

NATIONAL CAPITAL PLANNING COMMISSION

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COMMISSION MEETING

+ + + + +

OPEN SESSION

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THURSDAY,

JANUARY 6, 2011

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The meeting convened in Room 5115,  
Suite 500, 401 9th Street, N.W., Washington,

D.C. 20004, at 12:30 p.m., Preston Bryant,  
Chairman, presiding.

NATIONAL CAPITAL PLANNING COMMISSION MEMBERS  
PRESENT:

PRESTON BRYANT, Chairman

ROBERT E. MILLER, Vice Chairman, Mayoral  
Appointee

XAVIER BELTRAN, Council of the District of  
Columbia

HOWARD DENIS, Committee on Government  
Oversight and Reform, United States  
House of Representatives

ARRINGTON DIXON, Mayoral Appointee

ELYSE GREENWALD, United States Senate

JOHN M. HART, Presidential Appointee

PETER MAY, Department of Interior

WILLIAM MILES, Committee on Government  
Oversight and Reform, United States  
House of Representatives

BRADLEY PROVANCHA, Department of Defense

HARRIET TREGONING, Office of the Mayor of  
the District of Columbia

MEGAN VAHEY, Council of the District of  
Columbia

MINA WRIGHT, General Services  
Administration

NCPC STAFF PRESENT:

MARCEL C. ACOSTA, Executive Director

ANNE SCHUYLER, General Counsel

DEBORAH B. YOUNG, Secretariat

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

12:32 p.m.

CHAIRMAN BRYANT: Good afternoon  
and welcome to the National Capital Planning  
Commission's January 6, 2011 meeting.

Would you all please stand and  
join me in a pledge -- in the Pledge of  
Allegiance?

(Pledge of Allegiance.)

Thank you.

Noting that there is a quorum, we  
will proceed, without objection, on the agenda  
as advertised.

[INSERT - AGENDA]

1                   CHAIRMAN BRYANT: We do have three  
2 items on the agenda today, each -- only three  
3 items. Normally, we have much more. Each of  
4 these items is important. Each is an action  
5 item, and each has attracted -- each is fairly  
6 substantive and is of interest to a wide range  
7 of stakeholders.

8                   ITEM 1 - REPORT OF THE CHAIRMAN

9                   The first item on the agenda is  
10 Report of the Chairman, and I have just a few  
11 things to note.

12                   Of special note is new members to  
13 the Commission. We will have others to be  
14 announced later, but as they are coming in,  
15 I'll say that we have received a letter from  
16 Congressman Darrell Issa, who is Chairman of  
17 the Committee, the House Committee on  
18 Oversight and Government Reform. And he has  
19 designated John Cuaderes, who is Deputy Staff  
20 Director, as his first alternate. His second  
21 alternate is Peter Warren, who is his Policy  
22 Director, and his third alternate is Howard

1 Denis, who is Senior Counsel. And we are  
2 pleased to have Mr. Denis with us today.

3 Welcome.

4 We also have received a letter  
5 from Council Chairman -- District of Columbia  
6 Council Chairman Kwame Brown, designating  
7 Xaxier Beltran, who is his Legislative Counsel  
8 to Committee of the Whole, as his first  
9 alternate, and Megan Vahey, who is the  
10 Director of the Committee of the Whole, as his  
11 second alternate. And both are with us today,  
12 and Mr. Beltran is at the dais.

13 Welcome.

14 I also want to -- I guess on a  
15 personal note, I'll note that our -- Mike  
16 Sherman, who is NCPC Staff Director --  
17 Director of the Policy and Research Division  
18 -- Mike, if you'll stand? I'll refer to him  
19 as Lieutenant Colonel Sherman. In two weeks,  
20 he will deploy to Afghanistan for a year-long  
21 deployment -- Iraq. Excuse me.

22 And so is this your first? This

1 is his second deployment.

2 And so we will miss you and we  
3 wish you well. And we thank you. We're  
4 grateful for your service.

5 The second item on the agenda is  
6 the Report of the Executive Director, Mr.  
7 Acosta.

8 ITEM 2 - REPORTER OF THE EXECUTIVE DIRECTOR

9 MR. ACOSTA: Thank you, Mr.  
10 Chairman.

11 And welcome to Commissioner Denis  
12 and Commissioner Beltran to the Commission.

13 Just a few items of note that  
14 might be of interest to the general public.  
15 Tonight the National Capital Planning  
16 Commission and Smithsonian Institution will  
17 cohost a public meeting right here in the  
18 Commission chambers from 5:30 to 7:00 p.m.  
19 regarding the Environmental Impact Statement  
20 for the National Museum of African-American  
21 History and Culture. Information boards about  
22 the museum's design, which is planned for a

1 five acre site on the National Mall, will be  
2 on display during the open house. Members of  
3 the public and local and federal agencies will  
4 have an opportunity to ask questions following  
5 a formal presentation about the plans for the  
6 museum.

7 Also, we have scheduled a public  
8 meeting for the Commission's Southwest Eco-  
9 District Initiative. That meeting is  
10 tentatively scheduled for February 17 between  
11 6:00 and 8:00 p.m. The location is still to  
12 be determined.

13 The purpose of this public meeting  
14 is to present information about existing  
15 conditions, update the public on the planning  
16 process, and to solicit input and feedback.  
17 Meeting materials will be posted on NCPC's  
18 website a week prior to the meeting.

19 I'd also like to point out that  
20 our 2010 Annual Report, Achieving Balance, is  
21 before you at the dais. It is also now  
22 available for members of the public.

1                   I would like to thank our Office  
2 of Public Affairs for producing this fine  
3 document, which summarizes the Commission's  
4 accomplishments for the fiscal year 2010.

5                   Finally, I would like to note  
6 that, many of you know Nancy Witherell, who  
7 had served as the Historic Preservation  
8 Specialist here at the Commission. She's  
9 accepted a position of Regional Historic  
10 Preservation Officer for the General Services  
11 Administration.

12                   During her 16 years at NCPC, Nancy  
13 worked on many high profile projects,  
14 including the recently adopted National Mall  
15 Plan, perimeter security for the Washington  
16 Monument grounds and the Jefferson Memorial,  
17 many other projects that this Commission dealt  
18 with.

19                   And she has represented the  
20 Commission very well during her 16 years with  
21 the Commission, has a great opportunity at the  
22 General Services Administration, and we will

1

wish her well.

2

[INSERT - EXECUTIVE DIRECTOR REPORT]

1                   CHAIRMAN BRYANT:  Indeed.  I'll  
2                   also note that Rob Miller has joined and  
3                   rejoined us.  He's been -- he was then-  
4                   Chairman Gray's designee, representative on  
5                   this Commission, and now Mayor Gray has  
6                   appointed Rob to continue serving but in a  
7                   citizen's slot.  The Mayor gets a citizen  
8                   appointee, and Rob is there.

9                   And so we welcome you back, so to  
10                  speak.

11                  VICE CHAIRMAN MILLER:  Thank you,  
12                  Mr. Chairman.  Happy New Year.

13                  And I would add that the Mayor  
14                  also has reappointed Arrington Dixon as a  
15                  citizen member.

16                  CHAIRMAN BRYANT:  Good.

17                  Item 3 on the agenda is the  
18                  Legislative Update.

19                  Ms. Schuyler?

20                  ITEM 3 - LEGISLATIVE UPDATE

21                  MS. SCHUYLER:  I have none to  
22                  provide today.

1                   CHAIRMAN BRYANT: Okay. And then,  
2                   Agenda Item 4 is the first action item, and  
3                   it's the Phase 3 development of the Georgetown  
4                   Waterfront Park, and we have Mr. Hinkle.

5                   ITEM 4 - ACTION ITEMS - WITH PRESENTATIONS

6                   ITEM 4A - GEORGETOWN WATER PARK

7                   MR. HINKLE: Well, thank you, Mr.  
8                   Chairman and Commissioners.

9                   The National Park Service has  
10                  submitted plans for Phase 3 of the Georgetown  
11                  Waterfront Park, which includes the  
12                  improvement of the existing trail and  
13                  development of a pedestrian promenade. This  
14                  project runs between the Thompson Boat Center  
15                  and the Kennedy Center along the riverfront.

16                  The site is outlined here. Phase  
17                  1 and 2 were between 31st Street and 34th  
18                  Street here. This is a unique project for the  
19                  Commission to review, as it was built in the  
20                  fall of 2009. And prior to this construction,  
21                  the Commission did review the concept plans  
22                  for the park at its May 2006 meeting.

1                   When originally conceived, the  
2                   Park Service intended to extend the  
3                   contemporary palette of materials, street  
4                   furnishings and landscape design from Phases  
5                   1 and 2 to the site. However, as the project  
6                   was further developed, it was decided by the  
7                   Park Service that there was enough physical  
8                   separation between this and the other two  
9                   phases to reconsider that approach.

10                   So the Park Service then decided  
11                   to use typical materials, street furnishings  
12                   and plantings that were found along the  
13                   adjacent Parkway as well as the National Mall,  
14                   since those have more of an immediate  
15                   relationship to the site. Subsequently, the  
16                   Park Service did not resubmit the plant to the  
17                   Commission for further review.

18                   Following construction and in  
19                   light of community discussions on the location  
20                   of trees placed in the park, the Park Service  
21                   has agreed to submit the project to the  
22                   Commission for final approval, which is what

1 is before the Commission today.

2 And staff reviewed the project  
3 based on the plans submitted, as we would any  
4 development proposal.

5 So the project seeks to improve  
6 linkages between the Georgetown Waterfront  
7 Promenade, Rock Creek Park, the Thompson Boat  
8 Center and the Kennedy Center. And the  
9 components of the project include a resurfaced  
10 asphalt bikeway, a new asphalt tile pedestrian  
11 promenade, a new surface and railing on the  
12 bridge crossing Rock Creek and new trees,  
13 including the reestablishment of street trees  
14 along the Rock Creek and Potomac Parkway.

15 Specifically, the Park Service  
16 added 14 serviceberry trees, 10 red maples,  
17 three river birches and nine sycamore trees to  
18 the area.

19 Street furnishings, including  
20 Washington globe streetlights, benches,  
21 bicycle racks and trash cans were also  
22 included in the plan.

1                   So here's a slide with some  
2                   photographs of the bridge area. You can see  
3                   the existing conditions on the photo on the  
4                   left and the new conditions on the right with  
5                   new paving, as well as new railings for the  
6                   bridge.

7                   Here's some photographs of the  
8                   bikeway and trail, as well as a portion of the  
9                   pedestrian promenade, previous conditions  
10                  here, running along the Parkway, as well as  
11                  the new conditions. You can see the portion  
12                  of the pedestrian promenade in this location  
13                  as well as here.

14                  Of note, you can see the street  
15                  trees running along the Parkway, as well as  
16                  the new trees in this photograph, as well as  
17                  some of the new street furniture.

18                  And then, here's some photographs  
19                  of the pedestrian promenade. It specifically  
20                  replaced some social trails that went through  
21                  the lawn in this area, but again, you can see  
22                  some of the new street furniture as well as

1       how it's oriented towards the river.

2               So staff analyzed the project by  
3       examining the Commission's favorable comments  
4       on the concept plan, the design's consistency  
5       with the site's listing within the National  
6       Register of Historic Places and policies  
7       within the Comprehensive Plan, as well as the  
8       benefits that the public would receive from  
9       the project.

10              As the planting of sycamore trees  
11       along the Parkway is the primary focus of  
12       community discussions, within our analysis we  
13       paid particular attention to this issue.

14              So at its May 2006 meeting, the  
15       Commission commented favorably on the concept  
16       plan for this portion of the Georgetown  
17       Waterfront Park. At the time, it was  
18       determined that the submitted plans were  
19       consistent with the general Georgetown  
20       Waterfront Park plans previously approved by  
21       the Commission. Additionally, it was  
22       determined that the proposed plan provides

1 much improved pedestrian circulation, access  
2 to the Park shoreline, and that the upgrading  
3 of facilities is consistent with major goals  
4 of improving the shoreline and riverfront  
5 access, as outlined in the Comprehensive Plan.

6 And as you can see, the concept  
7 plan included many of the same elements as the  
8 current final site development plan, including  
9 improvements to the bridge, which is here, the  
10 separate pedestrian promenade at the  
11 shoreline, which is identified here, the tree  
12 grove between the bikeway and pedestrian  
13 promenade in this location, as well as the  
14 street trees, the in-fill of street trees  
15 along the Parkway.

16 While at the time of the concept  
17 review the Park Service did not provide  
18 sufficient design details and was requested by  
19 the Commission to do so in further  
20 submissions, the layout of the current plan  
21 does not significantly deviate from the  
22 concept plan presented to the Commission at

1 the time.

2                   Then in 2005, the Rock Creek and  
3 Potomac Parkway Park was listed in the  
4 National Register of Historic Places. The  
5 documentation for the nomination notes that  
6 the dominating feature of the Park is the  
7 Parkway itself. It also notes that the area  
8 was planted with rows of widely spaced  
9 sycamore trees to function as a graceful  
10 transition between the monumentally designed  
11 National Mall and the natural landscape of  
12 Rock Creek Park.

13                   In addition, the documentation  
14 notes that a planting plan dating from the  
15 1930s showed sycamore trees planted along the  
16 Parkway across from where the Watergate  
17 Complex is today.

18                   So here's three photographs from  
19 the past that show the historic line of  
20 sycamore trees along the Parkway. The photo  
21 at the top was taken in the 1940s at the site  
22 of the Titanic Memorial in its previous

1 location where the Kennedy Center currently  
2 exists, and shows the row of trees planted  
3 along the edge of the Parkway, which you can  
4 hopefully make out in this location here,  
5 running along the Parkway.

6 The photo on the left from 1972  
7 also shows the line of trees along the western  
8 side of the Parkway. See that right there.  
9 Then the bottom right photograph shows the  
10 condition of the row of trees in 1993, again,  
11 right along there.

12 And here's another photograph from  
13 1993 that shows the continuation of the row of  
14 trees along the Parkway south of the Kennedy  
15 Center. Now as you can also see within the  
16 current aerial, new sycamore trees were  
17 planted -- the new sycamore trees that were  
18 planted along the Parkway in the north part  
19 continue the existing pattern of soldiered  
20 trees south of the Kennedy Center, and even in  
21 this location on the eastern side of the  
22 roadway.

1                   As such, the final park plan does  
2 maintain the historic integrity of the Parkway  
3 by in-filling the sycamore trees along the  
4 roadway where the trees have been lost.

5                   And finally, the park design is  
6 consistent with both the federal and District  
7 elements of the Comprehensive Plan and  
8 supports a number of individual policies  
9 related to parks and open space, historic  
10 landscapes and the environment, among others.

11                   And I have quite a list of these  
12 policies within my report, which I won't go  
13 into right now, but I do want to highlight a  
14 few aspects of the park's design and how these  
15 aspects support specific policies that provide  
16 benefits to the greater public.

17                   So to begin, and as noted on the  
18 screen, the separation of trails for  
19 bicyclists and pedestrians support a number of  
20 Comprehensive Plan policies, including  
21 maintaining and improving trail quality for a  
22 variety of users and improving public access

1 to and along the shoreline.

2 In addition, improved landscaping  
3 within the area between the bikeway and the  
4 pedestrian promenade provide a screen between  
5 the busy bikeway and the promenade and focuses  
6 the promenade users on the river. As such,  
7 this landscaping supports a number of  
8 Comprehensive Plan policies, including  
9 enhancing vistas and views that are integral  
10 to the national capital's image, designing  
11 waterfront parks to maximize the scenic and  
12 recreational value of the rivers and  
13 developing public gathering spaces along the  
14 waterfronts, including promenades and  
15 viewpoints.

16 And lastly, the sycamore trees  
17 planted along the edge of the Parkway not only  
18 respect the historic planting of trees in the  
19 area, but help the Parkway function as a  
20 graceful transition between the National Mall  
21 and the natural landscape of Rock Creek Park.  
22 When these trees are mature, they will provide

1 significant shade to the users of the bicycle  
2 path during the hot summer months and frame  
3 the eastern edge of the park, separating the  
4 park from the traffic in the city and  
5 enhancing the experience of park users.

6 This in-fill of sycamore trees  
7 also supports a number of Comprehensive Plan  
8 policies, including preserving historic parks  
9 and planting and maintaining street trees,  
10 recognizing the importance of these trees in  
11 providing shade, reducing energy costs,  
12 improving air and water quality and providing  
13 urban habitat, among other benefits. And the  
14 in-fill of sycamore trees also supports the  
15 policy of enhancing the environmental quality  
16 of the national capital by replacing trees  
17 where they have died.

18 So to sum up quickly, the final  
19 site development plan for the park provides  
20 significant public benefits that are  
21 improvements over the park's previous  
22 condition. These benefits include improved

1       circulation, public safety and an enhanced  
2       experience to the park user, and these  
3       benefits correlate with many regional and  
4       local Comprehensive Plan policies on  
5       recreation, aesthetics and environmental  
6       quality.

7                       As such, Mr. Chairman and  
8       Commissioners, it is the Executive Director's  
9       recommendation that the Commission adopt the  
10      final site development plans for the  
11      Georgetown Waterfront Park Phase 3,  
12      development of bikeway and promenade from  
13      Thompson Boat Center to the Kennedy Center.

14                      Thank you.

15      [INSERT - GEORGETOWN WATERFRONT PARK]

1                   CHAIRMAN BRYANT: Thank you, Mr.  
2 Hinkle.

3                   Mr. Hart has a question, and then,  
4 we also have a public comment period on this.

5                   Mr. Hart?

6                   COMMISSIONER HART: You used the  
7 term soldiered trees, which is something I'm  
8 not familiar with. Could you define that,  
9 please?

10                  MR. HINKLE: It's a term that's  
11 often used for trees that are lined up in a  
12 row, oftentimes along a roadway or pathway.

