

NATIONAL CAPITAL PLANNING COMMISSION

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COMMISSION MEETING

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OPEN SESSION

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THURSDAY,
NOVEMBER 3, 2011

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The meeting convened in Room 5115, Suite
500, 401 9th Street, N.W., Washington, D.C.
20004, at 12:35 p.m., Preston Bryant, Jr.,
Chairman, presiding.

NATIONAL CAPITAL PLANNING COMMISSION MEMBERS
PRESENT:

PRESTON BRYANT, JR., Chairman
Presidential Appointee

ARRINGTON DIXON, Mayoral Appointee

ELYSE GREENWALD, U.S. Senate

JOHN M. HART, Presidential Appointee

PETER MAY, Department of the Interior

ROBERT E. MILLER, Mayoral Appointee

BRADLEY PROVANCHA, Department of Defense

HARRIET TREGONING, Office of the Mayor of

the District of Columbia

MINA WRIGHT, General Services Administration

NCPC STAFF PRESENT:

MARCEL C. ACOSTA, Executive Director

JENNIFER HIRSCH

ANNE SCHUYLER, General Counsel

KENNY WALTON

STACY WOOD

DEBORAH B. YOUNG, Secretary to the Commission

ALSO PRESENT:

DAVID ALPERT, Greater Greater Washington

STEPHEN LORENZETTI, National Park Service

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Kenny Walton 32

Reservation 149, bound by 20th and Q Streets,
N.W. and Connecticut Avenue, N.W.,

Washington, D.C. - Triangle Park
Rehabilitation

Jennifer Hirsch 100

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

12:34 p.m.

CHAIRMAN BRYANT: Good afternoon and welcome to the National Capital Planning Commission's November 3, 2011 meeting. And if you would please, please stand and join me in the Pledge of Allegiance.

(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN BRYANT: We have somewhat light agenda today. For all in attendance I would note that this meeting is being live streamed for the world to see. And I do note the presence of a quorum, so without objection, we'll proceed with the agenda as has been publicly advertised.

[INSERT - AGENDA]

REPORT OF THE CHAIRMAN

1
2 CHAIRMAN BRYANT: Agenda item No.
3 1 is report of the Chairman. And I would
4 simply like to note that we've received a
5 communication from D.C. Council Chairman Brown
6 that Council Member Tommy Wells will be his
7 first alternate to the Commission and Megan
8 Vahey will remain his second alternate. So
9 Councilman Brown -- I'm sorry, Councilman
10 Wells like would join us at the next meeting
11 as a regularly-sitting member.

REPORT OF THE EXECUTIVE DIRECTOR

12
13 CHAIRMAN BRYANT: Agenda item No.
14 2 is the report of the Executive Director.

15 MR. ACOSTA: Thank you, Mr.
16 Chairman. I'll also be brief today. We have
17 two items to discuss with the Commission.

18 First I'd like to let you know
19 that we have officially released our Federal
20 Triangle Storm Water Drainage Study, along
21 with a companion report to the technical study
22 which summarizes the staff's review of the

1 findings. For the public, this technical
2 report and our companion report are available
3 on our Web site.

4 In addition, on October 31 we held
5 in partnership with FEMA and the U.S. Army
6 Corps of Engineers a very successful Federal
7 Triangle flood proofing seminar for federal
8 agencies. And we'd like to thank all those
9 federal agencies who participated in that, as
10 well as our partners for a great meeting.

11 Second, I'd also like to remind
12 the Commission, at the last meeting we had
13 presented a new format for our staff reports
14 to the Commission; the EDRs, delegated actions
15 and commission actions. And the new format is
16 also posted on the Web site and we are seeking
17 feedback from the public. That closes on
18 November 7. And also, if the Commissioners
19 have any comments or feedback, we'd love to
20 hear form you. So if you do, please let me
21 know or Deborah Young know if you have any
22 comments. Also if you need additional copies,

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we certainly will provide those by the end of

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today. So that's my presentation.

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[INSERT - EXECUTIVE DIRECTOR'S REPORT]

1

[INSERT - DELEGATED ACTIONS OF THE

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EXECUTIVE DIRECTOR]

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CHAIRMAN BRYANT: Thank you very much. Any questions to Marcel?

(No audible response.)

LEGISLATIVE UPDATE

CHAIRMAN BRYANT: Agenda item 3 is legislative update.

Ms. Schuyler?

MS. SCHUYLER: I actually have one item to report. HR 2844 was introduced in the House on September 7 of this year. It's an interesting bill inasmuch as it takes two separate bills which I've previously reported to you, The National Women's History Museum; bill 1, and the Federal Facilities Consolidation and Efficiency Act; bill 2, into one bill. And the two bills remain substantially the same.

The National Women's History Museum portion directs GSA to transfer to the Women's Museum the site known as the Cotton Annex for fair market value. The Women's

1 Museum in turn is to develop and use it as a
2 museum.

3 The Federal Facilities
4 Consolidation and Efficiency Act component is
5 the portion based on the bill that previously
6 directed the FTC to vacate its space so that
7 the National Museum could move in.

8 The combined bill is essentially
9 the same, the individual components, as those
10 that are still moving their way through the
11 house. The only difference is under the
12 Women's Museum portion any money derived from
13 the sale will not go to GSA's account, but
14 instead will go to the general fund; i.e.,
15 into the treasury.

16 The FTC Consolidation Act will
17 take -- it previously directed that the FTC be
18 relocated to suitable leased space, the GSA
19 headquarters or one other facility which is
20 escaping my mind right now. But what it does
21 now is directs that the FTC go to the
22 Constitution Building, which is the building

1 where the SEC had previously leased space.
2 They decided not to move in and they were
3 directed to work with GSA to fill that space.
4 So as of this point in time there's
5 approximately 350,000 square feet in the
6 Constitution Building, which I guess would be
7 the space to which they're looking to put the
8 FTC. I will continue to keep you apprised.

9 CHAIRMAN BRYANT: Thank you, Ms.
10 Schuyler. Any questions?

11 (No audible response.)

12 CONSENT CALENDAR

13 CHAIRMAN BRYANT: Agenda item No.
14 4 is the consent calendar. We have three
15 items.

16 Item 4A is the traffic mitigation
17 measures at the Naval Support Activity in
18 Bethesda. Item 4B is the West Campus access
19 road of St. Elizabeth's West Campus. And item
20 4C is the United States Diplomacy Center at
21 the Harry S. Truman Building at the Department
22 of State.

1 Is there a motion on the consent
2 calendar of those three items?

3 COMMISSIONER TREGONING: So moved.

4 CHAIRMAN BRYANT: It's been moved.

5 COMMISSIONER PROVANCHA: Seconded.

6 CHAIRMAN BRYANT: And seconded.

7 Any further discussion?

8 (No audible response.)

9 CHAIRMAN BRYANT: All in favor of
10 the motion, say aye?

11 (Chorus of ayes.)

12 CHAIRMAN BRYANT: Opposed, no?

13 (No audible response.)

14 CHAIRMAN BRYANT: Carries.

15 [INSERT - NAVAL SUPPORT ACTIVITY]

1 [INSERT - ST. ELIZABETHS WEST CAMPUS]

1 [INSERT - HARRY S. TRUMAN BUILDING]

ACTION ITEMS

FEDERAL CAPITAL IMPROVEMENTS PROGRAM FOR THE
NATIONAL CAPITAL REGION, FISCAL YEARS
2012-2017

CHAIRMAN BRYANT: Agenda item 5A
is the Federal Capital Improvements Program
for the National Capital Region for fiscal
years 2012-2017. We have Mr. Wood.

Welcome.

MR. WOOD: Good afternoon, Mr.
Chairman, members of the Commission. Today we
request your adoption of the proposed Federal
Capital Improvements Program for fiscal years
2012-2017. This document reflects comments
received during the public comment period
which was authorized by the Commission at its
July meeting.

During the 45-day comment period
additional projects were received from the
agencies performing budget adjustments and
were evaluated by NCPC staff. Three comment
letters were received from local government

1 agencies, and those letters are included in
2 your packet.

3 The FY '12 through '17 program
4 contains a total of 142 project. One hundred
5 and thirteen of these projects was submitted
6 by agencies and 29 were submitted by NCPC as
7 projects recommended for future programming.
8 The estimated total cost of the agency-
9 submitted projects is \$5.3 billion, which is
10 down 39 percent from last year's total of \$8.6
11 billion. In a moment I'll discuss some of the
12 issues that created this decline.

13 Projects from 15 agencies are
14 included in the FCIP, and the largest total
15 request for the Capital Funding Initiates
16 Program is from the Department of the Army
17 with \$1.6 billion in funding requests for 44
18 projects. This total is followed by the
19 Department of Agriculture with 13 projects
20 totaling \$500 million in requests for funds.
21 No projects were submitted by GSA to this
22 year's program.

1 OMB guidelines state that agencies
2 should not release out year budget data
3 without prior OMB approval. This has never
4 been an issue actually in the past years, but
5 given current budget conditions both OMB and
6 GSA were extremely circumspect in anticipating
7 future spending. Staff expects that it will
8 be able to resolve this issue, but not until
9 the current cycle is complete. Given that
10 that will take us into the next FCIP cycle to
11 complete, staff has made the decision to
12 proceed with the information currently
13 available.

14 NCPC develops recommendations for
15 all FCIP projects. These recommendations are
16 based on each agency's conformance with NCPC's
17 policies and plans and with local and regional
18 planning goals and objectives. Of the 113
19 projects that were submitted by agencies, 9
20 are recommended and strongly endorsed, 55 are
21 recommended, and 49 projects are projects
22 requiring additional planning coordination.

1 Of the 14 new projects that were submitted to
2 this year's program, all are recommended
3 projects. Of the NCPC-submitted projects 14
4 are recommended and strongly endorsed and the
5 remainder are recommended for future
6 programming.

7 As I noted earlier, NCPC received
8 comments from three local jurisdictions during
9 the public comment period.

10 The City of Bowie, Maryland
11 remains opposed to the Commission-submitted
12 project Freight Railroad Realignment NEPA
13 Studies.

14 Fairfax County, Virginia supports
15 all NCPC-submitted projects for transportation
16 in the region and the Regional Park System
17 Project. The county expressed continued
18 concerns with impacts of projects at Fort
19 Belvoir and the need for adequate funding
20 associated with transportation improvements
21 and the completion of an updated environmental
22 and master plan. The country requested no

1 additional projects for Fort Belvoir be
2 included in the FCIP until a master plan and
3 environmental work are completed.

4 And I want to take this point to
5 iterate that all the projects that we have in
6 the program for Fort Belvoir are categorized
7 as projects requiring additional planning
8 coordination because they do not fit in with
9 any other currently approved master plans and
10 they do have issues related to transportation
11 that are still outstanding.

12 Loudon County, Virginia supports
13 NCPC's efforts to develop the Dulles Corridor
14 Rapid Transit Project.

15 All the comment letters that we do
16 receive for the FCIP are when appropriate
17 called out in the comment section for each of
18 the projects referenced, and the comments are
19 also forwarded to the appropriate federal
20 agency for review and their reply.

