

DGOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

SPECIAL MEETING

+ + + + +

MONDAY

SEPTEMBER 27, 2010

+ + + + +

The Special 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., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD SCHLATER, Vice Chairman
MICHAEL G. TURNBULL, FAIA, Commissioner
(AOC)
GREG SELFRIDGE, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist
ESTHER BUSHMAN, General Counsel
JAMISON WEINBAUM, Director

OFFICE OF PLANNING STAFF PRESENT:

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JENNIFER STEINGASSER
STEVE COCHRAN
ARLOVA JACKSON
JOEL LAWSON
KAREN THOMAS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Special Meeting held on September 27, 2010.

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

2 6:38 p.m.

3 CHAIRMAN HOOD: We're going to go
4 ahead and get started. This meeting will
5 please come to order. Good evening, ladies
6 and gentlemen. This is September 27, 2010
7 public meeting of the Zoning Commission,
8 District of Columbia. My name is Anthony
9 Hood.

10 Joining me are Vice-Chairman
11 Schlater, Commissioners Selfridge and
12 Turnbull. We are also joined by the Office of
13 Zoning staff under the leadership of Director
14 Weinbaum, Ms. Sharon Schellin, Donna Hanousek,
15 and Ms. Esther Bushman. Also Office of
16 Attorney General Mr. Alan Bergstein, Office of
17 Planning Mrs. Steingasser, Mr. Lawson, Mr.
18 Cochran, and Ms. Thomas.

19 Copies of today's meeting are
20 available to you and are located in the bin
21 near the door. We do not take any public
22 testimony at our meetings unless the

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1 Commission request someone come forward.

2 Please be advised that this
3 proceeding is being recorded by a court
4 reporter and is also webcast live.
5 Accordingly, we must ask you to refrain from
6 any disruptive noises or actions in the
7 hearing room. Please turn off all beepers and
8 cell phones.

9 Does the staff have any preliminary
10 matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay. Let's go
13 right into final action. Z.C. Case No. 03-
14 12K/03-13K (Square 769, LLC & DCHA, Two-Year
15 PUD Time Extension at Square 769). Let me go
16 to Vice Chairman Schlater.

17 VICE CHAIR SCHLATER: Mr. Chairman,
18 I'm going to have to recuse myself from this
19 case because my employer is the applicant.

20 CHAIRMAN HOOD: Okay. Ms.
21 Schellin.

22 MS. SCHELLIN: Staff would just add

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1 that, as you said, this is a request for a
2 two-year PUD time extension. The Office of
3 Planning has submitted a report at Exhibit 5
4 supporting this request. As well as at
5 Exhibit 6 there is a report from ANC-6D
6 supporting the request.

7 CHAIRMAN HOOD: Okay. Thank you,
8 Ms. Schellin.

9 Commissioners, if you look at the
10 applicant's submission, if you particularly
11 pay close attention to page 5, page 5 outlines
12 the history and also talks about the need and
13 the process of trying to get a lender and the
14 success or the lack thereof of success of
15 being able to get someone to fund the site.

16 If you look at the bottom it says
17 essentially, "To enable the applicant to
18 continue his diligent efforts to secure the
19 necessary project financing. Moreover, there
20 has been no substantial change." And it goes
21 on to say that, "Upon the facts in which the
22 Zoning Commission first decided this case." I

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1 think that's pretty straight forward.

2 Also it concurs with the -- I'm
3 sorry, Exhibit No. 5. As well as it has
4 support, as Ms. Schellin has already
5 mentioned, in Exhibit No. 6 from the Advisory
6 Neighborhood Commission from Chairman Ron
7 McBee.

8 With the facts in front of us, I
9 would move that we approve the two-year time
10 extension and I would ask for a second.

11 COMMISSIONER TURNBULL: Second.

12 CHAIRMAN HOOD: It's been moved and
13 properly seconded. I want to give my
14 colleagues time for discussion. Any further
15 discussion? Are you ready for the question?
16 All those in favor, aye.

17 ALL: Aye.

18 CHAIRMAN HOOD: Not hearing any
19 opposition of those who are present, Ms.
20 Schellin, would you please record the vote.

21 MS. SCHELLIN: Yes, sir. I would
22 record an absentee ballot for Commissioner

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1 May. The staff will record the vote four to
2 zero to one to approve the two-year time
3 extension in Zoning Commission Case No. 03-
4 12K/03-13K. Commissioner Hood moving,
5 Commissioner Turnbull seconding, Commissioner
6 Selfridge in support, Commissioner May in
7 support by absentee ballot, Commissioner
8 Schlater not voting having recused himself.

9 CHAIRMAN HOOD: Okay. Thank you
10 very much, Ms. Schellin.

11 Next we have Z.C. Case No. 04-33
12 (Office of Planning - Inclusionary Zoning:
13 Technical Correction to 2604.1.

14 Ms. Schellin.

15 MS. SCHELLIN: The staff has
16 nothing further to add to this case other than
17 to ask that the Commission consider it for
18 final action.

19 CHAIRMAN HOOD: Again,
20 Commissioners, this is stated in the draft as
21 the amendments are purely technical in nature.
22 It eliminates the redundancy referenced to

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1 the Height Act. I think that is pretty
2 straightforward. Unless my colleagues have
3 anything else to add, I would move that we
4 approve Zoning Commission Case No. 04-33,
5 Office of Planning - Inclusionary Zoning:
6 Technical Correction to 2604.1. I ask for a
7 second.

8 VICE CHAIR SCHLATER: Second.

9 CHAIRMAN HOOD: It's moved and
10 properly seconded. Any further discussion?
11 Are you ready for the question? All those in
12 favor, aye.

13 ALL: Aye.

14 CHAIRMAN HOOD: Not hearing any
15 opposition from those present, Ms. Schellin,
16 would you record the vote?

17 MS. SCHELLIN: Staff would advise
18 that we have an absentee ballot again from
19 Commissioner May and just remind the
20 Commissioners that Commissioner Selfridge did
21 not participate in this case so the vote would
22 be recorded as four to zero to one to approve

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1 final action in Zoning Commission Case No. 04-
2 33. Commissioner Hood moving, Commissioner
3 Schlater seconding, Commissioner Turnbull in
4 support, Commissioner May in support by
5 absentee ballot and Commissioner Selfridge not
6 voting having not participated.

7 CHAIRMAN HOOD: Thank you, Ms.
8 Schellin.

9 Next Zoning Commission Case 10-04,
10 Office of Zoning Text Amendment, ANC
11 notifications.

12 MS. SCHELLIN: Nothing further to
13 add.

14 CHAIRMAN HOOD: Okay. Again, I
15 think the Director in the Office of Zoning,
16 and I think Office of Planning also, we have
17 elaborated a lot on this and had discussions
18 on how notification is now going to be
19 provided if the ANC so wish. What I would
20 like to do is move approval of Zoning
21 Commission Case No. 10-04 and ask for a
22 second.

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1 COMMISSIONER TURNBULL: Second.

2 CHAIRMAN HOOD: Moved and properly
3 seconded. Any further discussion? Are you
4 ready for the question? All those in favor,
5 aye.

6 ALL: Aye.

7 CHAIRMAN HOOD: Not hearing any
8 opposition, so ordered. Staff, would you
9 record the vote.

10 MS. SCHELLIN: Yes. I have an
11 absentee ballot from Commissioner May and,
12 again, Commissioner Selfridge was not present
13 to participate in this case so staff would
14 record the vote four to zero to one,
15 Commissioner Hood moving, Commissioner
16 Turnbull seconding, Commissioner Schlater in
17 support, Commissioner May in support by
18 absentee ballot. Again, Commissioner
19 Selfridge not voting having not participated.