13                  COMMISSIONER HART: Thank you.

14                  CHAIRMAN BRYANT: And these trees  
15 are, again, replacing those that have died?

16                  MR. HINKLE: That's correct.

17                  CHAIRMAN BRYANT: Okay. And the  
18 trees were noted in the plan, in the concept  
19 plan, that came before us in 2006, was it?

20                  MR. HINKLE: That's correct, and  
21 the Commission, when that Commission reviewed  
22 the concept plan, it was under the -- it was

1 not discussed, it was on the consent calendar.

2 CHAIRMAN BRYANT: Okay.

3 MR. HINKLE: But those trees were  
4 included in that plan.

5 CHAIRMAN BRYANT: Okay. Thank  
6 you.

7 Other questions before we go to  
8 public comment period?

9 (No response.)

10 Hearing none, we have seven people  
11 who have signed up to speak.

12 [INSERT - SPEAKER LIST]

1 [INSERT - LIZ SARA TESTIMONY]

1 [INSERT - ARTHUR COTTON MOORE TESTIMONY]

1 [INSERT - PETER EHRENHAFT TESTIMONY]

1 [INSERT - RONANLD COCOME TESTIMONY]

1 [INSERT - ARMANDO IRIZARRY TESTIMONY]

1 [INSERT - PETER SULLIVAN TESTIMONY]

1 [INSERT - DAVID BRADLEY TESTIMONY]

1                   CHAIRMAN BRYANT: Three are  
2                   representing organizations and as such, if  
3                   you're representing an organization, you will  
4                   have five minutes to speak. And then, there  
5                   are four representing themselves, and you will  
6                   be accorded three minutes to speak. There's  
7                   a clock on the wall, and when your time is up,  
8                   you will hear a small beep.

9                   The first several speakers are Ms.  
10                  Sherri Kimbel will be first, followed by Ms.  
11                  Liza, I'm sorry, Ms. Liz Sara, and then, third  
12                  would be Ms. Nancy Hicks.

13                  Is Ms. Kimbel here?

14                  MS. KIMBEL: I am. I respectfully  
15                  ask maybe that Liz could go first.

16                  CHAIRMAN BRYANT: Absolutely.  
17                  Sure.

18                  MS. KIMBEL: Thank you very much.

19                  CHAIRMAN BRYANT: Ms. Sara,  
20                  welcome.

21                  MS. SARA: Thank you, and good  
22                  afternoon, everyone.

1                   My name is Liz Sara, and I'm here  
2                   today to speak on behalf of the Watergate  
3                   South Cooperative. I've been appointed by the  
4                   Board of Directors to speak on behalf of the  
5                   owners. There are 230 units in our building,  
6                   and I am one of those owners. Our Board  
7                   President will also be showing today.

8                   You'll hear from the Board  
9                   representative of the Watergate East  
10                  Cooperative, in addition to mine. The  
11                  Watergate Complex comprises residential  
12                  buildings, two office buildings, a hotel, and  
13                  retail stores.

14                 The Watergate South strongly  
15                 opposes the recent planting of the sycamore  
16                 trees along the Potomac River bank in front of  
17                 the Watergate Complex. This tree variety  
18                 grows extremely tall, and in the coming years  
19                 will block the river view of the many of those  
20                 apartments.

21                 Further, all the pedestrians that  
22                 walk, bike, or drive along that stretch of

1 roadway will no longer enjoy the view of the  
2 Potomac River, nor will the office tenants in  
3 the Watergate 600 office building.

4 Let me stress the economic impact  
5 of this. Eliminating a river view will cause  
6 a decrease in the property value. As is  
7 widely known in the real estate community,  
8 property with water views commands higher  
9 prices than those without. A decline in  
10 property value of the river-facing units will  
11 cause a downward cascade in prices of the non-  
12 river-facing units. If the Watergate Complex  
13 in general experiences a downward trend in  
14 value, it will drag down the value of the  
15 other homes, condos and townhouses in Foggy  
16 Bottom. There is a real estate agent today  
17 that will testify on the nature of the value  
18 of waterfront property.

19 We have requested the National  
20 Park Service remove the newly planted sycamore  
21 trees and replace them with shorter trees or  
22 shrubs, vegetation that will not grow to block

1 the river view for anyone, and therefore, not  
2 impact the property values in a negative way.

3 The National Park Service has  
4 denied this request, stating that the sycamore  
5 plantings are in accord with the plan  
6 developed in the 1930s. We find this response  
7 unreasonable. A 1930s plan could not possibly  
8 take into account the evolution of this  
9 particular neighborhood, which now has people  
10 living and working here. This neighborhood  
11 and the Watergate Complex is, in fact,  
12 historic.

13 Why does replacing a sycamore tree  
14 for another short type of tree be out of the  
15 realm of consideration? We don't get it. So  
16 we took this matter to others, and let me  
17 summarize who and their position.

18 Number one, the Foggy Bottom and  
19 West End ANC Commission. That Commission, by  
20 a unanimous vote of 5-0, supports our efforts  
21 to persuade the National Park Service to  
22 modify that tree program so as to avoid

1 unobstructed views. I enclose a copy of that  
2 complete letter sent by ANC 2A to the Park  
3 Service.

4                   Number two, the Foggy Bottom  
5 Current newspaper on January 20 criticized the  
6 National Park Service and calls their stance  
7 on not budging on substituting sycamores for  
8 a shorter species, "ridiculous." I quote from  
9 that editorial.

10                   "Would a resident's or visitor's  
11 experience of the space change much if a  
12 shorter species were substituted? Certainly  
13 not."

14                   I enclose a copy of that editorial  
15 in my testimony.

16                   We contacted Ward 2 Councilmember  
17 Jack Evans. He and his staff support our  
18 request of the Park Service to replace the  
19 sycamores with short trees. You will hear  
20 from his office shortly.

21                   We contacted Representative  
22 Eleanor Holmes-Norton. She has supported our

1 position and she has played a key role in  
2 getting this matter in front of all of you  
3 today. Her legislative assistant is here  
4 today.

5 We contacted the owner of the  
6 Watergate Office Building, 600 New Hampshire.  
7 As the building owner, rents collected from  
8 commercial tenants with a river view will  
9 decline as those views become eliminated. He  
10 supports our request to the Park Service to  
11 replace the sycamores with short trees. I  
12 enclose a copy of his letter with this written  
13 testimony. Furthermore, one of the business  
14 tenants in that office complex will be here to  
15 testify.

16 Finally, we contacted the D.C.  
17 Historic Preservation Office, Mr. Timothy  
18 Denny. In summary, he replied, "We would have  
19 no objection to the removal of the trees to  
20 another spot. Moving some of the trees would  
21 be acceptable to this office." I enclose a  
22 copy of his letter.

1                   In closing, we have clear  
2                   consensus at the Watergate Complex and in  
3                   Foggy Bottom, replace the sycamores with short  
4                   trees or shrubs.

5                   Thank you.

6                   CHAIRMAN BRYANT: Thank you very  
7                   much.

8                   Ms. Kimbel?

9                   MS. KIMBEL: Good afternoon, Chair  
10                  and members.

11                  My name is Sherri Kimbel, and I'm  
12                  here in my capacity as Director of Constituent  
13                  Services for Ward 2 Councilmember Jack Evans.

14                  The Watergate Complex and  
15                  Georgetown Waterfront Park are both in Ward 2,  
16                  and we've had several meetings with our  
17                  constituents at the Watergate.

18                  Councilman Evans supports the  
19                  request of our constituents in Foggy Bottom to  
20                  remove the newly planted sycamore trees and  
21                  replace them with lower trees or shrubs.

22                  While we certainly support historic

1 preservation, especially all throughout Ward  
2 2, trees of this size have not been in this  
3 particular location for many years, and most  
4 of the occupants have never had trees as part  
5 of their vistas since they've lived there.

6 The National Park Service hasn't  
7 replaced these trees in many years, and to do  
8 so now, based on a 1930s plan just does not  
9 seem appropriate.

10 To make it a priority now,  
11 especially since it will completely change the  
12 lives of those who've lived along the Potomac  
13 for all these years, doesn't seem justified or  
14 necessary, as the area has evolved.

15 We certainly aren't suggesting  
16 that there be no vegetation or greenery. We  
17 are just asking that the landscape be slightly  
18 modified.

19 Let me state for the record that  
20 the National Park Service is an extremely  
21 hardworking agency. We work with them often  
22 and greatly appreciate all they do with the

1 many parks and of course, all the circles that  
2 are in Washington, D.C., over which they have  
3 jurisdiction.

4 The fact that the Watergate owners  
5 are willing to pay to replace these trees with  
6 lower height ones and to move the sycamores to  
7 other areas of the city where they would be  
8 welcome seems to us a win/win. It won't cost  
9 the National Park Service anything, and we  
10 realize that they are dealing with budget  
11 cuts, as are many agencies.

12 The trees will be used elsewhere,  
13 is our understanding. It's not often where a  
14 compromise can be reached that doesn't  
15 financially impact the agency or company whose  
16 decision is being challenged, and we applaud  
17 the Watergate owners for this offer.

18 The District is a gem with lots of  
19 green space and the Potomac River in the midst  
20 of many buildings, streets, sidewalks, and  
21 monuments. And although it's considered by  
22 many outside the District to be home to just

1 government, it is home to 600,000 residents  
2 who live here, and we ask that this decision  
3 be made based on the people who call this area  
4 home and that their homes and views not be  
5 displaced or disturbed.

6 Thank you.

7 CHAIRMAN BRYANT: Next up is Ms.  
8 Nancy Hicks, and Ms. Hicks will be followed by  
9 Gigi Winston and then Blanche Raff.

10 Ms. Hicks?

11 MS. HICKS: Thank you. I very  
12 much appreciate being able to come here today  
13 and to testify about this issue.

14 I'm here as a Board member and a  
15 representative of Watergate East Cooperative.  
16 We have 231 units, about the same size as  
17 Watergate South. And we're very concerned  
18 about the issue that we're discussing today.

19 Our Board passed a resolution in  
20 support of removing these sycamore trees and  
21 replacing them with the lower growing  
22 vegetation. And I want to make it perfectly

1 clear, as I think others have, we certainly  
2 applaud, you know, any greening of the  
3 District, and we would love to see different  
4 shrubbery applied. But the fact is for us,  
5 these sycamores, proposed where they are,  
6 would totally obstruct views of the river for  
7 a number of floors in our building.

8 And the concern isn't just for,  
9 you know, the individual members and their  
10 views although, having a river view, I know I  
11 would really miss mine, but that's not the  
12 bigger point here. Our property values would  
13 be dramatically affected, and not only our  
14 property values, but the property values of  
15 all of Foggy Bottom, since we constitute a  
16 pretty big number in Foggy Bottom.

17 I know from personal experience of  
18 refinancing that the valuation of my apartment  
19 was based in part on its river view, as were  
20 other members of Watergate East who've  
21 recently gone through this. And again, our  
22 concern is not only the value of our homes,

1 but what it's going to do to the entire Foggy  
2 Bottom neighborhood.

3 I can also tell you we have  
4 worked, you know, very well with the Park  
5 Service. We have a great deal of respect for  
6 them. They helped us with the Juarez Circle  
7 issue and other things that have affected our  
8 neighborhood. And it's our hope that we can  
9 resolve this in a positive way. Again, nobody  
10 is against trees. It's just these particular  
11 trees are so large and the spread of them  
12 would really constitute a green wall that  
13 would wipe out any kind of river vista.

14 So we hope that we can work with  
15 the Park Service and perhaps have just some  
16 lower growing vegetation.

17 Thank you very much.

18 CHAIRMAN BRYANT: Thank you.

19 Ms. Winston?

20 MS. SARA: Ms. Winston is not  
21 present today, but Blanche will --

22 CHAIRMAN BRYANT: Okay. Good.

1 Ms. Raff, and following Ms. Raff will be Mr.  
2 Billy Carter. Finishing up will be Mr. Peter  
3 Ehrenhaft.

4 MS. RAFF: Good afternoon, ladies  
5 and gentlemen.

6 I'm a realtor, and I was asked to  
7 comment on property values regarding water  
8 view versus no water view and what a water  
9 view will do for property values.

10 I looked at a condominium in  
11 Arlington. Perhaps you know it, Prospect  
12 House. It faces the river. It's an 11 story  
13 condominium. It sits high on a hill. The  
14 second -- and it consists of 11 floors. There  
15 are units on floors 2, 5, 8, and 11.

16 The units on the floor 2 have no  
17 view. The units on floor 5 have a very nice  
18 view. But in front of the Prospect House is  
19 an apartment complex. It sits way down the  
20 hill. The thought is that someday perhaps  
21 that apartment complex will be torn down. So  
22 units on the fifth floor sell for more than

1 the units on the second floor. But when you  
2 get to the eighth floor, they're really high  
3 because they have a tremendous river view with  
4 no threat of any development that would  
5 obscure that view. When you get to the 11th  
6 floor, there's not much difference between  
7 prices on the eighth and the 11th.

8 I did an analysis of prices over  
9 the past two years. Sales in that building  
10 were as follows: the average sale price of  
11 units on the second floor, \$423,378; on the  
12 fifth floor, \$637,500; on the eighth floor,  
13 \$830,000; on the 11th floor, it was \$840,000.

14 The percent increase between the  
15 second and the fifth floor was 151 percent,  
16 between the fifth and the eighth floor it was  
17 130 percent, between the eighth and the 11th  
18 it was 1 percent. But between the second  
19 floor and the eighth and the 11th floors,  
20 which of course, have the very best views,  
21 there's 196 percent difference in your sale  
22 price. Anything that impacts a river view is

1 going to devalue your property value.

2 Thank you for your time.

3 CHAIRMAN BRYANT: Thank you.

4 Mr. Carter?

5 MR. CARTER: Hello, everyone.

6 My name is Billy Carter, and I'm  
7 the proprietor and GM of the restaurant Rivers  
8 at the Watergate.

9 We're located in the Watergate  
10 Complex on the ground floor of the Watergate  
11 600 Building across from the Kennedy Center.

12 I'm here today as a business  
13 neighbor to support the request of the  
14 residents of the Watergate Complex and the  
15 residents of Foggy Bottom in general. That  
16 request is to move some of the newly planted  
17 sycamore trees along the Potomac River and  
18 replace them with low height trees or shrubs.

19 Maintaining an open, clear view of  
20 the Potomac River is paramount to maintaining  
21 the property values of this historic D.C.  
22 neighborhood. A river view commands greater

1 real estate prices, plain and simple.

2           These sycamore trees will grow to  
3 heights that will hide the river for those who  
4 live here, as for those who drive their cars  
5 or walk or bike along the paths or eat out on  
6 outdoor patios.

7           Hiding this magnificent view makes  
8 absolutely no sense from a quality of life  
9 standpoint as well as from a business  
10 standpoint, specifically my business. As a  
11 business neighbor in the Watergate Complex, we  
12 want to maintain unobstructed river views.  
13 The patio of our restaurant currently enjoys  
14 views of the river. To remove that would be  
15 to undermine a key selling point of our  
16 location.

17           Our outdoor seating, which will  
18 begin in late spring, has a unique selling  
19 feature that most in D.C. do not have, that is  
20 a view of the Potomac. If that view is  
21 obstructed by tall, dense trees, we lose that  
22 attraction. That could negatively impact our

1 revenue.

2 In closing, Rivers at the  
3 Watergate restaurant supports moving the new  
4 sycamore trees and replacing them with low  
5 height vegetation.

6 Thank you.

7 CHAIRMAN BRYANT: Thank you, Mr.  
8 Carter.

9 And last is Mr. Ehrenhaft.

10 Welcome.

11 MR. EHRENHAFT: Thank you very  
12 much, members of the Commission.

13 I'm a resident of the Watergate,  
14 and I've submitted to you a written bit of  
15 evidence, including some photographs taken  
16 from my building, from my apartment, that  
17 identify four of the new trees and which show  
18 very precisely how those trees will block the  
19 view from my apartment.

20 I'd also like to mention that, as  
21 Ms. Hicks, I recently refinanced my apartment,  
22 and in the mortgage appraisal there is

1 specifically indicated that one of the values  
2 in the apartment is the river view. And the  
3 river view is regarded as one of the principal  
4 elements of value.

5 This has been historically the  
6 case at the Watergate. The assessment of  
7 members of the Watergate Co-op is dependent on  
8 the floor on which the apartment is located  
9 and the view that it has. River views have a  
10 higher monthly assessment than city views, and  
11 the higher the floor and the better the view,  
12 the higher is the assessment. I put in my  
13 testimony some extracts from the actual  
14 numbers, so that you can see that for  
15 yourself.

16 The last point that I would like  
17 to make is that we're not talking about an  
18 enormous number of trees that we ask the Park  
19 Service to replace with lower vegetation. Ms.  
20 Hicks and I went down and took a look along  
21 the waterfront and tried to identify the trees  
22 that are, in fact, the ones that would block

1 the view. There are no more than about 10,  
2 and we think that moving those 10 trees would  
3 be an easy and appropriate use of the  
4 vegetation.

5 We're very appreciative that the  
6 Park Service has wanted to redevelop that  
7 area. All other aspects of the bike path and  
8 the pedestrian promenade are desirable  
9 improvements of our neighborhood, but these  
10 particular trees are a nuisance to the  
11 Watergate, a reduction in the value of our  
12 property, and are being supported by sort of  
13 a stubbornness that we think is inappropriate  
14 for a public organization such as the Park  
15 Service.

16 So we hope that this Commission  
17 will urge, or perhaps require, the Park  
18 Service to reconsider its plans and to, in  
19 fact, substitute for the tall trees some lower  
20 vegetation that will not block the view.

21 Thank you very much.

22 CHAIRMAN BRYANT: Thank you, Mr.

1       Ehrenhaft.

2                   There was an oversight on my part.

3       We also have one more speaker, Ms. Katrina

4       Piano.

5                   Ms. Piano, welcome.

6                   MS. PIANO: Thank you.

7                   So my name is Katrina, like the

8       hurricane, Category 5, and the last name is

9       Piano, like the instrument.

10                  I'm a real estate agent with Long

11       & Foster, and I specifically sell to the

12       Watergate Complex, Foggy Bottom and West End.

13       I also serve on the Board at Watergate South.

14                  Most of the buyers that I deal

15       with that are interested in moving to the

16       Watergate, the very first thing that they want

17       to look at is all those apartments that are

18       available that have a direct water view. If

19       we can't get a direct water view, we start

20       moving away from the water and you know, it

21       gets down to a partial view.