21 And with that, I conclude my
22 presentation with the Executive Director's

1 recommendation that the Commission adopt the
2 Federal Capital Improvements Program for the
3 National Capital Region for the years 2012
4 through 2017 and direct staff to provide the
5 adopted document to the Office of Management
6 and Budget and to regional jurisdictions and
7 any interested parties. And that concludes my
8 presentation today.

9 [INSERT - FEDERAL CAPITAL IMPROVEMENTS
10 PROGRAM]

1 CHAIRMAN BRYANT: Thank you, Mr.
2 Wood. For these 142 projects totaling more
3 than \$5 billion, are there any questions that
4 have -- Mr. Provancha?

5 COMMISSIONER PROVANCHA: I
6 consulted with the Executive Director prior to
7 the meeting. I think it's worth discussing.
8 What does it mean when we have an agency that
9 does not provide information? Does that
10 formally constitute some kind of a non-
11 conformance with the National Capital Planning
12 Act?

13 So the questions that we would
14 have is what does that mean? You know, what
15 is the impact? Has there been a precedent in
16 the past? Have there been agencies that for
17 whatever reason did not or were not able to?
18 What are the impacts? Is it an acceptable
19 solution to say you get a pass this year?
20 Hopefully you'll be back in front of the board
21 next year.

22 Financially, and as far as the

1 numbers of projects; here's a good example,
2 the '11 to '16 FCIP had 146 projects, \$8.6
3 billion, of which GSA had 41 projects, \$3.42
4 billion. So it was a huge element that is
5 clearly missing when this year's scope of
6 projects is significantly less, and it's just
7 over \$3 billion.

8 So what does that mean? If you
9 would just help us put it in context, yes.

10 MR. ACOSTA: Well, thank you for
11 your comments, Commissioner Provancha. You
12 are correct, it is a big gap in this current
13 FCIP.

14 As Mr. Woods noted, there are
15 extenuating circumstances this year with
16 respect to the GSA budget and their portfolio
17 which had led OMB, which manages -- which we
18 are sending this to, by the way, in terms of
19 transmitting the document, which has led OMB
20 to ask us to -- or ask GSA not to submit for
21 this year. We had had previous discussions
22 with OMB and the GSA examiner to discuss these

1 issues. We understand their issue. And they
2 also have committed to sit down with and GSA
3 to determine what can be put into the FCIP for
4 the next cycle that can be publicly released.
5 So they do understand that this is an issue.
6 But also, the OMB releases a circular with the
7 budget every year. And it is also clear that
8 agencies cannot release information without
9 the consent of OMB, so they have not consented
10 GSA to release this information to us for this
11 year.

12 COMMISSIONER PROVANCHA: So the
13 conclusion that we could draw is that OMB did
14 approve other agencies to submit?

15 MR. ACOSTA: Yes, but in this
16 particular case they had raised specific
17 issues, so we --

18 COMMISSIONER PROVANCHA: And those
19 issues were -- help me with the
20 characterization. Something about some
21 uncertainty in the environment? I didn't
22 quite follow that.

1 MS. SCHUYLER: In FY '11 GSA's
2 construction budget was reduced significantly
3 and the GSA examiner -- I mean, the GSA
4 administrator announced on Monday that it was
5 possible that they may have no new starts in
6 the coming year. And so, given the fact that
7 their construction budget is so uncertain at
8 this time, they were -- the issue was that
9 they didn't want to put something out there
10 that said that they were planning a lot of
11 major new projects when in fact -- and give
12 people the idea that there were all these new
13 projects in the pipeline when in fact these
14 projects may be delayed for possibly years.

15 COMMISSIONER PROVANCHA: So
16 another alternative might have been to submit,
17 but with this caveat? That's not a fairly
18 acceptable option?

19 MS. SCHUYLER: We discussed the
20 possibility of that and they determined that
21 at this time they weren't comfortable with it.

22 One thing that is worth noting is

1 that CEQ issued a directive recently that was
2 negotiated with OMB that says that in future
3 years when agencies release their
4 sustainability plans every year, their
5 performance plans, that it includes
6 information about projects that they have in
7 the works or capital projects in the pipeline.
8 And so, what we are planning to do is to work
9 with the agencies and with OMB to make sure
10 that what they are -- what OMB is asking for
11 as part of the sustainability plans is
12 consistent with what we are putting together.
13 And agencies aren't required to put together
14 two separate pieces of information.

15 COMMISSIONER PROVANCHA: Can we
16 infer then, for example, if OMB approved
17 multiple other agencies to submit their
18 budget, there is some certainty in those
19 budgets? It's just that GSA has the
20 uncertainty?

21 How about the larger issue of --
22 I've gotten some feedback from my department

1 that, you know, one aspect is that --

2 CHAIRMAN BRYANT: Hold on. May I
3 follow up on that?

4 COMMISSIONER PROVANCHA: Sure.

5 CHAIRMAN BRYANT: That's a
6 question I was going to ask. If there's
7 uncertainty in the GSA budget, so therefore
8 they did not want to send the signal or the
9 reply that these projects are in there, so
10 they're going forward. By that logic it would
11 be to say that other agencies' projects that
12 are listed are indeed going forward, and I
13 don't think that's the case, necessarily.

14 MS. SCHUYLER: I don't think
15 that's necessarily the case.

16 CHAIRMAN BRYANT: So that's
17 inconsistent?

18 MS. SCHUYLER: No, I think that --

19 COMMISSIONER PROVANCHA: Appears
20 to be on the surface, yes.

21 MS. SCHUYLER: Well, I'm reluctant
22 to say that it has something to do with the

1 individuals involved, but in fact that is the
2 case. I think that certain people are being
3 more reticent about the political message they
4 may be sending than others.

5 COMMISSIONER PROVANCHA: Not in
6 Washington.

7 What about the other issue of -- I
8 get feedback from my department. For example,
9 this may constitute acquisition-sensitive
10 information that we put out to the general
11 public. Is that the defense? It is --

12 MR. ACOSTA: That's one of the
13 issues that we are going to discuss with OMB,
14 because that's also part of GSA's concerns and
15 OMB. So we need to be -- and when we push
16 this out publicly, I think that we do need to
17 distinguish kind of what's important for
18 public information versus what should be held
19 within the agencies.

20 COMMISSIONER PROVANCHA: Right,
21 because what we're telling the industry, the
22 market is what we're going to do, when we're

1 going to do, what our cost estimates are, our
2 current program --

3 MR. ACOSTA: There may be some
4 other ways to convey this information that
5 would be --

6 COMMISSIONER PROVANCHA: Puts us
7 at a disadvantage.

8 MR. ACOSTA: Yes, there may be
9 some other ways to convey this information to
10 the public, because I think from the public
11 standpoint they should know kind of what's
12 being planned, the extent of it, you know, in
13 terms of magnitude and, you know, overall cost
14 estimates. But the specifics I think are
15 what's concerning OMB. So that's part of our
16 discussion that we'll have with them next
17 year.

18 So, and just one more point: As
19 an executive-managed agency we do have to
20 comply with OMB requests. So this was a
21 specific request they had made to us for this
22 cycle, so I do feel obligated that we respect

1 that.

2 CHAIRMAN BRYANT: But the end
3 result is we have a document that is missing
4 a big piece, unlike years in the past.

5 MS. SCHUYLER: That's correct.

6 CHAIRMAN BRYANT: So that should
7 be fully known.

8 Okay. Any other discussion?

9 COMMISSIONER DIXON: Chairman, I
10 don't know which agency it might fall under,
11 but is there any push back on money for the
12 Homeland Security facility on the West Campus
13 in this?

14 MS. SCHUYLER: My understanding is
15 that the U.S. Coast Guard Headquarters Project
16 is fully funded and that project is proceeding
17 as planned. But at this point none of the
18 funds for the additional work in restoring the
19 historic campus has been budgeted at this
20 point.

21 COMMISSIONER DIXON: Is this a new
22 position, or is this just where we've been for

1 awhile?

2 MS. SCHUYLER: I would say it's
3 where we've been for about a year.

4 CHAIRMAN BRYANT: Mr. May?

5 COMMISSIONER MAY: I just had one
6 small question. On page 5 of the report you
7 mention that the Federal Highway
8 Administration deleted a project feasibility
9 study for Baltimore-Washington Parkway
10 widening. Do you know why that was deleted?

11 MR. WOOD: Lack of funding.

12 COMMISSIONER MAY: Okay. Because
13 the study is actually going on now.

14 MR. WOOD: According to the agency
15 there wasn't sufficient funding right now to
16 continue with that portion, so they were
17 deleting it at this time.

18 COMMISSIONER MAY: Okay. Thanks.

19 CHAIRMAN BRYANT: Other questions
20 or comments?

21 (No audible response.)

22 COMMISSIONER PROVANCHA: Just one

1 follow-on question, please, sir.

2 In the comment letters that were
3 submitted from the City of Bowie and others,
4 Fairfax County, there's some pretty strongly-
5 worded opposition. Our approval of the FCIP,
6 I would assume, then indicates respectful
7 consideration but non-concurrence with those
8 strong objections. Is that a fair way to
9 characterize --

10 MS. SCHUYLER: I believe that the
11 projects that Fairfax County took exception to
12 are listed as requiring further coordination,
13 which is what we generally say when there are
14 issues such as the concerns of the county that
15 have not yet been resolved.

16 COMMISSIONER PROVANCHA: Okay. So
17 approval would not constitute a no? It
18 would --

19 MS. SCHUYLER: Approval of the
20 document --

21 COMMISSIONER PROVANCHA: --
22 further consideration at the appropriate time?

1 MS. SCHUYLER: -- does not mean
2 approval of the individual projects within it.

3 COMMISSIONER PROVANCHA: Good.
4 Thank you.

5 CHAIRMAN BRYANT: Okay. All in
6 favor -- oh, was there a motion? Was there a
7 motion? Is there a motion?

8 COMMISSIONER PROVANCHA: So moved.
9 (Seconded.)

10 CHAIRMAN BRYANT: It's been moved
11 and seconded on agenda item No. 5, which is
12 the Federal CIP for the National Capital
13 Region. All in favor, say aye?

14 (Chorus of ayes.)

15 CHAIRMAN BRYANT: Opposed, no?

16 (No audible response.)

17 CHAIRMAN BRYANT: It's adopted.
18 Thank you.

19 NATIONAL MUSEUM OF AFRICAN AMERICAN HISTORY
20 AND CULTURE, CONSTITUTION AVENUE BETWEEN
21 14TH AND 15TH STREETS, N.W.,
22 WASHINGTON, D.C.

1 CHAIRMAN BRYANT: Agenda item No.
2 5B is the National Museum of African American
3 History and Culture. And Mr. Walton is here.

4 I will note that on this we will
5 have to actually take two votes. The first
6 vote will be on the Record of Decision. And
7 after that is acted on, then we can move onto
8 the EDR proper.

