimes. But I think
21 it was the difference of -- was it 12 feet or
22 11 feet?

23 COMMISSIONER PARSONS: Excuse me,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I'll get it --

2 VICE-CHAIRPERSON HOOD: Maybe Mr.
3 Rodgers could help me.

4 MR. RODGERS: For the 8th Street
5 overlay?

6 VICE-CHAIRPERSON HOOD: Right.

7 MR. RODGERS: Eighth Street is
8 zoned C-3-A so it's a base of 65 feet. The
9 overlay reduces it down to 45 feet and we are
10 proposing that it be increased to 55 feet.

11 COMMISSIONER PARSONS: Right.

12 VICE-CHAIRPERSON HOOD: Okay, so
13 the base is 45; 65 and -- what are you
14 proposing?

15 MR. RODGERS: Fifty-five.

16 VICE-CHAIRPERSON HOOD: Fifty-
17 five.

18 MR. RODGERS: Correct.

19 VICE-CHAIRPERSON HOOD: So Mr.
20 Parsons, your issue, you think it should be
21 45?

22 COMMISSIONER PARSONS: Forty-five,
23 yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE-CHAIRPERSON HOOD: Forty-
2 five?

3 COMMISSIONER PARSONS: Yes.

4 VICE-CHAIRPERSON HOOD: Does
5 anybody else share that concern?

6 COMMISSIONER JEFFRIES: No,
7 Chairman. I don't have a problem. I'm
8 supportive of Office of Planning's --

9 COMMISSIONER PARSONS: I sensed
10 that the other night. So I'm only asking that
11 we vote on --

12 VICE-CHAIRPERSON HOOD: Right, and
13 I was just trying to do it that way so I
14 wouldn't have to go down and get somebody to
15 do each overlay.

16 COMMISSIONER PARSONS: No, no, no.
17 If you would just fold out this over --

18 VICE-CHAIRPERSON HOOD: I
19 appreciate it. We'll do it. Any other
20 concerns or comments? Again, as I stated at
21 the hearing on Thursday, I think Office of
22 Planning is readily available and capable and
23 competent and able to come back to us if they

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 see anything shifting in the negative
2 component for the City. So that gives me a
3 comfort level.

4 So with that, let me see how I do
5 this. Let's just vote on -- any other issues?
6 Let's just vote on the H Street overlay.

7 All those in favor of the --

8 COMMISSIONER JEFFRIES: Excuse me,
9 are you just taking one part of --

10 VICE-CHAIRPERSON HOOD: I'm just
11 going to take that one. That was the only
12 issue. That's the only issue that a
13 Commissioner has expounded upon.

14 COMMISSIONER JEFFRIES: Right.

15 VICE-CHAIRPERSON HOOD: So what
16 I'm going to do, I'm going to take Eight
17 Street, I want to say H --

18 COMMISSIONER JEFFRIES: That's
19 what you said and it threw me off.

20 VICE-CHAIRPERSON HOOD: Eighth
21 Street. Eighth Street and we're going to vote
22 on that and then we'll vote on the rest of the
23 text.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Okay, all those in favor of
2 adopting the Office of Planning's proposed
3 height for the Eighth Street overlay under the
4 IZ, all those in favor?

5 I'm making a motion.

6 COMMISSIONER PARSONS: I'd love to
7 move disapproval.

8 VICE-CHAIRPERSON HOOD: Hold on,
9 hold on. You know what, I'm probably trying
10 to do two many things.

11 So I would move that we approve
12 the Office of Planning's proposed height to 55
13 feet under the IZ for Eighth Street overlay
14 and I ask for a second.

15 COMMISSIONER JEFFRIES: Second.

16 VICE-CHAIRPERSON HOOD: It's been
17 moved and seconded. All those in favor.

18 (Ayes.)

19 VICE-CHAIRPERSON HOOD: I'm going
20 to withdraw my motion because if I go through
21 with it, we don't have enough votes.

22 Mr. Parsons, you've been asked to
23 expound a little more, and forgive me,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Commissioner Turnbull.

2 COMMISSIONER PARSONS: Well, we
3 may have a stalemate here on this. I need to
4 listen more to my colleagues. I just think 55
5 feet is too high and it just seems totally out
6 of character with this special street that's
7 been developed here in the past few years as
8 exhibited on page 21 of this report.

9 I just think that exhibit speaks
10 for itself. So help me -- talk me into it.
11 The one on the following page as well.