22                  Being a Board member, one of the

1 more emotional issues that we deal with with  
2 the residents is when trees that are currently  
3 planted on the Watergate property that start  
4 to obstruct views, they want the trees to be  
5 trimmed down. It becomes a really big issue  
6 because of who owns the trees, which property  
7 it's from. And to this day, I can talk to  
8 residents from 20 years ago that still talk  
9 about when the trees obstructed their view.

10 Our property values are  
11 significantly affected by an unobstructed view  
12 of the Potomac River, Roosevelt Island and the  
13 shoreline of Georgetown. Especially with the  
14 improvement that the Park Service has done,  
15 the shoreline of Georgetown has just become so  
16 beautiful to look at with the two new parks  
17 that formerly were a parking lot.

18 Improvements to the waterfront are  
19 welcomed and have definitely contributed to  
20 our property values, but obstructing the  
21 shoreline and the panoramic views of the  
22 Potomac will negatively affect the values and

1 from my experience, will remain a constant  
2 issue with the National Park Service from  
3 residents into the future that will want those  
4 trees down.

5 The hotel has just begun  
6 construction. So there's not a representative  
7 here, but that property is closer to the  
8 shoreline, and I'm sure that in a couple of  
9 years it will be brought up as another issue,  
10 too.

11 But I just -- I want to thank the  
12 National Park Service. We're so excited about  
13 the changes that have taken place, and I'm  
14 always just so grateful when I walk along the  
15 new paths and enjoy the furniture, and it's  
16 just really beautiful, and the bridges in  
17 Georgetown.

18 Thank you.

19 CHAIRMAN BRYANT: Thank you, Ms.  
20 Piano, very much.

21 That ends the public comment  
22 period for this item, and we'll bring the

1 discussion back to the Commission.

2 Questions or discussion from  
3 members? Mr. Denis?

4 COMMISSIONER DENIS: Yes. Were  
5 there community meetings prior to the  
6 finalization of the plan?

7 MR. HINKLE: I'll have to defer to  
8 the National Park Service on that question.

9 COMMISSIONER MAY: The --  
10 actually, I want to ask the Park  
11 Superintendent, who's in the audience, or  
12 Deputy Superintendent, to come and speak to  
13 what public discussions there were.

14 I mean, we usually hold public  
15 meetings for any major projects, and there  
16 were public meetings regarding Georgetown  
17 Waterfront Park in general. And with this  
18 project, since it was after the initial  
19 concept review was deemed to be, more or less,  
20 a refurbishment type of project, I don't know  
21 that there were additional meetings.

22 But this is -- we have Steve

1 Lorenzetti, who's a Deputy Superintendent who  
2 can speak directly to what public  
3 conversations there were.

4 MR. LORENZETTI: Yes. As this was  
5 really a tree replacement of existing trees  
6 that had died, we did not have a public  
7 meeting on that. Traditionally, when trees do  
8 pass away and we do get around to replacing  
9 them, that's a categorical exclusion and we  
10 just replant in the original location.

11 COMMISSIONER DENIS: Were there  
12 informal meetings with the community about  
13 what was being contemplated?

14 MR. LORENZETTI: No. We worked  
15 with the State Historic Preservation Office.  
16 We went over the project with them to make  
17 sure we had done all the appropriate steps in  
18 that respect, and then, we went ahead with the  
19 contract.

20 COMMISSIONER DENIS: How tall do  
21 these trees grow?

22 MR. LORENZETTI: Sycamores,

1 they'll vary. Possibly 60 to 70 feet.

2 COMMISSIONER DENIS: And how is a  
3 story defined? Is this -- would that be --  
4 how many stories would that be?

5 MR. LORENZETTI: I don't know.

6 COMMISSIONER DENIS: Okay. Would  
7 that be two stories high or -- ten feet, okay.  
8 Okay. And would the blockage of the view be  
9 total or partial?

10 MR. LORENZETTI: I really have no  
11 opinion on that.

12 COMMISSIONER DENIS: Okay. How  
13 far -- what kind of spacing would there be  
14 between the trees?

15 MR. LORENZETTI: I'd have to check  
16 what the historic spacing is. They're not  
17 that close. There is gaps between the canopy  
18 of all the trees. The trees are on the west  
19 side of the road, farther away from the  
20 Watergate Complex. I can get you the  
21 distance. I just don't know it off --

22 COMMISSIONER DENIS: And one last

1 question. You were aware of the community  
2 concerns that have been expressed to us, I  
3 assume?

4 MR. LORENZETTI: After the trees  
5 were planted --

6 COMMISSIONER DENIS: Yes.

7 MR. LORENZETTI: -- we did have  
8 meetings with the various groups. We've tried  
9 to explained the rationale behind.

10 COMMISSIONER DENIS: What is your  
11 response to the issues that were raised here  
12 as to property values?

13 MR. LORENZETTI: Well, the Park  
14 Service looks at the historic nature of the  
15 area and of the planting and of the situation.  
16 These trees predated the Watergate Complex;  
17 they postdated the Watergate Complex.

18 In the late seventies, we were not  
19 as efficient as we could have been in  
20 replacing dead trees. So the -- some owners  
21 did have the trees removed while they were in  
22 the building, and they have not been replaced

1       until now. We wish we could have done it  
2       sooner.

3                       We were fortunate enough to get  
4       this project through the Georgetown Waterfront  
5       Park Project and we were able to finally  
6       replace the missing historic trees.

7                       COMMISSIONER DENIS: So is it your  
8       view that the community was on notice that  
9       this was being contemplated prior to its being  
10      done?

11                      MR. LORENZETTI: Like I said, we  
12      viewed this as a replacement program. So we  
13      dealt with that the way we normally did, and  
14      we went with the D.C. Office of Preservation.

15                      COMMISSIONER DENIS: Okay.

16                      MR. LORENZETTI: We did not know  
17      of any opposition to this, if that's what your  
18      question is.

19                      COMMISSIONER DENIS: Okay. Thank  
20      you.

21                      COMMISSIONER MAY: Can I just add  
22      a couple of points?

1                   One is that there -- we do have an  
2 ongoing relationship with members of the  
3 community in that vicinity, as we do across  
4 the city where the parks border residential  
5 neighborhoods. And we do have a number of  
6 citizens in the vicinity who strongly support  
7 the planting of the trees the way it is, and  
8 you have some testimony that was in the  
9 package that was distributed that testifies to  
10 that effect.

11                   I also just want to add a couple  
12 of points. And actually, before we do that,  
13 I'd like Deputy Superintendent Lorenzetti to  
14 speak to the issue of replacement of the  
15 sycamore trees with a tree that would grow to  
16 a lower height. Is that something that was  
17 considered, could be considered? Is it  
18 consistent with the historic plan to do so?  
19 Is it consistent with the rest of the trees  
20 that are there to do so?

21                   MR. LORENZETTI: The importance of  
22 the sycamores to the Park Service is how they

1 work on Rock Creek and Potomac Parkway, which  
2 is a very historic Parkway. The sycamore is  
3 a fine tree for us because it does limb up  
4 high, which means all the views from the  
5 drivers, pedestrians, bicyclists are held.  
6 Anyone on a lower level keeps a view of the  
7 river, which is what we had with the original  
8 design of the Rock Creek and Potomac Parkway.

9 The idea was to have a sylvan  
10 setting as you drive down, but to be able to  
11 have the river views as you drive down the  
12 roadway. That is maintained with this tree,  
13 which is the reason it was originally chosen.

14 It also maintains the street tree  
15 that we are so familiar with in this city that  
16 we have on so many of our major roads. A  
17 lower tree will not give you that. It will  
18 not give you the boulevard sense. It will not  
19 give you the majestic sense of the roadway as  
20 you come down into the city along the river.  
21 This was the reason these trees were  
22 originally chosen, and we don't see that it

1 has changed. The road is used in the same way  
2 it was.

3 Like I said earlier, this design  
4 pre- and postdates the Watergate Complex.  
5 It's not a surprise. It has been a while  
6 since some of the trees have been replaced.  
7 Many of the trees are still in place. Only  
8 the trees that have died over the years are  
9 being replaced in their exact location.

10 COMMISSIONER MAY: If I could also  
11 add, you know, the Park Service across the  
12 region struggles to replace trees. We are  
13 trying to maintain a zero net loss policy.  
14 And it's a very difficult thing, largely  
15 because of budget considerations and  
16 everything else.

17 We were -- are very happy when we  
18 have the opportunity to replant trees that  
19 have been missing, particularly when there are  
20 these sorts of gaps in the historic fabric.

21 We also struggle with this  
22 particular issue of people's views being

1 obstructed by Park Service trees in many  
2 locations across the region. And it has been  
3 -- it has led to some very difficult  
4 situations for the Park Service, and  
5 occasionally people, neighbors go out and cut  
6 trees on our property to establish their  
7 views, which is also a very thorny situation.  
8 Obviously, that's not the situation here.

9 I mean, we're sensitive to this,  
10 but we also think that the trees themselves  
11 add value and add benefit. And it's a broader  
12 benefit that goes beyond the people who are  
13 immediately impacted by this. And that's why  
14 we feel very strongly it's important to take  
15 advantage of these kinds of opportunities and  
16 to fund projects and to reestablish the  
17 historic fabrics of street trees as they once  
18 existed.

19 That's it for my comments.

20 COMMISSIONER VAHEY: Mr. Chairman?

21 CHAIRMAN BRYANT: Yes, please.

22 COMMISSIONER VAHEY: Are there no

1 other trees that could accomplish both ends,  
2 where the property owners are still allowed or  
3 permitted the views of the river which they  
4 purchased and the motorists can still enjoy  
5 the view of the river? Is there no other --  
6 is there a happy medium somewhere?

7 MR. LORENZETTI: Well, one problem  
8 we have a --

9 COMMISSIONER PROVANCHA: Such as  
10 the other three tree species that are going to  
11 be used as part of this planting scheme?

12 MR. LORENZETTI: Well, one of the  
13 problems is the existing trees that are  
14 already there, which are sycamores, that are  
15 up and down the avenue, if we start getting a  
16 funny tree alley, you are going to have  
17 heights going up and down, and it's not going  
18 to have the uniform ceremonial feel that the  
19 road did originally before these trees passed  
20 on that need to be replaced.

21 COMMISSIONER MAY: Would you  
22 respond to the specific question about the

1 other three, the other species that are going  
2 to be used in this --

3 COMMISSIONER PROVANCHA: Yes. We  
4 understand the justification, but the  
5 serviceberry, the red maples or the river  
6 birches are not acceptable substitutes for the  
7 sycamores?

8 MR. LORENZETTI: They were lower  
9 growth trees that are --

10 COMMISSIONER PROVANCHA: I  
11 understand you want to have the continuity.

12 MR. LORENZETTI: Those were lower  
13 growth trees that were put in between the  
14 roadway and the river itself, and they are not  
15 -- we have not used those, and I don't think  
16 they really would be appropriate along a  
17 street edge, the way we do street trees in  
18 this city.

19 COMMISSIONER MAY: Can I ask, the  
20 typical street trees are what species? I know  
21 we use elms and sycamores.

22 MR. LORENZETTI: Sycamores. We

1 use elms, occasionally oaks.

2 CHAIRMAN BRYANT: Let me go to Mr.  
3 Miller and then Mr. Dixon.

4 VICE CHAIRMAN MILLER: When were  
5 the -- these are 10 trees, the sycamore trees  
6 that are in this --

7 MR. LORENZETTI: I think there  
8 were seven that were replaced this time.

9 VICE CHAIRMAN MILLER: Seven. And  
10 the ones that were replaced, when did they  
11 die? In the seventies, you said?

12 MR. LORENZETTI: We have aerial  
13 photographs. I can't pinpoint exactly when  
14 they were all dead. It looks like from the  
15 aerial photographs we have been able to find,  
16 starting in the late seventies, we started  
17 having dieback.

18 VICE CHAIRMAN MILLER: And can  
19 they be successfully replanted if they were  
20 relocated elsewhere?

21 MR. LORENZETTI: Yes, they could  
22 be.

1                   VICE CHAIRMAN MILLER:  And when  
2                   were the planted?  Last year?

3                   MR. LORENZETTI:  Two years ago  
4                   now.

5                   VICE CHAIRMAN MILLER:  Two years.

6                   COMMISSIONER DIXON:  Mr. Chairman,  
7                   I'm honored to be reappointed, and it looks  
8                   like the first vote I'm going to have to pass  
9                   on, because I have family members who own  
10                  property in the Watergate, and I think it  
11                  might be a little bit touchy for me to get  
12                  involved.

13                  But I do have to ask two  
14                  questions.  One, there are how many trees  
15                  involved?  Seven?

16                  MR. LORENZETTI:  Seven.  I'm being  
17                  told it might be a few more.

18                  CHAIRMAN BRYANT:  Excuse me.

19                  COMMISSIONER DIXON:  I can't ask a  
20                  question?  Okay.

21                  CHAIRMAN BRYANT:  Yes.  If you  
22                  have to recuse yourself, you can't

1 participate.

2 COMMISSIONER DIXON: Well, then,  
3 I'll be silent.

4 VICE CHAIRMAN MILLER: Well, I  
5 asked the same question. If they can clarify  
6 that, it would be helpful.

7 MR. LORENZETTI: I will clarify  
8 that for you.

9 CHAIRMAN BRYANT: Ms. Tregoning?

10 COMMISSIONER TREGONING: I guess I  
11 have got two questions. The American sycamore  
12 is not an evergreen, correct?

13 MR. LORENZETTI: Correct.

14 COMMISSIONER TREGONING: So,  
15 there's some considerable time of the year  
16 when it doesn't have leaves?

17 MR. LORENZETTI: Correct.

18 COMMISSIONER TREGONING: And  
19 therefore, wouldn't do much to obstruct a  
20 view?

21 MR. LORENZETTI: Yes.

22 COMMISSIONER TREGONING: Okay. Do

1 you know how much of the time of the year that  
2 would be?

3 MR. LORENZETTI: They'll lose  
4 their leaves in late fall and they'll come  
5 back late March.

6 COMMISSIONER TREGONING: Okay.  
7 So, maybe five months of year, all right.

8 MR. LORENZETTI: Four or five  
9 months.

10 COMMISSIONER TREGONING: And is it  
11 possible -- do American sycamores, can they  
12 stand being trimmed? I know that their  
13 natural full height might be 70 feet. Can  
14 they be trimmed so as to be lower than that?

15 MR. LORENZETTI: We have never  
16 been able to successfully tree-top in a manner  
17 that makes the tree look natural.

18 COMMISSIONER TREGONING: With this  
19 variety or with any tree at all?

20 MR. LORENZETTI: With any tree  
21 that we've tried it on.

22 COMMISSIONER TREGONING: Okay. I

1 mean, I'm very sympathetic to the folks at the  
2 Watergate, but I'm also aware of the precedent  
3 this would set, not just for the Park Service,  
4 but for the city. You know, we have literally  
5 hundreds and hundreds of location where we are  
6 planting or have already planted trees along  
7 the riverfront proximate to residential  
8 development.

9 We need those trees to provide a  
10 riparian buffer, to provide shade, to manage  
11 storm water, to reduce our urban heat island  
12 effect. And if I think about what it would  
13 mean if every time someone's view is  
14 obstructed we had to cut that tree down, it  
15 would be devastating for the city and for the  
16 Park Service as well. So, I struggle with  
17 this issue.

18 I would very much like it if we  
19 could find a solution that would enable us to  
20 have the benefits of the street tree. I'm  
21 looking online to see if there's a smaller  
22 variety of a sycamore that might look similar,

1 but not grow to such a height, and I have not  
2 completed my research, but maybe that's  
3 something the Park Service can look into, that  
4 would give you that continuity and that  
5 majestic feel that, frankly, comes not as much  
6 from the height of the tree, but, as you're  
7 saying, from the fact that the tree canopy is  
8 high and that the distinctive nature of that  
9 trunk is what people really get to observe as  
10 they kind of go by on the Parkway.

11 So, there might be a species that  
12 would literally fit the bill and enable us to  
13 reach an accommodation between the residents  
14 and the needs of the Park Service. That's  
15 what I'm interested in trying to explore.

16 CHAIRMAN BRYANT: I have one  
17 question. Any rough idea of what the cost is  
18 to transplant a tree that's the size that has  
19 been planted for two years now?

20 MR. LORENZETTI: Probably anywhere  
21 between \$500 and \$1500, just depending on the  
22 size of the tree spade that would be

1       necessary. We would have to check the root  
2       size, go from there.

3                   CHAIRMAN BRYANT: Mr. Provancha?

4                   COMMISSIONER PROVANCHA: Yes, sir.

5       As a property owner, I have a couple of homes  
6       in Wichita, Kansas, and one of them sits on a  
7       creek. And the homeowners' association has  
8       come and helped remove, without my  
9       concurrence, some trees that helped screen my  
10      small home from the little \$3 million nice  
11      home next door.

12                  So, I'm sensitive to this issue  
13      about property valuation. Clearly, with the  
14      seasonal aspect, you would, then, not want to  
15      sell your property in the summertime or show  
16      it when the canopy is full, as opposed to  
17      offseason sales.

18                  But would the offer from some of  
19      these homeowners' associations and property  
20      managers be acceptable to the Park Service, to  
21      pay for the removal and replacement? Many  
22      times there's bureaucratic obstacles that

1 prevent that exchange of funds. Is that at  
2 all feasible?

3 MR. LORENZETTI: Well, we've never  
4 even gotten to the funding aspect because what  
5 we've been dealing with is the historic aspect  
6 of the area.