9 Mr. Walton?

10 MR. WALTON: So, good afternoon,
11 Mr. Chairman and members of the Commission.
12 Today the Smithsonian has submitted the
13 preliminary design, final site utilities,
14 final supportive excavation, excavation and
15 dewatering of the site for the National Museum
16 of African American History and Culture.

17 Since the revised concepts
18 submission last April, We have completed the
19 NEPA final EIS, the Environmental Impact
20 Statement; completed a Record of Decision, the
21 RoD; the Smithsonian has finalized the NHPA
22 Section 106 Programmatic Agreement; and

1 they've begun to prepare the site for
2 excavation.

3 Now, since the Smithsonian does
4 not have independent NEPA responsibilities,
5 they've undertaken the NEPA with NCPC as the
6 jointly federal agency responsible, and so
7 I'll be giving a brief summary of the NEPA
8 process at the end of my presentation.
9 We are also seeking the adoption of the RoD by
10 the Commission as a part of this submission.

11 Start off with a little
12 background. So as you know, the site is
13 located here along Constitution Avenue between
14 14th and 15th Streets and Madison Drive at the
15 end of a row of existing museums on what was
16 formerly the Washington Monument grounds. The
17 operation and maintenance of the site were
18 transferred to the Smithsonian by the Park
19 Service this past September.

20 The major building mass, the
21 corona, is located here, 234 feet off of
22 Constitution Avenue, 138 feet off of 15th

1 Street, 85 feet off of 14th Street, and it
2 varies between 140 and 100 feet off of Madison
3 Drive, depending where you are along the
4 slope. The service entrance is here off of
5 14th Street. The major entrance into the
6 building is from the south off Madison Drive
7 here, and there's a secondary entrance off of
8 Constitution Avenue on the north located here.

9 At the revised concepts submission
10 last April, the Commission had several
11 comments associated with different aspects of
12 the museum's design. Those comments were
13 related to the building's massing, the scale
14 of the porch on the south side of the
15 building, the night lighting and the western
16 skylight that was located along the edge of
17 15th Street. I'm going to go over each of
18 these comments and the Smithsonian's response,
19 starting with the building massing.

20 So just a little bit more
21 background. At the September 2010 Commission
22 meeting the Smithsonian submitted a concept

1 design that showed a corona with the width of
2 210 feet on all sides. At that time it was
3 very early on in the design process and the
4 Smithsonian had not yet included structure
5 into the design. Once structure was included,
6 the mass grew to about 220 feet on all sides.

7 Now this is what was submitted at
8 the April revised concept submission. At that
9 time the Commission suggested that the
10 Smithsonian either maintain this with the 220,
11 or to the extent possible, try to reduce it
12 back in the direction of the 210-foot
13 submission. The concept submission shows a
14 corona with a width of 216 feet. The red
15 outline here represents the outline at the
16 revised concept submission at 220 feet. The
17 blue fill area in here is the current
18 submission at 216. And so there's a
19 difference of about four feet in reduction on
20 all sides.

21 More importantly, however, the
22 Smithsonian's been able to reduce the height

1 of the building not to exceed the height of
2 the Commerce Building across the street. That
3 was the height restriction that was agreed
4 upon. At revised concept to the top of the
5 penthouse here, the submission was at 129«
6 feet at revised concept and the elevator
7 overrides, mechanical systems and skylights
8 took it to 132 feet. That was about seven
9 feet higher than the Commerce Building here.

10 The current submission shows the
11 design with the skylights, elevator overrides
12 and mechanical systems just in line or just
13 below, five inches below the top of the
14 Commerce Building and the corona in line with
15 the top of the parapet of the Commerce
16 Building, so well within the guidance that's
17 been given.

18 Now that was accomplished by
19 modifying the skylights, the elevator
20 overrides and the mechanical systems not to
21 exceed the height restriction and then capping
22 those with decorative louvered panels so that

1 when viewed from above, say from the top of
2 the Washington Monument, the roof appears as
3 a façade.

4 There's also been a parapet wall
5 that's been added around the perimeter of the
6 mechanical systems so when viewed from the
7 pedestrian level, as it is here in this April
8 submission, these skylights now disappear.

9 So this is a view of the current
10 submission. The preferred alternative, the
11 Refined Pavilion II from the intersection of
12 Constitution Avenue and 14th Street looking
13 back across the site to the Washington
14 Monument.

15 Second, the porch. And at the
16 revised concept submission the Commissioners
17 suggested that the Smithsonian study the porch
18 from the south side, from the Mall side of the
19 building. More specifically, they suggested
20 that the Smithsonian study the scale of the
21 porch and possibly find ways of reducing it.

22 The Smithsonian responded by

1 carrying out a reduction study, looking at
2 different reduction scenarios for the porch.
3 This scheme is the revised concept submission.
4 You can see here the legs of the porch are
5 aligned with the edge of the corona. So the
6 width of the porch at this point was at 220
7 feet. It was 50 feet in depth. The first
8 reduction scenario brings the legs of the
9 porch in line with the glass base at the
10 bottom of the museum in 10 feet from each
11 side, so 20 feet total reduction in width, and
12 bringing it back to 44 feet in depth. The
13 next reduction scenario brings the legs of the
14 porch in line with the outer edge of the
15 building core here. I'm not sure you can see
16 the core, but it's just in that line. And the
17 third reduction scenario brings the legs of
18 the porch in line with the inner edge of the
19 building core right in here. In the end, the
20 Smithsonian selected the design that put the
21 legs of the porch in line with the glass base
22 at the bottom of the corona, creating a more

1 streamlined, better proportioned massing
2 overall.

3 The porch does, however, still
4 extend into the McMillan setback line on the
5 south side of the site. It is, however, two
6 feet shorter than the portico of the Natural
7 History Museum and it has been scaled down
8 from the 220 by 50 to where it is now at 200
9 by 44. Also, the occupiable space here does
10 not extend beyond the McMillan setback line,
11 only the green roof here, which provides the
12 opportunity to create a microclimate relief,
13 the porch between the extension, and the water
14 element below.

15 Night lighting. So at revised
16 concept the Commissioners ask that the
17 Smithsonian carry out a more detailed night
18 lighting study. The Smithsonian responded by
19 first setting up a set of lighting goals that
20 included being a good neighbor, providing a
21 link to the museum's day time appearance,
22 supporting the building's role as a center of

1 life and activity, and meeting the project's
2 sustainability goals. By being a good
3 neighbor what the Smithsonian meant was being
4 consistent with the lighting levels of the
5 other museums along the Mall and the museums
6 around the Mall and not competing with the
7 major landmarks like the Washington Monument
8 and the Capitol dome. Also, you can see here
9 that the Smithsonian's carried out a candle
10 study and that the lighting level design
11 intent for the museum is at or at a lower
12 level than all the other museums on the Mall
13 except the Hirshhorn, which is at zero.

14 The lighted water features and
15 landscape features are indirectly lit, and
16 this is designed to provide for destinations
17 in the night time landscape. Here a corona
18 panel is back lit to give you an idea of the
19 design intent lighting level for the museum as
20 compared to other museums and other buildings
21 around the site. Here you can see that it's
22 about the same lighting level or just below

1 many of the other buildings. So in the end
2 the Smithsonian has consistently worked with
3 the review agencies and the consulting parties
4 on the lighting requirements and will continue
5 working with the lighting designer throughout
6 the remainder of the design process.

7 Onto the western skylights. So at
8 revised concept the Smithsonian submitted a
9 design that showed a skylight here along the
10 western edge of the site near 15th Street.

11 This skylight was 100 feet long and 25 feet
12 deep. It was designed to bring light into a
13 lower level cafeteria space that was located
14 here. At the time the Commissioners suggested
15 that the Smithsonian consider scaling down the
16 size of the skylight because of its
17 relationship to the Washington Monument
18 grounds and to the monument itself.

19 In the current submission here to
20 the right, the skylight has been removed. The
21 cafeteria has moved to the east side of the
22 building and a light well has been provided in

1 the previously designed egress courtyard here,

2 which is below grade.

3 [INSERT - NATIONAL MUSEUM OF AFRICAN AMERICAN

4 HISTORY AND CULTURE]

1 CHAIRMAN BRYANT: Question?

2 MR. WALTON: Yes, sir?

3 CHAIRMAN BRYANT: What was
4 specifically objectionable to the skylight
5 relative to the Washington Monument?

6 MR. WALTON: The size of it.
7 Because it was going to be visible from the
8 Washington Monument grounds, it didn't look
9 like it was a part of the natural landscape of
10 the Washington Monument grounds.

11 CHAIRMAN BRYANT: Okay.

12 MR. WALTON: On to the landscape
13 design. So the landscape design has probably
14 evolved the most since the revised concept.
15 The rain garden that's located here has been
16 redesigned to be more in keeping with the more
17 formal aspects of Constitution Avenue here.
18 You can see that curves and paving have been
19 added to create a year-round aquatic garden
20 rather than rain garden which was thought to
21 be more marshy or suburban.

22 The oculus here is moved in

1 tighter to the face of the building and serves
2 now as a welcoming entrance feature on the
3 north side of the site. There's also a
4 vertical element that will be a fountain in
5 the summer time and will serve as a clear
6 story in the winter.

7 There's also been an addition of
8 some themed reading groves added to the north
9 side and around the perimeter of the site.

10 These are pretty conceptual diagrams, but
11 these benches would be carved stone benches
12 that would be based around the themes that are
13 being created by the museum.

14 On the east side of the building a
15 new zone has been added along the edge of the
16 service entrance. On the north side a new
17 guard house and bike rack has been added
18 that's integrated into the retaining wall
19 here. And on the south side the caf, concept
20 that was an earlier design alternative has
21 returned that now features an outdoor seating
22 area here with low planting a new shelter that

1 conceal a moveable food cart right in here.

2 Further down on the south side,
3 the south water element has also been
4 modified. It now features a raised edge that
5 will provide additional security and also a
6 space for visitor seating. The sloped side of
7 it here would be covered with inscriptions
8 that will talk about African Americans from
9 all walks of life. The pool element here,
10 when drained in the winter time, the base
11 would contain quotes from famous writers. And
12 so the entire south side element would be a
13 year round feature.

14 Onto the corona. So you may
15 recall from the revised concept that the
16 designers are using precedents from African
17 American iron works grilles as an inspiration
18 for the design of the corona panels. They've
19 taken the patterns and abstracted it and
20 triangulated it here and created a more modern
21 panel that was then arrayed across the surface
22 of the building. The openings in these panels

1 modulated between about 65 percent open and 90
2 percent open for view control and solar
3 control.

4 Currently the designers are
5 looking at a more three-dimensional panel.
6 This is still very early on in the design
7 process, but they were looking at something
8 that had more of the feel of cast bronze. So
9 you can get a sense here what that will look
10 like was arrayed across the surface of the
11 building. But again, this is very early on in
12 the design process, so there's more to come on
13 that.