12 The rationale given was it would
13 help buffer the freeway and I just don't buy
14 it.

15 COMMISSIONER JEFFRIES:
16 Commissioner Parsons, that's the very reason
17 why I'm comfortable with 55 feet, being close
18 to the freeway. I think the general facility
19 could absorb that kind of height. I think
20 we're talking about 10 feet difference. I
21 just don't think it's going to have that
22 tremendous of an impact.

23 So I'm just -- 10 feet difference,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I mean it just -- in this particular area it
2 just does not seem to draw concern to me.

3 COMMISSIONER TURNBULL: I guess it
4 says "Mr. Parsons was actively involved in the
5 Eighth Street overlay" and I guess maybe I'm
6 reading into what his concerns are. It's not
7 just limited to by the highway. This could
8 happen anywhere down the street.

9 COMMISSIONER PARSONS: No, I think
10 the street is pretty well protected. It's
11 completely gone under amazing turnaround here
12 in the last five years. I don't know if
13 you've been down there, but it's spectacular
14 and I just think that scale that's exhibited
15 there doesn't need this anchor at the end. It
16 just doesn't.

17 As hard as we're looking for
18 opportunities for inclusionary zoning, this
19 one just doesn't seem to be in place for me
20 and it's the whole -- this is full of overlays
21 we struggled so hard to get to the right scale
22 and now because of inclusionary zoning we're
23 saying well, it's now okay because of this and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I'm willing to accept that throughout the
2 whole report, except here. I just think this
3 is not the right place to do it.

4 VICE-CHAIRPERSON HOOD: You know
5 what? I disagree just a tad, a little bit,
6 but I have to yield to Commissioner Parsons
7 because he was here during the development of
8 a lot of these overlays and I wasn't. So I
9 want to respect that. But I just -- maybe
10 because I came after the overlays were hashed
11 out, but I just don't see that being that
12 major because if we go down and look at all
13 the overlays that we've included, there may be
14 some other issues there about height.

15 I just think that this IZ piece is
16 something that we just need to get up and get
17 started and maybe revisit at a later time.
18 But right now, it doesn't look like we have
19 the votes.

20 COMMISSIONER JEFFRIES: Well, just
21 one second. I just want to ask the Office of
22 Planning, I just need clarity and I'm sorry I
23 don't have it in front of me, but the area

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that's in question, how large an area are we
2 talking about here?

3 MR. RODGERS: It's essentially
4 four blocks south of the freeway.

5 COMMISSIONER JEFFRIES: It's on
6 the south side of M Street.

7 MR. RODGERS: And Virginia Avenue.

8 MR. COCHRAN: It's on the north
9 side of M -- south side of Virginia on either
10 side of Eighth Street, Southeast.

11 MR. RODGERS: And it's contiguous
12 with the Historic District so any --

13 COMMISSIONER JEFFRIES: But you'd
14 have to turn the corner and walk down
15 Barrack's Row. I'm trying to draw a
16 connection.

17 MR. COCHRAN: Barrack's Row is not
18 part of the overlay. You would go from
19 Barrack's Row underneath the freeway to the
20 Eighth Street, Southeast overlay which is also
21 a separate Historic District.

22 VICE-CHAIRPERSON HOOD: Mr.
23 Parsons, let me just ask this on the record.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 If you -- 45, would you go anything above 45?
2 I'm trying to compromise here.

3 COMMISSIONER PARSONS: I think you
4 have to do it in floors. If you go -- you
5 can't go to 48. You've got to go to 55.

6 COMMISSIONER TURNBULL:
7 Commissioner Parsons, are you primarily
8 concerned about the street wall itself, the --

9 COMMISSIONER PARSONS: Yes.

10 COMMISSIONER TURNBULL: I mean if
11 there was a setback? I don't know if that
12 does anything.

13 COMMISSIONER PARSONS: Well, you
14 mean to go up to 45 and back 20 to get to 55,
15 that kind of thing you mean?

16 COMMISSIONER TURNBULL: Yes. I
17 don't know if that helps or that doesn't do
18 anything at all.

19 COMMISSIONER PARSONS: Well, I
20 think that would help, yes. I think it's the
21 five stories that just to me is completely out
22 of scale. So if we were to take that
23 approach, maybe that's a good compromise.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER JEFFRIES: How much
2 affordable housing will we be losing?

