

**GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA  
  
ZONING COMMISSION  
  
PUBLIC HEARING**

IN THE MATTER OF:

EIGHTH STREET OVERLAY  
DISTRICT

Case No. 98-11

Monday,  
March 29, 1999

Room 220  
441 4th Street, N.W.  
Washington, D.C. 20001

The hearing in the above-entitled matter was convened, pursuant to notice, at 7:30 p.m.

ZONING COMMISSION MEMBERS PRESENT:

JERRILY R. KRESS	Chairperson
ANGEL F. CLARENS	Commissioner
HERBERT M. FRANKLIN	Commissioner
ANTHONY HOOD	Commissioner
JOHN F. PARSONS	Commissioner

STAFF PRESENT:

Sheri Pruitt-Williams, Interim Dir., Ofc. of Zoning  
Vincent Erondou, Office of Zoning

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Virginia Avenue, and the SE/SW Freeway on the west by Arthur Capper 2 dwellings, a housing project on the east. The area was advertised to be rezoned from CM1 to C2A in case No. 96-12.

4 OP is presently recommending an overlay along with a map amendment from CM1 to C3A that would regulate the bulk, height, and commercial uses that would be appropriate for this location which is directly across M Street from the Navy Yard.

9 The specific provisions of the overlay are contained in the notice of public hearing for this case. Copies of that notice are available for the public. Notice of today's hearing was published in the D.C. Register on January 29, 1999, and in the Washington Times on January 27, 1999.

14 This hearing will be conducted in accordance with provisions of 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning.

17 The order of procedures will be as follows:

18 Preliminary matters, presentation of the Office of Planning, report of other agencies, reports of the Advisory Neighborhood Commissions, persons in support, and persons in opposition.

22 Those presenting testimony should be brief and nonrepetitive. If you have a prepared statement, you should give copies to staff and orally summarize the highlights. Please give us your statement before summarizing. Each

individual appearing before the Commission must complete two identification slips and submit them to the reporter at the time you make your statement. If these guidelines are followed, an adequate record can be developed in a reasonable length of time.

6 With that we will begin with preliminary matters.

8 Do you have anything, Ms. Pruitt-Williams?

9 MS. PRUITT-WILLIAMS: No, Madam Chair.

10 CHAIRPERSON KRESS: I will just apologize for a continuance from our last meeting. Thank you for your patience. It was just one of those unforeseeable things. But we should be able to have this full hearing quickly tonight.

14 With that I'll turn it over to the Office of Planning, Mr. Colby.

16 MR. COLBY: Thank you. I don't know if this is part of this record or part of preliminary matters but we did post the site.

19 CHAIRPERSON KRESS: Oh.

20 MR. COLBY: And we did check the posting according to Subsection 3015.9. It was actually checked on the 12th, the 20th of February, and March 6.

23 CHAIRPERSON KRESS: Thank you. We should have had that on our preliminary matters.

25 MR. COLBY: The comprehensive planned

generalized landings map, as you can see by the cover of our final report, the map amended in 1994 was the basis for OP's original zoning recommendation. It designates the western portion of square 906 along 7th Street and the eastern portions of squares 929 and 930 along 9th Street for moderate density residential use. The remaining portions of these squares, as well as all of square 907, are designated for moderate density commercial use.

9 In fairly strict accord with those designations OP, and its original recommendation back when all of the other ten areas that you spoke to earlier, recommended that the western portion of square 906 and the eastern portion of squares 929 and 930 be verified B, a medium density residential zone district. The remainder was recommended for C2A zoning, a low to moderate density commercial zone.

16 Public hearing testimony ultimately and unanimously from the community groups in the area were opposed to that proposal of the Office of Planning for a number of reasons, some of which were:

20 That most of the current uses were marginal industrial, residential uses and that the Navy coming to that area would need restaurants and service businesses.

23 That there's an historic building at 8th Street entrance to the Navy Yard -- actually in the Navy Yard -- that should not be overwhelmed by high-rise construction across M

Street 1

2 That the four squares are small and to carve  
them up into residential and commercial portions seems  
problematic.

5 That the CM1 enclave currently does not appear  
to be well suited for residential uses.

7 And that the proposed new commercial zoning  
increased the allowable height from the 30 feet permitted out  
of CM19 to -- our report says 65 feet. Actually, that would be  
a PUD10 Fifty feet would have been the maximum.

11 So the Office of Planning took heed of all those  
comments and revised the recommendations which is essentially  
what is before you this evening.

14 We changed the objectives for the area basically  
reflecting much of what the community had said. That it's  
important to be consistent with the comprehensive planned  
generalized landings map -- generally consistent, and that  
sufficient commercial FAR potential to provide spinoff sites  
for office development as a result of the NAVSEA move.

20 It is important that height restrictions should  
be in place and they are sensitive to the existing building  
contacts. And that existing residential use should be  
permitted but should not be encouraged at the expense of  
commercial development serving the Navy Yard.

25 To meet these objectives, our revised

recommendation is that the area be rezoned a mixed use zone with a commercial FAR near the permitted existing CM1 zoning FAR, and that a variant on the Navy commercial or NC overlay zone be applied to the area, restrict its height to establish additional control which will guide commercial development, and to create an active and attractive commercial precinct joining Capitol Hill and the Navy Yard. I would add with the emphasis on pedestrian movement.