20 CHAIRMAN HOOD: Okay. Thank you,
21 Ms. Schellin.

22 Next we have Z.C. Case No. 10-05

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1 (Office of Planning - Zoning Consistency Map
2 Amendment in Wards 7 and 8.).

3 Ms. Schellin.

4 MS. SCHELLIN: In this case we did
5 receive a report from NCPC at Exhibit 11.
6 They had no issues with this case. Just as a
7 reminder, both Commissioners May and Selfridge
8 did not participate in this case.

9 CHAIRMAN HOOD: Okay.
10 Commissioners, any comments? Okay. Would
11 someone like to make a motion? I know you're
12 all tired.

13 VICE CHAIR SCHLATER: Mr. Chairman,
14 I would like to move that we approve Zoning
15 Case 10-05, Office of Planning Zoning
16 Consistency Map Amendment in Wards 7 and 8.

17 COMMISSIONER TURNBULL: Second.

18 CHAIRMAN HOOD: Okay. It's been
19 moved and properly seconded. Any further
20 discussion? Are you ready for the question?
21 All those in favor, aye.

22 ALL: Aye.

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1 CHAIRMAN HOOD: Not hearing any
2 opposition, Ms. Schellin, would you please
3 record the vote.

4 MS. SCHELLIN: Staff would record
5 the vote three to zero to two to approve final
6 action in Zoning Commission Case No. 10-05.
7 Commissioner Schlater moving, Commissioner
8 Turnbull seconding, Commissioner Hood in
9 support, Commissioners May and Selfridge not
10 voting having not participated.

11 CHAIRMAN HOOD: Next Zoning
12 Commission Case No. 10-08, Office of Planning
13 - Expiration of Special Exceptions and Non-
14 Conforming Uses and Effective Date of Special
15 Exception Uses for Which a Term has been
16 Established)

17 Ms. Schellin.

18 MS. SCHELLIN: Sir, in this case we
19 also received a report from NCPC at Exhibit 8
20 and, once again, they had no issues with this
21 case.

22 CHAIRMAN HOOD: Okay. Let me open

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1 it up -- thank you, Ms. Schellin. Let me open
2 it up for any comments on this case.
3 Commissioners, any comments?

4 Vice Chairman.

5 VICE CHAIR SCHLATER: Mr. Chairman,
6 I just want to call your attention to Exhibit
7 No. 10 in this case which is a letter from
8 DeCaro and Howell asking us to delay
9 consideration on this and hold another
10 hearing.

11 I think the summary of what's in
12 the letter is that Mr. Decaro's client Koo
13 Yuen recently had a case in front of the BZA
14 in which he had appealed a Zoning
15 Administrator decision on the applicability of
16 a special exception claiming that it had not
17 expired even though the use had expired for
18 over three years.

19 BZA agreed with him on that ruling.

20 The question before us is whether the
21 language that we're set to approve tonight
22 would somehow be retroactive. In fact, Koo

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1 Yuen, and make it impossible for him to
2 develop the gas station that he was trying to
3 develop.

4 I think we also -- I think we
5 should ask OAG given the language that we have
6 before us are the concerns that are outlined
7 in this letter is the text amendment
8 premature? Should we be worried that this is
9 going to be retroactive?

10 MR. BERGSTEIN: Let me answer the
11 latter question. Zoning Commission rules,
12 like any District agency rules, cannot be
13 retroactive. The definition of a rule in the
14 D.C. Administrative Procedure Act is an ABC
15 statement of general particular applicability
16 and future affect.

17 Zoning Commission rules never
18 relate back to anything prior to their
19 effective date and that would include in the
20 case of these rules the issuance of an
21 intervening certificate of occupancy for a
22 different use other than the special exception

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1 for a period of three years in which the use
2 was discontinued.

3 Those two types of events would
4 only be relevant after the effective date of
5 the rules. However, I have suggested stating
6 that explicitly and I've provided language for
7 doing that.

8 In terms of whether or not it's
9 premature, the notion is that somehow the
10 Zoning Commission has to wait until a BZA
11 order comes out before it can take action to
12 correct or to alter regulations in a manner
13 different than the BZA rule.

14 There is no reason why the Zoning
15 Commission can't act quickly when a BZA ruling
16 is of concern to it where it doesn't want to
17 do a sua sponte and actually reverse the BZA
18 rule in which case you do have to wait for the
19 final decision. In this case the Zoning
20 Commission is simply reacting to a request of
21 the Zoning Administrator that was prompted by
22 the BZA ruling.

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1 The action is perspective and not
2 retroactive and, therefore, there is no reason
3 to wait for the BZA order to come out which
4 would relate to the existing dispute or prior
5 dispute if that makes any sense to you. It's
6 not premature. You're acting exactly as you
7 are allowed to act in a rulemaking.

8 VICE CHAIR SCHLATER: I think I
9 would support making those amendments to the
10 text amendment just making it clear that the
11 action isn't applied retroactively. As a
12 policy matter I think it is -- I support what
13 we're trying to do with this language in terms
14 of the expiring use on a special exception.

15 I think people should have to come
16 back if that use is discontinued for three or
17 more years so I'm going to be supporting the
18 text amendment tonight with the amendments
19 provided by OAG.

20 CHAIRMAN HOOD: Any other comments?

21 COMMISSIONER TURNBULL: I would
22 concur with the Vice Chair's comments,.

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1 CHAIRMAN HOOD: I, too, would agree
2 with the Vice Chair. Any other comments?
3 Maybe I'll just come to the Vice Chair. Would
4 you like to make a motion?

5 VICE CHAIR SCHLATER: Mr. Chairman,
6 I move that the Zoning Commission approve
7 Zoning Commission Case 10-08, Office of
8 Planning Expiration of Special Exceptions and
9 Non-Conforming Uses and Effective Date of
10 Special Exception Uses for Which a Term has
11 been Established as amended by OAG in its memo
12 to us.

13 CHAIRMAN HOOD: I second that.
14 Also, I'll just mention that the NCPC says
15 clarified language related to regulation non-
16 conforming use special exceptions will not be
17 inconsistent with the comprehensive plan nor
18 would it adversely affect any of the federal
19 interest. That's our Exhibit 8. We have a
20 motion by Vice Chairman Schlater, seconded by
21 myself. All those in favor, aye.

22 ALL: Aye.

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1 CHAIRMAN HOOD: Any opposition?
2 Hearing none. Ms. Schellin, would you please
3 record the vote.

4 MS. SCHELLIN: The staff would
5 record the vote as four to zero to one.
6 Commissioner May did submit an absentee ballot
7 and Commissioner Selfridge did not participate
8 in this case. Commissioner Hood seconding,
9 Commissioner Turnbull in support, Commissioner
10 May in support by absentee ballot.
11 Commissioner Selfridge not voting having not
12 participated.

13 CHAIRMAN HOOD: Okay. Next I would
14 like, if my colleagues don't mind, move these
15 next two in block, Zoning Commission Case No.
16 10-09, which is the Text Amendment to Chapter
17 30 to Increase Zoning Commission Fees, and
18 also Zoning Commission Case No. 10-10, Office
19 of Zoning Text Amendment to Chapter 31 to
20 Increase Board of Zoning Adjustment Fees.

21 Ms. Schellin.

22 MS. SCHELLIN: Yes. Staff has no

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1 further information to add on these two and
2 would advise that Commissioner May did not
3 participate in either of these cases.

4 CHAIRMAN HOOD: Thank you. I think
5 Director Weinbaum when we had the hearing made
6 a very compelling case. Actually, the way I
7 took it it's long overdue for this
8 jurisdiction to move forward in that fashion.