3 MR. RODGERS: We didn't make that
4 calculation in this case.

5 COMMISSIONER JEFFRIES: Isn't that
6 what you're trying to do, you're trying to get
7 as much affordable housing?

8 MR. RODGERS: I would just point
9 out that this is a -- it's contiguous with the
10 Historic District, so any project would have
11 to go through and get approval from the
12 Historic Preservation Review Board and so any
13 sort of design considerations as far as
14 setbacks would be handled through that Board.

15 COMMISSIONER JEFFRIES: So
16 Commissioner Turnbull, what do you think of
17 that?

18 COMMISSIONER PARSONS: I forgot my
19 name.

20 COMMISSIONER JEFFRIES: I know the
21 difference here. I think this all hinges on
22 you.

23 COMMISSIONER TURNBULL: I guess I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 would -- I guess Commissioner Parsons, is that
2 the fact that this is governed by that, does
3 that give any comfort to you at all?

4 COMMISSIONER JEFFRIES: Well, you
5 know, I hate to put pressure on another board,
6 saying well, the Zoning Commission said this
7 is okay, why should that board have to deal
8 with this when at least I think it's wrong.

9 COMMISSIONER JEFFRIES: Because it
10 will be on a case-by-case basis.

11 COMMISSIONER PARSONS: It will and
12 this is the case, you know. It's almost,
13 we're really site specific here on this case.

14 VICE-CHAIRPERSON HOOD: Mr.
15 Bergstein, let me ask a question. If I call
16 for the vote and it ends in two-two, what
17 happens then?

18 MR. BERGSTEIN: It would mean that
19 you would not be able to take proposed action
20 and I did want to point out that this is
21 proposed action, that no matter what choice
22 you make today with respect to this particular
23 provision, it's changeable at final so that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 you could propose 55, but at the time of the
2 proposed rulemaking ask for comments
3 concerning setbacks, you can ask the Office of
4 Planning to come back at the time of final to
5 show you what the step back could be and what
6 the effect it would have on inclusionary
7 zoning. Or you could adopt Mr. Parsons'
8 proposal at 45, but with that same comment in
9 the proposed rulemaking.

10 What you're doing today is not
11 setting something in stone, but permitting a
12 procedure that's required under both the APA
13 and the charter to happen, that is to refer
14 the text to NCPC to publish the text in the
15 D.C. Register. So whatever you vote today is
16 just a procedural, is a way of removing the
17 procedural obstacle to going forward to final.
18 It does not, in any way, corner you in in
19 terms of what you would do at final.

20 VICE-CHAIRPERSON HOOD: So Mr.
21 Bergstein, if we do 55 today and also
22 advertise an alternative, Mr. Parsons' 45, and
23 wait for those comments, we can move in that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 fashion?

2 MR. BERGSTEIN: You would need to
3 propose something definitive, either one, but
4 in a notice I could write as part of the
5 preamble saying the Commission would also be
6 interested in comments on the effect of and it
7 depends on what you did. If you did -- if you
8 said I'm proposing 55 feet, I could say that
9 the Commission is interested specifically in
10 comments in terms of the appropriateness of
11 that height for this overlay as well as the
12 availability of other options such as a step
13 back or if you did 45, you could say just the
14 opposite whether or not it would be more
15 appropriate to go to 55 feet and the effect of
16 45 on the inclusionary zoning program.

17 So you could note in either way
18 what you're proposing but also note you're
19 interested in what the alternative might be in
20 terms of the comments you received during the
21 30-day period of written comment.

22 VICE-CHAIRPERSON HOOD: So it
23 could be just height specific, 55 and then it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 all turns to 45?

2 MR. BERGSTEIN: I've done
3 alternative language. I can do it. It's
4 preferable to say what you're actually
5 proposing for the public to respond to, but I
6 can note that in terms of this particular
7 overlay there are two alternatives in terms of
8 height that are proposed and that you're
9 considering one or the other, if that would
10 give the Commission greater comfort, I believe
11 we could do that. If it gets tossed back by
12 Office of Documents, I'll let you know as
13 quickly as I can.

14 VICE-CHAIRPERSON HOOD: Okay, Mr.
15 Parsons, are you amenable to that?

16 COMMISSIONER PARSONS: Well, it
17 sounds good, but we would take action to
18 approve 55, but enlist comments on that
19 including --

20 MR. BERGSTEIN: What Mr. Hood is
21 suggesting is that I indicate at this portion
22 when I set out the text that with respect to
23 the maximum height for this overlay the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Commission is, in essence, proposing in the
2 alternative two heights and ask for comments
3 specifically as to the appropriateness of
4 either.