7 COMMISSIONER PROVANCHA: Right.

8 MR. LORENZETTI: And that's what  
9 we're tasked to protect.

10 COMMISSIONER PROVANCHA: Okay.

11 COMMISSIONER MAY: I would add  
12 that, I mean, it is possible for the Park  
13 Service to accept donations and donated  
14 services and things like that, but that's not  
15 really the solution that we would suggest at  
16 this point.

17 COMMISSIONER PROVANCHA: The  
18 historic nature of the area has been commented  
19 on a couple of times to include the historic  
20 status of the Watergate. What is that formal  
21 historic status of the Watergate Complex? Is  
22 it on the Registry? It is? Okay. All right.

1                   There was some criticism of this  
2                   an antiquated 1930s plan, I think. In defense  
3                   of the Park Service, has not this plan been  
4                   updated repeatedly and as recently as May of  
5                   2006? So, while the foundation may go back to  
6                   1930, there's been significant updating and  
7                   modifications as conditions have changed in  
8                   the last 60-70 years.

9                   MR. LORENZETTI: Certainly. And  
10                  while the plan is old, many of our memorial  
11                  plans technically are old, but the condition  
12                  on which they were founded has not changed.  
13                  The Lincoln Memorial is still the Lincoln  
14                  Memorial. The Rock Creek and Potomac Parkway  
15                  is still the Rock Creek and Potomac Parkway,  
16                  and nothing has really changed in that  
17                  respect.

18                  COMMISSIONER PROVANCHA: Okay.  
19                  All right. Are the homeowners and the  
20                  interested parties in agreement on the numbers  
21                  of trees? I'm just trying to wrap my head  
22                  around the scope of this problem, whether

1 we're talking about thirty-six new plantings,  
2 of which only seven to nine to ten are in the  
3 contingent?

4 MR. LORENZETTI: I'm willing to  
5 accept the nine number. I have to go back out  
6 and count again. I haven't been there in a  
7 little time.

8 COMMISSIONER PROVANCHA: I heard a  
9 number from one group, but what I'm trying to  
10 see, is there a general consensus among all  
11 the interested parties outside of the  
12 government that we're only talking about seven  
13 to nine to ten trees?

14 MR. LORENZETTI: We're only  
15 talking about the trees that were planted  
16 along the street.

17 COMMISSIONER PROVANCHA: Got you.  
18 And help me also quantify, if you will, 36 new  
19 trees. Numerator/denominator is usually the  
20 approach that I like to use. So, I don't know  
21 whether we're talking about 5 percent new  
22 trees, 50 percent trees, 90 percent new trees.

1 I would assume that there's hundreds of  
2 existing trees. So, 36, numerator/denominator  
3 is a very small percentage.

4 MR. LORENZETTI: That would be  
5 correct.

6 COMMISSIONER PROVANCHA: Is that  
7 accurate? Okay.

8 I think that's all the questions I  
9 had related to trees.

10 I had some questions related to  
11 choice of materials. In the presentation by  
12 Mr. Hinkle, there was some language used that  
13 there are some differences between Phase 3  
14 than the materials originally selected and  
15 used in Phase 1 and Phase 2 in that they're  
16 using materials from the adjacent Parkway and  
17 the National Mall for Phase 3, unlike Phases  
18 1 and 2.

19 Could we have some examples of the  
20 types of materials? For example, I'm assuming  
21 that one of them is the bridge materials. It  
22 looks like the existing materials are the --

1 I would call them railroad tie type of railing  
2 across the bridge to be replaced by some kind  
3 of a steel or aluminum wire type of a  
4 structure. Is that an example of how we're  
5 going to use National Mall materials --

6 MR. LORENZETTI: A good example  
7 would be --

8 COMMISSIONER PROVANCHA: -- or  
9 materials for Phase 3 that are different than  
10 Phase 1 and 2?

11 MR. LORENZETTI: Probably a better  
12 example would be the benches where --

13 COMMISSIONER PROVANCHA: The  
14 benches?

15 MR. LORENZETTI: -- where we're  
16 trying to keep the architecture of Phase 1 and  
17 2, which is more connected with Rock Creek,  
18 separate from Phase 3, which starts to see  
19 more from the National Mall itself.

20 COMMISSIONER PROVANCHA: I want to  
21 commend the Park Service. I think this is a  
22 wonderful project. I understand it's part of

1 a 200-mile-long complex of trails. I think  
2 there's many positives of the project, to  
3 include separation of the bike path and the  
4 pedestrian pathways, the opportunities for the  
5 pedestrian promenade for people to sit and  
6 enjoy the surroundings, unlike some of the  
7 trails that we have on the other side of the  
8 Potomac, where the pedestrians compete,  
9 sometimes at their peril, with the bikers.  
10 So, I think there's many positive aspects.

11 I also commend staff once again on  
12 a thorough analysis of this matter.

13 Thank you.

14 CHAIRMAN BRYANT: Mr. May?

15 COMMISSIONER MAY: I'm sorry, I  
16 don't have further comments, but I was going  
17 to make a motion when the Chair is ready.

18 CHAIRMAN BRYANT: A motion is  
19 always in order.

20 COMMISSIONER MAY: Then I would  
21 move approval of the Executive Director's  
22 recommendation.

1 VICE CHAIRMAN MILLER: Second.

2 CHAIRMAN BRYANT: It's been moved  
3 and seconded that we approve the Executive  
4 Director's recommendation.

5 Mr. Miller?

6 VICE CHAIRMAN MILLER: It's a  
7 shame that we're at this point of the  
8 discussion. This is a project, the Georgetown  
9 Waterfront Park Project, that has been going  
10 on for and planned for a long time, and it's  
11 generated a lot of goodwill recently because  
12 I've seen the public amenities and benefits  
13 that are coming from it.

14 Commissioner Tregoning asked if  
15 there was any interest in exploring an  
16 alternative, and I didn't really hear a  
17 response from the Park Service. I really  
18 think that there could be a win/win situation,  
19 that it doesn't need to generate such negative  
20 feelings in the community.

21 COMMISSIONER MAY: Well, I think  
22 the Park Service feels very strongly that the

1 street trees need to be sycamores. Whether  
2 there's a slightly smaller version or slightly  
3 narrower spread version of the sycamore, I  
4 don't really know. I assume that if -- well,  
5 put it this way: I believe we could do some  
6 research to find out if there is a smaller  
7 version of it, and we could come back to the  
8 Commission and notify the Commission if we  
9 could find a smaller replacement of that same  
10 tree, but we would like to stick with  
11 sycamores.

12 COMMISSIONER PROVANCHA: I think  
13 that's a predicament that many of us are in.  
14 It's a black-and-white issue. If we vote to  
15 approve, then there's no alternatives being  
16 considered, and I think many of us would like  
17 to put some alternatives on the table, at  
18 least for assessment.

19 COMMISSIONER MAY: Tree  
20 replacements, though, are within the normal  
21 realm of things that we don't seek approval  
22 for. But if the Commission would like us to

1 investigate that --

2 VICE CHAIRMAN MILLER: Yes.

3 COMMISSIONER MAY: -- if we  
4 investigate it, I don't think it really  
5 affects approval of the EDR.

6 COMMISSIONER WRIGHT: Could I say  
7 something?

8 VICE CHAIRMAN MILLER: Yes, go on.  
9 I'm sorry.

10 COMMISSIONER WRIGHT: I agree. I  
11 don't think that's the point, whether or not  
12 there's a proper substitute. I mean it's like  
13 being sort of pregnant, you know. I mean  
14 you're either going to do -- you're going to  
15 go by best practice for landscape  
16 preservation, as we do in historic  
17 preservation, or not. And if you're going to  
18 digress from best practice, then you should  
19 have a really good reason that has to do with  
20 the public realm to do that.

21 And I'm having a hard time with  
22 the notion that replacement with the original

1 species, that there's a really good public  
2 realm argument against doing that.

3 VICE CHAIRMAN MILLER: It looks  
4 like they're denser than they were originally.  
5 Can you speak to that?

6 COMMISSIONER MAY: I'm sorry. The  
7 new trees?

8 VICE CHAIRMAN MILLER: The  
9 placement of the trees is closer to each other  
10 than --

11 COMMISSIONER MAY: No, I think  
12 that they're based on the historic placement  
13 of the trees. We don't try to plant them very  
14 closely together, for a number of practical  
15 reasons. I don't think that we would be  
16 trying to make it any more dense than it was  
17 before.

18 VICE CHAIRMAN MILLER: Okay. I  
19 would like to move to table for one month, so  
20 that there can be serious exploration of an  
21 alternative to come back and see and let us  
22 know what the results of the conversations and

1 exploration of research are.

2 CHAIRMAN BRYANT: And you're  
3 making that in the form of a substitute  
4 motion?

5 VICE CHAIRMAN MILLER: Yes, I am.

6 CHAIRMAN BRYANT: Please, let's  
7 make that in the form of a substitute motion.

8 VICE CHAIRMAN MILLER: A  
9 substitute motion to table for one month.

10 COMMISSIONER WRIGHT: Second.

11 CHAIRMAN BRYANT: The substitute  
12 motion --

13 VICE CHAIRMAN MILLER: We request  
14 that there be an exploration of alternatives.

15 CHAIRMAN BRYANT: There's been a  
16 substitute motion and a second to effectively  
17 delay this for one month, until our February  
18 meeting, to give the parties time -- to give  
19 the NPS, I guess, time to do a little bit of  
20 research and further assessment.

21 Is there discussion on this  
22 substitute motion?

1                   COMMISSIONER MAY: I have a  
2 protocol question. I have forgotten now.  
3 It's been a while since we had a substitute  
4 motion. How do the mechanics work? I don't  
5 recall.

6                   CHAIRMAN BRYANT: Well, the  
7 substitute motion takes precedent and it  
8 requires a vote. If it fails, we're back to  
9 the original motion --

10                  COMMISSIONER MAY: Okay.

11                  CHAIRMAN BRYANT: -- which was to  
12 approve the EDR.

13                  COMMISSIONER MAY: That's my only  
14 question.

15                  CHAIRMAN BRYANT: The substitute  
16 motion is or is not debatable?

17                  VICE CHAIRMAN MILLER: It's to a  
18 time certain, so it's debatable under our  
19 rules, under Council rules, not our rules.

20                  CHAIRMAN BRYANT: It's debatable,  
21 yes? Okay.

22                               Is there further discussion on the

1 substitute motion, then?

2 COMMISSIONER TREGONING: I would  
3 just say, Mr. Chairman, that I'm not convinced  
4 that we couldn't meet the historic plan by  
5 looking at a different variety of American  
6 plane tree or London plane tree that would  
7 have exactly the same effect and, yet,  
8 mitigate somewhat the concerns of the  
9 Watergate residents.

10 If the exploration that could take  
11 place over the course of the next month does  
12 not yield an acceptable substitute, then we're  
13 back where we are. But I don't see what we  
14 lose by at least considering this.

15 Thank you.

16 COMMISSIONER WRIGHT: Do we know  
17 that the Park Service has not explored these  
18 alternatives? I mean I know at GSA we do all  
19 that on the front side of a project, not --

20 COMMISSIONER MAY: We haven't, and  
21 I mean, if this were something being designed  
22 from scratch, there would be a lot of

1 exploration of alternatives, but this is one  
2 that was strictly a replacement of existing  
3 trees. And so, we know what the species was.

4 I guess the counterpoint to not  
5 seeing what we lose, I am not sure that we see  
6 anything, that there is anything to gain from  
7 tabling this. The Park Service is willing to  
8 look into that question, and if we find that  
9 there is something different, and if the  
10 Commission really does want to vote on  
11 replacement of individual trees, we could  
12 certainly bring it back to the Commission at  
13 that point.

14 But I think that an approval of  
15 this EDR and a good-faith effort on the part  
16 of the Park Service should be sufficient at  
17 this point.

18 COMMISSIONER PROVANCHA: I think  
19 it's relevant to note that the Commission  
20 action that's being recommended or requested  
21 is approval of the final site development, of  
22 which, clearly, the trees is an important

1 element. If that particular decision is time-  
2 sensitive for work-in-progress, for work that  
3 needs to be awarded, and one month delay would  
4 have significant negative impacts, then --

5 COMMISSIONER MAY: It's not time-  
6 sensitive for that reason. It's just a  
7 question of whether we're willing to continue  
8 to entertain this.

9 Again, the Park Service is willing  
10 to do some further investigation and, if  
11 necessary, bring a proposal for replacement of  
12 trees back. But, for the time being, we would  
13 like to have the approval for the trees as  
14 they have been planted.

15 CHAIRMAN BRYANT: Well, we do have  
16 a substitute motion before us. Is there any  
17 further discussion on it?

18 (No response.)

19 All in favor of the substitute  
20 motion, please --

21 COMMISSIONER PROVANCHA: The  
22 substitute motion would, then, preclude

1 approval of the final development plan? That  
2 would not be voted on today?

3 CHAIRMAN BRYANT: No.

4 COMMISSIONER PROVANCHA: Okay.

5 Got you.

6 COMMISSIONER TREGONING: It's  
7 technically a deferral.

8 CHAIRMAN BRYANT: It's really one-  
9 month deferral on the EDR that's before you.

10 All in favor of effectively a one-  
11 month delay say aye.

12 (Chorus of ayes.)

13 Opposed, no.

14 (Chorus of nos.)

15 Raise your hands, the two nos.

16 There are two nos. And so, we  
17 have a one-month delay on this.

18 Thank you.

19 ITEM 4B - COMPREHENSIVE PLAN FOR THE  
20 NATIONAL CAPITAL: DISTRICT ELEMENTS-  
21 COMPREHENSIVE PLAN AMENDMENT ACT OF 2010

22 The next item before us is Item

1 4B, the Comprehensive Plan for the National

2 Capital: the District Elements Amendment Act

3 of 2010. And we have with us Mr. Zaidain from

4 staff.

5 Mr. Zaidain?

6 [INSERT - COMPREHENSIVE PLAN FOR THE NATONAL

7 CAPITAL]

1 MR. ZAIDAIN: Thank you, Mr.  
2 Chairman.

3 Good afternoon, members of the  
4 Commission.

5 This next agenda item is a  
6 submission from the Council of the District of  
7 Columbia. The Council has taken an action to  
8 approve the Comprehensive Plan Amendment Act  
9 of 2010, which amends the District elements of  
10 the Comprehensive Plan for the national  
11 capital.

12 The original submission of the  
13 bill was received on December 17th. However,  
14 D.C. Council, on January 4th, this past  
15 Tuesday, revised some language in the Act to  
16 remove policies related to the West Campus of  
17 St. Elizabeth's. These were some policies  
18 that staff had voiced some concern over.  
19 However, this policy has now been removed, so  
20 you have a revised EDR and companion  
21 resolution in front of you noting as such.

22 Okay. Comprehensive planning in

1 the capital is a little unique. So, I want to  
2 give a little background on how it works and  
3 the Commission's purview in this instance.

4 Under the Planning Act, the  
5 Commission and the District Government are  
6 required to jointly publish the Comprehensive  
7 Plan. This has it broken down into two  
8 different areas, one being the federal  
9 elements, which is published by NCPC, and it's  
10 something we are currently working to revise,  
11 and there are the District elements, which is  
12 published by the city, by the District of  
13 Columbia. And as those elements are approved  
14 by Council, it is referred to the Commission  
15 for its review.

16 The purview of the Commission's  
17 review is to make a determination on whether  
18 the District elements pose a negative impact  
19 on the interest or functions of the federal  
20 establishment. If such a finding is made that  
21 there are some negative impacts, those  
22 elements or policies cannot be implemented

1 unless revised by Council. So, there is  
2 somewhat of a unique role for the Commission  
3 here.

4 The District elements were last  
5 updated in 2006, and the process for the  
6 current round of updates began in 2008. So,  
7 this is really the culmination of over two  
8 years of work for the District.

9 This is a large group of  
10 amendments. Well over 100 have been  
11 submitted, and staff has gone through all of  
12 these. So, I'm going to spend some time just  
13 highlighting the amendments that we feel  
14 pertain to the work of NCPC and are of  
15 interest to us.

16 First is some policies related to  
17 CapitalSpace. As many of you know,  
18 CapitalSpace is a program that was adopted in  
19 April of 2010. The CapitalSpace Plan was a  
20 partnership between NCPC, the Park Service,  
21 and the District. And the Comprehensive Plan  
22 for the District elements provide policy

1 amendments regarding the integration of  
2 federal and District athletic fields and the  
3 development of a shared database of small  
4 parks to foster better management. This is  
5 reflective of the efforts in the CapitalSpace  
6 Program.

7 There are also policy statements  
8 relating to the unifying of the federal and  
9 domestic city. This is very similar to the  
10 work we have done in the Monumental Core  
11 Framework Plan, which looks to integrate the  
12 areas around the Mall and activate federal  
13 areas, and have them better integrated with  
14 the local city. So, these policies are  
15 compatible with those efforts.

16 There's a host of policy  
17 amendments related to the environment.  
18 Specifically, the District elements provide  
19 policies that implement the Kyoto Protocol,  
20 the U.S. Conference of Mayors' Climate  
21 Protection Agreement, as well as the  
22 implementation of the Green D.C. Agenda.

1                   There are also policy statements  
2                   regarding efforts for innovation. These are  
3                   very similar to the innovation cluster efforts  
4                   that the federal government has been moving  
5                   forward to foster partnerships between federal  
6                   agencies and federal research facilities with  
7                   the private sector to spur innovation. So,  
8                   staff is very supportive of this, and it's  
9                   also very reflective of the federal  
10                  government's efforts around the St.

11                 Elizabeth's campus, the West Campus for DHS.

12                   There are a host of policy  
13                   statements relating to air rights projects.  
14                  On a broader level, there are amendments that  
15                  add the Center Leg Freeway and the Union  
16                  Station Air Rights Site, which is adjacent to  
17                  the H Street overpass, as priority areas for  
18                  urban mixed used neighborhood development.  
19                  This is very similar to many of the objectives  
20                  in our Monumental Core Framework Plan that  
21                  look to reknit areas of the city that have  
22                  been disconnected by transportation

1 infrastructure.

