

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

SEPTEMBER 26, 2011

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairman
KONRAD W. SCHLATER, Vice Chairman
GREG M. SELFRIDGE., Commissioner
MICHAEL G. TURNBULL, FAIA,
Commissioner (OAC)
PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director,
Development Review & Historic
Preservation
JOEL LAWSON
STEPHEN MORDFIN
KAREN THOMAS
STEVEN COCHRAN
PAUL GOLDSTEIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTING, ESQ.
SHERRY GLAZER, ESQ.

The transcript constitutes the
minutes from the Regular meeting held on
September 26, 2011.

NEAL R. GROSS

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

TABLE OF CONTENTS

	<u>Page No.</u>
Preliminary Matters	6
Consent Calendar	
Z.C. Case No. 05-37B (Station Townhouses, LLC - Minor Modification to PUD @ Square 752)	6
Z.C. No. 06-10A (The Morris & Gwendolyn Cafritz Foundation - Minor Modification to PUD @ Squares 3765-3769)	10
Final Action	
Z.C. Case No. 03-12L/03-13L (Capper Carrollsburg Venture, LLC & DCHA - Two-Year PUD Time Extension @ Squares 769 & 882)	12
Z.C. Case No. 05-37B (Station Townhouses, LLCC - Minor Modification to PUD @ Square 752)	21
Hearing Action	
Z.C. Case No. 11-18 (Dix Street Gateway Redevelopment Partners, LLC - Map Amendment @ Square 4376)	45
Z.C. Case No. 11-20 (Office of Zoning - Text Amendment to Section 106)	49
Z.C. Case No. 11-11 (1711 Florida Avenue Property, LLC - Consolidated PUD & Related Map Amendment @ Square 2562)	52

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

Proposed Action

Z.C. Case No. 05-37B (Station Townhouses, LLCC - Minor Modification to PUD @ Square 752) 28

Z.C. No. 11-08 (Il Palazzo - Consolidated PUD & Related Map Amendment @ Square 2578) 54

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

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

6:31 p.m.

CHAIRMAN HOOD: This hearing will please come to order.

Good evening, ladies and gentlemen. This is the September 26, 2011 public meeting of the Zoning Commission.

My name is Anthony Hood. Joining me are Vice Chairman Schlater, Commissioners May, Selfridge and Turnbull. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin, Ms. Donna Hanousek, oh, and Ms. Esther Bushman. Also, the Office of Attorney General, Ms. Glazer and Mr. Ritting. Office of Planning, Ms. Steingasser, Mr. Lawson, Mr. Goldstein, thank you, and Mr. Cochran.

Copies of today's meeting agenda are available to you and are located in the bin near the door.

We do not take any public testimony at our meetings, unless the

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

8 Does the staff have any
9 preliminary matters?

10 MS. SCHELLIN: No, sir.

11 CHAIRMAN HOOD: Okay. If not, let
12 us proceed with the agenda.

13 Colleagues, I may have to move the
14 proposed actions to last. Let's see how we
15 move. Hopefully, that's not a problem.

16 Under Consent Calendar, Zoning
17 Commission Case No. 05-37B (Station
18 Townhouses, LLC -- Minor Modification to PUD @
19 Square 752).

20 Before I go to Ms. Schellin, does
21 anyone have any issues with this being on the
22 Consent Calendar?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER MAY: I'm sorry.
2 Does that mean that we are going to discuss
3 now the question of whether it, actually, is
4 consent calendar or whether it's --

5 CHAIRMAN HOOD: Exactly.

6 COMMISSIONER MAY: -- a hearing
7 set down.

8 Well, I would, ordinarily, see a
9 change in the unit mix like this as a
10 substantial kind of demographic change. It
11 doesn't look like there's a lot of physical
12 change, but with this sort of change in the
13 make-up of the units I'm not really keen on
14 the idea of simply doing it as a consent
15 calendar item. But, I'm certainly willing to
16 be persuaded if someone feels strongly
17 otherwise.

18 CHAIRMAN HOOD: Let me see if I
19 can ask this correctly.

20 Does anybody feel like persuading
21 Commissioner May?

22 I don't, and all it takes is one

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 commissioner. We will withdraw that and take
2 that off as a Consent Calendar item.

3 COMMISSIONER MAY: I thought we
4 were discussing it. I didn't -- I did not say
5 that I was opposed. I just want to hear what
6 other people would say.

7 CHAIRMAN HOOD: But, I asked the
8 question, did anybody feel like convincing
9 you, and I didn't hear anything. So --

10 COMMISSIONER MAY: Oh, I didn't
11 hear anybody answer that.

12 CHAIRMAN HOOD: Oh, okay.

13 COMMISSIONER MAY: All I just
14 heard was the audience.

15 CHAIRMAN HOOD: I didn't give
16 anyone a chance. Let me give everybody a
17 chance.

18 Would anyone like to expound on
19 that?

20 VICE CHAIRMAN SCHLATER:
21 Commissioner May, the only concern I have
22 about the change in the unit mix is another

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 change in how they interact with the reduction
2 in the number of parking spaces. So, I think
3 the parking ratio on the project goes from
4 something close, I think it's .95 down to
5 below .7.

6 So, there is a traffic study in
7 there that speaks to this from Wells and
8 Associates. The only question is whether it
9 bears a hearing to go through the findings in
10 that study and make sure we are comfortable
11 with where they end up.

12 COMMISSIONER MAY: So, it sounds
13 like you are interested in having a hearing,
14 too.

15 VICE CHAIRMAN SCHLATER: Yes, I'd
16 be okay with a hearing.

17 CHAIRMAN HOOD: Okay. Is there
18 anyone else?

19 Commissioner Turnbull?

20 COMMISSIONER TURNBULL: Well,
21 thank you.

22 OP leaves that open for a hearing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 They have some questions, I assume.

2 CHAIRMAN HOOD: Okay. And, I
3 would agree with the comments I've heard. I
4 was just trying, Commissioner May, I didn't
5 want to leave you out there by yourself.
6 Since you were first, and it only takes one
7 commissioner, it would come off the Consent
8 Calendar, and we will do that.

9 At the appropriate time, we will
10 move this to Hearing Action. It's already so
11 noted in our agenda.

12 Okay, next, let's move right on.
13 Zoning Commission Case No. 06-10A (The Morris
14 & Gwendolyn Cafritz Foundation -- Minor
15 Modification to PUD @ Square 3765-3769).

16 Does anyone have any problems with
17 this coming off the Consent Calendar?

18 Okay. Not hearing anything, Ms.
19 Schellin?

20 MS. SCHELLIN: Yes, sir.

21 After the applicant submitted
22 their application, they had some discussion

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with OP, and then they filed a letter asking
2 that the Commission not take action tonight,
3 but defer this to allow them to work a little
4 more with OP.

5 CHAIRMAN HOOD: Okay. Thank you,
6 Ms. Schellin.

7 Do we know about how much time
8 they need or would like?

9 MS. SCHELLIN: One month.

10 CHAIRMAN HOOD: Would it be
11 inappropriate for us to maybe give them two
12 months, and let them come back, give them the
13 flexibility to have two months. And then,
14 whenever they are ready to come back, they'll
15 just come back.