14 Geotechnical conditions. So at
15 revised concept the Commission suggested that
16 the Smithsonian advance their geotechnical
17 studies, and they have.

18 I'm going to start with the
19 flooding studies. The Smithsonian has looked
20 at two flooding conditions, the 100-year flood
21 and the 500-year flood conditions. They have
22 two solutions, one for each condition.

1 For the 100-year flood, they're
2 going to have automatic flood gates here at
3 the base of the loading dock area. And the
4 guard house and the oculus would both be
5 weather proofed for 500-year floods. Around
6 the perimeter of the building, they use
7 sandbags and moveable panels.

8 The Smithsonian's also been
9 carrying out seismic monitoring to study the
10 impacts of pile driving, the vibration from
11 pile driving on the site. The triangular
12 elements that you see here are the locations
13 of the different monitors, where they've been
14 placed. The circular numbered areas are the
15 monuments and the buildings that are being
16 monitored. Then you can see from the initial
17 pile tests that the vibration levels are
18 coming in much lower than the standards that
19 were set and agreed upon by the agencies.

20 The Smithsonian is also submitting
21 for supportive excavation, final supportive
22 excavation, excavation and dewatering of the

1 site. This work is scheduled to start in mid-
2 February. It should go on for about a year.
3 It's a little bit weather-dependent, so it
4 could go on for longer. The work entails
5 creating a trench six feet wide and 100 feet
6 deep that will wrap the perimeter of the site.
7 That trench would then be filled with
8 concrete. Once the concrete is cured, the
9 earth and the water will be removed and the
10 foundation, which is here; see this little
11 line here is the foundation, will be built
12 within the perimeter of the supportive
13 excavation wall.

14 To give you a better view of what
15 that is, this is the supportive excavation
16 wall here, the blue line. The foundation is
17 here. There's about a five to eight-foot
18 difference between the two. And so starting
19 this work would not preclude further design of
20 the museum itself.

21 The Smithsonian is also submitting
22 for final site utilities. This has several

1 elements. The first, this red line here
2 represents a 1890s water line that needs to be
3 replaced along 14th Street between Madison and
4 Constitution. This work would require the
5 street to be opened. The work will occur at
6 night and will be steel-plated over in the day
7 so that traffic can continue to move. In
8 addition, there's direct bores that need to
9 occur between the African American Museum site
10 and the American History site underneath 14th
11 Street. This is for condenser water lines,
12 data transmission lines and telecommunication
13 lines. And here on the northwest corner
14 there's additional water line work that needs
15 to occur. It's going to be similar to the
16 work on 14th Street, so it will require the
17 street to be opened. The work would occur at
18 night and steel-plated over in the day time so
19 traffic can continue. All other utility work
20 will occur within the perimeter of the site.

21 Now this work will begin as soon
22 as the Smithsonian is authorized by permitting

1 agencies to start. The Smithsonian is
2 continuing to work with DDoT and the Park
3 Service on those permits, and we'll hear more
4 from that later.

5 The NEPA summary. So I just
6 wanted to give a quick summary of the NEPA
7 process for the museum. NCPC requires a
8 completed NEPA at the time of the preliminary
9 design phase. The work, the NEPA process
10 itself, was carried out by both NCPC and the
11 Smithsonian. It was a joint NEPA process with
12 NCPC as the lead federal agency in charge.
13 The program was broken into two tiers. The
14 Tier I EIS was basically focusing on
15 programmatic issues, while the Tier II EIS
16 focused on specific design issues.

17 In addition to the physical
18 parameters of the building, the museum also
19 created a set of design principles that the
20 designers have used throughout the design
21 process to mitigate and minimize adverse
22 effects related to historic and natural

1 resources, views, spatial arrangement of the
2 Mall, scale and historic content.

3 The approach to this was to create
4 six massing schemes that would arrange the
5 museum's program in different configurations
6 across the site to see how the height, bulk,
7 mass and setback affected views and
8 environment. There was also a no-build
9 alternative that was the environmentally
10 preferred alternative, but did not meet the
11 Smithsonian's purpose and need.

12 You can see here what these
13 alternatives were. There was a simple mass in
14 the center of the site representing height and
15 bulk, two that represented geometry and the
16 possibility of opening views across the site:
17 a scheme that represented sort of the topo or
18 terrain and the relationship of the topo to
19 the massing of the building; a scheme that
20 broke the building into two buildings with an
21 opening in between and a smaller building that
22 could be located and pushed into a corner of

1 the site. You see here what those masses look
2 like.

3 And here the studies, the visual
4 studies from different station points looking
5 at -- many of the station points we've seen
6 throughout the submission process were from
7 the corner of 14th and Constitution, from the
8 base of the monument looking back across the
9 Mall towards the site, and from 15th street.
10 There were many other studies along the way.

11 Potentially the EIS focused on
12 specific design issues leading to the
13 preferred alternative, which is now the
14 Refined Pavilion II. Like the Tier I, it
15 dealt with many of the same issues;
16 environmental resources, historic resources,
17 visual resources, short and long-term
18 construction, long-term occupational issues
19 and cumulative impacts. The Refined Pavilion
20 II evolved from the refinement of the pavilion
21 scheme and the refined pavilion scheme and
22 several other schemes along the way.

1 So just to give you an idea of
2 what this looks like visually, you may
3 remember this scheme which was the winning
4 competition entry scheme. Within this you can
5 see several elements that still remain the
6 current design. The porch, the corona, the
7 bronze color. These we're call irreducible
8 elements by the Smithsonian, have remained in
9 all the alternatives throughout the design
10 process. The process for Tier II consisted of
11 three design alternatives: The plinth scheme,
12 which is very similar to the winning
13 competition scheme; the plaza scheme, which
14 took the gallery space and separate it from
15 the administrative space with a plaza; and the
16 pavilion scheme, which took the main mass of
17 the building, the corona, and placed it at
18 grade on site. And so, the plinth, the plaza
19 and the pavilion schemes went through several
20 iterations to the refined pavilion, which lead
21 to where they are today. The preferred
22 alternative, the Refined Pavilion II.

1 And so the Tier II RoD documents
2 the decision by NCPC and the Smithsonian to
3 implement the Refined Pavilion II. Within
4 this decision all practical means to avoid
5 minimizing environmental harm have been
6 adopted, however, certain impacts are
7 unavoidable. The Tier II RoD documents more
8 than 50 mitigation measures which have been
9 identified relating to the full range of
10 impacts, both manmade and natural. And the
11 Tier II RoD obligates the Smithsonian to
12 monitor the implementation of these mitigation
13 measures.

14 And so, Mr. Chairman, the
15 Commission is being asked to take separate
16 actions, as you mentioned earlier. The first
17 is to adopt the Record of Decision, the RoD.
18 The second is to approve the preliminary
19 design, the final site utilities and the final
20 supportive excavation, excavation and
21 dewatering of the site.

22 And so, the Executive Director

1 recommends that the Commission notes that in
2 the development of the final EIS for the
3 National Museum of African American History and
4 Culture that the Smithsonian has responded to
5 the Commission's comments and recommendations
6 on the museum's design, notes that as a
7 requirement of the Section 106 Programmatic
8 Agreement that the Smithsonian will continue
9 to consult with the D.C. SHPO, the review
10 agencies and consulting parties in order to
11 avoid, minimize and mitigate adverse effects
12 to historic properties, notes that the
13 National Museum of African American History
14 and Culture is based on the preferred
15 alternative analyzed in the joint EIS and
16 Record of Decision.

17 And so, the Executive Director
18 recommends that the Commission adopt the
19 Record of Decision for the National Museum of
20 African American History and Culture. So with
21 that, turn it over to you, Mr. Chairman.

22 CHAIRMAN BRYANT: Thank you, Mr.

1 Walton.

2 PARTICIPANT: Mr. Chair, I'd make
3 the motion to approve the --

4 CHAIRMAN BRYANT: The first vote
5 is on the RoD itself, the Record of Decision
6 that has come at the end of the NEPA process.
7 NCPC is the agency in this particular case.
8 There has been a motion to approve the Record
9 of Decision. Is there a second?

10 (Seconded.)

11 CHAIRMAN BRYANT: Any further
12 discussion on the RoD?

13 (No audible response.)

14 CHAIRMAN BRYANT: Hearing none,
15 all in favor of adopting the Record of
16 Decision for the -- sorry.

17 COMMISSIONER PROVANCHA: Could you
18 share with us, please, the -- it looks like
19 more than 50 environmental considerations have
20 been addressed and mitigated. Could you
21 highlight for us, if you will, the number, the
22 scope, the impact of the ones that could not

1 be mitigated?

2 MR. WALTON: What could not be
3 mitigated? Well, I can tell you some that --
4 for example, for views across the site, the
5 building is a pretty good mass, and so --

6 COMMISSIONER PROVANCHA: Sure.

7 MR. WALTON: -- they have made the
8 glass at the base of the building as
9 transparent as possible. They provided for
10 views within the building out to the site.
11 The skin of the building itself is going to be
12 somewhat opaque, but there will be openings in
13 the skin so that you can see some key views.
14 That can't totally be mitigated, but they're
15 trying their best.

16 One of the issues is that all the
17 trees on the site will be removed, but they're
18 going to be replaced with trees of the same
19 caliber. This is a First Amendment protest
20 site, which it will not be once the
21 Smithsonian takes it over to be a Smithsonian
22 museum site. So those are key things that

1 can't totally be resolved, but they're trying
2 to mitigate them as best as possible.

3 COMMISSIONER PROVANCHA: Okay.
4 Thank you.

5 CHAIRMAN BRYANT: Other questions?
6 (No audible response.)

7 CHAIRMAN BRYANT: Hearing none,
8 it's been moved and seconded. All in favor of
9 adopting the Record of Decision, say aye?

10 (Chorus of ayes.)

11 CHAIRMAN BRYANT: Opposed, no?
12 (No audible response.)

13 CHAIRMAN BRYANT: The Record of
14 Decision is adopted.

15 Now for part 2.

16 MR. WALTON: Okay. So the
17 Executive Director recommends that the
18 Commission approve the preliminary site and
19 building plans, the final site utility plans,
20 the final supportive excavation, excavation
21 and dewatering of the site for the National
22 Museum of African American History and Culture

1 and commends the Smithsonian for the reduction
2 in the size of the building, the reduction in
3 the size of the south porch, the redesign of
4 the north side water feature and the
5 elimination of the west skylight, and for
6 conducting an extensive public outreach during
7 the development of the design.

8 The Commission recommends that as
9 the design continues -- that as the refinement
10 of the food cart continues and the guard booth
11 design continues that the Smithsonian continue
12 to coordinate with NCPC staff and other
13 federal review agencies and that they continue
14 to coordinate with the District Department of
15 Transportation and the National Park Service
16 to assure that the 14th Street and 15th Street
17 sidewalks are reopened as soon as construction
18 safety permits, and that they continue to
19 coordinate with all other outstanding
20 construction issues throughout the process.