5 COMMISSIONER PARSONS: On that
6 basis, I would move approval with this case.

7 VICE-CHAIRPERSON HOOD: The whole
8 thing?

9 COMMISSIONER PARSONS: Yes.

10 VICE-CHAIRPERSON HOOD: Okay. All
11 right, it's been moved and properly seconded.

12 MR. BERGSTEIN: Mr. Hood, I'm
13 sorry, but there are two blanks that you need
14 to fill in before you have a motion.

15 COMMISSIONER PARSONS: You just
16 did.

17 VICE-CHAIRPERSON HOOD: No, no,
18 no. We do have two blanks. Forgive me. I
19 was so glad to get to where we were I just
20 forgot about everything else.

21 We need to find out first of all,
22 colleagues, when this --

23 COMMISSIONER PARSONS: Oh, those

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 blanks.

2 VICE-CHAIRPERSON HOOD: Right, at
3 what point are Applicants protected and I
4 think the other issue is when does the price
5 schedule
6 -- when does everything go into effect after
7 our ruling?

8 Let me get somebody who can
9 clarify that better.

10 Mr. Bergstein?

11 MR. BERGSTEIN: The first question
12 is the rule as it's now written says that the
13 set aside requirements, the whole provision of
14 the zoning regulations will take effect once
15 the District publishes its first price
16 schedule. And originally when this was first
17 before you, I had placed a blank in to say
18 that it would take effect X number of days
19 after that and when you deliberated on it,
20 there was not a resolution of that, so we
21 simply took that part out and so it now says
22 it takes effect on the date that the price
23 schedule goes into effect.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 And so on the advertisement of
2 these clarifying amendments, we put the blank
3 back in for your consideration to see whether
4 or not you do want a period of time between
5 when the Mayor publishes the first price
6 schedule and that date at this point is
7 unknown. I've heard an estimate of October
8 1st, but there are certain things that would
9 have to happen before that happens. Or
10 whether or not you simply want the rules to go
11 into effect whenever that date might be that
12 the pricing schedule becomes effective.

13 So either you need to fill in the
14 date which OP in its report has recommended as
15 90 days after the date that the price schedule
16 is published, come up with some other days or
17 simply leave it out and have it become
18 effective on the date the price schedule was
19 published.

20 VICE-CHAIRPERSON HOOD:
21 Colleagues, I would recommend to the
22 Commission that we take the proposal that's
23 presented to us by the Office of Planning, not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to go into effect until 90 days after the
2 price schedule is published.

3 COMMISSIONER PARSONS: I agree.

4 MR. BERGSTEIN: Okay. The second
5 blank, Mr. Hood, concerns PUD applications
6 that are now before you. The zoning
7 regulations don't contain a rule as they do
8 for BZA orders. For BZA orders, a building
9 permit is processed based upon the zoning
10 regulations in place as of the date the order
11 is issued. It's not the way PUD works. PUD
12 applications still become subject to any
13 change in the zoning regulations up to the
14 date that the building permit is actually
15 granted.

16 And so the question that the
17 second blank poses is do you want to provide
18 some protection for those PUDs which are
19 before you? The original advertised text
20 would have protected any PUD for which you
21 took final action as of a particular date, but
22 you can go back and protect any PUD as far
23 back as the date that you decide to set that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 PUD down for hearing. So the question is do
2 you want to protect PUDs that are now before
3 you and what would be the triggering date?
4 Would it be the date that you -- that if any
5 PUD was approved, that you would set down for
6 hearing before the effective date of these
7 regulations, is that what you want to protect
8 or any PUD that was before you took final
9 action, before the effective date of these
10 regulations or any event in between those two?

11 VICE-CHAIRPERSON HOOD: Okay,
12 thank you, Mr. Bergstein.

13 Mr. Parsons?

14 COMMISSIONER PARSONS: I do. I
15 think the setdown prior to that date is where
16 we should leave this for PUDs.

17 VICE-CHAIRPERSON HOOD: I agree.
18 Everybody else agree? General consensus on
19 that?

20 Okay. We've covered everything.
21 Mr. Parsons, your motion was in order with
22 those two clarifications or fill-ins.