16 MS. SCHELLIN: Okay. So, we'll
17 defer then to the November 28th meeting? Does
18 that work for the Commission? That would be
19 two months.

20 CHAIRMAN HOOD: Commissioners, any
21 of you have objections?

22 Let me see, Ms. Steingasser, does

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that pose a problem?

2 MS. STEINGASSER: I believe the
3 applicant would like the flexibility to come
4 back in October, if they can get their -- yes,
5 so --

6 CHAIRMAN HOOD: I was just giving
7 them an extension, but if they want to come
8 back sooner that will be fine.

9 MS. STEINGASSER: So, it would be
10 no later than.

11 CHAIRMAN HOOD: No later than 60
12 days. The staff will work all that out. Okay.
13 So, we don't need to do anymore action on
14 that, Ms. Schellin?

15 MS. SCHELLIN: Correct. We'll
16 just say that we should have something in time
17 for the November meeting, but they can file
18 before then -- the second November meeting.

19 CHAIRMAN HOOD: Okay. Let's move
20 into Final Action. Zoning Commission Case No.
21 03-12L/03-13L (Capper Carrollsburg Venture,
22 LLC & DCHA -- Two-Year PUD Time Extension @

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Squares 769 & 882).

2 Ms. Schellin.

3 MS. SCHELLIN: Yes, sir.

4 If staff will -- Commission will
5 recall, this was on the last meeting agenda,
6 and the ANC had asked the Commission to defer
7 action to allow them time to take this up at
8 their meeting, which I believe is the same
9 night as our meeting.

10 And, since then we have at Exhibit
11 6 a letter in support from ANC-6B and in
12 Exhibit 7 a letter in support from ANC-6D.

13 CHAIRMAN HOOD: Okay. Thank you,
14 Ms. Schellin.

15 Commissioners, I think we've read
16 a lot of this and we left it open. There's
17 some good comments from ANC, and as Ms.
18 Schellin has already mentioned, two ANCs have
19 already commented. So, I would be in favor of
20 moving forward with this, but let me open it
21 up for any discussion.

22 Okay. Well, I will make the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 motion. I move that we approve Zoning
2 Commission Case No. 03-12L/03-13L, and ask for
3 a second.

4 COMMISSIONER TURNBULL: Second.

5 CHAIRMAN HOOD: Okay. It's been
6 moved and properly seconded. Any further
7 discussion? Are you ready for the question?

8 All those in favor, aye?

9 Not hearing any opposition, Ms.
10 Schellin, would you please record the vote?

11 MS. SCHELLIN: Yes. Staff records
12 the vote 5-0-0 to approve final action in
13 Zoning Commission Case 03-12L/03-13L,
14 Commissioner Hood moving, Commissioner
15 Turnbull seconding, Commissioners Selfridge,
16 may and Schlater in support.

17 CHAIRMAN HOOD: Okay. Thank you.

18 Next under B is Zoning Commission
19 Case 05-28H. This is Lano Parcel 12, LLC, et
20 al -- two-year PUD time extension @ Squares
21 5041, 5055, & 5056.

22 Ms. Schellin.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Yes, sir.

2 At Exhibit 4, we have a letter
3 from Parkside Townhomes Condominiums. They
4 were a party in opposition to the original
5 case. They've provided a letter opposing this
6 extension. At Exhibit 5 we have an OP report
7 that approves the extension.

8 CHAIRMAN HOOD: Okay.

9 Commissioners, as already stated, we have a
10 letter in opposition by the Parkside Townhomes
11 Condominiums. Were they a party in this case?

12 Okay. They are represented by Kass, Mitek,
13 and Kass, and that's Exhibit 4, as already
14 stated.

15 We do have a report from the
16 Office of Planning, which is Exhibit No. 5.
17 Again, that asks us for a two-year time
18 extension.

19 Okay. I guess we have some
20 uncertainty. Let me open it up for -- this is
21 an extension of a first stage PUD, as opposed
22 to a second stage. I think we have strict

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 guidelines, and I don't know if this is
2 precedent setting. I may have to ask Mr.
3 Ritting to help me with this, but we have
4 specific guidelines to say that we have
5 specific things that are required under the
6 second stage, but I don't think those -- we
7 don't have that in the first stage.

8 MR. RITTING: Yes, that's correct.

9 The applicant cited a rule, it's
10 2407.10, that states, "The first stage
11 approval shall be valid for a period of one
12 year, unless a longer period is specified by
13 the Commission, or unless the Commission
14 extends that period." And, they suggest that
15 that's the only time extension rule that
16 applies.

17 However, the Commission in the
18 past has extended first stage PUDs, using the
19 standard second stage PUD rules, so there is
20 some precedent for using those rules.

21 There is sort of an open question
22 as well, which is, if the Commission were to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 adopt the standard suggested by the applicant,
2 what would they use to decide whether to
3 extend that time period? It sort of begs that
4 question.

5 And, that's about all I can say
6 about it.

7 CHAIRMAN HOOD: Commissioners, I
8 would open it up, but I will tell you, if
9 we've already started using the second stage I
10 would like for us to be consistent, even
11 though we might have deviated from that. But,
12 I'm sure at the time that we deviated from
13 looking at the criteria for the second stage,
14 it probably was a specific reason why, and I'm
15 not really sure.

16 But, we do have some precedent
17 that shows that we used the second stage
18 extension criteria, and I would be in favor of
19 moving that way, unless someone maybe wants to
20 convince me.

21 Commissioner May?

22 COMMISSIONER MAY: No, I don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 think I'm going to try to convince you. I
2 just think I want to stop for a second and
3 talk about why a stage extension, or a first
4 stage approval, is stated in the regulations
5 to be for a period of one year, unless a
6 longer period is specified, or unless we
7 extend it.

8 I mean, to me, that whole
9 provision communicates that a first stage
10 should be a very fleeting stage, and that a
11 project is expected to move into the second
12 stage very quickly. And, that, clearly, has
13 not happened here, and the project overall has
14 been, you know, divvied up into pieces and
15 keeps evolving as we reach second stage on a
16 number of the pieces, or as parcels get sold
17 off and so on.

18 And, it's, frankly, not a very
19 good example of how a large PUD should be
20 taking shape in the long run.

21 So, I don't mind at this point
22 applying the second stage standards for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 extending, but I'm, generally speaking, not
2 real happy with the way this is developing.
3 And I'm hoping that we very quickly get a
4 second stage application for the project,
5 because I think that's what the intention is
6 of the regulation the way it's written. At
7 least that's my impression.

8 CHAIRMAN HOOD: Okay.

9 COMMISSIONER TURNBULL: So,
10 Commissioner, you are a little hesitant to go
11 ahead with the extension.

12 COMMISSIONER MAY: No. I think
13 they've, given the current market
14 circumstances, I understand the circumstance
15 that we are dealing with. But, at the same
16 time, you know, PUDs are not intended to be a
17 way of sort of maximizing the value of a piece
18 of property, and then, you know, cutting it up
19 and selling it off piece by piece with that
20 value maximized.