2           However, there are some specific  
3 elements that were included in the original  
4 bill that was submitted to the Council that I  
5 want to discuss. In the bill that went to  
6 Council in June there was an action to strike  
7 a policy applying to the H Street overpass  
8 project, which is the Union Station Air Rights  
9 project. And that statement struck the policy  
10 that allowed the measurement of -- excuse me  
11 -- required the measurement for that project  
12 to be taken from the existing grade of First  
13 or Second Street Northeast rather than the  
14 overpass. The original bill struck that  
15 language.

16           On September 3rd, the Executive  
17 Director sent a letter to Council giving  
18 NCPC's staff's opinion of many of these  
19 proposed amendments, and we noted some concern  
20 on that particular striking of that provision.  
21 However, since that time, NCPC staff and D.C.  
22 OP staff has negotiated some language that

1 deals with the broader design of the project,  
2 and that language is reflected here and is in  
3 the final bill.

4 And basically, what this language  
5 does is establishes the need to protect the  
6 Union Station areas as well as the historic  
7 neighborhood of Capitol Hill as a means of  
8 critiquing the design of the project. The  
9 specific measurement of height will be  
10 determined at the Zoning Commission level,  
11 which is actually ongoing. However, at the  
12 end of the day, that zoning that is created  
13 for this Union Station Project must be  
14 consistent with these design objectives.

15 There are further statements,  
16 policy statements, regarding Maryland Avenue  
17 and the Southwest Waterfront, specifically  
18 looking to implement the Southwest Waterfront  
19 Redevelopment Plan, which was before the  
20 Commission for an information presentation a  
21 couple of months ago.

22 There is also some language that

1 was brought forward by NCPC staff at the  
2 hearing in September in front of Council. And  
3 this policy reflects the need to attach any  
4 upzoning along the Maryland Avenue corridor  
5 with the need of financing infrastructure  
6 improvements for the re-creation of Maryland  
7 Avenue, and specifically the deck for the  
8 Avenue. This is an outgrowth of the 10th  
9 Street Task Force Work Program, and this has  
10 been implemented in the plan as well, or in  
11 the policies as well.

12 There are some policies related to  
13 the Walter Reed Army Medical Center. The  
14 District is working to acquire and redevelop  
15 62 and a half acres of that site, and the  
16 Comprehensive Plan provides some guidance or  
17 framework policies for the redevelopment of  
18 that property, should the District move  
19 forward with that. And that includes  
20 enhancing the city's tax revenue base,  
21 reconnecting the campus to the neighborhood by  
22 extending the street grid, creating a livable

1 and walkable community, and revitalizing  
2 Georgia Avenue. And we felt that these were  
3 appropriate for that area.

4 There are a host of policy  
5 statements regarding transportation, and they  
6 essentially reflect the District's desire to  
7 move into a more multi-modal transportation  
8 network that emphasizes choice. It talks  
9 about the implementation of the Pedestrian  
10 Master Plan, the District of Columbia Tour Bus  
11 Management Initiative, car and bicycle sharing  
12 programs, and implementing transportation  
13 demand management strategies.

14 The policy amendments also  
15 recognize that mass transit systems are an  
16 important form of public architecture, and  
17 we're very supportive of that, as mass transit  
18 systems can impact the public realm. These  
19 policy statements do not get into specific  
20 details, such as the propulsion of streetcars  
21 or the design details of bike lanes, and are  
22 more appropriately broad policy statements on

1 where the District wants to head for their  
2 transportation network.

3 I want to discuss a little bit the  
4 recent amendment by Council. The original  
5 bill as it was submitted in December provided  
6 for some land use amendments around the West  
7 Campus of St. Elizabeth's, and specifically on  
8 the West Campus. This is the land use map  
9 here.

10 And essentially, what the original  
11 bill did was provide the land use change along  
12 the frontage, both sides of Martin Luther King  
13 Avenue for about 200 feet to mixed use retail  
14 throughout the entire corridor. We recognize  
15 that this also included the West Campus of St.  
16 Elizabeth's, and we brought this to the  
17 attention of Council.

18 We are supportive of mixed used  
19 retail along the Martin Luther King, Jr.  
20 Avenue frontage. However, the West Campus of  
21 St. Elizabeth's is being guided by a master  
22 plan that was approved by NCPC. So, we felt

1 these policy statements may not be appropriate  
2 there.

3           However, providing for retail and  
4 mixed use along Martin Luther King, Jr. Avenue  
5 as well as on the East Campus of St.  
6 Elizabeth's could help capture some of that  
7 development activity that will be brought by  
8 the 14,000 new federal employees to the DHS  
9 campus.

10           Staff appreciates the action of  
11 Council in resolving the issue of negative  
12 federal interest impact, and staff reiterates  
13 the federal government's commitment to  
14 leveraging the investment in the new  
15 Department of Homeland Security Headquarters  
16 Campus in a way that maximizes its benefit for  
17 the District of Columbia.

18           So, in closing, this is the  
19 Executive Director's recommendation, that the  
20 Commission commend the District on the  
21 successful completion of a comprehensive  
22 public planning process, to amend the District

1 elements, and adopts the attached resolution  
2 finding that the National Capital District  
3 Elements Comprehensive Plan Amendments Act of  
4 2010 will not have a negative impact on the  
5 interest or functions of the federal  
6 establishment in the national capital.

7 That concludes my presentation,  
8 and I believe we have some speakers signed up.  
9 I'm happy to answer any questions you may  
10 have.

11 CHAIRMAN BRYANT: Thank you, Mr.  
12 Zaidain.

13 We do have a public comment period  
14 and folks who wish to speak to this, I  
15 believe, yes.

16 But, before we do, are there any  
17 immediate questions of Commission members to  
18 Mr. Zaidain before?

19 COMMISSIONER PROVANCHA: Just one  
20 quick one. What's the nature of the revisions  
21 to the staff report that we got this morning,  
22 as opposed to the one that was sent out in

1 advance?

2 MR. ZAIDAIN: The original EDR  
3 found a negative impact from the policies  
4 related to the West Campus of St. Elizabeth's.  
5 That has now been removed by Council. And so,  
6 we have taken that out of our recommendation  
7 as a negative impact.

8 COMMISSIONER PROVANCHA: So, the  
9 highlighted changes on pages -- what is it? --  
10 6 and 7 are the revised portion?

11 MR. ZAIDAIN: Yes.

12 COMMISSIONER PROVANCHA: Okay.

13 MR. ZAIDAIN: And, then, the bold  
14 and underlined paragraphs on 6 and 7.

15 CHAIRMAN BRYANT: Very good.

16 Thank you.

17 Okay. Let's go to public hearing.

18 [INSERT - SPEAKER LIST]

1 [INSERT - DRURY TALLANT TESTIMONY]

1 [INSERT - MONTE EDWARDS TESTIMONY]

1 [INSERT - ALMA GATES TESTIMONY]

1 [INSERT - MEG MAGUIRE TESTIMONY]

1 [INSERT - ANNE PHELPS TESTIMONY]

1 [INSERT - THE DOWNTOWN CLUSTER OF

2 CONGREGATIONS TESTIMONY]

1                   CHAIRMAN BRYANT: We do have six  
2 people signed up to speak. Four are  
3 representing organizations and will thus have  
4 five minutes to speak, and two representing  
5 themselves and, accordingly, have three  
6 minutes. There is a clock on the wall, and  
7 you will hear a slight beep toward the end.

8                   The first will be Mr. Bill Wright,  
9 followed by Mr. Drury Tallant, and, then,  
10 third will be Mr. Monte Edwards.

11                   So, Mr. Wright, welcome.

12                   MR. BILL WRIGHT: My name is Bill  
13 Wright, and I live at 12th Place Northwest in  
14 the District.

15                   Thank you for considering my  
16 testimony, which is based on research for my  
17 dissertation on the history of Union Station.

18                   "Mr. Smith Goes to Washington"  
19 features the most common perspective of Union  
20 Station. Jimmy Stewart looks from the  
21 building toward the Capitol. Yet, the  
22 terminal's architects, its neighbors, its

1 protectors, and millions of others have taken  
2 a broader view. They know the station is the  
3 heart of the capital complex's vital northern  
4 border.

5 By allowing buildings to lurk  
6 behind the terminal like teenagers fooling  
7 around a family portrait, the proposed  
8 Comprehensive Plan Amendment, CH-2.1.7, will  
9 damage a century of work. I urge you to  
10 oppose the amendment in its current form,  
11 which may permanently undermine one of  
12 Washington's defining places.

13 Union Station helped fulfill a  
14 longstanding goal to make the capital, in the  
15 words of Harper's magazine, "worthy of the  
16 nation". Because the railroad dominated 19th  
17 century travel, a terminal highlighted a  
18 city's economic, cultural, and political  
19 prominence.

20 In the late 1800s, Washington had  
21 two embarrassing stations. Both hurt the  
22 city's economy because they were too small to

1       serve large numbers of travelers. They also  
2       damaged its reputation. They had cramped  
3       interiors and were surrounded by billboards,  
4       second-class hotels, and saloons.

5                 Dramatic improvement came from the  
6       Union Station Act, which balanced the interest  
7       of business, Congress, and the community.

8       When the terminal opened in 1907, increased  
9       capacity boosted the city's economy and  
10      visitors now gained, as one guidebook wrote,  
11      "the proper attitude towards the importance of  
12      Washington".

13                Planners, railroad engineers,  
14      Congress, and city officials integrated the  
15      station into the neighborhood by limiting its  
16      elevation so it deferred to the Capitol,  
17      establishing impressive views between the two  
18      landmarks by creating Columbus Plaza and  
19      extending the Capitol grounds, protecting  
20      residents by controlling commercial expansion  
21      into adjacent areas, and defining the northern  
22      boundary with the Post Office, and later the

1 Marshall Building.

2                   Recent changes have restored Union  
3 Station's place in Washington. The 1988  
4 rehabilitation made it again a glorious  
5 gateway to the capital, an important federal  
6 element, and a center of community life. It  
7 fueled the economy by encouraging office and  
8 retail activity while not diminishing the  
9 terminal itself.

10                   "Mr. Smith Goes to Washington"  
11 ends before Jimmy Stewart heads from the  
12 Capitol for his trip back to the Midwest. So,  
13 moviegoers never see how beautifully Union  
14 Station closes that area. But millions of  
15 people have, and the proposed Comprehensive  
16 Plan Amendment would have the tragic effect of  
17 permitting out-of-scale commercial  
18 construction to damage this unparalleled  
19 scene.

20                   Thank you.

21                   CHAIRMAN BRYANT: Thank you, Mr.  
22 Wright.

1                   Second is Mr. Tallant.

2                   MR. TALLANT: I have a limited  
3 number of extra copies, if anyone would like  
4 them.

5                   My name is Drury Tallant. I  
6 reside at 732 Third Street Northeast. There  
7 is one rowhouse closer to the H Street Bridge  
8 than my residence.

9                   There have been numerous large  
10 projects in my immediate neighborhood that my  
11 neighborhood has ultimately supported. That  
12 would be Abdo's development of the Children's  
13 Museum, Senate Square, Guy Stewart's 360 H  
14 Project, which is supposed to break ground  
15 later this year, and Dreyfus Development's  
16 project in the 200 block of Second Street  
17 Northeast.

18                   My problem with the proposal is  
19 that I believe it's sort of the nose of the  
20 camel to allow the Comprehensive Plan to be  
21 amended. We really need to see what this  
22 building is going to look like before we go

1 down the road of approving a huge zoning  
2 relief for a sight-unseen project.

3 There were some drawings prepared,  
4 which I assume you all have seen, by the  
5 Office of Planning. We have also prepared  
6 some drawings, and I direct you all to those  
7 now.

8 View 1 is taken from the northeast  
9 corner of the Capitol at the head of Delaware  
10 Avenue. The axial view of Union Station shows  
11 how dramatically the profile of Union  
12 Station's iconic barrel vault would be  
13 altered. So, I hope you all will take a look  
14 at that and really consider what would happen  
15 if we build the building that is being  
16 proposed or being considered by allowing this  
17 amendment to the Comprehensive Plan.

18 View 2, also from Delaware Avenue,  
19 but a little bit closer at D Street, about  
20 midway between the Capitol and Union Station,  
21 and again you can see that the balanced  
22 composition of the Union Station barrel vault

1 is altered. Note also that the Postal Museum  
2 and the Thurgood Marshall Building heights  
3 were constructed to respect the height and the  
4 dominance of Union Station. I believe that  
5 would be lost if we allow this project or give  
6 the signal that this project should go forward  
7 without appropriate controls.

8 View 3, at Louisiana and D, is the  
9 principal avenue for vehicular traffic as well  
10 as pedestrians headed to Union Station from  
11 the National Mall area. And again you can see  
12 that the profile of Union Station would be  
13 diminished.

14 View 4 is from the Senate Park  
15 along the North Capitol right-of-way. And  
16 again, you can see that the silhouette and  
17 contour would be lost.

18 View 5 shows in elevation the  
19 relative height being proposed to the Capitol.  
20 And you can see how dramatic that is. This  
21 project would be visible, quite literally,  
22 from Reagan National Airport. There is an

1 axial from Reagan Airport where you see the  
2 dome of the Capitol, and this would appear  
3 immediately to the left.

4 I believe the proper planning  
5 process for this project is a PUD process  
6 where the zoning relief is tied to a specific  
7 building design.

8 Thank you.

9 CHAIRMAN BRYANT: Thank you, Mr.  
10 Tallant.

11 Next up is Mr. Monte Edwards. And  
12 following Mr. Edwards will be three people:  
13 Ms. Alma Gates, Mr. Terrance Lynch, and last,  
14 Ms. Ann Heuer.

15 Mr. Edwards?

16 MR. EDWARDS: Thank you, and good  
17 afternoon, members of the Commission.

18 I have some extra copies of my  
19 testimony here, although I did pre-file.

20 I am here today representing the  
21 Capitol Hill Restoration Society. The Capitol  
22 Hill Restoration Society supports the

1 development of the air rights at Union  
2 Station. We support the added language to  
3 CH-2.1.7 that requires the project design that  
4 is sensitive to its existing surroundings.

5 CHRS does not support the  
6 elimination of the requirement that the  
7 measuring point for the elevation of the  
8 project be from existing grade. In fact, in  
9 less than a month after the Council approved  
10 this amendment to the Comprehensive Plan, the  
11 Office of Planning filed with the Zoning  
12 Commission their new zone, Union Station  
13 North, that would measure the project height  
14 from the top of the H Street Bridge,  
15 approximately 30 feet above the railroad  
16 tracks. And on top of that, it would allow a  
17 height of 160 feet of the project plus the  
18 18.5-foot penthouse. That's what was depicted  
19 on the drawings you just saw from Drury  
20 Tallant.

21 Measuring from existing grade is  
22 consistent with the policies of the

1 Comprehensive Plan that this Commission helped  
2 develop. Section 707.2 requires that the  
3 District maintain and enhance the horizontal  
4 character of buildings within the District to  
5 protect the skyline.

6 Section 708 encourages the  
7 developments that respond to the horizontal  
8 skyline of the District, so as to maintain its  
9 low-scale image and contribute to the  
10 enhancement of the District's character.

11 Section 804.1 of the Historic  
12 Preservation Element seeks to protect and  
13 enhance the horizontal skyline to preserve the  
14 character of the District.

15 There is a congressional interest  
16 in preserving the prominence of Union Station.  
17 That's found in the 1910 Height Act. While  
18 Section 5 requires buildings, in general, to  
19 have their height based on whether they are  
20 commercial, residential, based on the width of  
21 the street that they front on, however, they  
22 do something very different in Section 5(g).

1 They require that buildings erected that front  
2 or abut on the Plaza in front of the new Union  
3 Station, provided for by act of Congress  
4 approved February 1903, "shall be fireproof  
5 and shall not be a greater height than 80  
6 feet". Now, this addresses what happens in  
7 front of Union Station. It does not address  
8 what happens behind.

9 But to allow a 160-foot structure  
10 with its 18.5-foot penthouse at the immediate  
11 rear of Union Station, while structures in  
12 front of Union Station are limited to 80 feet,  
13 would not preserve the prominence of Union  
14 Station. To the extent that the Comp Plan  
15 amendment enables this new zone, USN proposal,  
16 to detract from the prominent of Union  
17 Station, it would be contrary to the intent of  
18 the 1910 Height Act.

19 Reinserting the words "existing  
20 grade" in CH-2.1.7 would allow the base of H  
21 Street at North Capitol and Third Street to be  
22 the measuring point. It would respect the

1       Comp Plan. It would respect the Height Act,  
2       and it would respect this Commission's prior  
3       practices.

4               The fact that the existing grade  
5       is currently defined in Section 199 of the  
6       zoning regulations in terms of natural grade,  
7       the undisturbed level formed without human  
8       intervention, or where the undisturbed ground  
9       level cannot be determined because of an  
10      existing building or structure, the  
11      undisturbed existing grade -- so, it would be  
12      easy enough to determine what would have been  
13      the natural grade by looking at Third Street,  
14      one end of the bridge, or North Capitol  
15      Street, the other end of the bridge, to  
16      determine the natural grade.

17              It would reduce the height by  
18      approximately 30 feet in the plan that has  
19      been proposed, and it would allow the  
20      prominence of Union Station and its  
21      relationship to the Capitol to be maintained.

22              We urge that the Comprehensive

1 Plan amendment be approved by reinserting the  
2 words "natural grade" to that one  
3 Comprehensive Plan amendment.

4 Thank you.

5 CHAIRMAN BRYANT: Thank you, Mr.  
6 Edwards.

7 Ms. Gates?

8 MS. GATES: Good afternoon,  
9 members of the Commission.

10 I am Alma Gates, testifying on  
11 behalf of the Committee of 100 on the Federal  
12 City, formed in 1923 to act as a force of  
13 conscience in the evolution of the nation's  
14 capital city.