9 The proposed 8th Street and southeast or ES overlay zone would be placed on the rezoned squares 906, 907, 929, and 930 which would go from an underlying CM1 zone to a C3A. 12

13 There would be a new subsection of the neighborhood commercial overlay zone at Chapter 13 of the existing NC commercial precincts which this is patterned on Cleveland Park, Woodley Park, and Lacume, Wisconsin. Both sets of regulations would apply. Section 1301 through 1305 and the zoning regulations provide the basic regulations for that overlay zone. The new portions of it which are unique to 8th Street would be placed in Section 1309. 20

21 In addition to the purposes that are set forth in Section 1300, which is the basic overlay zone for the neighborhood commercial, would be to encourage and allow new business and office development in close proximity to the Navy Yard 25 allow and encourage medium density of commercial

development in the interest of securing economic development while restricting building heights and to provide for safe and efficient pedestrian movement so as to improve access to retail and other businesses in the area.

5 For purposes of Section 1302 of this chapter, the designated use area shall include any lot within the 8th Street overlay district that fronts on 8th, L or M Street, or Potomac Avenue. Our report notes that along those streets the subsection would require ground floor retail or service usage.

10 Actually, fifty percent of the ground floor. These streets represent the pedestrian core of the area where continuous ground floor active use would serve the surrounding neighborhood as well as persons working at the Navy Yard.

14 Then the next Subsection 1309, Part 4, would restrict the eating or drinking establishments, restaurants, bars, and the like, to no more than fifty percent of the linear street frontage. The comment that we have provided is that unlike the other areas that have this neighborhood commercial overlay placed on them, this particular four block commercial enclave is somewhat isolated from the customers that it serves and thus is lacking in vitality and in need of reinvestment.

23 At least for the foreseeable future, the new customers will come from the Navy Yard and ultimately the consultants to the Navy who choose to follow. Because the

area so desperately needs revitalization, the regulations should not overly restrict to the normal 25 percent which the other overlays do restrict the pool of potential commercial uses of which eating and drinking establishments could be a major component. That was a judgment call but it was a call we felt needed to be made.

7 For purposes of Chapter 1309.5 and for purposes of paragraph 1302.5(b) of this chapter, fast food restaurants may be applied to fulfill the requirements of Section 1302.4. Again, in some of the other more well developed overlay areas with this neighborhood commercial overlay above them, there is a significant restriction on fast food restaurants.

13 1309.6 for purposes of Section 1303.2 of this chapter, the designated roadways within the overlay district shall be 8th Street, M Street, and Potomac Avenue. This applies to the restriction on curb cuts for parking or loading which would essentially restrict those curb cuts or prohibit them along the primary front of this precinct which is M Street and along the main street connecting the Navy Yard all the way to Capitol Hill which is 8th Street. The reason that one couldn't designate all streets in a similar manner is that there is no alley system and that these blocks do need access to parking and loading access.

24 The next, permitted height under 1309.7 shall be 45 feet. Forty-five feet is slightly higher than the 40 feet

which was permitted under CM1. It was thought that this would allow four stories which is a compromise and that the extra five feet could make a difference and provide a higher ground floor ceiling and still permit some architectural flexibility.

5 It should be noted that the permitted height and bulk limitations in a neighborhood commercial zone may not be increased by means of the PUD process. That's an important point. 8

9 Finally, that there is special exception relief in the neighborhood commercial overlay zones from these particular restrictions. You are tested against the goals of the overlay, but if you have good reason and cannot meet the specifics, you can go to the Board without seeking a variance but actually just work through the problem as a special exception. 15

16 I suppose to really understand these, one should have a Planning 101 lecture or Neighborhood Commercial 101 to understand really what the neighborhood commercial does and then how this is a variant on that. It's a fairly simple solution complicated to a degree by the uses that are permitted and the curb cuts that are permitted to make it more pedestrian friendly and essentially providing those kinds of controls over the development of particularly the use of the area. 24

25 With that I'll stop and answer any questions

that you may have.

2 CHAIRPERSON KRESS: Thank you, Mr. Colby. I would also like to say formally for the record I found the report and its formatting very helpful and very useful.

5 MR. COLBY: Thank you.

6 CHAIRPERSON KRESS: And I did want to compliment the Office of Planning on that. With that I'll open it to questions.

9 Mr. Hood?

10 MR. HOOD: I just had one question, Madam Chair.

11 Mr. Colby, I'm looking at a well-done map, the color-coded map that we have.

13 MR. COLBY: Yes.

14 MR. HOOD: I see where you have in this square labeled CM1 where we have one industrial business. Do we know what that is? I didn't see it and I was just wondering. It's in square 929.

18 MR. COLBY: I don't recall. I hope that somebody in the community can respond to that question.

20 MR. HOOD: Okay. Thank you.

21 CHAIRPERSON KRESS: Any other questions?

22 Mr. Colby, this wasn't referred to any other agencies?

24 MR. COLBY: There were no other agencies. In text amendment cases we make references -- we should make

references and normally do to those agencies who we feel would have an interest in the case. It's not the same police, fire sort of routine referrals which we make on projects. So the answer is we did not in this particular case. I'm not sure who we would have referred it to had we done so.

6 CHAIRPERSON KRESS: All right. Thank you. With that we'll move on to the -- is anyone here from the Advisory Neighborhood Commission who wishes to testify?

9 Seeing none, we'll move on with our persons in support. Is anyone in support wishing to testify? If not, then we'll move -- oh, you're a person in support? Are you a person in opposition?

13 MR. WOLF: I'm in support.

14 CHAIRPERSON KRESS: Oh, would you come forward.

15 MR. WOLF: I'm Mr. -- is this on? I'm Mr. Richard Wolf. I'm chair of the City Planning Committee of the Capitol Hill Restoration Society. I'm here in support of some minor alterations being offered of this proposal.

19 It's a pleasure for us to endorse this proposal. It is the result of drawing on a comprehensive planned amendments of 1998 and 1999, I believe, as well as the testimony from the earlier case. The application of the neighborhood commercial zoning overlay as found in Section 1300 and following in the zoning code by OPA, OPA should be congratulated. It's the first one we've had.