21 I think the intention is that you
22 go through a first stage, and then follow it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 very quickly with second stage applications
2 that show how this is really going to take
3 form, and that it's a real moving process.

4 This has not been moving so well,
5 I think, in part due to the economy, but also
6 I think it's -- there are some other concerns
7 about the overall project that I think are
8 making it more difficult to realize.

9 So again, I'm willing to go this
10 far this time, but I just think that we really
11 need to see this whole thing starting oz take
12 shape. And, hopefully, there will be some
13 sufficient financial interest for them to get
14 the second stage moving quickly.

15 COMMISSIONER TURNBULL: Okay.
16 Thank you.

17 CHAIRMAN HOOD: Okay. Again, we
18 have a request for us to extend the first
19 stage PUD to October 3, 2013. Does anyone
20 have an objection?

21 So, I would move that we extend
22 with Commissioner May's comments. For the

NEAL R. GROSS

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

1 future, when somebody says what we did with
2 the first stage, it will be so noted. But, I
3 would move that we grant the first stage PUD
4 approval until October 3, 2013, first stage,
5 and ask for a second.

6 VICE CHAIRMAN SCHLATER: Second.

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

9 All those in favor, aye?

10 (Ayes.)

11 CHAIRMAN HOOD: Not hearing any
12 opposition, Ms. Schellin, would you please
13 record the vote?

14 MS. SCHELLIN: Yes.

15 Staff records the vote 5-0-0 to
16 approve final action in Zoning Commission Case
17 No. 05-28H, Commissioner Hood moving,
18 Commissioner Schlater seconding, Commissioners
19 Selfridge, May and Turnbull in support.

20 CHAIRMAN HOOD: Okay. Next under
21 Final Action we have taken this case off the
22 Consent Calendar, which is Zoning Commission

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Case No. 05-37C. This is Station Townhouses,
2 LLC -- two-year PUD time extension at Square
3 752.

4 Ms. Schellin.

5 MS. SCHELLIN: Yes, sir.

6 This has an OP report at Exhibit
7 4. There's a combined report for both 05-37B
8 and C. The second part of the report covers
9 the time extension. And then, at Exhibit 7
10 there is a letter from ANC-6C that supports
11 the time extension.

12 CHAIRMAN HOOD: Okay, let me see.

13 Okay, Commissioners. We have a
14 time extension request, but maybe I'm getting
15 myself confused, because we took it off the
16 Consent Calendar. So, do we have to --

17 MS. SCHELLIN: They are two
18 separate cases. The minor modification was on
19 the Consent Calendar, and the time extension
20 under Final Action, of course. And, I
21 believe, if I'm not mistaken, OAG has spoken
22 to the applicant, and the applicant had

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 requested if the Commission didn't approve the
2 Consent Calendar as a minor -- or that case as
3 a minor mod, that they would still go ahead
4 and approve or consider the time extension
5 tonight.

6 CHAIRMAN HOOD: Right. I
7 understand that part, but I'm just trying to
8 figure out what are we going to do. We have
9 to deal with that in the Hearing Action --

10 MS. SCHELLIN: Yes.

11 CHAIRMAN HOOD: -- or can we deal
12 with that now?

13 MS. SCHELLIN: The Consent
14 Calendar item goes under Hearing Action.

15 CHAIRMAN HOOD: Okay. Okay.

16 And, I think one can trigger the
17 other, right? Doesn't one, the two-year time
18 extension, have something to do with what
19 happens under the Hearing Action?

20 MR. RITTING: No, not necessarily.
21 I mean, you could grant the extension
22 tonight. It just would have to do with when

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the extension was granted, and for how long
2 possibly.

3 So, if you wanted to proceed
4 tonight, it would -- the two years would start
5 running from the time that we issued an order,
6 if you granted the extension.

7 CHAIRMAN HOOD: The next question,
8 can I deal with -- can we deal with all that
9 right now, the hearing action and the time
10 extension?

11 MR. RITTING: Well, I mean, you
12 could, but for the hearing action you'd want
13 to hear the report from the Office of Planning
14 and so forth.

15 CHAIRMAN HOOD: I don't know why
16 I'm trying to rush things.

17 MR. RITTING: I mean, if you
18 really wanted to put the two together, I mean,
19 the suggestion I would have is to defer the
20 time extension until after you've heard -- you
21 know, have the hearing action and the time
22 extension at the same time tonight.

NEAL R. GROSS

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

1 CHAIRMAN HOOD: Okay.

2 MR. RITTING: But, if you are
3 inclined to grant the extension tonight,
4 there's really no reason to do that.

5 CHAIRMAN HOOD: Okay. Let's go
6 ahead and deal with the time extension.

7 MS. SCHELLIN: And, Chairman Hood,
8 if I could, just add that the applicant, one
9 of the reasons why they are asking that you
10 deal with the time extension tonight is it
11 would help stabilize the project's financing.
12 So, it's a financing issue.

13 CHAIRMAN HOOD: Right. I did read
14 that, and I want to make sure that -- let's
15 deal with this, Commissioners.

16 Ms. Schellin, do you have anything
17 else?

18 MS. SCHELLIN: No, sir.

19 CHAIRMAN HOOD: Okay. Let's deal
20 with the time extension.

21 VICE CHAIRMAN SCHLATER: Mr.
22 Chairman.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Vice Chairman
2 Schlater.

3 VICE CHAIRMAN SCHLATER: Since the
4 expiration date of the order isn't until
5 April, 2012, I would suggest deferring this
6 until we actually take action on the
7 modification, because we, typically, don't
8 consider time extensions this far in advance
9 of the expiration of an order.

10 CHAIRMAN HOOD: And, I think, even
11 -- is that still your sentiments, even with
12 the -- and I agree, we don't, but, obviously,
13 this applicant has run into some financial
14 issues. And, at least what they have proposed
15 to us, or presented to us, is that this
16 extension will help them with their financing
17 if we are able to nail this now.

18 VICE CHAIRMAN SCHLATER: From a
19 legal standpoint, while we are considering
20 this extension, OAG can correct me if I'm
21 wrong, their, you know, their request just is
22 sort of held in abeyance. It certainly

NEAL R. GROSS

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

1 wouldn't lapse.

2 MR. RITTING: That's right. The
3 deadline is staid while the Commission is
4 considering the time extension request. I
5 mean, I think from the applicant's standpoint,
6 if I may, they are concerned about the
7 financing and the consequences of not having
8 a ruling tonight.

9 VICE CHAIRMAN SCHLATER: Right.
10 I'm concerned about the precedent of extending
11 these orders too far out in advance, because,
12 you know, the standard should be applied, you
13 know, when you are bumping up against the end
14 of the time period, in my opinion.