9 I think we have plenty of support. I
10 think it's just the right thing to do
11 especially at this time when you look at other
12 jurisdictions which his report detailed. I
13 would be in favor of moving this motion. I
14 know I didn't open up discussion but I'm sure
15 -- I'm hoping we all are in favor. I'm going
16 to take a chance and move that we approve
17 Zoning Commission Case No. 10-09 and also 10-
18 10 and ask for a second.

19 COMMISSIONER TURNBULL: Second.

20 CHAIRMAN HOOD: It's been moved and
21 properly seconded. Any further discussion?
22 Any further discussion? All those in favor,

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1 aye.

2 ALL: Aye.

3 CHAIRMAN HOOD: Not hearing any
4 opposition, Ms. Schellin, would you record the
5 vote?

6 MS. SCHELLIN: Yes. Staff would
7 record the vote four to zero to one to approve
8 Zoning Commission Case Nos. 10-09 and 10-10
9 for final action. Commissioner Hood moving,
10 Commissioner Turnbull seconding, Commissioner
11 Schlater and Selfridge in support,
12 Commissioner May not voting having not
13 participated.

14 CHAIRMAN HOOD: Okay. Let's move
15 right along. Zoning Commission Case No. 97-
16 16A. This is the Lowell School PUD
17 Modification at Square 2745F.

18 Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. In this
20 case we did receive the NCPC report at Exhibit
21 53. They have no issues of this case. There
22 were some additional information that the

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1 Commission requested and the applicant did
2 provide that. The ANC also provided a
3 response.

4 CHAIRMAN HOOD: Okay.
5 Commissioners, we have a number of
6 submissions. Exhibit 49, 50, and 51, Exhibit
7 52. As Ms. Schellin already mentioned, 52 is
8 the ANC report and also the NCPC report, no
9 adverse impacts.

10 Okay. Let's open it up for
11 discussion because I'm not sure what we all
12 asked for but let's open it up and see if
13 there are any comments, any submissions that
14 we received at this time.

15 COMMISSIONER TURNBULL: Mr. Chair,
16 I think one of the biggest issues was the
17 parking structure. I think we had a total of
18 three options presented and I think there were
19 two of them that we allowed them that they
20 could use either one. To me that is the
21 biggest issue that I can remember that we had.

22 There was a concern about the

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1 neighbors to the one side and how much space
2 that you would give them. There was concern
3 about playing, light, and noise on that field.

4 I think the options were that we had looked
5 at were fine. I can't recall which ones. We
6 didn't want the original one. I think it was
7 just the big deck.

8 CHAIRMAN HOOD: That was No. 1,
9 right?

10 COMMISSIONER TURNBULL: Right. I
11 believe that was.

12 CHAIRMAN HOOD: Two and three, I
13 think, we would give them the flexibility to
14 go either with option two or three I believe.

15 COMMISSIONER TURNBULL: I think
16 you're correct.

17 CHAIRMAN HOOD: I think it's two
18 and three. It's two and three? Okay. Why
19 don't we do this. If it's not two and three,
20 but I'm being told it is two and three, unless
21 somebody has an objection, I think we decided
22 on that, I though, that night that we would go

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1 to options two and three and not option one.

2 COMMISSIONER TURNBULL: Right.

3 CHAIRMAN HOOD: Okay. All right.

4 Let's take our time and make sure we hit
5 everything. Which ANC? Is this ANC-4A? This
6 is 4A. I have the letter in front of me. I
7 think we fleshed a lot of this out and I'm
8 looking here at the ANC's letter to see if
9 anything had risen that was different. I
10 think it was a revised plan.

11 Once we had the hearing there were
12 a lot of concerns, a lot of issues, pedestrian
13 safety. I think the applicant has really
14 strived to try to meet the needs or, at least,
15 come half way to meet the needs or some of the
16 concerns, I believe, of that particular area.

17 Let me open it up and see if there is
18 anything else. Commissioners?

19 Also, let me just mention this is
20 behind one of the exhibits. We also talk
21 about the benefits and the amenities, the
22 traffic management plan. It goes into detail

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1 on the construction management plan,
2 environmental design, first source agreement,
3 the CBEs, Certified Business Enterprises. It
4 also has proposal of the conditions of the
5 construction management plan. Anything else?

6 VICE CHAIR SCHLATER: Mr. Chairman,
7 I would like to move that the Zoning
8 Commission approve Zoning Commission Case 97-
9 16A, the Lowell School PUD Modification at
10 Square 2745F.

11 CHAIRMAN HOOD: I'll second it. It
12 has been moved and properly seconded. Any
13 further discussion? The only thing I would
14 just add is that I know there are some
15 technical corrections and things that need to
16 be arranged. I would just like to give the
17 Office of the Attorney General the flexibility
18 to be able to do that so authorized by us.
19 Would you accept that, Vice Chairman?

20 VICE CHAIR SCHLATER: Yes.

21 CHAIRMAN HOOD: Okay. It's been
22 moved and seconded. Any further discussion?

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1 Any further discussion? Are you ready for the
2 question? All those in favor, aye.

3 ALL: Aye.

4 CHAIRMAN HOOD: Not hearing any
5 opposition from those that are participating,
6 Ms. Schellin, could you please record the
7 vote?

8 MS. SCHELLIN: Yes. I have an
9 absentee ballot from Commissioner May and
10 Commissioner Selfridge did not participate in
11 this case so the vote would be four to zero to
12 one to approve final action of Zoning
13 Commission Case No. 97-16A. Commissioner
14 Schlater moving, Commissioner Hood seconding,
15 Commissioner Turnbull in support, Commissioner
16 May in support by absentee ballot,
17 Commissioner Selfridge not voting having not
18 participated.

19 CHAIRMAN HOOD: Next is Zoning
20 Commission Case No. 10-12, Tiber Creek
21 Associates - Capitol Gateway Overlay Review at
22 Square 601. Ms. Schellin.

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1 MS. SCHELLIN: Yes, sir. I would
2 just add in addition to the additional
3 information that was requested by the
4 Commission and provided by the applicant that
5 the applicant has made a request that the
6 Commission allow it to provide one complete
7 set of plans if the Commission would reopen
8 the record to allow the applicant to do that.

9 I believe they have the plans with them this
10 evening and would hand those in if the
11 Commission would allow them to do so.

12 CHAIRMAN HOOD: Let's open it up
13 for discussion. I think, Commissioners, that
14 would put it all in one place for us. I think
15 that is something we need. We can go ahead
16 and open the record. I think we can still
17 move forward on final action unless somebody
18 objects. The general consensus the record is
19 open? Okay.

20 Are you finished, Ms. Schellin?
21 Okay.

22 Commissioners, we have Exhibit 21

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1 and 22. Okay. We have Exhibit 21 and I'm not
2 sure who all other than Commissioner Selfridge
3 who all asked for what because he is actually
4 specifically named in here. Make sure that we
5 have a confidence level of things we asked
6 for.

7 I know a lot of stuff we vetted
8 through proposed action but I want to make
9 sure the fine tuning that we have the
10 applicant has submitted revised building
11 materials and color palette. I believe that
12 was Commissioner May. Was Commissioner May on
13 this case?

14 MS. SCHELLIN: He was and his
15 comment was expressed to the applicant, "My
16 appreciation for their submission of
17 construction details which allayed my
18 concerns."

19 CHAIRMAN HOOD: Okay. Great.
20 Okay. Details on panel installation. If it
21 moves you or you don't feel like you got what
22 you needed, I'm going to just keep moving.