1           One hopes that this is an indicator of future  
good works by this office. There's only one thought in  
process. It would have been better to have shared this report  
in draft form with the effective community groups before  
finalization. I think Mr. Colby agrees.

6           Nevertheless, the overlay zone has great  
potential to extend the kind of commercial activity and  
architectural character of commercial 8th Street, Barracks  
Row, all the way to the Navy Yard. It is the first meaningful  
action by the district government to tie the area south of the  
expressway along M Street southeast to the rest of Capitol  
Hill. We urge OP to continue to plan for this area which is  
now under significant development pressures stimulated by the  
movement of Navy offices into a revitalized Navy Yard.

15           There are several perfecting steps that need to  
be taken, in our opinion, to make this proposal truly  
outstanding. The first is a further zoning refinement to  
restrict fast food establishments. At the other end of the  
8th Street southeast commercial corridor and the first block  
south of Pennsylvania Avenue southeast there is a  
concentration of fast food establishments which has generated  
debris problems and an atmosphere of crowds and noise that has  
discouraged better development and investment in that area.

24           If we seek to bring office workers out of the  
Navy Yard in nearby office buildings to walk the streets at

noon or to shop after work, the commercial environment has to be inviting and pleasant. We believe that restricting these squares to either one or two such establishments or none at all would be appropriate.

5 CHAIRPERSON KRESS: I'm sorry. Are you going to give us a copy of that?

7 MR. WOLF: You have it in the file already. It was put in last week. There are at least 10 copies.

9 CHAIRPERSON KRESS: Oh, I didn't get it last week. I'm sorry. Thank you. I can share. Please go ahead.

11 MR. WOLF: The other step we believe is important is either the landmarking of the entire area or certainly a designation of a number of the buildings as historic. Not only are most of the buildings consistently the style and the age of the turn-of-the-century buildings on Barracks Row, but there are also in the area some of the earliest buildings in the District of Columbia.

18 This is not a zoning issue but the importance of dovetailing historic preservation with the purpose of the zoning case should be conveyed by both OP and the Zoning Commission at the Office of Historic Preservation. HRS also intends to pursue this matter.

23 There's one further thing. There's going to be an issue of height presented by other witnesses here. As Mr. Colby has indicated, the proposal cost for 45 foot height

limit, which we believe is appropriate. Others may want to see a larger height. I just want to bring to the attention of the Commission a recent article in the Saturday Washington Post about a new building enveloping an old building at Calvert and Connecticut which, according to Benjamin Orkey, the author of this article, is a 40-foot height. I'll ask to place this in the record so you can get some idea of how these kinds of things can work. I'll give it after I've finished.

10 CHAIRPERSON KRESS: Sure.

11 MR. WOLF: Thank you again for this opportunity to be heard. We hope the Commission will act promptly on this matter with minor changes concerning fast food that we have suggested. That's it.

15 CHAIRPERSON KRESS: Thank you. Basically you want to restrict the fast foods pretty much in the whole area of the overlay. Is that correct?

18 MR. WOLF: That's right.

19 CHAIRPERSON KRESS: That would be your preference?

21 MR. WOLF: That's right. We've had a lot of bad experiences with fast food. Quite honestly, if Navy Yard workers or workers in the service industries in those buildings along M Street want fast food, they probably will get in a cafeteria or in the Navy Yard itself.

1 I might add there was a question raised about  
what are the semi-industrial uses in that area. There are two  
really 3 One is an auto repair shop right after you come out  
from under the freeway. The other on the other side of the  
street 5 going toward the west is Miles Glass which installs  
auto glass, cuts glass for mirrors, makes shower doors, and  
they have a showroom. It's not quite as industrial looking at  
the auto 8 repair place but it has a somewhat industrial aspect  
to it. 9 There are some very historical buildings in that area.

10 CHAIRPERSON KRESS: Any questions? Do you have  
one? 11

12 MR. HOOD: No. You answered my question.

13 MR. WOLF: Okay.

14 CHAIRPERSON KRESS: Did you, Mr. Colby? You  
looked 15 like you wanted to make a comment earlier.

16 MR. COLBY: I was going to ask -- I think I'll  
withd 17 raw my question. I was going ask if it was more  
importa 18 nt to restrict the fast food restaurants from the main  
pedestria 19 n corridors. I think that complicates the overlay  
even 20 ore. I'm not going to suggest that. We'll take into  
accoun 21 t our summary on this and our final recommendation and  
Mr. Wolf's suggestion.

23 I should add that when Nate Gross started this  
case 24 before I took it over, he had restricted fast food  
resta 25 nts in the same way that the other neighborhood

commercial areas restricted them. I loosened it up thinking this was such a different area that it wasn't fair to have the same standards but we'll pay close attention to --

4 CHAIRPERSON KRESS: Especially if the community has had problems with other fast foods.

6 MR. HOOD: I just have a question. Roughly in this area that we're talking about in the overlay, how many fast food restaurants? Just estimate.

9 MR. WOLF: Right now I don't believe there are any. There is a restaurant called Port of Call down there which opened recently.

12 MR. HOOD: Okay.

13 CHAIRPERSON KRESS: But not ones that meet the legal definition of fast food?

15 MR. WOLF: No. We don't have a McDonald's or Domino's or those sorts of things. There have been fast food cases here just on the question of restricting fast food and I've been a party to them. If my memory is correct, some of the representatives of the fast food industry indicated that they liked to see an accumulation of fast food restaurants. They tend to concentrate because they tend to feed off one another.