15 CHAIRMAN HOOD: Okay.
16 Commissioners, any other thoughts on that?

17 Commissioner Schlater is saying,
18 Vice Chairman Schlater is saying that, the
19 order does not expire until April of 2012, and
20 I guess why would we consider this as a two-
21 year time extension at this point when we can
22 do it at a later date.

NEAL R. GROSS

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

1 COMMISSIONER MAY: Yes, generally
2 speaking, I would tend to agree with the Vice
3 Chairman, but I think that in this
4 circumstance I'd rather defer making a
5 decision until after we consider the hearing
6 action.

7 In other words, let's hear the
8 report from OP, and think about whether we are
9 going to set this down for hearing, and then
10 make a decision about the extension as well.

11 CHAIRMAN HOOD: Okay. Thank you.
12 That's going to be the segue into Hearing
13 Action.

14 I'm going to move Proposed Action
15 to last, but I'm going to go straight to
16 Hearing Action, and we are going to go to
17 Zoning Commission Case No. 05-37B.

18 Mr. Goldstein? I do know your
19 name, Mr. Goldstein, I got brain locked.

20 MR. GOLDSTEIN: Good evening, Mr.
21 Chairman, Members of the Commission.

22 The Office of Planning has no

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 concerns with the proposed modifications to
2 the project. We don't think that it's going
3 to be inconsistent with the reasoning for the
4 original approval.

5 There was a change in the unit
6 mix, which didn't seem to substantially change
7 the basis for the ruling.

8 There was a traffic study. I
9 don't know if that needs anymore teasing out,
10 as far as how the Commission feels comfortable
11 or not with the reduction in the number of
12 parking spaces. I think Commissioner Schlater
13 mentioned that before.

14 But, generally, OP is supportive
15 of the modification to the project.

16 CHAIRMAN HOOD: Okay. We've heard
17 the Office of Planning's report. Thank you,
18 Mr. Goldstein.

19 Commissioners, let me open it up
20 for comments.

21 COMMISSIONER MAY: Well, that
22 wasn't nearly as enlightening as I thought it

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 was going to be, but I appreciate the fact
2 that you are supportive of setting this down
3 for a hearing and so on.

4 I mean, my only question is
5 whether the Office of Planning, since you did
6 weigh in on the need for the extension. You
7 have recommended that we extend it at this
8 time, right?

9 MR. GOLDSTEIN: Yes, we did. As
10 part of my analysis, I believe our review of
11 the extension was tied to the fact that
12 changes to the proposal were being made. I
13 don't know that our analysis was as focused on
14 just independently whether an extension is
15 warranted at this particular time.

16 In the framework of that analysis,
17 if the project changed we certainly saw reason
18 to extend it, given the information that was
19 provided.

20 COMMISSIONER MAY: So, do you have
21 an opinion on the necessity of doing it now
22 versus doing it when we have a hearing?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MR. GOLDSTEIN: I don't have an
2 opinion on that.

3 COMMISSIONER MAY: Thank you.

4 MS. STEINGASSER: My only concern
5 is by the time the hearing comes to conclusion
6 we are going to be pushing really close to the
7 end. And, if they are trying to send some
8 confidence to their financing, it's cutting it
9 really close.

10 If the Commission is uncomfortable
11 taking extension action tonight, perhaps, at
12 the hearing, if we wait to go through the
13 entire hearing, referral to NCPC, back for
14 final action, it could bump up uncomfortably
15 close to the actual expiration.

16 COMMISSIONER MAY: Ms. Schellin,
17 do you have an idea how quickly we hear this
18 case?

19 MS. SCHELLIN: Well, if someone
20 were to file a prehearing statement today,
21 they would get a hearing in January. So, that
22 means after you guys set it down --

NEAL R. GROSS

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

1 COMMISSIONER MAY: Because of
2 notice requirements?

3 MS. SCHELLIN: Because that's what
4 our calendar is full.

5 COMMISSIONER MAY: Really?

6 MS. SCHELLIN: Yes.

7 COMMISSIONER MAY: I need a new
8 copy of the calendar, because I've got a whole
9 bunch of --

10 MS. SCHELLIN: Unless you want to
11 meet the last week of December, which we
12 usually don't.

13 COMMISSIONER MAY: Oh, no, no, no,
14 I'm not suggesting that.

15 MS. SCHELLIN: Exactly. So, that's
16 why we are into January.

17 COMMISSIONER MAY: I saw a whole
18 bunch of Mondays and Thursdays that I had
19 free.

20 MS. SCHELLIN: No, you don't have
21 them free.

22 COMMISSIONER MAY: Oh.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Sorry.

2 CHAIRMAN HOOD: Commissioner May,
3 look in the upper right-hand corner, it's been
4 revised, and it has a date on it when it's
5 been revised.

6 COMMISSIONER MAY: Yes.

7 CHAIRMAN HOOD: When it's yellow
8 it do mean you have a hearing.

9 COMMISSIONER MAY: I believe you.
10 Oh, well.

11 MS. SCHELLIN: I take that back,
12 if they file today we do have the Thursday
13 before Christmas open. That one is still
14 open, I think.

15 COMMISSIONER MAY: Yes, well, I
16 don't think I'm going to be here then.

17 MS. SCHELLIN: Right, so you don't
18 care.

19 COMMISSIONER MAY: No.

20 MS. SCHELLIN: Commissioner
21 Schlater won't be here either.

22 CHAIRMAN HOOD: Well, I'll tell

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 you what, they need to be here.

2 MS. SCHELLIN: So, it will be in
3 January.

4 But, for this case again, it
5 depends on how quickly they file a prehearing
6 statement. They could get a January date
7 possibly.

8 COMMISSIONER MAY: You know, I
9 think this is a pretty unusual circumstance.
10 And, I think, you know, often we get these --
11 well, when we get a time extension it's not so
12 clearly tied to making this kind of a change
13 to the project.

14 It's, certainly, not unique, but I
15 think it's enough of an extenuating
16 circumstance that I'd be open to granting the
17 extension tonight, and then just dealing with
18 the change later on.

19 CHAIRMAN HOOD: Anyone else? Any
20 other comments?

21 I would agree. While I take what
22 the Vice Chairman said, and, typically, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 would weigh on that side, but I'm looking at
2 the circumstances, and from what I'm looking
3 at the merits of the record, predictability.
4 I think to get the financing or whatever
5 issues they are going through with financing,
6 I think the predictability needs to be there
7 also.

8 I don't want to sound like I'm on
9 the fence, but I am, but I'm going to err on
10 the side of caution and, hopefully, this can
11 get through and we can get this project moving
12 forward at some point in time.

13 And, I think the neighborhood,
14 actually, wants it, especially, with the
15 support that it had. I know it had some, it
16 might have had some opposition, but I know it
17 had a lot of support.

18 And, I read somewhere where I
19 think -- you know, I'm not going to recall
20 what I read, because it might not be this case
21 -- okay, the ANC did support it, and they said
22 they've been waiting a long time. Was it this

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 case? Okay. All right. They all run
2 together. Okay. I knew it was one of them
3 that said they had waited a long time.