21 With that, Mr. Chairman, that
22 concludes my presentation.

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

3 Is there questions or discussions
4 on this part of the EDR? Ms. Tregoning?

5 COMMISSIONER TREGONING: Thank
6 you, Mr. Chairman. I just wanted to
7 acknowledge that there have been good and
8 productive conversations between the
9 Smithsonian and the city regarding
10 transportation issues, but I did want to offer
11 an amendment to the EDR that just references
12 a couple of the other things that I think are
13 important to acknowledge with respect to the
14 need for permits for this. And I do
15 appreciate the -- and heartily concur with the
16 idea that we work with the Park Service and
17 the Smithsonian to make sure that the
18 sidewalks on 14th and 15th Street are reopened
19 to the public as soon as possible. We are
20 very concerned about that.

21 May I pass out a copy of the
22 language?

1 CHAIRMAN BRYANT: Please.

2 COMMISSIONER DIXON: Mr. Chairman,
3 point of order?

4 CHAIRMAN BRYANT: Yes, sir?

5 COMMISSIONER DIXON: Is this an
6 amendment -- is there anything on the floor
7 for this to amend?

8 COMMISSIONER TREGONING: I haven't
9 yet moved a proposal to amend, but I will in
10 just a moment.

11 CHAIRMAN BRYANT: Okay.

12 COMMISSIONER DIXON: But I'm
13 saying there's nothing on the table for this
14 to amend.

15 CHAIRMAN BRYANT: Do we have to
16 move it first in order to --

17 COMMISSIONER TREGONING: We do.

18 MR. DIXON: I think it's
19 parliamentary to --

20 COMMISSIONER TREGONING: We do.

21 CHAIRMAN BRYANT: Okay.

22 COMMISSIONER DIXON: -- this so we

1 can amend it.

2 CHAIRMAN BRYANT: All right.

3 COMMISSIONER TREGONING: I'm happy
4 to move the EDR.

5 CHAIRMAN BRYANT: Is there a
6 motion on the EDR?

7 PARTICIPANT: I make a motion
8 to --

9 CHAIRMAN BRYANT: It's been moved.

10 COMMISSIONER TREGONING: Second.

11 CHAIRMAN BRYANT: It's been moved
12 and seconded. All in favor of the -- well,
13 it's been moved an seconded.

14 COMMISSIONER TREGONING: Yes,
15 don't do that yet.

16 CHAIRMAN BRYANT: Getting ahead of
17 myself.

18 COMMISSIONER DIXON: Now we accept
19 the amendment, right?

20 CHAIRMAN BRYANT: Right.

21 COMMISSIONER TREGONING: So, I'll
22 just read the amendment so that -- and it

1 would be in addition to what's in here, so it
2 would be a new note.

3 Notes of the Smithsonian must
4 obtain from the District of Columbia all
5 permits required by District law or
6 regulations for the temporary occupancy of and
7 permanent alterations to public space under
8 the jurisdiction of the District of Columbia
9 and include terms addressing the assumption of
10 liability.

11 COMMISSIONER DIXON: Mr. Chairman,
12 I would accept that.

13 CHAIRMAN BRYANT: All right. It's
14 been moved. The amendment's been moved.

15 COMMISSIONER HART: Second.

16 CHAIRMAN BRYANT: All right. It's
17 been moved and seconded. Now let's discuss
18 the amendment.

19 COMMISSIONER MAY: Mr. Chairman?

20 CHAIRMAN BRYANT: Mr. May?

21 COMMISSIONER MAY: As I understand
22 it some of the -- I mean, this amendment makes

1 -- well, implies certain assumptions about the
2 jurisdiction of the sidewalks. And I think
3 it's appropriate for the Commission to have
4 some discussion of the issue there if we're
5 going to actually amend the EDR.

6 CHAIRMAN BRYANT: Yes.

7 COMMISSIONER MAY: So I don't know
8 the ins and outs of that.

9 CHAIRMAN BRYANT: Well, we --

10 COMMISSIONER MAY: Perhaps the
11 staff --

12 CHAIRMAN BRYANT: Yes, and
13 anticipating this matter we have done some
14 research. And let me call on Ms. Schuyler,
15 our legal counsel, to give us a bit of an
16 overview.

17 MS. SCHUYLER: I think you're
18 right, Mr. May. I think what is implied here
19 is some jurisdiction, a District jurisdiction
20 over public space, and most particularly in
21 the last few weeks the issue has been whether
22 or not the District has jurisdiction over the

1 sidewalk on the site. And in response to that
2 issue I have been privy to a legal opinion
3 prepared by the Smithsonian Institution's
4 general counsel, I've been privy to legal
5 opinions prepared by Park Service general
6 counsel, our agency has been advised of a map
7 that the District of Columbia has that shows
8 a line inside the curb line, and I've also
9 done my own independent research. And I
10 think --

11 CHAIRMAN BRYANT: Are we talking
12 about just 14th Street or --

13 MS. SCHUYLER: Yes.

14 CHAIRMAN BRYANT: -- 14th and
15 15th?

16 MS. SCHUYLER: Just the sidewalk
17 on 14th Street. That seems to be all that has
18 ever really been at issue. And I think based
19 on all of this I'm forced to say that the
20 District probably doesn't have an interest in
21 the public space, I mean, the sidewalk along
22 14th Street. And if you'd like, I'll explain

1 the basis for that.

2 COMMISSIONER MAY: I'm sorry, but
3 you said does not?

4 MS. SCHUYLER: Does not.

5 COMMISSIONER MAY: Yes.

6 MS. SCHUYLER: Does not. Does
7 not. And the reason for that, to -- it's my
8 opinion that the central question here is what
9 did Congress intend by its description of the
10 site it included in Public Law 108.184, which
11 was the law that provided -- offered five
12 sites to the Smithsonian. And in particular,
13 the subject site was described as the area
14 bounded by Constitution Avenue, Madison Drive
15 and 14th and 15th Streets, Northwest.

16 Now, generally rules of
17 interpretation you try to ascertain meaning
18 based on what's contained within the law, but
19 in this particular instance, since public
20 space does have different meaning from a
21 technical planning perspective versus a lay
22 perspective, I did pursue the issue further.

1 And specifically, what I looked at was a
2 report that was prepared by a Congressional --
3 a Presidential Commission which was created at
4 the outset of the process for this museum to
5 advise Congress on various issues including
6 what sites would be suitable for the museum.

7 COMMISSIONER TREGONING: Excuse
8 me. Can I just interrupt for a second just to
9 make the point that I didn't raise the issue
10 to have the NCPC establish the jurisdiction.
11 I just raised the issue to suggest that any
12 public space that is determined to be under
13 the jurisdiction of the District of Columbia
14 would be subject to the public space
15 permitting requirements, etcetera. It doesn't
16 make any assertions one way or the other. It
17 just says lands determined to be under the
18 jurisdiction. That's really it. And we
19 wouldn't look to NCPC. I would suggest
20 respectfully that this is not the venue to
21 make those jurisdictional decisions.

22 MS. SCHUYLER: I agree. Agree.

1 PARTICIPANT: Agree.

2 COMMISSIONER DIXON: Mr. Chairman,
3 point of order? We have a motion on the floor
4 to accept the report as presented by the
5 Executive Director. We now have an amendment
6 to that, which the motion -- I'm the maker of
7 the motion. I moved that be a friendly
8 amendment. There has not been any, you know,
9 seconding to that. So I'm assuming this is a
10 separate amendment to this now. I still think
11 it's friendly because, as you said, this is
12 not extending the jurisdiction over it. It's
13 just saying we need to be as a city, from our
14 own rule and a public safety, etcetera,
15 etcetera, at least cooperate in it. And
16 that's all this suggests, I think. I think
17 it's very friendly.

18 COMMISSIONER TREGONING: It begs
19 the question who has the jurisdiction, because
20 our various lawyers are looking at this right
21 now, but yet this matter is before us. The
22 District very much does not want to delay

1 moving forward with the museum, and this is
2 how we propose to resolve it as opposed to
3 opposing an approval while these
4 jurisdictional issues get resolved.

5 COMMISSIONER DIXON: So I'm
6 assuming, Mr. Chairman, procedurally there is
7 not a -- the seconder did not agree to this as
8 a friendly amendment, so we're going to have
9 to deal with it separately.

10 CHAIRMAN BRYANT: We will deal
11 with it separately.

12 COMMISSIONER DIXON: Okay.

13 CHAIRMAN BRYANT: I think the
14 discussion is to determine its friendliness.

15 COMMISSIONER DIXON: I'm sorry?

16 CHAIRMAN BRYANT: This is not an
17 appropriate discussion, so we can proceed.

18 COMMISSIONER DIXON: I'm not
19 trying to cut off the discussion for a minute.

20 CHAIRMAN BRYANT: Okay.

21 COMMISSIONER DIXON: But I just
22 think we need to understand procedurally where

1 we are. The mover of the motion -- I moved
2 it. It was seconded. And I accepted it as a
3 friendly amendment. If it's not viewed as
4 friendly, then we have to, as you suggest,
5 discuss the merits of the amendment. And I'm
6 receptive to that.

7 CHAIRMAN BRYANT: Okay.

8 COMMISSIONER DIXON: So you should
9 know where we are.

10 CHAIRMAN BRYANT: Well, let's
11 continue with the discussion.

12 COMMISSIONER GREENWALD: Can I ask
13 a question?

14 CHAIRMAN BRYANT: You may.

15 COMMISSIONER GREENWALD: Thank
16 you. If this jurisdiction -- if the lawyers
17 all decide that the jurisdiction is the
18 District's, is there any reason to believe
19 that the Smithsonian would not need to obtain
20 the permits and follow the laws and
21 regulations of the District?

22 COMMISSIONER TREGONING: If the

1 lawyers decide that sidewalks are under the
2 jurisdiction of the District of Columbia, they
3 would have to get public space permits. They
4 are in the process now of trying to obtain
5 those permits. I think again everyone wants
6 this project to move forward without knowing
7 that this jurisdictional issue is not yet
8 resolved.

9 COMMISSIONER GREENWALD: So I'm
10 not entirely clear on why the NCPC would need
11 to support this language. I'm not saying
12 it's --

13 COMMISSIONER TREGONING: Nothing's
14 happened yet. I mean, if -- you know, none of
15 the permits have yet been issued. The
16 coordination is continuing, but this process
17 is not complete. This is to just say that we
18 believe that until these issues are resolved
19 we should continue to provide for the normal
20 due process that is associated with the
21 closure of a public sidewalk.

22 COMMISSIONER GREENWALD: I'm not

1 sure that this would do that as you've drafted
2 it. I don't see that. I mean, if you'd like
3 the site to get the permits while the
4 jurisdictional battle is going on, that's --

5 COMMISSIONER TREGONING: It begs
6 the question -- I mean, I can't require them
7 to get a permit, you know, where we don't have
8 jurisdiction. I'm just saying that to the
9 extent that we do, they'll need a permit.