23 Not that they have five hamburger stands in one location, but they have different kinds of fast foods. If one corner or two corners become occupied by fast food

establishments, it is there marketing strategy, according to what I remember, to take those other two corners. In our experience it is somewhat along those lines as you go north along 8th Street towards Pennsylvania Avenue.

5 MR. HOOD: Okay. Thank you.

6 CHAIRPERSON KRESS: I would also think that you are probably correct. That is the one food group or something near that that the Navy Yard would probably have on the site itself

10 MR. WOLF: I mean, they have dining facilities at the officer's club. But they also have some cafeterias there and they do serve fast food and usually at a cheaper price than even McDonald's or Wendy's would.

14 CHAIRPERSON KRESS: Excellent point. Any other

15 I see nothing.

16 Thank you very much.

17 MR. WOLF: Okay.

18 CHAIRPERSON KRESS: I appreciate your testimony and having to come twice to testify.

20 With that, are there any other persons who wish to testify? Please come forward

22 MS. KELLY: Good evening.

23 CHAIRPERSON KRESS: Good evening.

24 MS. KELLY: I'm --

25 CHAIRPERSON KRESS: Beautiful coat.

1 MS. KELLY: Thank you. Thank you. I'm Margot  
Kelly representing the Barracks Row Business Alliance which is  
a group of commercial owners, merchants, tenants in the 8th  
Street corridor. I was here two years ago and very strongly  
opposed the then proposed changes. I concur with Mr. Wolf. I  
am delighted to see the work that has been done. I think it  
suits the area. It suits our needs. I don't want to sound  
repetitious and just make you feel too good but I have the one  
strong objection that I share with Mr. Wolf and that's the  
fast food business.

11 CHAIRPERSON KRESS: Oh, you as well.

12 MS. KELLY: Very much so. Right now we have  
between 13 or 15 buildings in the lower part of 8th Street  
going from Virginia to the Navy Yard. These are two very  
short blocks. If they start off on the wrong foot, it doesn't  
take much to ruin these two blocks with fast food businesses  
or something along those lines.

18 There's nothing wrong with having restaurants  
and we have one restaurant there already that's doing quite  
well even though it's kind of isolated, especially at night.  
Mr. Williams, who is the owner of the restaurant, is hold his  
own. 22

23 We've still had bad experiences with fast foods  
in the 400 block of 8th Street. It's a tremendous deterrent  
because the 400 block is the one that comes off Pennsylvania,

leads to 8th Street, and there's a tremendous hesitation for people to walk through this block.

3           It's in great part due to the Popeye's and the pizza places, etcetera, attracting youngsters who hang about and hang around and buy and eat and throw everything down who are unaware of manners or lack thereof. It creates a terrible atmosphere and people are not willing to walk this block.

8           I think the strongest example of opposition I can give you is one fairly recent when Papa John was going to join this medley of fast foods and everyone from council member Sharon Ambrose on down objected and they finally agreed and withdrew their application. So fast food is something that we do not need any more of.

14          We also have a school across, a junior high. Those children obviously favor those places. Perhaps eating apples and oranges would be better for them than fast foods. I think we have enough of it.           If your suggestion, sir, Mr. Colby, if one could restrict the fast food extension, even in these other four blocks -- 8th Street has four blocks from Virginia Avenue up to Pennsylvania -- it would be like living in a perfect world. I don't know whether that's possible but it would really help.

23          CHAIRPERSON KRESS: Your first choice would be no fast food at all. Am I hearing you correctly?

25          MS. KELLY: Well, it would be lovely. I don't

know if one can discriminate against an industry like this. It would be nice if one could. I don't know whether that's feasible. I mean, if you have the power to do so, I'll give you a big placard for it. I don't know whether it's feasible but one should certainly restrict it as much as one can because I don't think it helps anyone in the long run.

7 8th Street is an area that has been struggling for many years and is really coming into its own now. We have the Navy. We also have more Marines going to be moving in there within a fairly short period of time. They have Al Wilson coming back to life again so there's a lot of vitality there. It needs to be nourished and helped along. I think that's all I can say.

14 CHAIRPERSON KRESS: Very good.

15 MS. KELLY: Oh, I should not forget -- I almost did -- Frank Reed who represents Champs was going to come and was not able to and asked me to represent him and his views and his interests coincide with my organization.

19 CHAIRPERSON KRESS: Good. That's very helpful. Questions? I just want to make sure I wrote that down.

21 MS. KELLY: Frank Reed from the Champs Organization.

23 MS. PRUITT-WILLIAMS: I believe we may have a letter in the file. I'm sorry, ma'am. Your name again?

25 MS. KELLY: I am Margot Kelly.

1 CHAIRPERSON KRESS: If he asked her to represent  
him --2

3 MS. PRUITT-WILLIAMS: We would still need a  
letter4indicating that. That's why I'm saying that. We do  
have h5s letter in the file so he is being --

6 CHAIRPERSON KRESS: No. This is an old letter  
about 5ld things. This is not helpful.

8 MS. PRUITT-WILLIAMS: She can submit that later.

9 CHAIRPERSON KRESS: All right. Would you ask  
him t60--

11 MS. KELLY: Submit a letter to you?

12 CHAIRPERSON KRESS: Submit a letter basically  
saying3that he was in agreement with your testimony and he had  
authori4zed you to speak on his behalf.

15 MS. KELLY: Very well. I shall. That's it?

16 CHAIRPERSON KRESS: Yes. Let me make sure if  
there15are other questions.

18 MR. COLBY: I just wanted to -- I probably  
shouldn't be speaking at all -- guidance for where we go in  
terms20f your comments and Dick Wolf's comment's. The fast  
foods21are lumped together and are typically when we deal with  
these22delicatessens, carryouts, and similar --

23 CHAIRPERSON KRESS: I thought we had redefined  
fast 24ods.

25 MR. COLBY: I take that back. We have. I think

we can discriminate against fast foods.