4 While I take Vice Chairman
5 Schlater's comments, I take his point, I think
6 he brings up a great point, I hope this is not
7 precedent setting, at least for the next two
8 years that I'll be around -- I may be around
9 -- it's not precedent setting, because I don't
10 think that we should start entertaining stuff
11 a lot earlier. But, in this case I'm willing
12 to forego that and move forward with what's
13 requested and what's asked of us this evening.

14 Anyone else?

15 Vice Chairman Schlater?

16 VICE CHAIRMAN SCHLATER: Mr.
17 Chairman, I will say that if I were to vote on
18 the merits of it tonight, I would certainly
19 support the extension. I support the project,
20 like to see it move forward.

21 But, you can have anybody come in
22 front of us and say, we need to do it for the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 comfort of our financing. You know, we hear
2 that a lot. So, it's not like this is a
3 unique circumstance.

4 And, when we do modify the PUD,
5 which, presumably, you know, after a hearing
6 we will do, that will recent the period, and
7 we can do it at that point.

8 So, I'm fine if you move forward
9 tonight, but I still don't think it's a good
10 practice.

11 CHAIRMAN HOOD: And, I, actually,
12 don't agree with you -- don't disagree with
13 you.

14 Any other comments, Commissioners?

15 COMMISSIONER MAY: Yes, I would
16 just -- you know, I think one of the other
17 reasons why I am comfortable with this is the
18 ANC support. But, I would also note that the
19 ANC had significant concerns about the
20 appropriate maintenance of the property during
21 the two-year period.

22 And, I'll read from the report,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 there was concern on the 2nd Street side the
2 developer find a way to push the fence back to
3 the property line and return public space to
4 the public. And, the Commission voted to
5 support the two-year extension with the caveat
6 that the developer return the public space to
7 the public on the 2nd Street side.

8 CHAIRMAN HOOD: Was that the
9 updated letter?

10 COMMISSIONER MAY: Yes.

11 CHAIRMAN HOOD: Okay.

12 COMMISSIONER MAY: Oh, no, I'm
13 sorry.

14 CHAIRMAN HOOD: We changed some of
15 that.

16 COMMISSIONER MAY: No, that part
17 didn't change.

18 CHAIRMAN HOOD: Okay. I forgot,
19 there was some change in one of those letters.

20 We got one like on the 19th, the other one on
21 the 20th, or something of that nature.

22 Okay. What are we doing?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Two, you have the
2 time extension and the set down. It sounds
3 like you went through both.

4 CHAIRMAN HOOD: Can we do both at
5 the same time?

6 MR. RITTING: Sure, you can make a
7 consolidated motion to approve both.

8 CHAIRMAN HOOD: Okay. Question,
9 Commissioner Schlater?

10 VICE CHAIRMAN SCHLATER: The
11 question is, are you going to do anything
12 about the ANC's concerns?

13 CHAIRMAN HOOD: Well, let me ask
14 this. Is that -- can we do that at -- can we
15 do that at the end, because this right now is
16 extending it, that's something we can bring up
17 at the hearing.

18 VICE CHAIRMAN SCHLATER: Well, but
19 the hearing is not until January, and I think
20 that the -- I mean, I don't know what's really
21 involved in this, but I would think that if
22 this is a serious concern for the neighbors,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they want it addressed now, not in January.

2 CHAIRMAN HOOD: So, how --

3 MR. RITTING: I'd add to that as
4 well that the neighbors' concerns were
5 expressed in connection with the time
6 extension, and the hearing would be on the
7 modification and not the time extension.

8 CHAIRMAN HOOD: So, what do we do
9 to address anything on the time extension?

10 MR. RITTING: Well, it would be
11 highly unusual, but I mean you could attach
12 conditions to a time extension, whereby -- I'm
13 not even aware of any cases in which that's
14 happened before.

15 I'd also like to note that the one
16 change that was made to the ANC letter was to
17 the last sentence, and it went -- it went from
18 the Commissioners voted 5-1-1 to support the
19 two-year extension with the caveat that the
20 developer return public space to the public on
21 the 2nd Street side, to the Commissioners vote
22 5-1-1 to support the two-year time extension

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 with the caveat that the developer maintain
2 the property during the two years, and look
3 into ways to return public space to the public
4 on the 2nd Street side.

5 So, they softened their language
6 somewhat, implicitly saying that they are
7 acting -- relying on the good faith of the
8 developer to follow through on their promise.

9 COMMISSIONER MAY: I'd like to ask
10 the Office of Planning if they've had any
11 discussions with the developer about this
12 particular concern on the part of the ANC.

13 MR. GOLDSTEIN: I don't believe
14 I've had discussions about that.

15 COMMISSIONER MAY: Okay.

16 COMMISSIONER SELFRIDGE: Mr.
17 Chairman, can't we just push the extension
18 back to the next meeting, and get an update
19 from the applicant in the meantime, the
20 developer, in the meantime? It's just a
21 couple weeks away, it still addresses probably
22 the timeliness of the financing concerns, but

NEAL R. GROSS

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

1 it gives them a chance to update regarding the
2 condition of the property in the public space.

3 CHAIRMAN HOOD: When is our next
4 meeting? Does anyone have a problem with
5 waiting a week or so?

6 COMMISSIONER MAY: I think it's a
7 good idea.

8 MS. SCHELLIN: October 17th.

9 COMMISSIONER MAY: 17th. Do we
10 need to wait until our next meeting? Can't we
11 do it sooner? A special meeting, I love
12 coming out here 15 minutes early.

13 MS. SCHELLIN: We could do it next
14 Monday at 6:15.

15 COMMISSIONER MAY: This coming
16 Monday?

17 MS. SCHELLIN: Yes, October 3rd,
18 if everyone can be here at, say, 6:15.

19 CHAIRMAN HOOD: Can everybody here
20 at 6:15 on October 3rd? Let's do it then.
21 Can we have it done by then? Can you see if
22 the applicant can come back with something,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 make some commitments to the ANC, and make
2 sure that this is dealt with?

3 MS. SCHELLIN: Yes.

4 CHAIRMAN HOOD: Okay. Let's do it
5 October 3rd. I just don't -- a whole month
6 away, I mean, come on, we need to have some
7 predictability around here.

8 MS. SCHELLIN: So, it's October
9 3rd at 6:15, set for a public meeting.

10 CHAIRMAN HOOD: Can everybody make
11 it?

12 COMMISSIONER SELFRIDGE: I'll be
13 here, Mr. Chairman.

14 CHAIRMAN HOOD: Okay. So, we're
15 holding it off until Monday. Is that okay,
16 Mr. Ritting?

17 MR. RITTING: Sure. That still
18 leaves the question of the hearing action.

19 CHAIRMAN HOOD: I move that we set
20 down Zoning Commission Case No. 05-37B, and
21 ask for a second.

22 VICE CHAIRMAN SCHLATER: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: It's been moved
2 and properly seconded.