10 COMMISSIONER GREENWALD: Right.

11 COMMISSIONER TREGONING: And just
12 advising of that --

13 COMMISSIONER GREENWALD: It was
14 already agreed upon by sort of everybody,
15 right?

16 COMMISSIONER TREGONING: It's just
17 noting it for the record.

18 COMMISSIONER GREENWALD: Okay.

19 CHAIRMAN BRYANT: Why isn't that
20 covered in the last paragraph, the continuing
21 coordination?

22 COMMISSIONER TREGONING: It

1 doesn't say anything about permits. It just
2 says coordination, which I'm not supposing --
3 I'm not suggesting that we eliminate that
4 language. I like that language. This is to
5 add just another note to the EDR.

6 CHAIRMAN BRYANT: Mr. May?

7 COMMISSIONER MAY: I'm just
8 curious about whether Ms. Schuyler was done in
9 her explanation, because I was interesting in
10 hearing that. I mean, I just -- before I come
11 to any conclusion about it, I'd like to
12 understand the legal --

13 CHAIRMAN BRYANT: Right, I'm with
14 you. I'd like to hear a little bit more from
15 Ms. Schuyler.

16 COMMISSIONER TREGONING: Can I
17 just say that, you know, we didn't know that
18 there was going to be a legal discussion. We
19 would have brought our general counsel so that
20 we could put forward some of the District's
21 theories on why it's different, but I'll just
22 again go on the record with that concern.

1 CHAIRMAN BRYANT: Thank you. I
2 think we're entitled to hear from our counsel.

3 MS. SCHUYLER: Okay. Anyway, I
4 was interested in what the intent was, what
5 did Congress mean by the phrase "bounded by
6 Constitution Avenue, Madison Drive, 14th and
7 15th Streets?" So I looked to this report
8 that was prepared by the Presidential
9 Commission that was created at the outset of
10 the museum process and they were created to
11 advise Congress on a number of issues
12 associated with the creation of a museum to
13 include a appropriate site.

14 So in that report they in fact
15 noted -- which was called "The Time Has Come,"
16 and it's very interesting. I would recommend
17 it to your reading. They recommended five
18 sites. They came up with five sites. Now,
19 it's interesting, this is not the preferred
20 site, but it was one known as the monument
21 site that was included in the recommendation.
22 And for each of the sites the report contained

1 a description. It contained a brief analysis
2 or massing study of whether the museum's
3 programmatic needs could be met on a
4 particular site. But I think more
5 importantly, for each site it had a map and
6 the site was denoted around the curb with a
7 boundary, which leads you to conclude that
8 what was meant and what Congress said before
9 and what it meant was that the sites that were
10 to be offered to the Smithsonian were curb to
11 curb.

12 Now, if the District had a valid
13 interest in the site prior to passage of
14 Public Law 108.184, Congress negated that
15 interest or extinguished that interest as the
16 ultimate legislative authority when it offered
17 that site to the museum. Even for the sake of
18 argument you said that it did not -- if there
19 was no interest in existence at the time of
20 passage, the only way an interest could come
21 into being was for an express congressional
22 enactment. And all of this derives from the

1 Home Rule Act, particularly that Congress is
2 the ultimate legislative authority, number
3 one. And number two, that Council has no
4 authority to enact, amend or repeal a federal
5 law. So it either had an interest that was
6 extinguished or it would have to get an
7 interest after the fact.

8 And I think that based on other
9 information presented to me from the Park
10 Service and Smithsonian that the property was
11 held by Park Service from curb to curb, and
12 that is in fact what the Park Service
13 transferred to the Smithsonian.

14 COMMISSIONER MAY: Can I ask a
15 couple of follow ups? For the other sites
16 that were listed in that study, did it also
17 show curb to curb dimensions on all of the
18 other ones?

19 MS. SCHUYLER: Where there was a
20 curb, yes.

21 COMMISSIONER MAY: Okay.

22 MS. SCHUYLER: One of the sites I

1 think didn't have a curb, so they had to kind
2 of just bring it down the middle.

3 COMMISSIONER MAY: Didn't have a
4 curb? Okay. Well, was the Banneker Overlook
5 site included in that study?

6 MR. WALTON: It was.

7 COMMISSIONER MAY: Okay. That was
8 my recollection, that it was.

9 MS. SCHUYLER: I don't --

10 COMMISSIONER MAY: Yes.

11 MS. SCHUYLER: Wait. Wait.

12 COMMISSIONER MAY: You know, I'm
13 just curious, because the circumstance on 14th
14 Street is a little bit different I think from
15 some of the other sites. Maybe not all the
16 other sites. I don't remember what the other
17 sites were. And the reason the Park Service
18 had jurisdiction over the sidewalk, as I
19 understand it, has to do with the fact that
20 when we own the property on both sides of the
21 street, then we control the sidewalk.

22 MS. SCHUYLER: That is correct.

1 COMMISSIONER MAY: District still
2 controls the right of way.

3 MS. SCHUYLER: That is --

4 COMMISSIONER MAY: And that's a
5 matter of law.

6 MS. SCHUYLER: That's codified in
7 the D.C. --

8 COMMISSIONER MAY: Yes.

9 MS. SCHUYLER: That's codified in
10 D.C. law; that is correct.

11 COMMISSIONER MAY: Right. And so
12 on some of these other sites it might not have
13 been the same circumstance.

14 MS. SCHUYLER: Possibly. I don't
15 know.

16 COMMISSIONER MAY: Yes. And the
17 other question I have is do know whether -- I
18 mean, I don't recall the -- I've looked at the
19 jurisdiction map, or the transfer map and I
20 don't recall. Did the Park Service transfer
21 jurisdiction for the sidewalk along
22 Constitution?

1 MS. SCHUYLER: Curb to curb.

2 COMMISSIONER MAY: All the way to
3 Constitution? Okay. Because we didn't have
4 jurisdiction over that, as far as I understand
5 it. I mean, maybe I'm looking at the wrong
6 maps, but I don't think that was necessarily
7 ours, in that circumstance. The other ones we
8 did.

9 MS. SCHUYLER: I'd have to go back
10 and check the map --

11 COMMISSIONER MAY: Yes.

12 MS. SCHUYLER: -- but the
13 description was -- well, what the Park Service
14 gave was curb to curb.

15 COMMISSIONER MAY: Yes. Well,
16 it's clear that it's kind of murky issue.

17 MS. SCHUYLER: Yes.

18 COMMISSIONER MAY: All right.

19 CHAIRMAN BRYANT: Acknowledging
20 this is not a legal matter we need to weigh
21 into and that that will be covered by other
22 parties in other venues, I would like to ask,

1 based on your -- you've done analysis and
2 you've seen the Smithsonian's analysis, and
3 you've been privy to the Park Service's
4 analysis. What did the others conclude in
5 terms of -- or did they, in terms of sidewalk
6 jurisdiction?

7 MS. SCHUYLER: Both the Park
8 Service and the Smithsonian -- well, the
9 Smithsonian concluded it was under their
10 jurisdiction. What I saw from the Park
11 Service was an assessment. The District
12 Department of Transportation was looking into
13 regulating Segway usage of sidewalks. And so
14 they had approached the National Park Service
15 about certain cross-Mall sidewalks. And they
16 -- in that particular letter the Park -- in
17 that particular legal analysis that was
18 returned to the District, the Park Service
19 addressed the issue and said that they had
20 14th Street. Interestingly enough, apparently
21 in the incoming letter to the Park Service the
22 District disclaimed any interest in the 14th

1 Street sidewalk.

2 CHAIRMAN BRYANT: Okay. Who wants
3 to go first? Mr. Hart?

4 COMMISSIONER HART: I just wanted
5 to echo what Commissioner Tregoning said, that
6 there have been very productive discussions
7 between the District Department of
8 Transportation and the Smithsonian addressing
9 the concerns that they had. There are permits
10 that are pending at the District Department of
11 Transportation. Clearly the Smithsonian
12 thinks that the District has jurisdiction over
13 something related to this project, because
14 they're waiting for the permits to be issued.

15 But I would also echo Ms.
16 Tregoning's comment that this isn't
17 predetermining what the jurisdictional issue
18 is and it's just acknowledging that there is
19 a jurisdictional issue, and that there are
20 permits pending. And it's in the context of
21 those pending permits that the Smithsonian and
22 DDoT are working out the concerns that need to

1 be addressed.

2 I would also note that the
3 District has -- if the Federal Government had
4 such an interest in these sidewalks that they
5 should have been repairing them all these
6 years, and maybe they need to compensate the
7 District for whatever expenses have been paid.
8 Has the Park Service been repairing these
9 sidewalks?

10 COMMISSIONER MAY: You know, I
11 don't know. I don't have a complete inventory
12 of all of our sidewalks and the extent to
13 which we repair them, but if we know them to
14 be in our jurisdiction, generally we repair
15 them. And if there is ever a question about
16 it --

17 COMMISSIONER HART: Have you ever
18 repaired this sidewalk?

19 COMMISSIONER MAY: I don't know.
20 I don't know if we have or we haven't. But
21 it's -- we knew it was in our jurisdiction for
22 law enforcement purposes and maintenance

1 purposes and everything else. Sidewalk
2 clearing. Snow clearing.

3 COMMISSIONER HART: But you
4 acknowledge that you haven't been necessarily
5 responsible for --

6 COMMISSIONER MAY: No, I did not
7 acknowledge anything about what we have or
8 haven't done. I don't know what we have or
9 have not done in terms of repairing the
10 sidewalk. But we were aware that it was in
11 our jurisdiction, as we are aware that, you
12 know, sidewalks of 7th Street, which is a
13 roadway that's District jurisdiction. We have
14 those sidewalks and we are -- those are in our
15 jurisdiction. I don't know what we've done to
16 maintain them, but we know they're in our
17 jurisdiction. Can I --

18 COMMISSIONER HART: Well, we're
19 happy to be repairing the sidewalks that in
20 your jurisdiction all these years.

21 COMMISSIONER MAY: Ms. Tregoning
22 suggested that we're talking about public

1 space that's been determined to be under the
2 jurisdiction of the District of Columbia.

3 That actual wording isn't in there --

4 COMMISSIONER TREGONING: No, no.

5 COMMISSIONER MAY: -- as
6 determined to be.

7 COMMISSIONER TREGONING: No, no.

8 Correct. It doesn't say one way or the
9 other --

10 COMMISSIONER MAY: Right.

11 COMMISSIONER TREGONING: -- that
12 any public space that is under the
13 jurisdiction -- we're not asserting that it
14 is. We're just saying if it's under the
15 jurisdiction, then they need permits. That's
16 really all. We're not trying to resolve in
17 any underhanded way slipping in language --

18 COMMISSIONER MAY: No, no, and I
19 wasn't suggesting that.

20 COMMISSIONER TREGONING: Okay.
21 I'm just saying I don't want us to resolve the
22 jurisdictional question or attempt to in this

1 forum. That's all.