2 CHAIRPERSON KRESS: I think we did and it had to do with the amount of disposable and the amount off sites.

4 MR. COLBY: Yes. There's a definition.

5 MS. KELLY: That would fall into the same category. Would it not? Carryout?

7 CHAIRPERSON KRESS: Fast food is defined a lot by delivery and how much of it is delivery off site versus takeout on the site.

10 MR. COLBY: It wouldn't pick up a deli.

11 CHAIRPERSON KRESS: No. It wouldn't pick up a deli. 12

13 MS. KELLY: A deli is separate and is not considered --

15 MR. COLBY: As fast food.

16 MS. KELLY: -- as fast food.

17 CHAIRPERSON KRESS: Maybe I'm getting mixed up with carryout. Maybe we should check this real quick and look this up because --

20 MS. KELLY: I think many of these like Papa John's was an issue.

22 CHAIRPERSON KRESS: Papa John's. Yes.

23 MS. KELLY: How much was inside and how much was being carried out by car or other means. I don't know. A deli is probably a different category. A deli would be

fantastic, you know, if it serves the right sandwiches.

2 CHAIRPERSON KRESS: I'm getting confused between  
carryout and fast food. I think that's an excellent point we  
need to look into. I think right now as far as the questions  
are concerned, it's not the delis. You're not finding the  
delis a problem.

7 MS. KELLY: I wouldn't think so.

8 CHAIRPERSON KRESS: It's really directed at the  
Papa John's and the carryouts.

10 MS. KELLY: Yes. The pizza places, you know.

11 CHAIRPERSON KRESS: The pizza and the  
McDonald's.

13 MS. KELLY: I think carryout has a negative  
connotation.

15 CHAIRPERSON KRESS: Well, carryout definitely  
because then you've got all the traffic.

17 MS. KELLY: Right. But deli could have some  
tables to sit down and at the same time could have carryout  
services. I don't know. It sort of a grey line. I don't  
know how you specify it.

21 CHAIRPERSON KRESS: I'm just not remembering off  
the top of my head all these fine distinctions but I think as  
far as the testimony goes, we have what we need and we need to  
do some --

25 MS. KELLY: Take a look at that.

1 CHAIRPERSON KRESS: Take a look at this and the  
definitions before we make our vote. We'll leave the record  
open to hear from Office of Planning.

4 MS. KELLY: To do the fine lines on it.

5 CHAIRPERSON KRESS: And leave the record open to  
receive your letter from Champs.

7 MS. KELLY: Definitely. Yes. I will pass that  
on to Mr. Frank Reed.

9 CHAIRPERSON KRESS: Any other questions? Thank  
you so very much. Does anyone else wish to testify? Please  
come forward.

12 MR. FEDRIGAUULT: Good evening. My name is Yves  
Fedrigault and I represent LLC on block 930. I'm also the  
owner of several property on the same block. I agree with Mr.  
Wolf and Margot Kelly on a lot of those issues like fast food  
and stuff consistent with the area design and so forth.

17 The only objection that I have on your proposal  
on your overlay is probably the limitation that you have here  
that you are proposing 2.5 FAR for office use, I assume, or  
for any commercial use. I would be in favor to have the FAR,  
as I think it's now, 3, I believe, and you are proposing 3.5.

22 I believe that area is suitable now for major  
rehabbing and new personnel moving in the Navy Yard as well as  
the need to have office space office. Obviously thirty and  
the other three blocks are just a step away from the Navy

1 Yard. I think if we are limited to a minimum of 2.5, I think  
2 it might just take away from the potential in that block.

3 Other than that, I support very much Mr. Wolf  
4 and Ms Kelly, the other view. My only concern is the height  
5 on the office if this could be allowed. I don't mean to go 20  
6 stories high but, you know --

7 CHAIRPERSON KRESS: So you think there should be  
8 a higher FAR on a higher height?

9 MR. FEDRIGAUULT: For office use only. They are  
10 proposing an FAR of 4 for residential in that block which I  
11 think the residential in that block is very hard to have  
12 people to live there comfortably. Right now there are very  
13 few families, I think, that live there. There are only two  
14 families that I know of in those four blocks. I don't think  
15 it's suitable for residential.

16 But for commercial, I believe that they should  
17 be a little more flex and have maybe a little bit better than  
18 2.5. Even though the height -- we could content 60 foot like  
19 they recommend on residential or something in between. I  
20 think you  
21 have

22 CHAIRPERSON KRESS: Well, that's what we kind of  
23 did the first time.

24 MR. FEDRIGAUULT: Yes. I just heard that you  
25 mentioned it.

1 CHAIRPERSON KRESS: We did, am I correct, 45?

2 MR. COLBY: Yes. But I would like to correct  
something else. The problem is --

4 CHAIRPERSON KRESS: Please go ahead.

5 MR. COLBY: -- that I paraphrased or summarized  
this report. The overlay specifically allows what would  
normally be a 2.5 FAR commercial and 3CA to be 3.0. You are  
permitted as a matter of right under the overlay 3.0  
commercial FAR.

10 MR. FEDRIGAUULT: Right. Which is 30 feet.  
Forty feet. I'm sorry.

12 MR. COLBY: Well, no. Forty-five feet.

13 MR. FEDRIGAUULT: Forty-five feet.

14 MR. COLBY: Allow 45 feet and 3.0 FAR  
commercial. Not 2.5.

16 MR. FEDRIGAUULT: Okay. So I misunderstood you.

17 MR. COLBY: We're getting close to  
where

18-  
19 CHAIRPERSON KRESS: We're getting close to what  
you are testifying to.