15 The Council-approved amendments to  
16 the Comprehensive Plan are generally supported  
17 by C100, but special attention must be paid to  
18 the predicted and desired outcomes of  
19 amendment CH-2.1.7.

20 For some time, there has been  
21 interest in developing the air rights above  
22 the rail yards behind Union Station. And in

1 fact, a new zoning chapter, Union Station  
2 North, awaits approval by the Zoning  
3 Commission.

4 To enable the Burnham Place  
5 development over the rail yards and establish  
6 a new measuring point using the top of the H  
7 Street overpass, Comprehensive Plan amendment  
8 CH-2.1.7 was amended.

9 In September 2010, C100 presented  
10 testimony to the Council of the District of  
11 Columbia on proposed amendment CH-2.1.7 and  
12 stated that the amendment amounted to an end-  
13 run around the Height Act. Council listened,  
14 and the amendment is clear: the height of any  
15 building in the air rights must be measured  
16 consistent with the Height Act. But Council  
17 turned a blind eye to the fact the development  
18 building platform would be 30 feet above the  
19 rail yards.

20 In anticipation of the hearing on  
21 bill 18867, Amendments to the District  
22 Elements of the Comprehensive Plan, NCPC sent

1 a September 3rd letter to Council Chairman  
2 Vincent Gray and noted, "In NCPC's view, the  
3 existing policy is consistent with the  
4 interpretation of the 1910 Height of Buildings  
5 Act, and it also provides a clear guideline  
6 that will produce a project design that is  
7 sensitive to the existing surrounds. NCPC  
8 recommends the Council not eliminate or change  
9 policy CH-2.1.7."

10 While C100 hoped to find NCPC's  
11 previous resolve regarding CH-2.1.7 echoed in  
12 the staff recommendation, NCPC states it will  
13 address the design considerations for  
14 development. Thus, C100 draws your attention  
15 to the graphic submitted on behalf of C100 and  
16 the Capitol Hill Restoration Society and  
17 sponsored by Drury Tallant that demonstrate  
18 using the crown of H Street as the measuring  
19 point will have a deleterious effect on the  
20 views of Union Station and clearly illustrate  
21 the presence the proposed Union Station North  
22 development will have relative to Union

1 Station and the U.S. Capitol.

2 The relationship of air rights  
3 development to the surroundings, Union Station  
4 and other historic buildings, the federal  
5 precincts on Capitol Hill, and existing  
6 neighborhoods to the east and west is out of  
7 scale. Amendment CH-2.1.7 fails to give  
8 special attention to the preservation and  
9 enhancement of and views to Union Station and  
10 its historic surroundings.

11 Design considerations would  
12 dictate that Union Station must not become  
13 shrouded by the height of the air rights  
14 development, regardless of setbacks. The air  
15 rights' unwelcome encroachment will be  
16 lasting.

17 Thank you.

18 CHAIRMAN BRYANT: Thank you, Ms.  
19 Gates.

20 Next up is Mr. Lynch.

21 MR. LYNCH: Good afternoon. Happy  
22 new year.

1                   CHAIRMAN BRYANT: Happy new year  
2                   to you.

3                   MR. LYNCH: Before I get started,  
4                   I have to salute Ms. Tregoning and then-  
5                   Chairman Gray, now Mayor Gray, for their  
6                   tremendous effort overall in this whole zoning  
7                   update, really a yeoman's job, tremendous  
8                   effort by those agencies, those bodies. We  
9                   applaud the work in very large part. So,  
10                  thank you so much for that effort.

11                  That said, I'm here for you today  
12                  as the Executive Director of the Downtown  
13                  Cluster of Congregations because I saw an  
14                  opportunity for this federal agency to  
15                  hopefully relieve a substantial burden that  
16                  has been on the religious community over the  
17                  last 10 years.

18                  And this is an opportunity that we  
19                  could not pass up bringing to your attention  
20                  the need to assist the religious community in  
21                  seeing that the law federally-passed in the  
22                  Religious Land Use and Institutionalized

1 Persons Act of 2000 is fully understood,  
2 embraced, and implemented by District  
3 agencies, staff, and personnel, so that the  
4 burden that has unduly been placed on us for  
5 religious practice could be relieved.

6 We're not asking for heavy lifting  
7 here. We're asking for some tweaking of  
8 language, for simply pulling out from some of  
9 the codification with institutions the  
10 significant role that places of worship play,  
11 that you address back to the City Council,  
12 that there could be some clarification of how  
13 places of worship have played a significant  
14 role in the communities, much like other  
15 institutions protected federally such as  
16 chancellories, international agencies.

17 We feel that the lumping in of  
18 place of worship with just other general  
19 institutions disregards the significant weight  
20 and impact that the federal agencies intended  
21 with the Religious Land Use and  
22 Institutionalized Person Act of 2000. Let me

1 give you some examples.

2 For the last 10 years, there's  
3 been three very significant religious  
4 developments which have been negatively  
5 impacted by failure of District agencies to  
6 fully implement that federal legislation. The  
7 development of a Buddhist congregation on Mass  
8 Avenue, the extension of the 16th Street  
9 heights overlay impacting a Mormon  
10 congregation. Most recently, many of you may  
11 be aware of the impacts on the Third Church of  
12 Christ, Scientist at 16th and I Street by  
13 historic agencies.

14 What has happened is these  
15 institutions have failed to fully enjoy their  
16 properties, their rights. It has cost  
17 millions of dollars. Millions.

18 Some of these have yet to be  
19 realized, despite this federal law. They've  
20 won in court on a number of passages. But,  
21 still, because of procedural issues, appeals,  
22 et cetera, they still haven't been able to

1       move forward. That would be the church in the  
2       16th Street heights overlay. It hasn't been  
3       able to move forward. We are still looking  
4       for some clarification on Third Church.  
5       Fortunately, the Soka Gokkai was able to move  
6       forward on Mass Avenue.

7                 However, it remains a significant  
8       and substantial burden on the religious  
9       community to see that this law is fully  
10      implemented. We think, with a little bit of  
11      tweaking, we think that this body can protect  
12      that federal legislation and make sure it's  
13      fully implemented, fully realized, fully  
14      codified, and facilitate District agencies as  
15      they oversee these developments.

16                So, we think it's fairly  
17      straightforward. It's not heavy lifting we're  
18      asking. It's just helping protect the rights  
19      of churches to fully worship and enjoy their  
20      rights here in the District.

21                Thanks for your assistance.

22                CHAIRMAN BRYANT: Thank you very

1 much, Mr. Lynch.

2 And the last is Ms. Ann Heuer.

3 MS. HEUER: Good afternoon,  
4 members of the Commission.

5 I'm Ann Heuer, a former member of  
6 the National Capital Planning Commission.

7 CHAIRMAN BRYANT: Welcome back.

8 MS. HEUER: And I'm testifying on  
9 behalf of ANC 3D, which has taken an active  
10 interest in the Comprehensive Plan, and at its  
11 December 1st, 2010, regularly-scheduled  
12 meeting, voted to oppose changes to amendment  
13 CH-2.1.7.

14 The NCPC no longer has the same  
15 responsibilities that existed when I was a  
16 member. However, it is still the guardian of  
17 all federal elements in the District of  
18 Columbia as well as the Height Act of 1910.

19 This new amendment to the  
20 Comprehensive Plan will allow entirely too  
21 much wiggle room for all proposed future air  
22 rights development. By eliminating the

1 specific ground rules of measurement currently  
2 in the Comprehensive Plan, the Zoning  
3 Commission will be free to grant the new  
4 measuring point that uses the top of the H  
5 Street overpass 30 feet above the rail yards,  
6 rather than the grade of First or Second.

7 This amendment has the potential  
8 to end-run the Height Act and opens the door  
9 for the establishment of a new measuring point  
10 for air rights developments. For example, the  
11 top of the Whitehurst Freeway, it could become  
12 a new measuring point for air rights. Then,  
13 the city would have Rosslyn on both sides of  
14 the Potomac.

15 People often debate what comes  
16 first, planning or zoning? The Comprehensive  
17 Plan is not a plan written in concrete. It is  
18 constantly evolving to allow it and zoning to  
19 be in compliance. From OP's point of view, it  
20 is necessary to amend the existing  
21 Comprehensive Plan Element to make it possible  
22 to create a new zoning chapter, to permit more

1 density and development or, to use their  
2 words, to "reknit the city".

3 What is the rationale behind this  
4 change? One could say it is money. More  
5 development means more tax dollars for the  
6 city.

7 This proposed Union Station North  
8 development does not respect the federal  
9 interests. In this instance, the Office of  
10 Planning appears to follow development dollars  
11 rather than protect Union Station from being  
12 overshadowed by inappropriate height.

13 However, that is the mandate of  
14 the National Capital Planning Commission.  
15 There is an old adage in politics, "If it  
16 ain't broke, don't fix it." The original  
17 Comprehensive Plan Element CH-2.1.7 has served  
18 us well. Please do not amend it.

19 Thank you.

20 CHAIRMAN BRYANT: Thank you, Ms.  
21 Heuer, very much.

22 This concludes the public

1 participation part of the hearing.

2 And now the deliberations return  
3 to the Commission. Might I propose that we  
4 proceed the discussion -- we sort of have,  
5 I'll characterize, three sections, just sort  
6 of general discussion about the EDR as  
7 proposed. And, then, we also have, at least  
8 according to the public, the other two issues  
9 of the Union Station, the Height Act issue,  
10 and then the amendment's effect on how  
11 religious institutions may or may not be  
12 treated. So, might we just, instead of having  
13 a rambling discussion, might we structure it  
14 that way?

15 So, first, any general discussion,  
16 questions, comments on the EDR as proposed and  
17 the work that has been done on the  
18 Comprehensive Plan?

19 COMMISSIONER DIXON: Mr. Chairman,  
20 I have a general discussion -- it's not a  
21 question; it may be more specific really --  
22 about the Anacostia discussion earlier.

1 Martin Luther King was brought up in this  
2 discussion. How did that fit into this whole  
3 -- I'm trying to find more information about  
4 that and I wonder how it fits.

5 MR. ZAIDAIN: Sure. During the  
6 Council process, there were some amendments  
7 added by, I believe, Council Member Barry that  
8 basically looked to change the land use  
9 policies along Martin Luther King Avenue to  
10 mixed use commercial development 200 feet on  
11 each side of the Avenue. We noted in our  
12 analysis that that also included the West  
13 Campus of St. Elizabeth's, and we brought it  
14 up in our previous EDR that the West Campus is  
15 being guided by a master plan that NCPC has  
16 approved for the new DHS campus. And Council  
17 Member Barry removed just the provision for  
18 the West Campus at this recent Council meeting  
19 on Tuesday.

20 CHAIRMAN BRYANT: Mr. Miller?

21 VICE CHAIRMAN MILLER: Thank you,  
22 Mr. Chairman.

1                   Just maybe I think I would like to  
2                   move the EDR and ask for a second. And then  
3                   I can just speak, then just speak generally,  
4                   per your guidelines. So, I would move  
5                   approval of the Executive Director's  
6                   recommendation.

7                   Commissioner Provancha: Seconded

8                   CHAIRMAN BRYANT: It's been moved  
9                   and seconded that the EDR that is before us be  
10                  approved. So, now we're open for discussion.

11                  VICE CHAIRMAN MILLER: So, per  
12                  your guidelines, that would just be the  
13                  general discussion.

14                  I just wanted to thank the  
15                  National Capital Planning Commission staff for  
16                  their close consultation with the District and  
17                  the Council throughout the process and say  
18                  that I think we're in a very good point where  
19                  the Commission, its Executive Director is  
20                  recommending that there are no negative  
21                  federal interest impacts from any of the over  
22                  165 amendments that were adopted by the

1 Council.

2 My general comment.

3 (Laughter.)

4 CHAIRMAN BRYANT: Mr. Dixon, did  
5 you have thoughts?

6 Others? Mr. Provancha?

7 COMMISSIONER PROVANCHA: A couple  
8 of general comments. Again, kudos to the  
9 staff for their thorough analysis.

10 One just general question about --  
11 and it may go to counsel -- and I guess it's  
12 a federal versus city and state rights issue.  
13 Can cities sign up to and support  
14 international treaties such as the Kyoto  
15 Protocol that the U.S. federal government is  
16 not necessarily a signatory or a full partner  
17 or a supporter of? There's no conflict.

18 MS. SCHUYLER: I mean they're free  
19 to support its basic tenets, but it's not  
20 recognized as a treaty of the United States,  
21 and they certainly can't enter into any  
22 specific agreement on their own accord because

1 they lack the authority; they aren't relative  
2 to the Kyoto Protocol because they lack the  
3 authority to do so.

4 COMMISSIONER PROVANCHA: So, the  
5 city can legally issue an opinion or policy  
6 that they, in general, supportive as opposed  
7 to saying we will fully implement the Kyoto  
8 Protocol in our city irregardless of the  
9 federal position?

10 MS. SCHUYLER: I believe so. I  
11 mean they're just stating that they are  
12 endorsing the goals of that particular -- that  
13 emerged from that particular meeting, or I  
14 don't know how -- from that particular  
15 meeting.

16 COMMISSIONER PROVANCHA: Okay. On  
17 the issue of the St. Elizabeth West Campus, it  
18 appears that the city has been very  
19 accommodating and respectful of the master  
20 plan. The basis of the removal, if you will,  
21 or the rescinding of those amendments had to  
22 do with both two issues, security and the

1 historic nature of some of the buildings along  
2 that Corridor. Was that the --

3 MR. ZAIDAIN: I think the  
4 overriding issue was just the fact that the  
5 development on that campus was being driven by  
6 the master plan here, and a lot of those  
7 issues were already worked out.

8 COMMISSIONER PROVANCHA: Okay.

9 MR. ZAIDAIN: I can't speak to the  
10 Council's decision on the security and the  
11 historic preservation. We did raise that as  
12 an issue when we issued our EDR, finding that  
13 as a problem.

14 CHAIRMAN BRYANT: Okay.

15 COMMISSIONER TREGONING: I can  
16 clarify on that, if you would like. It was  
17 simply an error. The intention was never to  
18 suggest that retail would encroach on the  
19 historic wall of the West Campus of St.  
20 Elizabeth's or into the security space. It  
21 was just an error, and we were very happy that  
22 NCPC staff caught it and we're delighted to

1 make the corrections.

2 CHAIRMAN BRYANT: The thoroughness  
3 of the staff review is reminiscent of my days  
4 in uniform with the Air Force. Part of the  
5 motto of the Air Force was excellence in all  
6 we do, and I think the staff has demonstrated  
7 that once again for us.

8 Thank you.

9 COMMISSIONER DIXON: Mr. Chairman,  
10 I raise one concern that was brought to my  
11 attention by some residents of east of the  
12 river, that the comments about Martin Luther  
13 King may have some impact on affordable  
14 housing. Is there any impact that this action  
15 might have on that? I'm not trying to take a  
16 position. I just want to be clear that I  
17 understand it, given the mixed use and other  
18 issues.

19 Because there's some plans along  
20 MLK by a number of large churches to put in  
21 housing on MLK, and I want to be sure that  
22 this doesn't get in the way of that or it has

1       been considered. I'm assuming it has been.

2                   COMMISSIONER TREGONING:

3       Commissioner, I don't know if the NCPC  
4       analysis pertained to those issues as perhaps  
5       not being part of the federal interest. But  
6       mixed use development would absolutely not  
7       preclude housing or affordable housing along  
8       the Corridor. And it is true that the Council  
9       member increased the development potential  
10      along the Corridor and that could have an  
11      impact on land values, but the Council member  
12      was made fully aware of that and proceeded.

13                   MR. ZAIDAIN: And there are so  
14      many amendments here; I couldn't find it off  
15      the top of my head. But there is a statement  
16      about affordable housing on Martin Luther  
17      King, Jr., Avenue and Malcolm X on page 19 of  
18      the bill. So, that was considered there.

19                   CHAIRMAN BRYANT: Other general  
20      comments on the work done or any other issue  
21      besides the two that have been raised?

22                   COMMISSIONER PROVANCHA: Just one

1 follow-on question. It has to do with  
2 location of federal agencies. I can't recall  
3 specifically if the Comprehensive Plan states  
4 a position or implies a position about  
5 dispersal; i.e., location of federal agencies  
6 outside of the region.

7 There's been some projected  
8 population growth by 2035 of over 40 percent.  
9 The federal agencies obviously contribute to  
10 that. Just if you would, what's the current  
11 position of the Commission on the location of  
12 federal agencies in the NCR versus dispersed  
13 outside the NCR? With the advent of  
14 technologies, much of our work can be done  
15 remotely.

16 MR. ZAIDAIN: Those policies are  
17 reflected in the federal elements. There's a  
18 whole section on location policies. And it's  
19 pretty much guided by kind of two broader  
20 policies, which are the central employment  
21 area within the city and the value of locating  
22 there as well as what's called the 60/40 rule,

1       which is 60 percent in the city/40 percent to  
2       the region.

3                   And we'll be looking to revise  
4       those in the coming months as part of our  
5       Comprehensive Plan update.

6                   CHAIRMAN BRYANT: Thank you.

7                   Is there a desire to take up or  
8       discuss at all the issue surrounding Union  
9       Station and the Height Act? Mr. Zaidain, do  
10      you have anything to clarify on those issues  
11      that we may have heard today?

12                  MR. ZAIDAIN: I think it was just  
13      a matter of, when we first saw the original  
14      bill, we had some concerns with removal of the  
15      language stating where the measuring point  
16      should be. After working with DCOP, we found  
17      that that may not be the most appropriate  
18      measuring point and, furthermore, that that  
19      was more of a technical issue that should be  
20      addressed in the zoning and really isn't  
21      appropriate for the broad-level policies in  
22      the Comp Plan.

1 I do want to state, from a staff  
2 perspective, we do share some of the concerns  
3 that we have heard today, and that was one of  
4 the reasons why we negotiated this design  
5 language, because we feel it addresses the  
6 issue of Union Station and the surrounding  
7 neighborhoods as a point that the zoning  
8 that's being heard before the Zoning  
9 Commission should be consistent with.