23 COMMISSIONER PARSONS: Except for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 those friendly amendments.

2 VICE-CHAIRPERSON HOOD: And I'll
3 second the motion.

4 All those in favor?

5 (Chorus of ayes.)

6 Any opposition? So ordered.

7 Staff, will you record the vote?

8 MS. SCHELLIN: Yes, staff records
9 the vote four to zero to one to approve
10 proposed action in Zoning Commission Case No.
11 04-33B, as amended. Commissioner Parsons
12 moving; Commissioner Hood seconding;
13 Commissioners Jeffries and Turnbull in favor;
14 Commissioner Mitten, not voting having not
15 participated.

16 VICE-CHAIRPERSON HOOD: And we
17 saved Chair Mitten from having to read the
18 record. So thank you.

19 CHAIRPERSON MITTEN: Although for
20 final action, if the record was provided to me
21 I'd be happy to read it.

22 Okay, Mr. Hood says I should just
23 say thank you. Okay. Thank you.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 (Laughter.)

2 Okay, now we're ready for final
3 action and the first case is Case No. 07-08
4 and Commissioner Jeffries and Commissioner
5 Parsons did not participate in this case so
6 it's myself and Mr. Turnbull and Mr. Hood.
7 And the first thing we need to do is we need
8 to reopen the record to receive the
9 supplemental report from the Office of
10 Planning because the comment period was closed
11 by the time that we received their report
12 which is helpful. So I'd like to reopen the
13 record to receive the Office of Planning
14 report which is Exhibit 21 and ask for a
15 second.

16 COMMISSIONER TURNBULL: Second.

17 CHAIRPERSON MITTEN: Thank you.

18 All those in favor, please say aye.

19 (Ayes.)

20 Ms. Schellin, there are none
21 opposed.

22 MS. SCHELLIN: Yes, staff records
23 the vote three to zero to two to accept

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Exhibit 21 OP supplemental report in Zoning
2 Commission Case 07-08. Commissioner Mitten
3 moving; Commissioner Turnbull seconding;
4 Commissioner Hood in favor. Commissioners
5 Jeffries and Parsons not voting having not
6 participated.

7 CHAIRPERSON MITTEN: Thank you.
8 So there's a series of submissions that relate
9 to -- it actually -- they derive from the
10 review by NCPC and then we do have a report
11 from NCPC highlighting the fact that certain
12 portions of the squares that were included in
13 the squares where the temporary lots could be
14 are the locations where the Canal Park -- it
15 will be located one of these days.

16 So the Office of Planning has
17 suggested some language to clarify which
18 portions of those squares should be included
19 in the area that could be used for temporary
20 parking thereby excluding the areas that would
21 be improved with the Canal Blocks Park. So we
22 have those in their supplemental report.

23 And I don't know who is the best

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 person to answer this. Is Mr. Bergstein gone?
2 Okay.

3 Mr. Lawson, did you work on this
4 one?

5 MR. LAWSON: Yes, I did.

6 CHAIRPERSON MITTEN: Okay. Just a
7 question for you. In our -- in the proposed
8 order that we have, the reference, the section
9 reference in Chapter 6 is 601.1(dd) and yours
10 is -- in your report is 601.1(u) which is on
11 page one of your supplemental report. So I
12 just want to clarify the section number.

13 Do you see where I mean?

14 MR. LAWSON: I do. I'm just
15 trying to get it clarified myself.

16 CHAIRPERSON MITTEN: Okay.

17 MR. LAWSON: Sorry.

18 CHAIRPERSON MITTEN: Okay, well,
19 you look at that and then I'm going to suggest
20 a couple of other little things.

21 If my colleagues will look at the
22 section 2110.1(d) and (e) and I don't know if
23 this is any -- if it's important or not, but

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in (d) it makes reference to a traffic
2 management plan and (e) makes reference to a
3 traffic routing plan. And I just wanted to
4 make sure in drafting the final that those
5 things are synonymous. And then there's a
6 faulty reference in (e) in 2110.1(e) and the
7 reference should be to 2110.1(d).

8 Mr. Lawson, any luck yet?

9 MR. LAWSON: Almost.

10 CHAIRPERSON MITTEN: Okay. So is
11 there anyone who has any concerns about making
12 the modifications that would be required to
13 exclude the Canal Blocks Park from what's
14 permitted?

15 Okay.

16 VICE-CHAIRPERSON HOOD: You're not
17 excluding the whole square, but just parts
18 where this is going to be developed, the way
19 I understand it.