21 MR. FEDRIGAUULT: Okay.

22 CHAIRPERSON KRESS: That's partly why we went to  
the overlay, because the zoning just didn't work. It was too  
high and too dense. The next option was like too low and not  
dense enough. That's exactly why we asked for this overlay to

be created.

2 MR. FEDRIGAUULT: Okay. Then maybe I  
misunderstood the letter. I thought you were limiting it to  
2.5. It's less than what we have now. It certainly will not  
defeat the purpose of the growth in this area, especially for  
me. 6

7 CHAIRPERSON KRESS: It should be up from where  
you are now. Am I correct?

9 MR. COLBY: It's the same as the CMO, 3.0.

10 MR. FEDRIGAUULT: So it's the same as it is now?

11 MR. COLBY: Yes.

12 MR. FEDRIGAUULT: I see. I would be in favor to  
argue to give them a little bit just for office. That would  
be my view. Other than that I strongly support the limit of  
fast food restaurants which I don't think they are very  
appealing in any neighborhood. I know the needs and I know  
you can't just bar them out but I think a deli and things like  
that is probably more acceptable. Don't you agree? But,  
again, to a certain limit. I guess that's about it.

20 CHAIRPERSON KRESS: Commissioner Clarens.

21 MR. CLARENS: Not a question but can we have a  
brief discussion on the rationale for the 45 feet? Why 45  
feet? Let me tell you so that we can perhaps cut to the chase  
a little bit. The reason for saying this is if you have a 3.0  
FAR and you are building a number of floors and you are

building a commercial structure, in 45 feet you can have five  
 nine-foot floor-to-floor floors. But a nine-foot floor-to-  
 floor height is a fairly minimal, if not, in fact, not really  
 usable floor to floor.

5           You then go back to four stories. In four  
 stories, then now you have an 11 or 11 and some, 11 and 4  
 inches floor-to-floor height, or any combination. You know,  
 one floor of 12 and then the other ones of 10 or whatever, you  
 know. Where is the rationale? Where is the 45 coming from?

10           CHAIRPERSON KRESS: Would you like to answer  
 that first?

12           MR. COLBY: Well, I'll try. The best I can do  
 at the start is to just relate that in our comments. You made  
 a point that the 4.5 FAR --

15           MR. CLARENS: No. Mr. Colby --

16           MR. COLBY: The greater design flexibility of  
 the 45-foot height, it was the fact that the 45 is an odd  
 number because normally it's forty, fifty, 65. There's no 45.  
 In a sense it has less precedence for it. It's an uncommon  
 number. But it's stretching the existing forty-foot height of  
 it. It's an attempt to do that. And yet not go all the way  
 to 50 feet.

23           It's a funny compromise between 40 feet and 50  
 feet with the logic of it being basically what you have said,  
 to encourage at least four floors and 40 feet. If 40 feet

were to improve -- if you could argue that 40 feet encourages the same four floors and doesn't --

4 MR. CLARENS: Let me backtrack. What I've heard and what I've read is that we have 8th Street running from Pennsylvania Avenue and deadending at the Navy Yard. Those two blocks on the south side of the freeway are sort of different and separated. There's a connection. 8th Street carries through underneath the freeway. Is that correct?

10 MR. COLBY: Yes.

11 MR. CLARENS: And that the intention here is to encourage development of this block. That's the intention of the comprehensive plan, to encourage the development of 8th Street all the way down to the Navy Yard. That is correct. Right?

16 MR. COLBY: Yes.

17 MR. CLARENS: Now, do we know what the height of the buildings along 8th Street are typically? Do we have a prevailing ordinance line or number of floors along 8th Street?

21 MR. COLBY: Two points to that. One is I think the rest of 8th Street is C2B right now which is 50 feet, I think. Secondly, the freeway would create such a break that if you had a five or ten-foot difference from one side of the freeway to the other, it wouldn't know it. It's a complete

break.1

2 MR. CLARENS: Yes.

3 MR. COLBY: We want continuity, I grant you.

The third point that you're making is -- your first question was what is the actual built height on the northern part of 8th Street. While there are row houses, I would have to look at -- I mean, I could come back with that as part of our response to tonight's session and give a better rationale for 45 feet, or at least give all the rationale I can unless the Commission can decide the case based on the facts. I can't tell you what --

12 MR. CLARENS: And will the witnesses be able to tell us a little bit about the character of 8th Street? I've been on 8th Street but I confess that I'm not that familiar with 8th Street itself. And the height of the building is -- typical buildings are three stories or four stories high on the north side of 8th Street?

18 MR. FEDRIGAULT: There is a mixed height in there. There's the Marine barracks that have probably over 50 feet, I would say.

21 MR. CLARENS: This is north of the freeway?

22 MR. FEDRIGAULT: It's north of the freeway.

Right. It's north of the freeway. And you also have a new building that was redone by Shakespeare and that's about 50 feet. So I would say.

MR. CLARENS: By Folger?

1 MS. KELLY: (Off microphone.)

2 MR. FEDRIGAULT: I'm sorry?

3 CHAIRPERSON KRESS: Be careful. You can't be  
talking.

4

5 MS. KELLY: Sorry.

6 CHAIRPERSON KRESS: Because we can't hear you.

7 MR. CLARENS: But you can come to the table.

8 CHAIRPERSON KRESS: Why don't you come up to the  
table and then --

9

10 MR. FEDRIGAULT: Yes. It is also 50 feet.

11 CHAIRPERSON KRESS: Since Mr. Clarens is asking  
questions and you can --

12

13 MS. KELLY: Well, Shakespeare --

14 CHAIRPERSON KRESS: You need to get to the  
microphone.

15

16 MS. KELLY: Oh, sorry. Shakespeare did a  
wonderful job of remodeling the building in the 500 block of  
8th Street. It has one, two, three, four stories. It's the  
highest building. I think it's 50 feet high.