3 Any further discussion?

4 Ms. Schellin, could you make a
5 note to make sure everybody is present when we
6 do this hearing on 05-37B?

7 MS. SCHELLIN: I will.

8 CHAIRMAN HOOD: Any further
9 discussion?

10 All those in favor, aye?

11 (Ayes.)

12 CHAIRMAN HOOD: Not hearing any
13 opposition, Ms. Schellin, would you please
14 record the vote?

15 MS. SCHELLIN: Yes. The staff
16 records it at 5-0-0 to set down Zoning
17 Commission Case No. 05-37B as a contested
18 case, Commissioner Hood moving, Commissioner
19 Schlater seconding, Commissioners May,
20 Turnbull and Selfridge in support.

21 CHAIRMAN HOOD: Okay.
22 Commissioners, if you don't mind, I would like

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to move Proposed Action. I may have to leave
2 out. It depends on the time, before we get to
3 the proposed, and that may take a little
4 longer. I don't anticipate it taking a lot
5 longer.

6 Can we go up to Hearing Action,
7 Zoning Commission Case 11-18, Dix Street
8 Gateway Redevelopment Partners, LLC -- Map
9 Amendment @ Square 4376.

10 Ms. Thomas.

11 MS. THOMAS: Yes, good evening,
12 Mr. Chairman, Members of the Commission.

13 In this case before us, BHCD
14 awarded the applicant, Dix Street Development
15 Partners, the right to develop the vacant
16 parcel in Square 5268 in the northeast
17 boundary neighborhood.

18 This parcel is located mid block
19 on 62nd Street, between Clay and Dix Streets,
20 and it's comprised of eight lots, as shown in
21 the submitted plans.

22 The parcel is split zones, C2-8

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 and R-2.

2 A 39-unit rental apartment
3 building has been proposed, comprised,
4 primarily, of two- and three-bedroom units,
5 and 20 above-grade parking spaces.

6 The disposition agreement requires
7 an all-affordable residential apartment
8 building, targeted to 60 percent AMI.

9 To accommodate the development,
10 the applicant has requested a map amendment to
11 rezone the R-2 portion to R-5-E, since the
12 multi-family use is not permitted in the
13 single family R-2 District. The R-2 portion
14 was rezoned in and around 2007, from R-5-E,
15 but since then the ACD has revised their
16 programming for some of their vacant parcels.

17 The applicant has also requested
18 that the Commission retain its jurisdiction to
19 hear the special exception relief under
20 Section 353 for new residential development in
21 the R-5-E District, as well as variance relief
22 from the parking requirements to permit 20

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 spaces where 39 spaces would be required.

2 The proposed map amendment and
3 requested relief are not inconsistent with the
4 Comprehensive Plan, and we are asking the
5 Commission to set the application down as
6 such.

7 The Office of Planning will
8 continue to work with the applicant towards a
9 more detailed site plan prior to the public
10 hearing.

11 Thank you.

12 CHAIRMAN HOOD: Okay. Thank you,
13 Ms. Thomas.

14 Commissioners, let's open it up.
15 Any questions of the Office of Planning?

16 Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes, Mr.
18 Chairman. I'm in favor of setting it down. I
19 just -- my first look at this sort of reminds
20 me of -- it looks more of a suburban
21 development than something urban. It's got a
22 little bit of a character that -- it's big

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 looking at the buildings around it. I know
2 there are apartment buildings, but just has a
3 suburban quality to it.

4 But, I would be fine in setting it
5 down.

6 CHAIRMAN HOOD: All right. I know
7 the applicant has so noted that, and also the
8 Office of Planning.

9 Any further discussion?

10 Commissioner Selfridge?

11 COMMISSIONER SELFRIDGE: Yes, Mr.
12 Chairman, I'd like to move that we set down
13 Zoning Commission Case 11-18 for a map
14 amendment from R-2 to R-5-A, for the property
15 located at Square 5268, Lots 9 to 13, on 62nd
16 Street, between Clay and Dix Streets, N.E.

17 CHAIRMAN HOOD: Okay. Thank you,
18 and I'll second that.

19 MS. SCHELLIN: Does that motion
20 include the Commission retaining jurisdiction
21 to hear --

22 COMMISSIONER SELFRIDGE: We retain

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 jurisdiction to hear special exception relief
2 under Section 3533 for new development in the
3 R-5-A district, as well as variance relief
4 from the off-street parking requirements under
5 Section 2101.1.

6 CHAIRMAN HOOD: Okay. Thank you.
7 I'll second that. Thank you, Commissioner
8 Selfridge.

9 It's moved and properly seconded.
10 Any further discussion?

11 All those in favor?
12 (Ayes.)

13 CHAIRMAN HOOD: Not hearing any
14 opposition, Ms. Schellin, would you please
15 record the vote?

16 MS. SCHELLIN: Staff records the
17 vote 5-0-0 to set down Zoning Commission Case
18 No. 11-18 as a contested case, Commissioner
19 Selfridge moving, Commissioner Hood seconding,
20 Commissioners May, Schlater and Turnbull in
21 support.

22 CHAIRMAN HOOD: Okay. Next, we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 have Zoning Commission Case No. 11-20, Office
2 of Zoning text amendment to 106.

3 Mr. Lawson.

4 MR. LAWSON: Thank you, Chairman
5 Hood.

6 This is an initiative of the
7 Office of Zoning, in that it's a text
8 amendment.

9 Basically, to establish the zoning
10 map, feed all numbers into the zoning maps, as
11 being the official version of the maps, this
12 again is not inconsistent with the
13 Comprehensive Plan, and we think that it
14 facilitates efforts to make the zoning maps
15 and the text more accessible to the public.

16 Therefore, we support this
17 initiative of OZ. I know that OZ isn't here
18 to answer any questions you may have about the
19 actual amendment, but OP supports it being set
20 down for a public hearing at this time.

21 CHAIRMAN HOOD: Okay. Thank you,
22 Mr. Lawson.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioners, any questions? I
2 think that from looking at this, this is
3 pretty straightforward. We can -- anybody
4 have any questions?

5 Trying to move things along, we
6 can flesh it all out, I believe, at the
7 hearing.

8 Okay. I would move that we set
9 down Zoning Commission Case No. 11-20, and ask
10 for a second.

11 COMMISSIONER TURNBULL: Second.

12 CHAIRMAN HOOD: It's been moved
13 and properly seconded. Any further
14 discussion?

15 All those in favor, aye?

16 (Ayes.)

17 CHAIRMAN HOOD: Not hearing any
18 opposition, staff would you record the vote?

19 MS. SCHELLIN: Yes.

20 Staff records the vote 5-0-0 to
21 set down Zoning Commission Case No. 11-20 as a
22 rulemaking case, Commissioner Hood moving,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner Turnbull seconding, Commissioners
2 Selfridge, May and Schlater in support.

3 CHAIRMAN HOOD: Okay. Next we
4 have Zoning Commission Case No. 11-11-1711
5 Florida Avenue Property LLC, Consolidated PUD
6 and related map amendment @ Square 2562.