20 CHAIRPERSON MITTEN: Do you have
21 an answer?

22 MR. LAWSON: Yes, Madam Chair. I
23 think that I'm going to have to take a look at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 a full and complete and up-to-date copy of the
2 zoning regs which I don't have in front of me.
3 If it's okay if we can clarify that with OIG.

4 CHAIRPERSON MITTEN: Okay, that's
5 fine. And I think and I don't know. I think
6 one of the things that we should do as a part
7 of this if we can, Mr. Rittig, one of the
8 things that concerns me and I don't know that
9 it's a grave concern, but we took, when we
10 took proposed action that had the squares, the
11 totality of the squares, the three squares
12 that includes the Canal Blocks Park, we took
13 emergency action at the same time. And the
14 emergency is in place until the order is
15 issued in this case, so what I want to do is
16 amend the emergency action to remove any doubt
17 about what's in force in the interim until the
18 order gets written. Can we do that?

19 MR. RITTIG: I think if you took
20 another emergency action now to amend it, yes,
21 you could.

22 CHAIRPERSON MITTEN: Okay.

23 MR. RITTIG: Because that would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 become effective immediately.

2 CHAIRPERSON MITTEN: Okay. Okay.
3 Then what I would propose to my colleagues is
4 that we incorporate in final action and in an
5 amended emergency action so that's all in one
6 motion that we adopt the language that's
7 proposed in the Office of Planning
8 supplemental report which is Exhibit 21
9 understanding that we'll clarify the reference
10 in 601.1 to the proper subsection, but that
11 way we won't be including the Canal Blocks
12 Park portion of lots -- or of squares 767,
13 768, and 769 and otherwise adopt the order
14 with the amendments that I had suggested, just
15 to clarify in 2110.1.

16 VICE-CHAIRPERSON HOOD: Second.

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

20 (Chorus of ayes.)

21 CHAIRPERSON MITTEN: Any opposed?

22 Ms. Schellin?

23 MS. SCHELLIN: Staff records the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 vote three to zero to two to take final action
2 and amended emergency action in Zoning
3 Commission Case No. 07-08. Commissioner
4 Mitten moving; Commissioner Hood seconding;
5 Commissioner Turnbull in favor; Commissioners
6 Jeffries and Parsons not voting, having not
7 participated.

8 CHAIRPERSON MITTEN: Thank you.
9 The next case is for Mr. Hood because Mr.
10 Jeffries and I did not participate in 07-04.

11 VICE-CHAIRPERSON HOOD: Zoning
12 Commission Case No. 07-04, text amendment to
13 repeal 801.7(k).

14 Ms. Schellin.

15 MS. SCHELLIN: Staff has nothing
16 further to add.

17 VICE-CHAIRPERSON HOOD: Mr.
18 Parsons?

19 COMMISSIONER PARSONS: Move
20 approval of this application.

21 VICE-CHAIRPERSON HOOD: Second.
22 Any further discussion?

23 All those in favor, aye.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 (Chorus of ayes.)

2 Any opposition? So ordered.

3 Staff would you record the vote?

4 MS. SCHELLIN: Staff records the
5 vote three to zero to two to approval final
6 action in Zoning Commission Case 07-04.
7 Commissioner Parsons moving; Commissioner Hood
8 seconding; Commissioner Turnbull in favor;
9 Commissioners Jeffries and Mitten not voting
10 having not participated.

11 CHAIRPERSON MITTEN: Thank you.
12 Next is final action is Case No. 06-31. And
13 we had asked to receive a couple of things.
14 One is -- I had suggested some amendments to
15 condition number 14 which the Applicant has
16 more or less accepted and then added a
17 reference to the 26 lead points and then there
18 were a number of views that Commissioner Hood
19 had requested to help him clarify how this
20 development would be perceived by a pedestrian
21 and then I think because reference was made to
22 your experience in Columbia Heights, they
23 compared the two situations to help you relate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to what this project might look like.

2 So do you have any --

3 VICE-CHAIRPERSON HOOD: I just
4 wanted to thank the Applicant going the extra
5 step. This clearly shows a significant
6 difference to me but I can tell you I still
7 get nervous every time I look at Columbia
8 Heights. A totally different -- anyway,
9 totally different. Thank you, Madam Chair.