10 CHAIRMAN BRYANT: So, to make sure  
11 I understand, the notion is that the Comp Plan  
12 should express more broad policy statements  
13 and let the Height Act and other zoning  
14 regulations express the details and the  
15 specifics --

16 MR. ZAIDAIN: Exactly.

17 CHAIRMAN BRYANT: -- and guide  
18 decision making?

19 MR. ZAIDAIN: Exactly.

20 CHAIRMAN BRYANT: Mr. Miller?

21 VICE CHAIRMAN MILLER: Yes. Just  
22 on that issue, I would just say, and this body

1 will be able to comment on the Zoning  
2 Commission's proposal for the Union Station  
3 North area.

4 And the other thing I just wanted  
5 to put on the record, since it hasn't been  
6 stated, but it's in front of, I think, all the  
7 Commissioners, the affected Advisory  
8 Neighborhood Commission has submitted a letter  
9 dated January 5th to the Commission in support  
10 of the language that's in the Comprehensive  
11 Plan pertaining to air rights and the  
12 amendments that were adopted by the Council.  
13 And they also testified before the Council in  
14 a similar fashion.

15 CHAIRMAN BRYANT: Ms. Tregoning?

16 COMMISSIONER TREGONING: Let me  
17 first start by thanking the members of the  
18 public who took the time to come here to  
19 testify on the Comp Plan about these issues,  
20 both in terms of the air rights provision as  
21 well as the issues of religious institutions.  
22 I very much appreciate the fact that the

1 citizens of our city took the time to do this.

2 With respect to the Union Station,  
3 the air rights language, in particular, I just  
4 want to clarify -- I don't know if this  
5 history is known to everyone, but we  
6 originally advertised an amendment that would  
7 simply remove the restrictive language that  
8 dictated where a project could be measured for  
9 Union Station air rights. This is language  
10 that first appeared in the 2006 Comp Plan. It  
11 wasn't like it was in the Comp Plan for all  
12 time. It appeared in 2006. It was unusually  
13 specific and prescriptive, sort of out of  
14 keeping with the broad character of the Comp  
15 Plan. We thought it was unnecessarily  
16 restrictive and could have the reverse effect  
17 of crowding buildings against the Station,  
18 even when alternative designs consistent with  
19 the Height Act could be put forward that would  
20 result in superior protection of the Station  
21 and superior design of any new development.

22 We had a lot of these

1       conversations with citizens, with the ANC,  
2       with NCPC staff and submitted alternative  
3       language that set out specific guidance and  
4       specifically recognized the Height Act. And  
5       I could even read from that, if it would be  
6       helpful.

7                   The approved amendment says,  
8       ensure that any future development in the air  
9       rights adjacent to the H Street overpass  
10      recognizes the limitations of the streets  
11      beneath the bridge to serve high-volume  
12      commercial traffic and includes provisions for  
13      parking and delivery, ingress and egress from  
14      the bridge itself. The allowable height of  
15      any building constructed in the air rights  
16      should be measured consistent with the Height  
17      Act and relate positively to the surroundings  
18      with special attention to Union Station and  
19      other historic buildings, the federal  
20      precincts on Capitol Hill, and existing  
21      neighborhoods to the east and west.  
22      Development must give special attention to the

1 preservation and enhancement of, and views to  
2 Union Station and its historic surroundings by  
3 ensuring the provision of exemplary  
4 architecture and encouraging upper-story  
5 setbacks and minimized penthouses.

6           You know, so very much reiterating  
7 some of the concerns that we have heard today.  
8 And I'll also just say that any development of  
9 the air rights project will involve  
10 significant public participation and review  
11 that is outside of and unrestricted by the  
12 Comp Plan, including review by the State  
13 Historic Preservation Office. They have  
14 approval authority of any development by  
15 virtue of the deed restriction placed on the  
16 air rights by the General Services  
17 Administration. The covenants included in the  
18 deed transferring property from the GSA to the  
19 developer serve the 106 function, but they  
20 will be governed by the SHPO covenants.

21           The proposed zoning requires a  
22 two-step public review process, starting with

1 review and comment from the ANC of proposed  
2 building, and then a public hearing before the  
3 Zoning Commission.

4 So, we're talking here about a  
5 broad, the specific implementation of which  
6 will be part of a very intense level of  
7 scrutiny and public participation.

8 Thank you.

9 CHAIRMAN BRYANT: Mr. Dixon?

10 COMMISSIONER DIXON: Mr. Chairman,  
11 well, first, I want to ask maybe a direction  
12 question about Mr. Lynch's concern. What  
13 language is actually in here that addresses  
14 his requirement? I don't want to be too  
15 extensive, but he spoke about his appreciation  
16 for what was done. I want to be sure I  
17 understand what was done. I wasn't able to  
18 kind of get that out of this discussion.

19 VICE CHAIRMAN MILLER: If I could  
20 just interject before staff does, because I  
21 don't have the language in front of me, but I  
22 would like to note that the Council Chairman's

1 office was in communication with both the  
2 Downtown Cluster Congregations and with Office  
3 of Planning prior to the first reading of this  
4 bill in November. And Chairman Gray at that  
5 time made a number of amendments that did  
6 address it.

7 I don't have the language in front  
8 of me, but we did reference the federal law  
9 that Mr. Lynch referenced here today and made  
10 a number of other provisions that he  
11 requested.

12 COMMISSIONER DIXON: I just want  
13 to make sure. I'm fully comfortable,  
14 particularly knowing that the Council and the  
15 D.C. Government was involved in all this  
16 evolution.

17 I also want to point out that,  
18 back in the seventies, I was given the charge  
19 to pass the first comprehensive bill for the  
20 District of Columbia. So, I have a feeling  
21 for it.

22 But this has gone much further

1 than that, and my compliments go to the staff  
2 that's doing all this work. But I would like  
3 to know because I may want to go back and  
4 share with certain church institutions in my  
5 neighborhood what new authority they may have,  
6 and I'm not clear on that right now, on new  
7 understandings we may have.

8 MR. ZAIDAIN: Yes, I know there's  
9 kind of two different issues, one related to  
10 the Comp Plan and then to the zoning case,  
11 which is next on the agenda.

12 But, as far as the Comp Plan goes,  
13 it's on page 3, Section 311.8. There's a  
14 policy regarding places of worship and other  
15 religious facilities, and it specifically  
16 recognizes the Religious Land Use and  
17 Institutionalized Persons Act of 2000 as an  
18 important need for the city.

19 COMMISSIONER DIXON: Okay. I'll  
20 find out more later, details. So, I can apply  
21 it, since we have more than we may have had  
22 before.

1                   My last comment goes to this  
2           CH-2.1.7. I think it is very interesting, and  
3           I'm comfortable, given the specificity of some  
4           of the guidelines that will be used in doing  
5           it.

6                   I am curious, though, just how it  
7           would be applied in other areas and what the  
8           grade measurement that could be used. And the  
9           spokesperson from the Committee of 100 who  
10          mentioned Whitehurst Freeway, I'm wondering  
11          how this might be also looked at in other  
12          areas where you might have higher bridges and  
13          thing that could be used, which would have to  
14          be very carefully monitored, so this doesn't  
15          go against what we really hope to accomplish  
16          in our city in terms of heights. So, I'm  
17          concerned about that, but I feel good that  
18          that has been worked through. I just want to  
19          be on record about that.

20                   Thank you.

21                   CHAIRMAN BRYANT: Other comments  
22          on the Union Station issue?

1                   COMMISSIONER PROVANCHA: Just one  
2 question for counsel. There's been a lot of  
3 concern from the citizen groups about the  
4 language that specifies that the height has to  
5 be from the overpass. Is your interpretation  
6 that that is, in fact, accurate? Or can the  
7 basis for the measurement be at grade 30 feet  
8 below what's currently described in the  
9 language?

10                   MS. SCHUYLER: I have not paid  
11 specific attention to where the measuring  
12 point would be for that project, only to the  
13 policy itself. So, I'm not sure I can really  
14 answer your question.

15                   COMMISSIONER PROVANCHA: Okay.

16                   MS. SCHUYLER: And that might be  
17 one that is more consistent when the zoning  
18 case comes before us than relative to the  
19 policies. Because the policies here speak to  
20 a grade, but they are also very clear about  
21 requiring consistency in height with the  
22 surrounding area. So, that if a measuring

1 point is selected that results in a building  
2 that is well out of character with the  
3 surrounding area in terms of height, it would  
4 not be consistent with the plan.

5 COMMISSIONER PROVANCHA: So, this  
6 language is somewhat vague, but the reference  
7 to the Height Act should result, as well as  
8 the --

9 MS. SCHUYLER: Well, the reference  
10 to the Height Act, I mean I think the truth  
11 is, whether it's in the policy or not, there  
12 has to be compliance with the Height Act on  
13 anything that is built on a platform --

14 COMMISSIONER PROVANCHA: And the  
15 Height Act would prohibit, for example, saying  
16 that the measuring point is at --

17 MS. SCHUYLER: Well, I think  
18 you're touching on an issue of interpretation  
19 that goes --

20 COMMISSIONER PROVANCHA: That's  
21 what I'm getting to.

22 MS. SCHUYLER: -- way back, way

1 back, and I don't think it would be  
2 appropriate for me to sort of comment on that.

3 COMMISSIONER PROVANCHA: So, it  
4 looks like we're in a situation where we have  
5 to rely on the legislation that's in place as  
6 well as the process to work itself out?

7 MS. SCHUYLER: You rely on the  
8 policies of the Comp Plan for your broad,  
9 general guidance, and then you look to the  
10 zoning case that will apply to the Union  
11 Station area, but there will be a framework of  
12 the Height Act that will apply as well.

13 CHAIRMAN BRYANT: Let's go to the  
14 last item. Is there any discussion on the  
15 Comp Plan amendments that impact or affect on  
16 religious institutions? Anyone have comments  
17 or discussions or questions on that issue?

18 COMMISSIONER PROVANCHA: The  
19 proposed language that Mr. Lynch submitted I  
20 think addresses religious institutions, but  
21 not the institutionalized persons. Is that an  
22 oversight perhaps? No? Because it looks like

1 both groups are covered by the federal act.

2 Okay.

3 CHAIRMAN BRYANT: Okay. Last call  
4 for any issues on this fairly significant  
5 issue before we proceed to the motion that's  
6 before us?

7 (No response.)

8 Hearing none, the motion before us  
9 is to approve the EDR as presented.

10 All in favor say aye.

11 (Chorus of ayes.)

12 Opposed no?

13 The motion carries.

14 ITEM 4C - ZONING REGULATIONS REWRITE:

15 CHAPTERS B-2 AND B-4, USE AND HEIGHT

16 And the last item on our agenda  
17 today, let's see, is Item 4C. It's the zoning  
18 regulations rewrite, Chapters B-2 and B-4, use  
19 and height.

20 And we have Mr. Hart.

21 [INSERT - ZONING REGULATIONS REWRITE]

1 MR. CARLTON HART: Good afternoon,  
2 Mr. Chairman and members of the Commission.

3 The Zoning Commission has referred  
4 a proposed rulemaking for two chapters for the  
5 new zoning regulations for use and height.  
6 This proposed rulemaking has been done as part  
7 of the multi-year comprehensive zoning  
8 regulations rewrite process that began in  
9 2007. This process is ongoing, and the Zoning  
10 Commission, working with the Office of  
11 Planning, is in the process of finalizing this  
12 text.

13 These two chapters before you  
14 today are the first of many that NCPC will  
15 review as part of our advisory role to the  
16 Zoning Commission. There will be a number of  
17 other rulemakings over the next year  
18 associated with the zoning regulations,  
19 including those on parking, the PUD process,  
20 the Zoning Districts, loading, and green area  
21 ratio, to name a few.

22 The update process began following

1 the adoption of the District elements of the  
2 Comprehensive Plan by the City Council in  
3 2006. The Council created a 24-member Task  
4 Force which was focused on specific areas and  
5 developed recommendations on these areas after  
6 holding many public hearings. These  
7 recommendations were used by the Office of  
8 Planning to base the new zoning language.

9 The Zoning Commission will take a  
10 proposed action on all the individual  
11 chapters, will refer them to the NCPC for  
12 review and comment, and will take a final  
13 action on each.

14 After all of the individual  
15 chapters have been approved by the Zoning  
16 Commission, the full zoning regulation  
17 document will be checked for consistency, and  
18 it will be submitted for Zoning Commission  
19 approval.

20 I would like to note that staff  
21 has been following the zoning regulation  
22 rewrite process over the past few years and

1 was a member of the 24-member Task Force,  
2 attended many of the public meetings that were  
3 held, and submitted a number of letters in an  
4 effort to analyze what, if any, will be the  
5 impact of the zoning changes on federal laws,  
6 particularly the Height of Buildings Act of  
7 1910.

8 Next I will describe the proposed  
9 use regulations, followed by the proposed  
10 height regulations. The Office of Planning  
11 conducted national research on best practices  
12 and determined that the broad use categories  
13 worked the best.

14 The Office of Planning is  
15 proposing 29 broad categories that include  
16 examples for uses for greater clarification.  
17 These use categories would be used in  
18 conjunction with five permission levels that  
19 you see on the slide, and they would be used  
20 in a matrix to determine which uses would be  
21 allowed and where.

22 The five permission levels are

1 permitted, not permitted, conditional, special  
2 exception, and accessory. This use chart on  
3 the right is an example of what the use charts  
4 may look like. No use charts, however, were  
5 included with the referred text.

6 After reviewing these regulations,  
7 staff has not identified any impacts to the  
8 federal interest regarding this aspect of the  
9 zoning rewrite. Therefore, the comments on  
10 the rest of the presentation are focused on  
11 the height regulations.

12 Because the zoning regulations are  
13 affected by the provisions of the Height Act,  
14 how the Act is reflected in the zoning  
15 regulations is important. This proposed  
16 chapter includes general rules for  
17 measurement, what are the allowed rooftop  
18 structures, as well as provisions for the  
19 Board of Zoning Adjustment to have special  
20 exception standards.

21 There's also another section known  
22 as Subtitle M that will be an appendix to

1 these zoning regulations and contain the  
2 Department of Consumer and Regulatory Affairs'  
3 interpretations of the Height Act. I'll  
4 discuss this in an upcoming slide.

5 OP also included these images with  
6 the proposed height regulations to provide  
7 greater clarity. We support the principles  
8 represented here, as well as believe that  
9 these are an effective way to provide greater  
10 clarity in depicting the following:

11 The measuring point elevation.

12 And this is really simply to allow for the  
13 sidewalk slope up to 1 foot to be incorporated  
14 in determining the measuring point. That  
15 image is here on the upper right.

16 Roof setback types. This helps to  
17 graphically describe where setbacks are  
18 required. This is here on the left.

19 And then setbacks along the party  
20 wall, the bottom on the right. These images  
21 indicate where penthouse setbacks is required  
22 along the party wall.

1                   Staff has worked with OP  
2 throughout this process, has worked  
3 cooperatively with OP throughout this process  
4 over the past few years. We note that a few  
5 issues need to be addressed as they may affect  
6 the federal interest, specifically the  
7 consistency with certain provisions of the  
8 Height Act. And these issues are listed here.

9                   Penthouse setback relief, private  
10 and public streets -- and I'll describe these  
11 in a few minutes -- and elevated measuring  
12 points. In addition, since it is our  
13 understanding that Subtitle M will contain  
14 Height Act interpretations, we will need to  
15 better understand this prior to the adoption  
16 of the final zoning regulation language.

17                   First is the penthouse setback  
18 relief, which is illustrated here. And I'll  
19 kind of walk through this. The Height Act  
20 includes a provision stating that, for all  
21 buildings that are at the maximum height  
22 allowed by the Height Act, penthouses will be

1 set back to a one-to-one ratio. So, the  
2 setback in the height will be the distance  
3 from the edge of the roof, which is that  
4 distance here, and the height would be equal.

5 Under the proposed language, the  
6 regulations, this one-to-one ratio is also  
7 required for penthouses. However, the  
8 proposed regulations allow penthouses to be  
9 located closer to the building edge, you see  
10 here. And this is an issue because this is  
11 not addressed in the Height Act. If this  
12 penthouse were moved closer to the edge of the  
13 building, that would be an issue, and that's  
14 what we're trying to address. And we  
15 recommend that the text acknowledge that the  
16 penthouse setback relief is only possible for  
17 buildings below the maximum allowed height.

18 The second issue is one of private  
19 and public streets. As evident in the excerpt  
20 from the Height Act that's located on the  
21 slide, the Height Act establishes a  
22 relationship between the street width and the

1 building height, regardless of street  
2 ownership. The proposed text states that  
3 building heights need to be measured from  
4 public streets.

5 We recommend that this be  
6 clarified by adding that measuring points can  
7 be from any street, such as private streets in  
8 a residential subdivision. Making this change  
9 will reinforce the building height-to-street  
10 width relationship established in the Height  
11 Act by allowing for height to be measured from  
12 all streets, private or public.

13 The third issue is elevated  
14 measuring points. As you can see in this  
15 slide, two years ago, OP stated in a  
16 recommendation on height-related issues that  
17 the height of buildings will not be measured  
18 from human constructed elevations. And the  
19 current proposal doesn't have the language,  
20 and staff agrees with the above, the 2008  
21 statement, and recommends that this language  
22 be added to make it clearer in the proposed

1 language.

2 And finally, a first draft of the  
3 height regulations from September 10th  
4 included interpretations of Height Act  
5 provisions, shown on this slide, which staff  
6 supported. However, these interpretations  
7 were moved to Subtitle M, which I spoke of  
8 earlier, which is currently under development  
9 by the Department of Consumer and Regulatory  
10 Affairs. And DCRA will actually adopt that  
11 Subtitle M once it is complete.

12 It is unclear to staff what these  
13 interpretations will be and what impact it  
14 will have on the Height Act since staff has  
15 not actually seen the Subtitle M. And we're  
16 interested in reviewing and commenting on this  
17 Subtitle M in the future when it becomes  
18 available.