2 COMMISSIONER MAY: And I'm not
3 suggesting we would either, by any means.

4 MS. SCHUYLER: Clearly not.

5 COMMISSIONER MAY: I just wanted
6 people to understand what the issue is.

7 COMMISSIONER TREGONING: Yes.

8 COMMISSIONER MAY: I mean,
9 frankly, I would be more -- if we're going to
10 speak on this at all, I think some
11 acknowledgement of the fact that there's a
12 question may be appropriate and to say simply
13 that it's alterations to public space as
14 determined to be under the jurisdiction of the
15 District of Columbia.

16 I would also, if we were to
17 consider this amendment, strike the last
18 phrase because, you know, what's included in
19 a permit and what's not is really, really not
20 in our domain. And I just -- you know, if
21 they need permits, they need permits. The
22 terms of the permits are what the District

1 decides them to be and negotiates with whoever
2 seeks the permit. It's not our business.

3 COMMISSIONER MILLER: You know, I
4 think we're getting sidetracked on an issue
5 that doesn't really need this kind of
6 discussion. What's before us is pretty
7 straightforward. What Commissioner Tregoning
8 put on the table is being redundant and
9 duplicative of what's already out there, so
10 there shouldn't be any issues with that.
11 She's just laying claim to what is the
12 District's purview on this. So I'm happy to
13 move along.

14 CHAIRMAN BRYANT: Is there any
15 further discussion?

16 COMMISSIONER TREGONING: I would
17 just point out that I don't believe the
18 amendment is redundant. This talks about
19 coordination which might happen regardless of
20 any jurisdictional issue versus the need to
21 get permits, which is a function of a
22 jurisdictional issue that I'm not attempting

1 to resolve in this meeting. But I appreciate
2 the comment. Thank you.

3 CHAIRMAN BRYANT: Hearing no
4 further discussion, the question before us is
5 the amendment offered by Commissioner
6 Tregoning.

7 It's moved and seconded, right?

8 (No audible response.)

9 CHAIRMAN BRYANT: All in favor of
10 that amendment, say aye?

11 (Chorus of ayes.)

12 CHAIRMAN BRYANT: Opposed, no?

13 COMMISSIONER MAY: No.

14 CHAIRMAN BRYANT: Two nos. Okay.

15 The amendment is adopted.

16 Now we're back to the EDR, as
17 amended. Any further discussion on the EDR?

18 COMMISSIONER HART: I would just
19 like to speak strongly in favor of the EDR and
20 this project.

21 CHAIRMAN BRYANT: So the question
22 now is on the EDR, as amended.

1 All in favor, say aye?

2 COMMISSIONER MAY: Hold on, hold
3 on, hold on. I'm sorry. I didn't think we
4 were done with the discussion of the EDR.

5 CHAIRMAN BRYANT: I'm sorry.
6 Okay.

7 COMMISSIONER MAY: We just
8 addressed one issue. Because I have a few
9 things I have to say, although I'm not going
10 to oppose the EDR.

11 First of all, I appreciate the
12 evolution of the design so far. It was
13 especially helpful seeing the reminder of
14 where this whole thing started, because it
15 really was -- had a lot more impact in the
16 earliest versions of the design. So seeing
17 it, how far it's come I think was very
18 helpful. And most recently the elimination of
19 the skylights and the reduction of the porch
20 are helpful moves.

21 I think that when it comes to the
22 porch itself, further reduction actually would

1 be appropriate. I'm not saying that we need
2 to take any action on that line today. But I
3 think that the drawings, or the images that
4 showed us the three different versions of the
5 porches -- the second one actually I thought
6 was quite compelling, and it showed more of
7 the corona from the front of the building and
8 actually was -- it was I thought a more
9 powerful image.

10 But I will take that up in the
11 other forum which we can further discuss this
12 since this is just preliminary and there will
13 be further coordination before final.

14 I also wanted to note that the
15 view that you showed from across Constitution,
16 that lovely rendered view which shows the
17 corona and only the corona, I don't think is
18 truly accurate, because we're missing there
19 the piece of the penthouse. Yes, that one.
20 You know, I've looked at what the sight lines
21 ought to be from that penthouse down and I
22 think that penthouse is visible from all sides

1 of the sidewalk on the site, based on the
2 diagrams of the building that I've seen. And
3 I just think it's unfortunate. I think the
4 penthouse grew larger as the overall envelope
5 got narrower. And I think it's unfortunate,
6 because I think it diminishes the power of
7 this image to see that penthouse popping out.

8 I also think that the landscape
9 design needs further refinement. We seem to
10 be going through phases of, you know, dressing
11 it up and then calming it down a little bit
12 and then dressing it up again. And we just
13 went through another dressing up and I think
14 it's still a little bit too fussy and a bit
15 incompatible with the rest of the context.

16 Again, matters that I will take up
17 in another forum, but I wanted to make sure
18 they were mentioned here. So that's it in
19 terms of my comments. Otherwise, I'm prepared
20 to move forward.

21 CHAIRMAN BRYANT: Ms. Tregoning?

22 COMMISSIONER TREGONING: Excuse

1 me. Just very briefly, I just wanted to
2 comment on just one observation about the
3 evolution of the design, particularly as it
4 concerns the landscape. I'm very appreciative
5 of the efforts that have been made by the
6 designers to activate that space and to create
7 many, many different opportunities for people
8 to experience this historic landscape, and
9 this wonderful new museum and from a lot of
10 different perspectives and a lot of different
11 types of activity. And it's something that is
12 absolute addition to this corner of the Mall
13 that I think is excellent and I look forward
14 to its continue evolution. But in particular
15 I noted the many different ways in which the
16 public and the public space can be engaged by
17 visitors to the museum and to the surrounding
18 mall. Thank you.

19 COMMISSIONER DIXON: Mr. Chairman,
20 I also want to thank the presenters of this,
21 the staff, as well as the folks from the
22 museum. And the Smithsonian did a lot of --

1 there's a lot of movement has happened, lot of
2 cooperation has happened. I think you've come
3 a long way and I'm impressed. And I will tell
4 you this; that I kind of like a big porch. so
5 we're going to have a debate on that one in
6 this other forum that is coming forward,
7 because you know, big porches are big things
8 in a lot of places, be able to -- I don't --
9 you know, I like it. Anyhow, thank you very
10 much for what you all have done.

11 COMMISSIONER And, Mr. Provancha?

12 COMMISSIONER PROVANCHA: Let me
13 start with some of the concerns and then
14 conclude with things that I think are
15 laudatory that should be mentioned.

16 Let's start with the porch. I
17 echo the sentiments of Mr. May. Two feet.
18 We're just asking for two feet. I'm talking
19 about the encroachment of two feet into the
20 Madison Drive right of way.

21 One other aspect of the porch is
22 the -- the knife edge design is very, very

1 stark. Clearly we'll discuss design in other
2 forums, but just some feedback on that. One
3 alternative proposal might be to respect the
4 17-degree angled platforms of the levels of
5 the corona. It was highlighted in one of our
6 earlier presentations, perhaps at the April
7 meeting, that those angles were determined in
8 respect for the adjacent Washington Monument,
9 which we thought was highly commendable.

10 So I'm concerned about the knife-
11 edge design and the two feet of encroachment.
12 Don't have any problems with the width of the
13 full -- almost full width.

14 Concerned a little bit about 500-
15 year flood plain. Almost 700 feet of sandbags
16 doesn't seem like an optimal solution for a
17 building of this stature and grandeur in the
18 event of 500-year flood. Might look at some
19 other design options.

20 Concerned also about the panel
21 design. Looked like we started with beautiful
22 wrought irons reminiscent of the South; New

1 Orleans in particular, and we've started to
2 step away from that. That strikes us as
3 unfortunate.

4 At the meeting in April there was
5 five recommendations from the staff, and I
6 think almost all of them have been covered;
7 geotechnical solutions, the night lighting,
8 the west skylight, the building massing and so
9 forth.

10 Did we cover service access and
11 the impacts on the east courtyard, the 85-foot
12 setback?

13 MR. WALTON: Well, it was covered
14 during the April submission and I thought it
15 was resolved at that point.

16 COMMISSIONER PROVANCHA: Okay. Is
17 it resolved satisfactorily, to the
18 satisfaction of the staff with respect to the
19 85-foot -- and is there any further
20 implications with the movement of the
21 cafeteria to that side of the building and the
22 addition of a skylight?

1 MR. WALTON: Okay. So your first
2 question, I think the answer is that --

3 COMMISSIONER PROVANCHA: Well, let
4 me refresh your memory on the language.

5 MR. WALTON: Okay.

6 COMMISSIONER PROVANCHA: Refine
7 service access and east courtyard to ensure
8 all elements on the east side of the building
9 fit within the 85-foot setback and that no
10 additional changes would need to be made to
11 the building's position to accommodate the
12 service drive and egress changes.

13 MR. WALTON: Right, so no changes
14 have been made. Nothing was needed to change
15 that. What happened was that there were --

16 COMMISSIONER PROVANCHA: Even
17 subsequent to the change of the cafeteria,
18 shifting it over?

19 MR. WALTON: Right, nothing
20 changed with the position of the building.

21 COMMISSIONER PROVANCHA: Nothing
22 changed? Okay.

1 MR. WALTON: What happened was
2 that there were two different measurements,
3 one from the top of the building and one from
4 the bottom of the building.

5 COMMISSIONER PROVANCHA: Yes.

6 MR. WALTON: And there was some
7 confusion as to where the measurement was
8 being take from. So there was no movement of
9 the building. Just a movement of where the
10 measurement was being taken from.

11 COMMISSIONER PROVANCHA: Okay.
12 And to conclude, tremendous progress, as other
13 commissioners have noted, the massing is now
14 reduced. We asked for 10 feet. We got four
15 feet. Step in the right direction. The
16 combination of the height, adjusting the
17 height to the adjacent Commerce Building,
18 good. Night lighting, good. Skylighting,
19 good. Landscaping, the water features, the
20 reading areas, wonderful additions. And the
21 preservation of the three -- what were
22 described as irreducible elements; sustaining

1 the corona, the porch design and the bronze
2 color. All are very, very positive
3 improvements since the last presentation.
4 Thank you.

5 CHAIRMAN BRYANT: Mr. Hart?

6 COMMISSIONER HART: At a previous
7 presentation I had expressed some concerns
8 about the night lighting effects, and I really
9 appreciate the advances that have been made to
10 tone down the lighting and bring it more into
11 context of its neighbors and respecting the
12 Washington Monument. So I compliment the
13 Smithsonian in its progress.

14 COMMISSIONER PROVANCHA: I'll
15 comment, if I could. We look forward to the
16 engineering solutions; the very complex
17 foundation system, the dewatering challenges
18 that the designers face. We're looking
19 forward to seeing some innovative solutions to
20 those challenges.

21 CHAIRMAN BRYANT: Hearing no --
22 hearing one additional comment --

1 COMMISSIONER WRIGHT: I am also
2 going to join the chorus of thanking you for
3 responding to the comments and be your
4 cheerleader just one more time.