10 CHAIRPERSON MITTEN: Okay, and
11 then we have a suggested change really just to
12 accommodate the way that the District
13 government can accept money. This would be a
14 change to condition 12 such that it would now
15 read that the Applicant shall provide \$40,000
16 to the District of Columbia with the condition
17 that the monies may only be used to fund a
18 Friendship Heights transportation management
19 coordinator whose job would be to identify and
20 address transportation issues currently
21 existing in the Friendship Heights area. This
22 payment shall be made prior to the issuance of
23 a building permit for the project.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 I think there may be some other
2 clarification. It has to do with our funds
3 that are received by the District government
4 can only be spent once there is an
5 appropriation. So it would accommodate that
6 little quirk of our law.

7 COMMISSIONER PARSONS: As written
8 it would do that?

9 CHAIRPERSON MITTEN: I don't know
10 --

11 COMMISSIONER PARSONS: I don't
12 think it would do that as written.

13 CHAIRPERSON MITTEN: Yes, I don't
14 have the full change in front of me. That may
15 need to be -- I read what I had.

16 COMMISSIONER PARSONS: Yes.

17 CHAIRPERSON MITTEN: But I would
18 ask for the flexibility to have the order be
19 meaningful in terms of not only having the
20 District be allowed to accept the money, but
21 be allowed to spend the money and then I'll
22 work with the Attorney General's office to
23 make sure it says that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER PARSONS: Sold.

2 CHAIRPERSON MITTEN: Okay. And
3 with that I will move approval of Case No. 06-
4 31.

5 COMMISSIONER JEFFRIES: Second.

6 CHAIRPERSON MITTEN: Thank you.
7 Is there any discussion?

8 All those in favor, please say
9 aye.

10 (Chorus of ayes.)

11 Are there any opposed?

12 Ms. Schellin?

13 MS. SCHELLIN: Staff records the
14 vote five to zero to zero to approve final
15 action in Zoning Commission Case No. 06-31.
16 Commissioner Mitten moving; Commissioner
17 Jeffries seconding; Commissioners Hood,
18 Parsons, and Turnbull in favor.

19 CHAIRPERSON MITTEN: Thank you.
20 Now the next one is for Mr. Hood and
21 Commissioner Jeffries and I are not
22 participating.

23 VICE-CHAIRPERSON HOOD: Okay,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 thank you, Madam Chair.

2 Zoning Commission Case No. 06-45,
3 DCHA and CEMI-NMI Highlands, Consolidated PUD
4 and Related Map Amendment. I think we fleshed
5 a lot of this during proposed. The only thing
6 that I will bring my colleagues' attention to
7 is the revision of Condition 7D which grants
8 the applicant flexibility to erect an entry
9 sign that is consistent with the design
10 character development to add language at the
11 end of the clause stating that so long as the
12 sign conforms with 12A DCMR 3107(a), the
13 District sign regulations.

14 Anything else in this order?
15 Hearing nothing, I would move approval of Case
16 No. 06-45 and ask for a second.

17 COMMISSIONER TURNBULL: Second.

18 VICE-CHAIRPERSON HOOD: Also, the
19 NCPC report says the proposed development is
20 not inconsistent with the Comprehensive Plan
21 for the National Capital nor would it have any
22 adverse impact on any other federal interest.
23 Any other discussion? It's been moved and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 properly seconded. All those in favor, aye.

2 (Chorus of ayes.)

3 Any opposition? So ordered.

4 Staff would you record the vote?

5 MS. SCHELLIN: Staff records the
6 vote three to zero to two to approve final
7 action in Zoning Commission Case No. 06-45.
8 Commissioner Hood moving; Commissioner
9 Turnbull seconding; Commissioner Parsons in
10 favor; Commissioners Jeffries and Mitten not
11 voting having not participated.

12 VICE-CHAIRPERSON HOOD: Ms.
13 Schellin, would you tell me who is on the next
14 one? I know the chair is not --who is not on
15 it?

16 MS. SCHELLIN: Everyone except for
17 the chair.

18 VICE-CHAIRPERSON HOOD: Okay. All
19 right, Zoning Commission Case No. 06-23, ANC
20 6A text amendment, eating establishments.

21 Ms. Schellin?

22 MS. SCHELLIN: Staff has nothing
23 further to add.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER JEFFRIES: I think
2 this was fleshed out pretty good and in words
3 of my colleague, Commissioner Jeffries, we put
4 some in place and we can always tweak it. I
5 think that that is something to what you said.
6 It might have been exactly, but that's what
7 you said. Anyway, I would move approval of
8 Zoning Commission Case No. 06-36A and ask for
9 a second? Oh, I'm sorry. I'm trying -- I'm
10 trying to get out of here. 06-23 and ask for
11 a second?