17

18

19

20 MR. FEDRIGAULT: At least.

21 MS. KELLY: Because 50 feet, I believe, is the  
limit that is permitted.

22

23 MR. CLARENS: So what would be wrong with  
extending this 50-foot limitation?

24

25 MS. KELLY: I think one thing that would be

terribly wrong would be that it would dwarf the Latrobe gate of the Navy Yard.

3 MR. CLARENS: I see.

4 MS. KELLY: It is really a magnificent old historic piece of work there. I think if you go up too high, you would dwarf this entrance and this very lovely gate there which does have historic significance. I think when we were here two years ago, that was one of our main -- one of the great objections and I still feel very strongly about it today that if you go too high, you just ruin the approach to the Navy Yard completely.

12 MR. CLARENS: But 3.0 FAR and 45 feet, which means four stories of relatively reasonable commercial floor-to-floor height seems adequate to both of you?

15 MS. KELLY: I think more than adequate. It should be the max --

17 MR. CLARENS: It should be the max.

18 MS. KELLY: -- that you would want to go because otherwise you just end up in a wall street corridor, you know.

20 MR. FEDRIGAUULT: The question I have, one, of course, the 50 feet. The entrance to the Navy Yard right now is over 50 feet itself.

23 MS. KELLY: I don't think so.

24 MR. FEDRIGAUULT: Because our building which is across is now three stories high. Let me go from the point of

view of use. As you know, we need parking space. There is no parking around there so obviously you need underground parking. At that point you must come up to ground some to be able to have access because the lot is so small.

We're talking the biggest lot is barely an acre which is about 40,000 square feet -- 39,000 square feet. So you are already limited as far as construction.

8 I'm an architect by trade and I'm a builder so we're familiar with what the restrictions are. We are already restricted for what we can do with the lot. We already have a problem with height at that point, at 40 feet, and we cannot go any higher than three stories or three levels. It's kind of limiting our investment as well as catalyzing the neighborhood.

15 MR. CLARENS: With 45 you could build four stories.

17 MR. FEDRIGAUULT: I think with 45 to 50 I think we can put a -- I am in favor of four floors. I don't like to see a high-rise. Even though I'm a builder I don't like high-rise. I think four-story high is acceptable. To me it would be acceptable and somewhat maybe off the ground because normally you need a lobby that is more than eight foot.

23 I would answer some other question to Mr. Colby as far as the height of the building. The rule of this is this; you need two and a half feet to get all your equipment

through the floors. If you have eight foot and two and a half feet, you're already at 10 and a half feet and that's minimum. You can see this room here has eight foot and you have a planted ceiling here.

5 MR. CLARENS: We understand that.

6 MR. FEDRIGAUULT: Right. So, I mean --

7 CHAIRPERSON KRESS: We've got a couple of architects sitting here.

9 MR. CLARENS: This is more than eight feet.

10 MR. FEDRIGAUULT: Well, maybe eight feet. You basically need a little bit more than three stories.

12 MR. CLARENS: That's right. But 45 would allow you an average of at least 11 and something.

14 CHAIRPERSON KRESS: The other way is usually your first floor, your retail, you want more like 12 to 13 feet. 16

17 MR. FEDRIGAUULT: Yes. You need a little bit higher. 18

19 CHAIRPERSON KRESS: The other thing is you can do 10 to 10. I think that's what we talked about and that's what's in the notes.

22 MR. FEDRIGAUULT: We pretty much understand. It's getting it very close as it is now so I would be in favor -- 24

25 MR. CLARENS: Four stories seems a reasonable

amount land 45 seems like a doable number --

2 MR. FEDRIGAUULT: Exactly.

3 MR. CLARENS: -- that will begin to step down  
the area potentially so that the entrance still is  
highlighted, even if it is 50 feet.

6 MR. FEDRIGAUULT: And also I may remind you that  
M Street is pretty wide. It's six lanes wide.

8 MR. CLARENS: M Street is. But 8th Street is  
100 and -- is it a 90-foot wide street?

10 MR. COLBY: To the north -- well, southeast -- I  
don't

11-  
12 MS. KELLY: I don't know how wide it is.

13 MR. COLBY: 8th Street northwest is 100 feet.

14 MS. KELLY: How do you measure those streets?

15 MR. CLARENS: From property line to property  
line.

16  
17 MS. KELLY: I see.

18 MR. CLARENS: It's a wide street.

19 MR. FEDRIGAUULT: It's wider below the freeway  
than is on the 8th Street above the freeway.

21 MR. CLARENS: It is wider below the freeway?

22 MR. FEDRIGAUULT: Yes.

23 MS. KELLY: Yes. It is.

24 MR. FEDRIGAUULT: It is wider by at least 30 feet  
I would say. It is wider. Right now you look at the

building, the entrance to the Navy Yard, you can see almost the entire building as it is.

3 MS. KELLY: Because there is nothing there.

4 MR. FEDRIGAULT: No. The height. We're talking about the height. The freeway is the one we want to remove.

6 MS. PRUITT-WILLIAMS: Excuse me, Mr. Clarens. Let me also remind you that this will be forwarded to NCPC for federal interest review which will cover the Navy Yard and its historic preservation issues. We'll get comment from them on the type of impact that whatever the Zoning Commission decides.

12 CHAIRPERSON KRESS: I also think that we heard that testimony and that's probably why we proposed this overlay. I mean, initially we were looking at something higher and more dense and we did scale back for the historic reasons and because of the testimony we got two years ago. That's exactly why we did that.