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1 Depiction of the elevator mechanical
2 penthouse.

3 VICE CHAIR SCHLATER: Looks good.

4 CHAIRMAN HOOD: Sufficiency of
5 proposed number of parking spaces.

6 VICE CHAIR SCHLATER: I asked for
7 that and I think it proves the point that a
8 hostel use doesn't need or require too many
9 parking spaces. It may well be over-parked
10 for the number of parking spaces they are
11 offering.

12 COMMISSIONER SELFRIDGE: I would
13 raise that issue as well, Mr. Chairman. I'm
14 certainly certified with the information
15 provided.

16 CHAIRMAN HOOD: Okay. Good.
17 Anything else? Any other comments? I think
18 behind tabs A, B, and C you can see some of
19 the changes that were done to some of the
20 architectural issues which we asked for. All
21 right. Well, in that case I would move
22 approval of Zoning Commission Case No. 10-12,

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1 Tiber Creek Associates - CG Overlay Review at
2 Square 601 and ask for a second.

3 COMMISSIONER SELFRIDGE: Second.

4 CHAIRMAN HOOD: It's been moved and
5 seconded twice, moved and properly seconded.
6 Any further discussion? All those in favor,
7 aye.

8 ALL: Aye.

9 CHAIRMAN HOOD: Not hearing any
10 opposition. Also I know we have an absentee
11 ballot.

12 MS. SCHELLIN: Yes, we do. The
13 vote would be five to zero to zero to approve
14 final action in Zoning Commission Case No. 10-
15 12, Commissioner Hood moving, Commissioner
16 Selfridge seconding, Commissioners Turnbull
17 and Schlater in support, Commissioner May in
18 support by absentee ballot.

19 CHAIRMAN HOOD: Okay. Next let's
20 move into proposed action, Zoning Commission
21 Case No. 10-03 (Parcel Seven Associates --
22 Consolidated PUD @ Square 912). Ms. Schellin.

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1 MS. SCHELLIN: Yes. In this case
2 the applicant has provided the information
3 that the Commission requested. The Brants
4 responded at Exhibit 46 and the ANC-6A
5 responded at Exhibit 47. Commissioner May did
6 read the record on this case so he is ready to
7 participate.

8 CHAIRMAN HOOD: Commissioner May,
9 let's start off with him. Did he make any
10 comments, Ms. Schellin?

11 MS. SCHELLIN: Commissioner May did
12 want to communicate to the applicant his
13 apologies that he could not attend the meeting
14 after missing the hearing as well because he
15 thinks it's a very important project but
16 unfortunately due to a sudden family matter he
17 could not be here. That was his comments and
18 we'll save his vote for when the time comes.

19 CHAIRMAN HOOD: Okay. Thank you,
20 Ms. Schellin.

21 Let's open it up. Commissioners,
22 we have Exhibit 47, 45. Not in numerical

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1 order but we have a number of exhibits, 46, 47
2 -- 45, 46, 47 that have come in. Let's peruse
3 them and see. Let's open it up for
4 deliberations.

5 Vice Chairman Schlater.

6 VICE CHAIR SCHLATER: Mr. Chairman,
7 either we could just do it one issue at a
8 time. I think one of the issues with the
9 physical planning of the site was specifically
10 related to the parking garage and the loading
11 and its close relation to the adjacent
12 townhome.

13 We have a few options that have
14 been proffered, that have been put forward by
15 the applicant and we should probably go
16 through them one by one. I guess from my
17 perspective I've looked at these options. The
18 applicant has moved the building in order to
19 create a buffer space between the townhome and
20 the alley and also has agreed to put up
21 landscaping and bollards to help protect that
22 building against cars and trucks.

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1 And has also offered a change to
2 the parking and loading design. Actually, two
3 options. One is to basically just have retail
4 parking ramp come in off the alley at the
5 townhouse and then to have an exit ramp
6 halfway down the alley which I think is a
7 pretty good solution to the problem. It
8 should lessen the traffic going by the house
9 at least.

10 The other option is one that the
11 applicant seems to support and it would seem
12 to be a little bit better for the existing
13 townhome but may be opposed by DDOT which is
14 to have the retail ramp come in off of 8th
15 Street and then exit halfway down the alley.

16 Personally I think I would support
17 either option one or option two. I also think
18 that this option of having an exit ramp
19 halfway down the alley might beg the question
20 why can't you have an entrance to the retail
21 parking halfway down the alley. That might be
22 something worth looking at. On the whole I

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1 think we've made a little bit of progress on
2 this issue.

3 Although if you read the Brants'
4 response it would seem that they are strongly
5 in favor of a third option which I know DDOT
6 is strongly opposed to which is to have
7 loading off of 8th Street at the H and 9th
8 intersection.

9 CHAIRMAN HOOD: Any other comments?
10 Mr. Turnbull.

11 COMMISSIONER TURNBULL: Mr. Chair,
12 I would agree with Commissioner Schlater. I
13 think the applicant listened to not only our
14 concerns but the concerns of the Brants. I
15 think putting in the five-foot -- pushing
16 their project back into their site and
17 allowing five feet at the side of the Brants'
18 residence with the bollards was a tremendous
19 improvement.

20 I think it really shows their
21 concern. I don't know whether on their option
22 two whether the two curb cuts could be made a

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1 one curb cut and DDOT would approve that. I'm
2 not sure. I mean, you could stripe it.

3 Commissioner Schlater brings up another
4 good point of the other option which is
5 looking at an entry ramp and an exit ramp in
6 the alley further down if that is possible. I
7 mean, I'm just talking out loud here. That is
8 an option which we haven't thought about
9 before.

10 It hasn't come up and hasn't been
11 discussed before but it could be something
12 that could be on the table for the applicant
13 to look at. That, again, would help decrease
14 some of the in and out traffic or reduce right
15 at the Brants' residence there.

16 CHAIRMAN HOOD: So I guess,
17 Commissioners, if I understand we still are
18 open to both options. The third option which
19 the Brants have mentioned, we probably need --
20 I don't know if we can move forward with that
21 one but I think we are open to the options,
22 specifically because when I looked at it the

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1 scale of the building adjacent to the rural
2 homes and everything has been scaled back, as
3 has already been stated.

4 I just think they have made great
5 strides to accommodate some of the issues that
6 were raised at the hearing. That's kind of
7 where I fall down on it. I think before final
8 action maybe we can leave it open to those two
9 options for them to look at and maybe we leave
10 the flexibility for them to either look at
11 that option one or option two unless we have a
12 preference. Maybe they can come back and
13 narrow the scope before we do final action. I
14 don't know but I think we can leave it out
15 there. Any comments on that or questions?
16 Okay.

17 Let's look at the phasing of the
18 PUD. I think the applicant has asked for two
19 phases now. I didn't make an A in math so I
20 don't know whether -- sometimes, you know, I
21 think something is going to happen in five
22 years and it ends up being 17 or 20. I'm not

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1 sure exactly what the time extension is on the
2 phasing but I'll open it up and maybe one of
3 my colleagues has calculated the longevity
4 with the permit process and the two years with
5 the PUD and everything else for the first
6 phase. Let's open it up.

7 VICE CHAIR SCHLATER: Mr. Chairman,
8 I think this is a question not specific to
9 this applicant in terms of what they have
10 asked for because others have come before here
11 and asked for similar things. The question is
12 whether on these phased projects we're just
13 going to leave a blanket approval out there
14 such that you can have a project that
15 conceivably won't be fully constructed for up
16 to 10 years, which is what I think.

17 If you do the math on what's been
18 proposed, you've got a 10-year window to
19 complete the entirety of the project. You've
20 got two years to get to your first phrase
21 building permit, a year after that to start
22 construction.