12 COMMISSIONER JEFFRIES: Second.

13 VICE-CHAIRPERSON HOOD: So moved
14 and properly seconded. All those in favor?

15 (Chorus of ayes.)

16 Any opposition? So ordered.

17 Staff, would you record the vote?

18 MS. SCHELLIN: Staff records the
19 vote four to zero to one to approve final
20 action in Zoning Commission Case No. 06-23.
21 Commissioner Hood moving; Commissioner
22 Jeffries seconding; Commissioner Parsons and
23 Turnbull in favor; Commissioner Mitten not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 voting, having not participated.

2 CHAIRPERSON MITTEN: Thank you.
3 The last case for final action is Case No. 06-
4 36A. Mr. Hood, I would be
5 happy for you to make a motion in a second.
6 I would just like to remind Mr. Jeffries and
7 Mr. Turnbull that they did not participate in
8 this case.

9 This one, this case was the sort
10 of clean up. We had missed a few squares and
11 lots when we did the rezoning of certain
12 blocks in Columbia Heights from R-5-A to R-4
13 to preserve the row house quality of the area.
14 So this is just clean-up.

15 So Mr. Hood? He prefers not to
16 make the motion this time.

17 Okay, well, I will make the motion
18 and move approval of Case No. 06-36A and ask
19 for a second.

20 VICE-CHAIRPERSON HOOD: Second.

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

23 All those in favor, please say

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 aye? Any opposed?

2 Ms. Schellin.

3 MS. SCHELLIN: Yes, staff records
4 the vote three to zero to two to approve final
5 action in Zoning Commission Case No. 06-36A.
6 Commissioner Mitten moving; Commissioner Hood
7 seconding; Commissioner Parsons in favor;
8 Commissioners Jeffries and Turnbull not
9 voting, having not participated.

10 CHAIRPERSON MITTEN: Thank you.
11 Now we have a couple of items of
12 correspondence. We have a letter from Council
13 Member Mendelson regarding certificates of
14 occupancies for community-based residential
15 facilities. My understanding is, and there is
16 a deadline, a filing deadline coming up in a
17 piece of litigation, and he asked us to get a
18 briefing from the OAG, which we did earlier
19 this evening and we're aware of how the case
20 is going to proceed. We understand our role
21 in that process and we just acknowledge and
22 thank him for his letter.

23 We have a letter from Holland and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Knight, and this is in Case No. 05-37, and the
2 applicant is requesting a postponement.
3 We've had a couple of postponements in this
4 case. The Applicant is requesting a
5 postponement to a date in October, I believe,
6 and if we so choose, we can -- is that going
7 to be October 1?

8 MS. SCHELLIN: It will be October
9 1st. Yes, ma'am.

10 CHAIRPERSON MITTEN: Okay, so then
11 if we so choose, we can waive further posting
12 of the property by announcing the hearing date
13 tonight. So I will -- yes?

14 COMMISSIONER JEFFRIES: Madam
15 Chair, this is the Capital Place -- this is
16 the Dreyfus deal that's off of H Street?

17 CHAIRPERSON MITTEN: I believe so.
18 I think so. I know that if you recall we have
19 had requests from the ANC to have a moratorium
20 on PUDs in the H Street overlay. So, it is
21 fairly controversial so to the extent that,
22 you know, if the time is productive for them
23 to work through whatever issues they have,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 then that's good for them to do and we'll
2 happily postpone. I would just then announce
3 that the hearing in Case No. 05-37 is
4 rescheduled to October 1st, 2007 and there
5 will be no further need to post the property.

6 VICE-CHAIRPERSON HOOD: Madam
7 Chair, let me just ask. The Applicant is
8 asking for this postponement now, right?

9 CHAIRPERSON MITTEN: Yes.

10 VICE-CHAIRPERSON HOOD: Okay. So
11 noted.

12 CHAIRPERSON MITTEN: Okay.
13 Anything else for the Commission tonight?
14 Well, everyone have a nice August. We had
15 this little cleanup meeting before our August
16 break, and we'll see you in September.

17 (Whereupon, at 8:08 p.m., the
18 special public meeting was concluded.)
19
20
21
22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701