7 MS. SCHELLIN: Mr. Chairman,
8 they've asked for a deferment. This is one of
9 the cases that --

10 CHAIRMAN HOOD: Right, that's what
11 I was trying to figure out.

12 MS. SCHELLIN: OP did not provide
13 a report on this case, but the applicant did
14 -- if you'll recall, this was a case from, I
15 want to say, back in July, and the Commission
16 deferred action until tonight.

17 However, since then the applicant,
18 after -- I'm sorry, maybe OP did do a report
19 on this one, or last time they did, but they
20 didn't do an updated one, because of the fact
21 that the applicant did ask for a deferment.
22 There's some more things that they need --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 they need more time to work out some issues.

2 CHAIRMAN HOOD: Okay. Again, we
3 have Exhibit No. 11, which is asking for a
4 deferral on the hearing action.

5 Let me open it up for comments.
6 Anyone?

7 VICE CHAIRMAN SCHLATER: Mr.
8 Chairman, I would support extending this for
9 six months or so, to give them enough time. I
10 mean, whenever they come back, but within a
11 six-month period.

12 CHAIRMAN HOOD: So, you are saying
13 give them six months. If they come back in 30
14 days, then that would be fine.

15 VICE CHAIRMAN SCHLATER: That
16 would be great.

17 CHAIRMAN HOOD: Is that okay? Is
18 that all right?

19 Do we need to do a motion on that?

20 MS. SCHELLIN: No, I don't think
21 so, by consensus is fine.

22 CHAIRMAN HOOD: All right, by

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 consensus.

2 Thank you very much, Vice
3 Chairman, Schlater.

4 Is that it? Okay. Now, we can go
5 right into Proposed Action. I think that's
6 last of what we have, am I correct? Okay.

7 I'm going to ask the Vice Chairman
8 to start. I need to make quick phone call.

9 VICE CHAIRMAN SCHLATER: I think
10 we can move forward.

11 This is proposed action on Zoning
12 Commission Case No. 11-08, Il Palazzo,
13 consolidated plot and related map amendment,
14 at Square 2578.

15 I think we received a number of
16 items that we requested at the last meeting,
17 including a detailed roof plan, a LEED
18 checklist, a sun study, information on
19 parking, and updated property owner's list and
20 labels.

21 Does anybody have any comments on
22 the materials received?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 COMMISSIONER TURNBULL: No, I feel
2 satisfied that I got the material that I
3 wanted to look at. I feel comfortable.

4 COMMISSIONER MAY: Yes, they
5 submitted information. I'm still not happy
6 about a couple of issues having to do with the
7 case.

8 I mean, one is that I'm still
9 surprised that the residual parking permit
10 issue was not -- I'm surprised it wasn't
11 brought up by the community, except for the
12 fact that they probably didn't know that they
13 could make an issue of it. And, I think it's
14 a risk adding a project like this with this
15 kind of density in a neighborhood that
16 already has severe parking issues.

17 But, I don't know what to do with
18 it, the applicant is not willing to offer
19 that.

20 And, I still think there's an
21 issue with the proximity of the project to the
22 north boundary. And, they've done nothing to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 address that, in terms of -- I mean, I didn't
2 see anything in their submission that
3 addressed that concern at all.

4 COMMISSIONER TURNBULL: Other than
5 to show that, you know, they are willing to
6 take a risk for it being at risk. I mean, it
7 doesn't really answer -- it begs the question
8 that whatever happens to that site you are
9 going to have an owner who is going to be
10 respectful of it.

11 But, that's a guess, that's a
12 risk.

13 COMMISSIONER MAY: Yes, I don't
14 know. I'm just --

15 COMMISSIONER TURNBULL: I know.

16 COMMISSIONER MAY: I'm going to be
17 here in ten years, you guys won't. The
18 property to the north is going to be a PUD,
19 and all of the people in this building are
20 going to be up in arms about the prospect of
21 this thing being built so close to them.

22 That's just one thing I'm

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 imagining. I mean, it may not even come to
2 that, so it may just be a matter of right
3 case, and, you know, they build right up
4 against the lot.

5 I mean, probably not, but I don't
6 know, I wouldn't want to take a chance.

7 I also am not thrilled about the
8 fact that such a high percentage of the units
9 are the IZ units, right? Well, it's two out
10 of six that are going to be -- that are land
11 locked, if you will.

12 I don't know, I don't like it. If
13 the rest of the Commission is prepared to vote
14 in favor tonight, I think I would go along,
15 but I think it's a significant flaw in the
16 projects, but otherwise a very good project.

17 VICE CHAIRMAN SCHLATER: I think
18 -- I mean, we are granting relief on that
19 court to the northern edge of the property
20 line. And, when I looked at the case, it was
21 certainly one of the things that concerned me
22 the most. I don't know.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I guess I sympathize with an
2 unsuspecting condo owner. I don't think the
3 chances are great that there's going to be a
4 building built right up against, flush with
5 that property line, but if it were to happen I
6 think it would be partially our
7 responsibility.

8 I mean, it would be our
9 responsibility, because we are granting the
10 relief on the court. So, we just have to
11 grapple with that.

12 COMMISSIONER TURNBULL: We don't
13 have to approve it.

14 VICE CHAIRMAN SCHLATER: The
15 problem is, is given the historic resource
16 that we are dealing with, HPRB, from all the
17 filings that we have, doesn't want any of
18 those buildings touched. So, if you are going
19 to put a new residential building on this
20 site, it's going to -- and if it's going to be
21 a double-loaded corridor, it's going to bump
22 up against that boundary line.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So, I think what we are going to
2 end up hearing, if we had, you know -- if we
3 talk this issue out even more, is that your
4 project is not going to be financially viable
5 if you pull it off of that boundary line.

6 COMMISSIONER MAY: Well, I think
7 this points up one of the essential problems
8 that we run into from time to time, when a
9 project has gone through an elaborate design
10 process, getting through Historic
11 Preservation, and then they come here for
12 relief. We wind up with some compromises
13 having been made from a zoning perspective
14 that were dictated by Historic Preservation.

15 Personally, I don't believe that
16 this is the only solution that could have
17 satisfied both, but do I -- you know, do I
18 believe so strongly at this moment that I
19 would not approve the project, I don't think
20 so. I just don't like it, and I just -- I
21 mean, I've said it enough, I'm not going to
22 keep beating it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRMAN SCHLATER: I guess
2 I'm with you, Commissioner May, on that
3 particular issue. Otherwise, it's a very,
4 very good project, but I do have concerns
5 about that.

6 CHAIRMAN HOOD: And, I want to
7 thank you, Vice Chairman, for taking over
8 while I stepped out.

9 The concern is, I don't want you
10 to rehash all of it, but the concerns, are
11 they strong enough to the point that we want
12 oz maybe hold off? I know that there's some
13 historic issues that are involved.

14 I guess I don't -- because I hear
15 that there are some issues and some points, I
16 guess you were talking about how it's going to
17 affect the property next to it, I believe
18 that's what you said, I wasn't in the room.