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1 It would probably take about two
2 years to construct the project and then two
3 years after that to file for a building permit
4 for phase two and then a year after that for a
5 construction start. It just could be a long
6 time. I know a lot of people are eager to see
7 this happen.

8 I know that the standard is that
9 you've got a project. You're supposed to get
10 two years until you've got your building
11 permits and then a year after that until
12 construction starts. If we approve this, it's
13 a significant deviation from what the standard
14 operating procedure is.

15 Maybe we need to consider just
16 giving everybody 10 years to build a building.

17 I don't know but I think it's something for
18 us to consider and grapple with. To me,
19 particularly for a two-phased project, it
20 feels like a long time.

21 COMMISSIONER TURNBULL: I know your
22 concern and I would agree with you. I

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1 wouldn't want to start stretching these out.
2 My only concern, I guess, or the only caveat
3 is looking at market conditions is that
4 something that is making this -- normally if
5 we had a more healthy real estate market
6 going, building market, things might be going
7 at a lot faster pace but does this then
8 deserve the like.

9 VICE CHAIR SCHLATER: I think that
10 when we consider extensions to timelines,
11 which we do reasonably and we have standards
12 for those extensions, market conditions is one
13 of the reasons most often given for that
14 extension. We don't always give extensions
15 because sometimes these PUDs get stale. I
16 don't think this one would. It's a pretty
17 good project but it's something to consider.

18 CHAIRMAN HOOD: I would disagree to
19 some point. With this particular case, to me
20 I would rather handle that on a case-by-case.
21 I don't necessarily agree with a blanket
22 agreement of 10 years or a blanket thing of

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1 all of them being 10 years. I think this is
2 unique. When I first got on the Commission
3 they might come down here and say it but you
4 didn't think that was the case because it
5 actually wasn't. This developed. I
6 think the applicant on page 3 summarizes it
7 best, "Approval of proposed condition will
8 enable the applicant to move forward with the
9 project as expeditiously as possible while
10 also providing flexibility given current
11 market conditions." Those three words are a
12 lot of what we're hearing now, "current market
13 conditions," on and on. I can't dispute that.

14 I can't dispute that but maybe some years ago
15 that was disputable.

16 For this specific case, yes, we may
17 be able to continue it for this specific case
18 but five years from now, Vice Chairman, when
19 you all are looking at these things, or when
20 the Zoning Commission is looking at these
21 things, then that might not be applicable at
22 that time. We just need to still keep case-

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1 by-case I believe.

2 COMMISSIONER TURNBULL: I don't
3 think we're setting any precedence here. I
4 don't think that's the intention to set a
5 precedent for 10 years. I think you're right.

6 It will always have to be looked at
7 case-by-case, as you said, as we get into this
8 financial applicability and how you review
9 this is going to be one of those items.
10 Maybe, like you said, three years from now we
11 are going to look and if someone wants 10
12 years we're going to say no, we don't think we
13 can give that.

14 VICE CHAIR SCHLATER: I think we
15 should keep doing it on a case-by-case basis.

16 I think people will be disappointed if they
17 see stuff not -- I think everybody can say
18 whether it's residential, office, retail or
19 any sort of development that market conditions
20 are going to determine the finding. I think
21 that's true.

22 In our regulations we have the two

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1 years plus one year window so we are being
2 asked to deviate from it in this case. I just
3 don't want it thrown in our face on the next
4 couple of projects, "Just give us eight, 10
5 years to build the project," because that's
6 not the context in which we want to be
7 reviewing these projects. We don't want
8 people coming here with hypothetical projects
9 that might occur within 10 years. We want
10 projects that are ready to go and that are
11 going to go.

12 CHAIRMAN HOOD: I think we disagree
13 with that because here's the other thing. If
14 we go ahead and approve it under our normal
15 time frame, they will be back for a time
16 extension anyway. They are coming back for a
17 time extension anyway so it might save us one
18 hearing because --

19 VICE CHAIR SCHLATER: It might also
20 give us the opportunity to look at the project
21 and see whether it's still relevant in that
22 context. I know there have been times when we

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1 haven't approved an extension. In this case
2 I'm willing to go with the majority on this
3 one.

4 I just wanted to raise it not in
5 the context of Parcel Seven Associates because
6 I don't think they're asking for something
7 unreasonable. It's just a question for the
8 Commission to consider and how are we going to
9 address this issue going forward.

10 CHAIRMAN HOOD: Okay. I know we
11 had questions about the -- so we're all in
12 agreeance on that? I know we had questions
13 about the traffic circulation. Someone asked
14 about the trellis. Also the amenities package
15 which I think now is in one place. I believe
16 it was in conformance with what the ANC had
17 asked for.

18 VICE CHAIR SCHLATER: Can I just
19 make a comment on the amenities package?

20 CHAIRMAN HOOD: Sure.

21 VICE CHAIR SCHLATER: I think at
22 the hearing I said I thought the amenities

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1 package was light. I don't think anything has
2 changed from that time. If I'm incorrect,
3 somebody please tell me but I don't think I
4 am. I would just want to put on the record
5 that I don't think that affordable housing
6 should be listed as an amenity when it's
7 required by IZ unless I'm mistaken and they
8 are offering something more than what's
9 offered by IZ. Maybe OP can clarify that for
10 me.

11 MS. STEINGASSER: You're correct.
12 We don't accept IZ when it only meets
13 standards but where it's being built here it's
14 beyond. They are meeting the IZ standard at a
15 higher rate because of the up zoning so it's
16 more than we would get as a matter of right,
17 IZ, so we accept it more as a benefit than as
18 an amenity.

19 VICE CHAIR SCHLATER: Because we're
20 giving more density, we're going to get a
21 little bit more affordable housing out of it,
22 eight percent for every extra foot that we

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1 give them.

2 The other thing I would say is
3 their commitment to go LEED Silver -- is that
4 correct? -- to seek the equivalent of a LEED
5 Silver building is pretty much equivalent to
6 what is already required by the Green Building
7 Act. Is that correct? Is there a lot of
8 space between those two requirements?

9 MS. STEINGASSER: I don't have that
10 answer for you. I'm sorry.

11 VICE CHAIR SCHLATER: From my
12 experience there is not a lot of space so I
13 don't know that they are going far beyond
14 that. What I come up with is it's a very nice
15 project that everybody wants to see get done.

16 I think the proffer of the public
17 space improvements some of which would have
18 had to be done anyway as a matter-of-right
19 project but the public art is a nice thing.
20 Again, it's nothing against this applicant
21 because they've gone before the community and
22 they're worked hard and they've got an

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1 agreement and the community said this is a
2 good benefit package.

3 I would just say we all need to get
4 our heads around are we getting as much out of
5 these PUDs as we should be when applying the
6 tests comparing the bonus density that you're
7 giving and the proffered benefits and
8 amenities. I could be convinced otherwise but
9 I still think it's light.

10 CHAIRMAN HOOD: I would just
11 expound on that and say that I like to see
12 amenities that last sort of like the projects.

13 The projects have been in those neighborhoods
14 for 30 years. When you look at some things
15 like \$20,000 to a micro loan and all that, you
16 know, there was one specific case we did.

17 I'm saying this so the applicant
18 will know next time and the community also
19 understands. I see we have one of the
20 commissioners in the audience. The thing is
21 those projects are there for 30 years and they
22 are sustainable amenities that may solve Vice

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1 Chairman Schlater's issue with the package
2 being light that will sustain sometime the
3 life of the projects, believe it or not.