18 MR. CLARENS: Let me ask a last question. That has to do with the residential component. The whole area now is zoned C3A?

21 MR. FEDRIGAULT: That's correct. That's the proposal.

23 MR. CLARENS: That's the proposal. So there's no residential?

25 MR. COLBY: Well, residential is permitted under  
[www.nealgross.com](http://www.nealgross.com)

C3A. 1

2 MR. CLARENS: Yeah. Sure.

3 MR. COLBY: Under the normal 3CA you get  
additional height involved for residential. With this overlay  
you switch down to the same commercial so there's no bonus.

6 MR. CLARENS: Okay. So, in fact, the four  
blocks could be developed as commercial?

8 MR. COLBY: Yes. And probably would be.

9 MR. CLARENS: And probably would be. How is  
that compatible then with the comprehensive plan in that we  
allow for the residential? We're not encouraging but we're  
not denying it.

13 CHAIRPERSON KRESS: Well, plus it's all on the  
sides as well. I mean, there is more around this area as  
well, is there not, in residential?

16 MR. COLBY: No. Well, yes, if you generalized  
the plan enough.

18 MR. CLARENS: To the west.

19 MR. COLBY: That's true. If you had to put it  
that way, that's true. The real point is, Mr. Clarens said  
that this is a mixed-use zone, the C3A.

22 MR. CLARENS: Sure.

23 MR. COLBY: So it does comply.

24 MR. CLARENS: Very good. The last  
issue could I have --

1 CHAIRPERSON KRESS: We're being a little  
informal tonight.

3 MR. CLARENS: We're informal. Let's not be too  
informal. The last question has to do with this issue of the  
-- did we clarify the fast food?

6 CHAIRPERSON KRESS: We're going to get some  
additional information and we will discuss it --

8 MR. CLARENS: When we decide.

9 CHAIRPERSON KRESS: -- at our decision because  
we don't have everything here, I don't think, that we need.  
We need to do a little more study on exactly the definitions  
to assist us as we make our decision.

13 MR. CLARENS: To differentiate between fast food  
and deli and carryout and that kind of thing.

15 CHAIRPERSON KRESS: Carryout and deli and  
restaurant.

17 MR. CLARENS: And the testimony is that fast  
foods are not necessarily carryout. The carryout, the deli, and  
the fast food. The testimony is against the fast food.

20 MS. KELLY: May I say something?

21 MS. CLARENS: And the carryout also?

22 CHAIRPERSON KRESS: Yes. Because that's the  
Papa John's.

24 MS. KELLY: Something that is strictly carryout  
is also from our point of view.

1           CHAIRPERSON KRESS: You were mentioning the  
point ~~about~~ about Papa John's.

3           MS. KELLY: Papa John's which is primarily  
carryout. It was not primarily, it was exclusively carryout.

5           MR. CLARENS: So we need to look into our  
definitions of the different kinds of food facilities and  
clarify and move in the direction of restricting from the zone  
those facilities that will have adverse impact by reason of  
the kind of traffic and service that they provide and allow  
the other ones starting with the idea of the deli.

11          MS. KELLY: There's nothing wrong with having  
restaurants.

13          MR. CLARENS: Sure.

14          CHAIRPERSON KRESS: No. I think we would want  
some. 15Yes.

16          MR. COLBY: You need some, yes.

17          MS. KELLY: Things will develop, you know. They  
do. ~~Since~~ Since blocks are very short, it's just so much that can  
develop there. There's isn't a whole lot. Once it's full, if  
you have the wrong type of establishments, they will really  
show up and I think would have a negative impact on the  
development of the general area.

23          CHAIRPERSON KRESS: I think, Mr. Colby, you  
wanted to make another comment?

25          MR. COLBY: A lot of restaurants have very

little seating -- excuse me. A lot of food establishments have very little seating. Maybe a table or two and maybe none, particularly a deli type. Their numbers, as I recall, fit that general category further up 8th Street toward East and Market.

6 MS. KELLY: Yes.

7 MR. COLBY: Are those not favored, that type of restaurant? This is as opposed to a Papa John's. It's not a delivery service.

10 MS. KELLY: I think it's unfair to say categorically these places who only have three or four tables are not acceptable. What makes the difference is who runs it, you see. This is something you can't control. I think in fairness to the business organization of food supplies or restaurants, it's sort of unfair to say if you only have three tables we don't want you. If they run a decent shop, there is obviously nothing wrong with that.

18 Unfortunately very frequently these type of establishments are not particularly -- how should I say? They are not serving the best of foods so there is a tremendous fast turnover and you create a sort of walk in and walk out type of clientele.

23 CHAIRPERSON KRESS: Thank you for your testimony. We appreciate it. With that I'll say thank you for coming. Myself and the other members of the Commission

wish to thank you for your testimony and your assistance in this hearing.

3           The record in this case will be kept open until May 3 for the submission of any additional information which is the letter I requested and some information we are going to get in from the Office of Planning. They need to be filed on May 3 in the Office of Zoning at 441 4th Street, Suite 210.

8           The Commission will make a decision on this case at one of its regular monthly meetings following the closing of the record. These meetings are held at 1:30 on the second Monday of each month and are open to the public. If you are interested in following the case further, contact the staff to determine whether it's on the agenda of an upcoming meeting.

14           You should also be aware that if the Commission proposes affirmative action, the proposed action must be referred to the National Capital Planning Commission for federal impact review. The Zoning Commission will take final action at a public meeting following receipt of the National Capital Planning Commission review after which a written order will be published. I now declare this hearing closed. Thank you again.

22           (Whereupon, the hearing was adjourned at 8:35 p.m.) 23

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