19 COMMISSIONER MAY: It's going to
20 affect this project, and the people who live
21 in this project, because some of the -- you
22 know, if the building next door, if they were

NEAL R. GROSS

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

1 to build right up to their property line, and,
2 you know, they could do it, and probably get
3 good light near to their units without sort of
4 facing the same thing. They may have front
5 and back windows, or something like that, and
6 not face the same issue.

7 But, once they build that
8 building, it would cause a problem for some of
9 these units, in particular, some worse than
10 others. Some turn the corner and others,
11 their only source of light is that, what would
12 be that very narrow court.

13 CHAIRMAN HOOD: So, I guess -- I
14 guess where I was going, Commissioner May and
15 Vice Chairman Schlater, and I hadn't heard --
16 I wasn't sure where Mr. Turnbull or
17 Commissioner Selfridge are, but is that a show
18 stopper? And, if it is, what is the remedy,
19 or what would we propose to be a remedy?

20 Do we want to give them more time
21 to look at it, which I'm sure they probably
22 have already done in a number of ways.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioner May, I heard you
2 mention that you don't think that was the best
3 solution, or you think there are other ways
4 they can do it. And, you mentioned all the
5 other bodies, regulatory bodies they have to
6 go see.

7 So, I guess I'm trying to figure,
8 where are we, before we call for something.

9 COMMISSIONER MAY: Mr. Chairman,
10 I'm not suggesting that we need to send them
11 back to the drawing board. I'm just
12 expressing my dislike for this solution, or
13 for this aspect of this design solution.

14 And, you know, I think it's
15 unfortunate, and, you know, I wouldn't mind if
16 -- I would approve as a minor modification, if
17 they wound up having to push, you know, push
18 the building around a little bit.

19 CHAIRMAN HOOD: And, that goes to
20 what I'm trying to get at, is do we want to
21 allow them, put them on the docket for Monday,
22 or another day?

NEAL R. GROSS

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

1 COMMISSIONER MAY: No, no, I'm not
2 -- I'm not suggesting that we need to send
3 them back to the drawing board, unless that's
4 the consensus of the Commission. I mean, I'm
5 just -- I'm not going to put my foot down on
6 this.

7 I think Vice Chairman Schlater was
8 suggesting the same thing, that it's bad, but
9 it's not enough to say no right now. And, I
10 saw his head nod.

11 CHAIRMAN HOOD: You guys really
12 make it predictable, it's bad, but it's --

13 COMMISSIONER TURNBULL: Well, I
14 think it's a no-win. I mean, we are not going
15 to get something that we totally like. And, I
16 think what they are both concerned about is on
17 Drawing A78 and A79, the applicant did prevent
18 some -- did show some studies of a building
19 being built next to -- on the area of the PUD
20 that we are concerned about.

21 The only problem is, it assumes
22 you have a benign developer, somebody who is,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 obviously, working with the zone building, and
2 is providing a 20-foot plus space between
3 them.

4 I think that's the concern, that
5 everything is going to work out, and you are
6 going to have a -- the next owner is not going
7 to sacrifice his unit anymore, and he's going
8 to give up some space on his lot. I think
9 that's the concern.

10 There's really nothing you can
11 really -- I think as Commissioner May and the
12 Vice Chair stated, you know, we've gone
13 through HPRB, there's been a lot of work.
14 It's, from a design standpoint, there are a
15 lot of elements that make this building very
16 attractive.

17 There's just one piece of this
18 that we wish we could twitch our nose and
19 change it, but that's not going to happen.

20 CHAIRMAN HOOD: Okay. All right.

21 Well, with that, anything else?
22 Again, in the submission, Exhibit 30, a lot of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 things that were asked for from us, the sun
2 study and everything else has been provided,
3 and I've heard your comments. So noted.

4 It looks like we have some issues,
5 from what I'm hearing from the majority of us.

6 I personally think that, as was already
7 stated, the applicant has worked within the
8 compliance of this piece of property. So, I'm
9 in favor of moving forward as well, and I
10 would open it up for a motion, if somebody
11 would like to make it, if we are ready to do
12 so at this time.

13 So, obviously, if nobody wants to
14 make a motion, we have another problem.
15 Anybody like to make a motion?

16 COMMISSIONER TURNBULL: Yes, Mr.
17 Chair, I'll step up to the plate here.

18 I make a motion that we approve
19 Zoning Case No. 11-08, Il Palazzo Consolidated
20 PUD and related map amendment @ Square 2578,
21 and look for a second.

22 VICE CHAIRMAN SCHLATER: Mr.

NEAL R. GROSS

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

1 Chairman --

2 CHAIRMAN HOOD: We've got a
3 motion, let's see if we get a second first,
4 and then we'll open it up for discussion.

5 It's been moved, we need a second.

6 VICE CHAIRMAN SCHLATER: I'll
7 second it.

8 CHAIRMAN HOOD: It's been moved
9 and properly seconded. Any further
10 discussion?

11 Vice Chairman Schlater.

12 VICE CHAIRMAN SCHLATER: I would
13 say that I'm -- assuming we vote in favor of
14 this, on proposed action, I'd like to hear
15 back from the applicant on this issue one more
16 time, have them take another look at this and
17 see what possibly can be done. Because I am
18 concerned about, you know, assuming this can
19 be a condo building, the prospective owners
20 of the building, and the risk they are taking
21 on.

22 CHAIRMAN HOOD: Okay. And, I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 think I would concur with the Vice Chairman.
2 I was going to do it prior to us even going
3 this far, but I concur with the Vice Chairman.

4 So, it's been moved and properly
5 seconded. Any further discussion?

6 Are you ready for the question?

7 All those in favor, aye?

8 (Ayes.)

9 CHAIRMAN HOOD: Not hearing any
10 opposition, Ms. Schellin, would you record the
11 vote, and I think Mr. Selfridge did not
12 participate in this case.

13 MS. SCHELLIN: Thank you. Okay.

14 So, we record the vote 4-0-1, to
15 approve proposed action in Zoning Commission
16 Case No. 11-08, Commissioner Turnbull moving,
17 Commissioner Schlater seconding, Commissioners
18 Hood and May in support, Commissioner
19 Selfridge not voting, having not participated.

20 And, Chairman Hood, if we could go
21 ahead and set a date for the applicant to
22 respond to the request that Commissioner

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Schlater made. If we could have their filing
2 by October 24th, we will be taking this up for
3 final action at our November 14th meeting.

4 And also, staff has a procedural
5 order to issue.

6 CHAIRMAN HOOD: Okay. So, we have
7 the --

8 MS. SCHELLIN: Right. So, any of
9 the parties that are here we'll be glad to
10 give it to them.

11 CHAIRMAN HOOD: -- and the BAFO
12 order is going to be issued.

13 Okay. Anything else, Ms.
14 Schellin, for tonight's meeting?

15 MS. SCHELLIN: That's it.

16 CHAIRMAN HOOD: Okay. I want to
17 thank everyone for their participation in
18 this meeting tonight, and this meeting is
19 adjourned.

20 (Whereupon, the above-entitled
21 matter was concluded at 7:25 p.m.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701