4 I don't want to start naming
5 anything but we had one specific case. I
6 don't know if you remember, Vice Chairman, but
7 just that one amenity alone took care of that
8 PUD requirement. It was a great amenity. The
9 caveat is if it's ever built, then it will
10 sustain just like the projects.

11 That's kind of where I am. I've
12 been following that closely. I'm not sure
13 where they are with that but I'm hoping it
14 happens because we wouldn't be able to come
15 out here and say it's light. My next question
16 to you, Vice Chairman, is that light enough to
17 the point is that a show stopper or would you
18 like to see it revisited before final action?

19 VICE CHAIR SCHLATER: I think it's
20 one of those things that it's fundamentally up
21 to the Commissioners to decide whether or not
22 the equation has been met. You know, are

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1 there enough benefits and amenities being
2 offered.

3 I'm relatively new to this process
4 but I just want to make sure we have the
5 discipline of going through it each time and
6 really evaluating what are the amenities and
7 benefits being offered and do we find them to
8 be sufficient because sometimes good projects
9 come before us.

10 We just look at them and say, "That
11 looks awesome and I would like to see it
12 built," which is the case with this project
13 because I think it will be a good project for
14 H Street and I want to see it happen.

15 The question is are we setting a
16 precedent in terms of the amenities packages
17 that we are accepting that we're going to get
18 shortchanged in the future. I guess the
19 question I would have is what do the other
20 commissioners think about that.

21 COMMISSIONER TURNBULL: I guess
22 part of the problem we depend upon the ANC to

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1 do a lot of that community ground work and
2 helping to set up the needs for the community
3 and what they see as what they are willing to
4 accept to let a development be built as a PUD.

5 I know where you're coming from on
6 this. I would agree with you. I guess how
7 many times do you ask the ANC, "What other
8 needs do you have? Do you feel that what
9 you're getting from the applicant meets the
10 need of what you're getting in for?" It's a
11 tough call.

12 VICE CHAIR SCHLATER: I will say
13 that I've read the ANC letter. The ANC
14 reiterated its support for the project and it
15 said the proposed community amenities package,
16 which our ANC views as substantial, and this
17 package was the result of many months of
18 negotiation between the developer and the
19 community so I give the developer and the
20 community a lot of credit for sitting down and
21 hammering that out. Are we going to be
22 deferring to those community benefits packages

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1 in the future to determine exactly what
2 amenities are being provided?

3 COMMISSIONER TURNBULL: Well,
4 that's a good point. I think we have at times
5 looked at different similar projects, who's
6 given what, but they're not always comparable.

7 Different neighborhoods depending upon where
8 it is and where you are there's more of --
9 there's different needs so that is a tough
10 question to answer.

11 CHAIRMAN HOOD: Again -- I'm sorry.
12 Did you finish?

13 COMMISSIONER TURNBULL: Yes.

14 CHAIRMAN HOOD: I think when I look
15 at Exhibit 47, which is the letter from ANC,
16 and I look back at the notes that we have and
17 from testimony it talked about they worked
18 together with the ANC for three years. I
19 don't want to be a Zoning Commission to undo
20 three years worth of work.

21 I think it's a good healthy
22 discussion. I know one of the Commissioners

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1 is in the audience and hopefully that will
2 taken back to the next project. He's looking
3 for something that's going to sustain. These
4 things, as Mr. Turnbull said, the need. This
5 is probably the need in this case but there
6 are some things that we want to see that is
7 going to last the life of the project. That's
8 for what it's worth.

9 When I look at far east, far
10 northeast, and I look at some of these
11 organizations I'm very familiar with. I've
12 done work with them in the past. Not recently
13 but way in the past but I look and see some of
14 the benefits. I'm sure they have negotiated
15 that in those three years. I don't want to be
16 one to undo what they've done in three years.

17 Vice Chairman.

18 VICE CHAIR SCHLATER: I have a
19 proposal which is I actually think the
20 discussion would benefit from the input of
21 Commissioner May. I would be in support of
22 taking proposed action tonight and then having

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1 a final discussion on benefits and amenities
2 at final action. Hopefully Commissioner May
3 and I and everybody else will be there and we
4 can hash it out then.

5 CHAIRMAN HOOD: I don't think
6 anybody can quarrel with that.

7 COMMISSIONER TURNBULL: I would be
8 amenable to that.

9 CHAIRMAN HOOD: Okay. We'll do
10 proposed action and then we'll have the same
11 discussion. Let me ask you this, Vice Chair,
12 and Mr. Turnbull. Do we want to also make
13 sure -- I know it's been three years worth of
14 work.

15 Do we want the applicant to maybe
16 talk again with the ANC? Are we encouraging
17 that? We can't mandate it. Are we
18 encouraging that or do we just want to deal
19 with the face of what we have here in front of
20 us?

21 VICE CHAIR SCHLATER: I think
22 they've done good work with ANC and I wouldn't

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1 want to have to send them back to the ANC. I
2 think the job is really up to us as to whether
3 these amenities that have been listed are
4 commensurate with the additional density
5 that's being granted and the other relief that
6 is being granted. I would not recommend they
7 go back to the ANC.

8 CHAIRMAN HOOD: Okay. Anything
9 else, Commissioners?

10 COMMISSIONER TURNBULL: Well, I
11 know Commissioner May is not totally pleased
12 with the architecture. I think he would --

13 CHAIRMAN HOOD: That's a surprise.

14 COMMISSIONER TURNBULL: I think he
15 would prefer actually the same architect who
16 presented a design to us on Monday night. I
17 think he prefers that type of project with the
18 architecture being more uniform and consistent
19 and deviations within that one style.

20 I think there is a place for
21 everything and I think most of us felt that
22 this was acceptable. I think they had made

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1 changes along the way. I think we looked for
2 some issues. I mean, we didn't look for
3 issues but we found some issues with the
4 design and I think they have accommodated
5 that.

6 I don't think Commissioner May is
7 looking to change anything. I think he would
8 have preferred something a little bit more
9 contemporary. I'm amenable to your other
10 suggestion, Commissioner Schlater, Vice Chair,
11 setting it down proposed and then having
12 Commissioner May comment.

13 CHAIRMAN HOOD: So let me make sure
14 I understand. Also did you want to go back
15 and look at the architecture, too?

16 COMMISSIONER TURNBULL: No. I'm
17 throwing it out that one of the items when we
18 looked at the design standpoint I know they
19 made a change on the trellis for us. I think
20 they have tried to ameliorate some of our
21 other concerns along the way.

22 I think the only question that I'm

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1 talking about is the architecture. I think
2 you brought it up, Commissioner Schlater. Are
3 we looking at them to investigate another
4 entrance to the parking garage from the alley?

5 Down further?

6 VICE CHAIR SCHLATER: I think
7 ultimately I support the flexibility to find
8 the solution that works best of loading either
9 option one or option two or some variant of
10 it. I think it's a suggestion that they may
11 want to look at it. If they come back and
12 that seems to be preferable, do they come back
13 with that for a final action.

14 COMMISSIONER TURNBULL: Okay. I
15 think option one and option two definitely are
16 an improvement of the original that we had.

17 CHAIRMAN HOOD: Let me ask this
18 question. Are we satisfied with the scale
19 back? I looked at my notes and I see where we
20 were really concerned about the protection of
21 the Brants' house. Are we satisfied with the
22 scaling back of the project that those

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1 protection measures are in place? I mean from
2 a design standpoint, architectural standpoint.

3 I'm kind of leading to you, Mr. Turnbull.

4 COMMISSIONER TURNBULL: Well, I
5 guess you get to the place how many feet can
6 the applicant give up on this project to make
7 it that safe. I mean, I think the five feet
8 that they've added is something that they have
9 tried to accommodate.