19 And, with that, the Executive  
20 Director recommends that the Commission advise  
21 the Zoning Commission that the proposed  
22 language establishing a set of use categories

1 as described in the rulemaking will not  
2 adversely affect any federal interests. Note  
3 that, relative to the proposed text on  
4 building height, that the federal interests  
5 would not be adversely affected if the  
6 following changes to the proposal are made:

7 Reflect in Section 404 that the  
8 Height Act does not provide a mechanism for  
9 relief to be granted by the Board of Zoning  
10 Adjustment from the Height Act provisions for  
11 maximum building heights.

12 Add "the public or private  
13 streets" at the end of the sentence in Section  
14 402.2 and add "The height of a building shall  
15 not be measured from the human constructed  
16 elevation" in Section 402.4.

17 Also note that the recommendations  
18 of the Office of Planning Setdown Report from  
19 August 12th satisfactorily reflected NCPC's  
20 staff's input concerning the following:

21 On street frontage measuring  
22 points, streets fronting on open spaces,

1 business and residential, street definitions,  
2 single and multiple connected building  
3 definition, and exterior wall definitions.  
4 However, these were not incorporated into the  
5 Zoning Commission's proposed action. Instead,  
6 they were considered by the DCRA in a new  
7 Subtitle M to the zoning regulations. Because  
8 Subtitle M has not been provided for NCPD  
9 review, staff is not able to determine whether  
10 the content of Subtitle M will be adverse to  
11 the federal interest, and therefore, requests  
12 that DCRA provide a draft of the subtitle for  
13 NCPD review as soon as it is available, as  
14 well as incorporate into Subtitle M the  
15 recommendations of the Office of Planning  
16 Setdown Report for street frontage measuring  
17 points, street fronting on open spaces,  
18 businesses and residential street definitions,  
19 single and multiple connected building  
20 definitions, and exterior wall definitions, as  
21 these recommendations satisfactorily reflected  
22 NCPD staff input.

1                   That concludes my presentation,  
2                   and I would be happy to answer any questions.

3                   CHAIRMAN BRYANT: Thank you, Mr.  
4                   Hart.

5                   We do have a public hearing.

6                   Before we go to that, are there  
7                   any immediate questions for Mr. Hart?

8                   (No response.)

9                   Hearing none, we do have Mr.  
10                  Terrance Lynch, representing the Downtown  
11                  Cluster of Congregations, to speak. He is  
12                  representing an organization. So, therefore,  
13                  he gets five minutes to speak.

14                  Mr. Lynch?

15                  Mr. Lynch is not here. That ends  
16                  our public comment period.

17                  [INSERT - LIST OF SPEAKERS]

1                   CHAIRMAN BRYANT:  So, we return to  
2                   discussion among us.

3                   Are there questions or comments?

4                   Mr. Hart?

5                   COMMISSIONER HART:  Yes, I've got  
6                   a question.  This ruling covers Chapter B-2  
7                   and Chapter B-4, those two chapters.  What I'm  
8                   hearing is that Chapter B-2 on uses the staff  
9                   has no issues that have not been resolved.  
10                  However, on Chapter B-4, there are still some  
11                  open issues relative to components of Subtitle  
12                  M that have not been yet fully reviewed.

13                  Is the recommendation to move  
14                  forward with B-2, but not with B-4?

15                  MR. CARLTON HART:  No, the  
16                  recommendation is to move forward with both of  
17                  them, noting that there are three bullet  
18                  points that we would like to have changes for  
19                  the Height Act section of it, B-4.  And we  
20                  would like to review the Subtitle M when it is  
21                  available because we know that it has a lot of  
22                  the interpretations in it.

1 COMMISSIONER TREGONING:

2 Commissioner, Subtitle M hasn't been drafted.  
3 So, that's why it's not available for you to  
4 review. But I'm happy to stipulate that we  
5 will be delighted to submit it to NCPC for its  
6 review going forward.

7 MS. SCHUYLER: If I could add,  
8 because Subtitle M is not going to be adopted  
9 as part of the zoning regulations, there's no  
10 express requirement that it come before the  
11 Commission, but it will be promulgated as part  
12 of a rulemaking procedure, which will give the  
13 Commission an opportunity to present comments  
14 on it.

15 All I think we're interested in is  
16 making sure that we keep in touch with DCRA,  
17 know when the rulemaking is going to commence,  
18 and, also, as soon as a draft available, be  
19 afforded a copy.

20 COMMISSIONER HART: So, we're  
21 being asked to approve Section B-4 as it's  
22 presented here with height limit exceptions

1 that include towers, domes, and things like  
2 that?

3 MS. SCHUYLER: The zoning  
4 regulations will have to comport with the 1910  
5 Height Act. However, they are allowed to  
6 differ from the Height Act to the extent that  
7 they have -- well, let me explain it this way:  
8 in zoning you can have a building that's zoned  
9 for 60 feet, but under the Height Act, that  
10 building, because of its location or what type  
11 of street it's on, it could be 80. Zoning is  
12 still free to do it at 60 feet.

13 What Schedule M will simply do is  
14 acknowledge that that street or that location  
15 could be an 80-foot street, but Zoning will  
16 still prevail. If there were ever to be a  
17 conflict between the two, Schedule M and the  
18 zoning regulations, the lesser of the two  
19 heights would prevail.

20 COMMISSIONER HART: Okay. So, in  
21 any case, the Height Act will be able to trump  
22 any zoning issues?

1 MS. SCHUYLER: Absolutely.

2 Absolutely.

3 COMMISSIONER HART: Thank you.

4 MS. SCHUYLER: I spoke at length  
5 with the Attorney General who has been  
6 involved in this because I wanted to help my  
7 client understand what the two would look like  
8 and how they would relate. And I think the  
9 concept is, as I described in that example of  
10 the 60 versus 80 feet, there are instances  
11 when the Height Act could allow something  
12 other than what's allowed under the zoning.

13 And since the Attorney General has  
14 determined that the District of Columbia  
15 Zoning Administrator who resides within DCRA  
16 is responsible for interpreting the Height  
17 Act; it would be more appropriate for the  
18 Height Act-related interpretations to be in a  
19 separate schedule. However, going back to the  
20 original proposition, zoning will have to be  
21 consistent with the Height Act.

22 COMMISSIONER MAY: Could I note a

1 couple of things? I know a fair amount about  
2 zoning, having served on the Zoning Commission  
3 and serving Monday and Thursday evenings on  
4 the Zoning Commission, like tonight.

5 But I just want to mention a  
6 couple of things. Some of the things that you  
7 raised, the exceptions for towers and spires  
8 and such, those are taken, more or less,  
9 straight from the Height Act anyway. And I  
10 think one of the things about this Subtitle M  
11 which may not be very clear to everybody is  
12 that there was a very explicit decision to  
13 separate and to actually have a code that  
14 deals with how to interpret the Height Act,  
15 which didn't exist before.

16 And there was discussion early on  
17 that it would somehow be integrated with  
18 Zoning, but it became too complicated to have  
19 it in two places. So, it made sense to have  
20 it in a single place. And I'm sure it will  
21 come here all in good time.

22 The only thing I would mention is

1 that this is part of a very large process  
2 where the entire zoning regulations are being  
3 rewritten. And so, we're going to be seeing  
4 a lot of these at NCPC. They will go back to  
5 the Zoning Commission for a second action at  
6 the Zoning Commission, but, then, they  
7 basically sit on the shelf until the entire  
8 volume is done. And, then, there will be yet  
9 another vote on the entire thing. So, if  
10 there are still outstanding issues at that  
11 final stage, I imagine they could be brought  
12 forward at that time as well.

13 MS. SCHUYLER: I think that's a  
14 little bit of a different interpretation than  
15 the District of Columbia Attorney General's  
16 Office is holding. Their understanding is  
17 that they have 30 days, within 30 days they  
18 can adopt it, if they so desire, or they could  
19 wait until the very end of the process. If  
20 they adopt it at the end of the 30 days, what  
21 will be reviewed at the final will simply be  
22 for consistency, to prevent conflicts, but

1       there will be no further opportunity at that  
2       point as to --

3                   COMMISSIONER MAY:  Oh, for NCPC  
4       comment?

5                   MS. SCHUYLER:  Right.

6                   COMMISSIONER MAY:  Okay.

7                   MS. SCHUYLER:  And the public, as  
8       to any title that they have adopted, there  
9       will be no further opportunity for public  
10      comment or review.

11                   COMMISSIONER MAY:  Okay.  Right.  
12      I could be wrong about it.  I just know that  
13      there was going to be another vote.  And I  
14      also knew that at that point, if the Zoning  
15      Commission had concerns about anything that  
16      had been written, there could still be further  
17      changes.

18                   MS. SCHUYLER:  They, then, have to  
19      embark on a new rulemaking.

20                   COMMISSIONER MAY:  Okay.  All  
21      right.  So, I stand corrected.  Thank you.

22                   CHAIRMAN BRYANT:  Further

1 discussion? Mr. Provancha?

2 COMMISSIONER PROVANCHA: Again,  
3 kudos to Mr. Hart and the staff for a thorough  
4 analysis; also, to the city for undertaking  
5 this daunting task to look at regulations that  
6 have been in existence now more than 60 years  
7 or so, and to streamline them.

8 I think the results and the  
9 compliance over the years of legislation such  
10 as the Height Act have borne fruit.  
11 Washington, D.C., I think is a unique and  
12 special city, particularly the horizontal  
13 landscape, as a result of the Height Act, and  
14 has a unique and a special nature, unlike many  
15 of the capital cities across the country. And  
16 wonderful that that has been preserved for  
17 such a long period of time.

18 The one concern, I think it's on  
19 slide 4 where you talked about the decision  
20 matrix with the use categories and the  
21 criteria, somewhere in that. There we go,  
22 slide 3.

1                   Has this been tested? For  
2                   example, have we used -- many of us use a  
3                   matrix-type approach for decision making, but  
4                   when we start plugging in real-world examples,  
5                   when we test drive this, we find out that  
6                   there are deficiencies. Has this been applied  
7                   and tested against either existing buildings  
8                   or proposed buildings?

9                   COMMISSIONER TREGONING: Yes.

10                  COMMISSIONER PROVANCHA: And has  
11                  it proven to be workable?

12                  COMMISSIONER TREGONING: We have  
13                  done --

14                  COMMISSIONER PROVANCHA: No  
15                  dramatic departures from existing practices?

16                  COMMISSIONER TREGONING: Well,  
17                  we've done drafts for both residential and  
18                  commercial zones and looked and basically  
19                  applied it in those circumstances and haven't  
20                  found any.

21                  COMMISSIONER PROVANCHA: Good.

22                  Okay. That's good news.

1                   Staff's language in the proposal  
2                   talks about, provides greater delineation and  
3                   further restriction on heights by zone  
4                   district. Help me understand, if you would,  
5                   what you mean by further restrictions. My  
6                   interpretation of further restrictions is one  
7                   or perhaps two things. One, this guidance  
8                   will apply to more zone districts than it  
9                   currently applies to and/or it would further  
10                  reduce allowable heights. Is either of those  
11                  accurate interpretations? It's on page 1,  
12                  just above the Commission action request. I  
13                  just was troubled or puzzled, more puzzled  
14                  than troubled, by the language. What does  
15                  "further restrictions" mean? To me, that  
16                  usually means it's applying where it's not  
17                  currently applied or the type restrictions --

18                         MR. CARLTON HART: As General  
19                         Counsel was saying a little earlier, the  
20                         Height Act has the height limit. Zoning can  
21                         set lower height limits, if it chooses, for  
22                         whatever zone it wants to. So, there are

1 further restrictions. It's kind of more  
2 restrictive, I guess, than the Height Act  
3 in --

4 COMMISSIONER PROVANCHA: Now I  
5 understand. Okay.

6 MR. CARLTON HART: That was what  
7 was meant by that.

8 COMMISSIONER PROVANCHA: Okay.  
9 Help me, also, with the language, please, in  
10 I think it's Attachment B on page 36 and 37.  
11 It talks about, for street-based height limits  
12 for residential areas, it talks about a  
13 maximum of 90. But where you get over into  
14 Appendix D, it talks about the buildings along  
15 Pennsylvania Avenue shall be 160. Is the  
16 language it "shall be" as opposed to "a  
17 maximum of"?

18 MR. CARLTON HART: One of the  
19 things that may be somewhat confusing, there  
20 is an attachment that is a report from the  
21 Office of Planning, which is what you're  
22 looking at.

1 COMMISSIONER PROVANCHA: Right.

2 MR. CARLTON HART: And it starts  
3 on page 19, and it goes to page -- excuse me  
4 -- 38. Those pages are one report that the  
5 Office of Planning put forward in August of  
6 this year.

7 COMMISSIONER PROVANCHA: Right.

8 MR. CARLTON HART: Or, sorry, of  
9 2010. At the back of that is they included  
10 language that was not actually in the proposed  
11 language before us today. And so, you're  
12 looking at some of the things that are not  
13 before us.

14 The language that is before us is  
15 actually on page 14. And this is the actual  
16 text that is before the Commission.

17 And you were asking about --

18 COMMISSIONER PROVANCHA: It's  
19 Attachment A.

20 MR. CARLTON HART: Attachment A.

21 Excuse me. Yes.

22 Some of this language has been

1 taken out, and I think that part of it was  
2 actually taken out between when a draft was  
3 initially submitted and --

4 COMMISSIONER PROVANCHA: Okay.

5 So, the revised draft eliminated the  
6 requirement for all buildings to be 160 as  
7 opposed to a maximum of 160? That was my --

8 MR. CARLTON HART: Yes, a lot of  
9 that section was actually moved to the  
10 Subtitle M. And that was part of that.

11 COMMISSIONER PROVANCHA: Okay.

12 All right. Thank you. Thank you for that  
13 clarification.

14 MR. CARLTON HART: Yes.

15 CHAIRMAN BRYANT: The question  
16 before us is the Executive Director's  
17 recommendation. Is there a motion?

18 COMMISSIONER HART: Motion made.

19 Commissioner Provancha: Seconded

20 CHAIRMAN BRYANT: It's been moved  
21 and seconded that we approve the ADR.

22 All in favor say aye.

1 (Chorus of ayes.)

2 Opposed, no?

3 The motion passes.

4 That's the last item on our  
5 agenda. I do have a few follow-up  
6 announcements.

7 ANNOUNCEMENTS

8 First, I'll note, as Mr. Dixon  
9 did, that we have been informed now that Mayor  
10 Gray has reappointed him. So, he is back  
11 officially with us.

12 Second, I'll note that because we  
13 are having a bit of a change, new faces on the  
14 Commission, on February 2nd, which is the  
15 Wednesday before our normal Thursday meeting,  
16 there will be a half-day sort of NCPC 101  
17 orientation for the new members and  
18 alternates. Anyone is welcome to participate.  
19 It could be a good refresher. So, we will be  
20 sending out logistics on that very shortly.  
21 That's February 2nd.

22 On March 2nd, which is the

1 Wednesday prior to our Thursday March meeting,  
2 there is an all-day retreat that will start at  
3 eight o'clock and run to about 5:00 for  
4 Commissioner members.

5 And that is because, again, we  
6 have new folks and we want to be able to do a  
7 number of things: look at the state of the  
8 agency; talk about budget issues; talk about  
9 successes of the last year and significant  
10 projects upcoming. And so, that will be an  
11 all-day affair. We are likely to have it at  
12 George Washington University.

13 We will have former Congressman  
14 Tom Davis who will be our luncheon -- he will  
15 join us for lunch and give his thoughts on the  
16 importance of the District and the region and  
17 regionalism and all of that. As you know,  
18 former Congressman Davis has been very, very  
19 supportive and has worked very, very closely  
20 with not only his former Northern Virginia  
21 constituency, but the District and with  
22 Representative Norton and with the D.C.

1 Council and his counterparts in Maryland over  
2 the years. So, I think that will be a good  
3 treat.

4 So, February 2nd, that's likely to  
5 be from nine o'clock until one o'clock, but we  
6 will get you all of the specific logistics.  
7 Ms. Young will do that.

8 And, then, on March 2nd, the all-  
9 day retreat is really an 8:00-to-5:00 thing  
10 and, again, more logistics coming to you.

11 Anything else? Mr. Provancha?

12 COMMISSIONER PROVANCHA: For the  
13 retreat, I have it on good authority that  
14 Palmetto Bluffs outside of Hilton Head is also  
15 available on March 2nd as a fallback location.

16 (Laughter.)

17 CHAIRMAN BRYANT: If DoD is paying  
18 for it --

19 (Laughter.)

20 COMMISSIONER PROVANCHA: A comment  
21 on the EDR. I was very impressed at how  
22 comprehensive, how active the staff was during

1 the month of December, despite the holiday.

2 You can see multiple meetings, multiple  
3 reports were published; there was multiple  
4 activities.

5 One quick question about the  
6 beyond granite. Any consideration to  
7 installing -- it looked like the city is  
8 looking at locations to display temporary art.  
9 Any consideration to construct or install  
10 something like the Fourth Plinth in London for  
11 those displays, so that they could be done on  
12 a permanent basis?

13 MR. ACOSTA: We're still  
14 considering options. I think the session that  
15 we had last month was very successful. It was  
16 very thought-provoking, and we've had a number  
17 of discussions about whether it's conceivably  
18 possible to do this in Washington.

19 So, we're going to undertake a  
20 couple of studies. We're talking to a number  
21 of groups out there to see if they have an  
22 interest.

1 COMMISSIONER PROVANCHA: Suggest a

2 Plinth type of a platform could be considered.

3 CHAIRMAN BRYANT: Thank you very

4 much. That ends today's meeting.

5 We are adjourned and the

6 Commission will rise.

7 (Whereupon, the above-entitled

8 matter went off the record at 3:05 p.m.)

9

10

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This is to certify that the foregoing transcript

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Before: National Capital Planning Commission

Date: 01-06-11

Place: Washington, DC

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

*Neal R Gross*

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Court Reporter

**NEAL R. GROSS**

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