10 I'm sure the Brants would like to
11 be 100 feet. The Brants have a very real
12 concern. They are the only house right next
13 to the project. They are adjacent. They are
14 going to feel the brunt of all the traffic,
15 all the vibrations and everything else.

16 At some point the applicant has got
17 to deal with the construction remitigation
18 plan that's going to address the concerns of
19 the neighbors and how they are going to build
20 this thing without causing damage to any of
21 the nearby properties. That's out there
22 still.

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1 CHAIRMAN HOOD: I am inclined since
2 we are already asking them, and I know it's
3 not favorable, but I think this is a our job
4 to do this. At least the way I feel I am
5 inclined to ask the applicant to revisit that
6 and see what else we can do. I know they have
7 done a lot to scale back the project. I
8 understand all that.

9 Since we're already going to be
10 looking at the amenities factors, I'm just
11 going to ask the applicant -- it's not a show
12 stopper for me tonight. It's not one for me
13 tonight. It probably won't be one for me
14 previously but I want us to look at that.

15 I don't know. The jury is still
16 out for me about looking at the Brants' house.

17 I'm looking here at my notes. There was a
18 lot of concern. I specifically asked the
19 architect to treat that as though it was their
20 own home.

21 I specifically remember asking
22 that. I'm going to ask that unless my

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1 colleagues object and nobody else feels like I
2 do. I would like for them to look at that a
3 little more and see if maybe we could come up
4 with a little more of a resolution.

5 Now, are we asking the applicant to
6 do something with the amenities package or
7 we're just going to deal with that with
8 Commissioner May? We're dealing with that
9 with Commissioner May. Okay. I'm just going
10 to ask that. I'm requesting that. I'm just
11 going to request that and leave it at that.
12 Okay. Anything else?

13 Commissioner Turnbull.

14 COMMISSIONER TURNBULL: I think
15 just going down a list of things to look at I
16 know in A12 -- I think this was Commissioner's
17 May issue was to look at the roof penthouses.
18 We had two penthouses that were actually --
19 no, we have three which are all of varying
20 heights.

21 Commissioner May was concerned
22 about their overall look. The architect at

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1 the time talked about banding, trying to add
2 an additional architectural feature to the
3 facade of them to try to tie the heights
4 together and yet allow them to be at different
5 heights. In their drawing A12 in this Exhibit
6 No. 45 it shows that banding.

7 I don't know if Commissioner May
8 commented on anything in his notes to us but I
9 have no objection to this. What the hell is
10 one? Brick with masonry accents. I'm not
11 sure what the picture frame type ornament and
12 ornamental work is on there but I have no
13 wishes. I can live with it. Again, I don't
14 know what his comments would be but I have no
15 objections to it.

16 CHAIRMAN HOOD: Then the last thing
17 is the trellis. Somebody obviously brought up
18 the trellis.

19 COMMISSIONER TURNBULL: That guy
20 Turnbull.

21 CHAIRMAN HOOD: I thought it was
22 Mr. Parson but he wasn't here so maybe it was

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1 you, Mr. Turnbull.

2 COMMISSIONER TURNBULL: I'm okay
3 with that.

4 CHAIRMAN HOOD: Anything else?
5 Okay. So we will govern ourselves accordingly
6 and grapple with the amenities issue with
7 inclusion of Commissioner May. I'm asking
8 that we look again at the Brants' house.
9 Let's see if we can push a little more. All
10 I'm doing is requesting.

11 Anything else? Am I leaving
12 anything out? All right. With that I would
13 approve Zoning Commission Case No. 10-03 with
14 the discussion as discussed, deliberated upon
15 with some particular things being looked at,
16 the Brants' house and see if we can push on it
17 a little more to help preserve and protect the
18 safety of that home.

19 And also further deliberations
20 before final will be conducted with
21 Commissioner May at the time before final and
22 ask for a second. If I don't get a second, we

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1 won't have to worry about it.

2 COMMISSIONER TURNBULL: Second.

3 CHAIRMAN HOOD: It's been moved and
4 properly seconded. Any further discussion?
5 All those in favor aye.

6 ALL: Aye.

7 CHAIRMAN HOOD: Not hearing any
8 opposition, Ms. Schellin, would you record the
9 vote.

10 MS. SCHELLIN: Yes. We do have an
11 absentee ballot from Commissioner May and he
12 did state that he is open to receiving further
13 information before final action. We do have a
14 procedural order that the Commission has
15 issued so we can pass that out this evening
16 for the applicant. If they want to come up,
17 I'll give them a copy before they leave.

18 The staff would record the vote
19 four to zero to one to approve proposed action
20 in Zoning Commission Case 10-03, Commissioner
21 Hood moving, Commissioner Turnbull seconding,
22 Commissioner Schlater in support, Commissioner

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1 May in support by absentee ballot,
2 Commissioner Selfridge not voting having not
3 participated.

4 Chairman Hood, could we go ahead
5 and set a date for those additional filings if
6 the applicant chooses to make a submission by
7 October 19th and allow the party, which is
8 only the ANC, to file a response by October
9 26th?

10 CHAIRMAN HOOD: Ms. Schellin, let
11 me ask you, do we know about when we'll
12 probably be taking this up for final?

13 MS. SCHELLIN: Not until November.

14 CHAIRMAN HOOD: Our first meeting
15 in November?

16 MS. SCHELLIN: The eight.

17 CHAIRMAN HOOD: What we really want
18 to make sure is that Commissioner May is here
19 so we can proceed with what the Vice Chairman
20 requested.

21 MS. SCHELLIN: He will be.

22 CHAIRMAN HOOD: Okay. All right.

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1 Okay. Anything else, Ms. Schellin, on this
2 case?

3 MS. SCHELLIN: That's it.

4 CHAIRMAN HOOD: Okay. Under
5 Hearing Action.

6 Thank you, Ms. Schellin.

7 Under Hearing Action our last case.

8 I think it's our last discussion for this
9 evening. Hearing Action, Zoning Commission
10 Case No. 10-22 (Office of Planning - Map &
11 Text Amendment to 350.4 to Allow the Expansion
12 of an Ice Rink & Construction of a Youth
13 Baseball Academy in Ft. Dupont Park).

14 Ms. Jackson.

15 MS. JACKSON: Good evening, Chair,
16 and members of the Commission. For the record
17 my name is Arlova Jackson with the Office of
18 Planning. The map and text amendments before
19 you are being requested by the Office of
20 Planning to allow the expansion of an ice
21 arena and construction of a youth baseball
22 academy in Ft. Dupont Park.

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1 The subject property consist of a
2 15 acre unzoned parcel of land along the
3 northern border of Ft. Dupont Park in
4 Southeast Washington. The site which was
5 recently approved for jurisdictional transfer
6 from the National Park Service to the District
7 of Columbia is roughly bounded by Ely Place on
8 the north, Minnesota Avenue on the west, and
9 Ridge Road on the east.

10 The adjacent area to the south of
11 the site is occupied by National Park Service
12 maintenance facilities and park land. The
13 site is currently used for recreational
14 purposes and is improved with the Ft. Dupont
15 ice arena, baseball and multi-purpose fields,
16 basketball and tennis courts, and an open
17 parking lot.

18 The proposed use of the site would
19 continue to be for public recreation including
20 an expansion of the ice arena and construction
21 of a new youth baseball academy. The proposed
22 academy, which would serve youth aged seven to

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1 18, would operate year round and offer after-
2 school programs and academic tutoring in
3 addition to organized team sports.

4 The proposed map amendment would
5 rezone the site to be wholly within the R-5-A
6 zone. The proposed text amendment to the R-5
7 zone would expand allowed nonresidential uses
8 to include additional recreational uses
9 including ice rinks and athletic facilities as
10 a matter of right in order to accommodate the
11 anticipated youth baseball academy and
12 expanded ice arena.

13 These recreational facilities would
14 be limited to locations that are operated on
15 District or federal lands approved for
16 jurisdictional transfer.

17 Finally the proposed text includes
18 operational limitations for things like
19 signage, lighting, and scoreboards so as not
20 to negatively impact surrounding parkland or
21 residential uses. Immediately adjacent
22 properties to the north, west, and east is

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1 zoned R-5-A.

2 The comprehensive plan designates
3 this area for parks, recreation, and open
4 space. OP finds the proposed map and text
5 changes are not inconsistent with the
6 comprehensive plan and support policy
7 objectives found in the parks, recreation,
8 open space as well as the far northeast and
9 southeast elements which encourage the
10 provision of youth recreation services on
11 National Park Service land and expand outdoor
12 recreational activities in this area.

13 Thank you and I'll take any
14 questions you have at this time.

15 CHAIRMAN HOOD: Thank you, Ms.
16 Jackson.

17 Commissioners, do you have any
18 questions? Vice Chairman.

19 VICE CHAIR SCHLATER: I have a
20 couple questions. First one is just
21 informational. It has to do with Exhibit 1 on
22 the OP report. It's got what looks like

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1 overlaid on Ft. Dupont Park a subdivision
2 plan. Where did that come from? I'm just
3 curious as to what we're looking at there.

4 MS. JACKSON: That's the 15 acre
5 parcel proposed for transfer and that's my
6 estimation of the boundary. I used the NCPC
7 report on the transfer as a guide and I just
8 drew it in.

9 VICE CHAIR SCHLATER: So the
10 project site is overlaid on some light brown
11 squares on that map that look like a townhouse
12 plan or something like that.

13 MS. JACKSON: Those are the lot
14 lines from our GIS for tax and record lots.

15 VICE CHAIR SCHLATER: It looks like
16 there was a planned subdivision on that site.

17 MS. JACKSON: There had been a
18 planned subdivision there. The Park Service
19 bought this property out of private ownership
20 to recapture the fort site.

21 VICE CHAIR SCHLATER: Very
22 interesting. Is there a plan for the baseball

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1 academy site? Are there plans to look at?

2 MS. JACKSON: Not yet.

3 VICE CHAIR SCHLATER: Does the text
4 that you proposed, which basically makes a
5 baseball academy matter of right within this
6 zone, does it allow them to build -- what is
7 the allowable height?

8 MS. JACKSON: For R-5-A 40 feet for
9 three stories. I think the proposed as is
10 described in the transfer, the proposal,
11 although we don't have plans, is for a two-
12 story building for the academy.

13 VICE CHAIR SCHLATER: Is it
14 possible to get some more information on that?

15 One of the things is we get a little
16 concerned when we just remap basically a site
17 and we don't know what's going to go on there.

18 All these scary thoughts start popping in
19 your head about what could be built there and
20 how ugly it could be. It sounds like an
21 excellent project so I don't want to say that
22 -- you're just worried about all the different

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1 possibilities.

2 MS. STEINGASSER: We're comfortable
3 with it since the National Park Service felt
4 comfortable with it to transfer it over.
5 There was a great deal of conversation between
6 them and NCPC and the transfer. There are no
7 drawings. There's no sketches. We don't have
8 anything. It would be months before it would
9 get back to you.

10 COMMISSIONER TURNBULL: Is this the
11 only piece of property looking to be
12 transferred?

13 MS. JACKSON: Yes.

14 COMMISSIONER TURNBULL: It's an
15 unusual -- what decided the shape of this?
16 I'm looking at the area in Exhibit No. 2 and I
17 can see some tree lines.

18 MS. JACKSON: The existing arena is
19 the area all the way to the east.

20 COMMISSIONER TURNBULL: Right.

21 MS. JACKSON: And then it
22 encompasses existing playing fields and tennis

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1 courts.

2 COMMISSIONER TURNBULL: Yeah.

3 MS. JACKSON: The tennis and the
4 basketball courts will be maintained. The new
5 structure would be in the location of part of
6 the playing fields. I know the area to the
7 south where it jogs are NPS maintenance
8 facilities so those are carved out. On the
9 west I think it borders the playing fields for
10 the school at the corner.

11 COMMISSIONER TURNBULL: Is this
12 site going to be accessed by 37th Street S.E.?

13 MS. JACKSON: Ely Place.

14 COMMISSIONER TURNBULL: Ely Place.

15 MS. JACKSON: That's north.

16 COMMISSIONER TURNBULL: Just the
17 one entrance onto the site?

18 MS. JACKSON: That's the only
19 entrance now. I'm assuming but it's hard to
20 say without plans. It's kind of tricky over
21 there. That's the easiest way to get to it
22 currently.

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1 COMMISSIONER TURNBULL: Okay.
2 Thank you.

3 CHAIRMAN HOOD: I'm just curious.
4 What took us so long? Was it waiting on the
5 transfer of the negotiations with the National
6 Park Service? I've been hearing about this
7 for a long time.

8 MS. JACKSON: That's correct. The
9 negotiations between the Park Service and the
10 city were extremely long.

11 VICE CHAIR SCHLATER: Maybe we
12 should ask Commissioner May that question.

13 CHAIRMAN HOOD: That actually was
14 my intention but I wanted to wait until he got
15 here. Good. I'm glad to see this. Any other
16 questions?

17 COMMISSIONER SELFRIDGE: I would
18 like to add, Mr. Chairman, it's a very
19 exciting project so I think everybody is
20 looking forward to seeing this start to move
21 forward.

22 CHAIRMAN HOOD: Commissioner

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1 Selfridge, do you coach baseball?

2 COMMISSIONER SELFRIDGE: I used to
3 coach baseball actually.

4 CHAIRMAN HOOD: Do you think you
5 and I can go out there and be a coach?

6 COMMISSIONER SELFRIDGE: Well, I've
7 hung up my cleats at this point but I think
8 you're still ready to go.

9 CHAIRMAN HOOD: I was just joking.

10 Okay. Any other questions? Okay.

11 Let's set down Zoning Commission Case No. 10-
12 22, I believe. Is that right, Ms. Schellin?
13 10-22 and I ask for a second.

14 COMMISSIONER SELFRIDGE: Second.

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

18 ALL: Aye.

19 CHAIRMAN HOOD: Not hearing any
20 opposition, Ms. Schellin, would you please
21 record the vote.

22 MS. SCHELLIN: Staff records the

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1 vote five to zero to zero to set down Zoning
2 Commission Case No. 10-22 as a rulemaking
3 case. Commissioner Hood moving, Commissioner
4 Selfridge seconding, Commissioners Schlater
5 and Turnbull in support, Commission May in
6 support by absentee ballot.

7 CHAIRMAN HOOD: Ms. Schellin, do we
8 have anything else before us?

9 MS. SCHELLIN: Not unless the
10 Office of Planning has a status report.

11 CHAIRMAN HOOD: Does the Office of
12 Planning have a status report?

13 MS. STEINGASSER: No, sir.

14 CHAIRMAN HOOD: Okay. Again, I
15 want to thank the Office of Zoning staff,
16 Office of Attorney General, and the Office of
17 Planning. You guys do a great job in helping
18 us make sure we have all the information we
19 need. I wanted to make sure I put that on the
20 record. This meeting is adjourned.

21 (Whereupon, at 7:49 p.m. the
22 meeting was adjourned.)

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