5 For the water element on
6 Constitution Avenue, which I think is really
7 critical, I know other people find it to be a
8 foreign sort of entity on Constitution Avenue.
9 I completely disagree and would encourage you
10 to hang in. It's really important for the
11 iconography and it's a really very nice
12 complement to what we're building across the
13 street with the aquarium.

14 Likewise, Mr. Provancha, I have to
15 disagree with you again, but only on this tiny
16 little matter of design, which is the corona,
17 because I think that it's going from fussy to
18 elegant in a very positive direction in terms
19 of the design of the grille.

20 And then the last piece -- well,
21 that was it. Never mind. That's enough. But
22 it's moving in a great direction. Thank you.

1 CHAIRMAN BRYANT: Thank you. All
2 in favor of the EDR, as amended, say aye?

3 (Chorus of ayes.)

4 CHAIRMAN BRYANT: Opposed, no?

5 (No audible response.)

6 CHAIRMAN BRYANT: The EDR has
7 passed.

8 RESERVATION 149, BOUND BY 20TH AND Q
9 STREETS, N.W. AND CONNECTICUT AVENUE, N.W.,
10 WASHINGTON, D.C. - TRIANGLE PARK

11 REHABILITATION

12 CHAIRMAN BRYANT: Next item on the
13 agenda is agenda item No. 5C, and this is the
14 Triangle Park Reservation 149. And we have
15 Ms. Hirsch.

16 MS. HIRSCH: Good afternoon, Mr.
17 Chairman and members of the Commission. The
18 National Park Service has submitted final
19 plans for the rehabilitation of Reservation
20 149.

21 Reservation 149 is located just
22 north of Dupont Circle in Northwest

1 Washington. The Park Service has been working
2 with the Dupont Circle Citizens Association,
3 as well as the Historic Dupont Circle Main
4 Street Organization on the project. The
5 project is a result of \$70,000 in mitigation
6 funding from the Planned Unit Development at
7 1000 Connecticut Avenue, which is located at
8 Connecticut and K Street.

9 The project presents an
10 opportunity to rehabilitate an original
11 L'Enfant reservation. The L'Enfant plan with
12 the diagonal avenues and the orthogonal grid
13 overlaid on top of that, as we all know, has
14 created a system of parks and open spaces
15 throughout the city. Reservation 149 is one
16 of those and is bound by Connecticut Avenue on
17 the east, Q Street to the south and 20th
18 Street to the west. It's directly north of
19 the Dupont Circle Metro station and there are
20 two WMATA bus stops on the reservation, one to
21 the south and one on the north end.

22 The project consists of

1 essentially five elements, mostly repair and
2 replacement of in-kind materials. The
3 flagstone plaza will be repaired, as well as
4 the quarter-round concrete curbs that edge the
5 plaza, and then the concrete flat work that is
6 underneath the benches. All of the trash
7 receptacles will be replaced with the Park
8 Service standard, as well as the turf and
9 benches will be restored. And then one of the
10 cherry trees that is in declining health will
11 be replaced with a Chinese fringe tree. The
12 two new elements of the project include a
13 proposed 30-inch-high fence on the south
14 corner, as well as modification to the
15 southeast corner in order to improve
16 pedestrian circulation.

17 The scope of the project was
18 partially developed in response to the
19 existing conditions on the site. You can see
20 here the sidewalk along Connecticut is
21 relatively restricted by its fairly narrow
22 width. It's difficult for pedestrians to move

1 back and forth, as well as have the bus stop
2 right here on the south end. You can also see
3 the formation of a path through the
4 reservation where there was turf at one point
5 but has been -- the soil has become very
6 compacted from the number of pedestrians
7 moving to and from the bus stop to the
8 crosswalk in order to get to the Metro
9 station.

10 Staff's analysis of the project
11 focused on primarily four areas, including the
12 rehabilitation of the historic reservation,
13 the circulation issues along Connecticut and
14 the sidewalk, and then NCPC's policies and
15 plans, including the Comprehensive Plan. And
16 then we also took into context the development
17 of a community amenity with the development
18 project.

19 The Park Service in response to
20 the concerns regarding the circulation along
21 Connecticut has proposed to round the
22 southeast corner of the reservation. This

1 will help improve pedestrian circulation at
2 this corner. In addition, the Park Service
3 has met with WMATA and the Ward 2 Councilman's
4 Office to discuss moving the bust stop and
5 WMATA has agreed to move that bus stop that's
6 right here on the south to across Q Street.
7 The bus will now stop in front of the Dupont
8 Circle Metro station rather than on the
9 reservation. So there should be fewer
10 pedestrians making the travel path between the
11 reservation and the Metro.

12 In addition, the Park Service has
13 proposed a 30-inch-high fence on the south end
14 of the reservation, somewhat to the image you
15 see in the upper left. The fence would also
16 keep pedestrians from cutting across the
17 Reservation to protect the turf and direct
18 pedestrians to use the sidewalk.

19 And with that, the Executive
20 Director's recommendation is to approve the
21 final site development plans for the
22 rehabilitation of Reservation 149.

1 [INSERT - RESERVATION 149]

1 CHAIRMAN BRYANT: Is there
2 discussion?

3 COMMISSIONER MAY: Mr. Chairman, I
4 just wanted to make a statement about this.
5 We've had some further discussions with
6 members of the community and internally about
7 what's been proposed for this reservation.
8 And given the push back that we've had about
9 the fence element; which is actually one of
10 the major reasons why this even comes before
11 the Commission, but for the most part it's a
12 very straightforward rehab of existing
13 conditions, at this point we're proposing not
14 to put in the fence. And if we determine that
15 we need to put in some sort of an element that
16 would address the issue of people cutting
17 across the corner of the park and trampling
18 the grass, whether it's a fence or some other
19 means of doing that -- that if need be we
20 would come back to the Commission at that
21 point. But for right now we're not proposing
22 to do the fence.

1 CHAIRMAN BRYANT: Why can't you
2 just go ahead and assume that people are going
3 to be trampling the grass like they always
4 have?

5 COMMISSIONER MAY: Well, the
6 movement of the bus stop is going to
7 significantly reduce that. And what we're
8 trying to do is make sure that we're not
9 compromising the safety of people walking on
10 that sidewalk, because if there are too many
11 obstacles in the way and they can't step into
12 the park, we don't want people stepping into
13 the street.

14 CHAIRMAN BRYANT: Okay. Other
15 discussion? Mr. Hart?

16 COMMISSIONER HART: Yes, I had a
17 question on why the Connecticut Avenue
18 sidewalk is significantly narrower than the
19 other two streets?

20 COMMISSIONER MAY: You know, all
21 of the triangles in the city have evolved over
22 the years. And in fact, this reservation used

1 to be substantially larger. It was widened
2 when the underpass was put in. And I think
3 that when they made that decision, they didn't
4 anticipate the level of pedestrian traffic.
5 Certainly didn't anticipate the Metro going in
6 there and this connection between the bus stop
7 and the Metro occurring. So I mean, it is
8 what it is, but it evolved to that. I'm not
9 sure what the original sidewalk width was in
10 the original Connecticut Avenue.

11 COMMISSIONER HART: I'm just
12 wondering if it had anything to do with the
13 volume of pedestrian movement where you'd
14 assume more pedestrians, wider sidewalk.

15 COMMISSIONER MAY: Well, you know,
16 again I don't know what their thinking was at
17 the time. I mean, certainly if we were
18 designing this reservation right from scratch
19 we'd be looking at where the highest volumes
20 of traffic are, and it may well be wider at
21 that point.

22 COMMISSIONER HART: Is this not

1 like a complete reconstruction?

2 COMMISSIONER MAY: It is not like
3 a complete reconstruction.

4 COMMISSIONER HART: Okay.

5 COMMISSIONER MAY: This is really
6 a very modest project.

7 COMMISSIONER TREGONING: I just
8 want to commend Commissioner May and the
9 decision to not put a fence in. As you may or
10 may not know, one of the most popular markets
11 in the entire city, the Dupont Farmer's
12 Market, is just on the other side of 20th
13 Street -- I'm sorry, Q Street here. And I
14 think anything that would kind of impede the
15 flow of people who've, you know, gotten and
16 apple or something to enjoy at the farmer's
17 market and who might want to hang out in this
18 lovely little -- could be lovelier, but this
19 little park, you know, that that fence would
20 be a real barrier to that. And certainly your
21 point about safety, in the event as there
22 episodically are, you know, crowds that are on

1 the sidewalk --

2 COMMISSIONER MAY: Right.

3 COMMISSIONER TREGONING: -- I

4 think that's a very sensible decision and I

5 commend you, and thank you.

6 COMMISSIONER MAY: Thanks.

7 CHAIRMAN BRYANT: We do have one

8 person signed up to speak on this, Mr. David

9 Alpert representing Greater Greater

10 Washington.

11 [INSERT - LIST OF REGISTERED SPEAKERS]

1 CHAIRMAN BRYANT: As you're a
2 representing an organization, you have five
3 minutes.

4 Welcome.

5 MR. ALPERT: Thank you very much,
6 Mr. Chairman and members of the Commission.
7 My name is David Alpert. I run the Web site
8 Greater Greater Washington, which discusses
9 issues of urban planning and transportation in
10 the D.C. Metropolitan Area. I also live about
11 three blocks from this particular park and use
12 the Dupont Circle Metro very frequently, as
13 well as the park on numerous occasions.

14 I want to thank the Park Service
15 for undertaking this project. Money that
16 became available through the neighborhood was
17 able to pay for it and it's great to see this
18 park being rehabilitated because it is in fact
19 in very poor repair.

20 I also want to thank the Park
21 Service for removing the fence from the plans.
22 I was very concerned about the fence for a

1 number of reasons, going beyond in fact the
2 width of the Connecticut Avenue sidewalk,
3 though that is definitely one of those
4 reasons. The other reason is the fact that
5 very many people use this park as an
6 opportunity to sit before or after they use
7 the Metro and meet people and things of that
8 nature. It's great to have this space with
9 benches for that purpose, but many people
10 cross directly from the Metro to the area with
11 benches. And if you looked at the -- it
12 showed in the diagram as well another area of
13 worn down turf where people cross directly.

14 The design of the park as it as
15 today essentially turns its back on the Metro
16 station. All of the benches are arrayed in a
17 U-shape away from the Metro. This I presume
18 is because the Metro did not exist at the time
19 the park was built, neither did actually the
20 underpass on Connecticut Avenue. So
21 circumstances were very different. Now, you
22 know, perhaps if the park were being designed

1 it would face the Metro or something of that
2 nature. So to shut people off from that with
3 a fence that requires them to walk around
4 would be basically sending a signal that this
5 park is not interested in being an open space
6 for people to traverse directly from the
7 Metro.

8 I think it was deleted from the
9 description before the earlier one, but there
10 was something in there, in the initial
11 document about remedying a social path. And
12 I just want to sort of plant that language and
13 say that I really hope we don't see that
14 language in anything in the future, because
15 that basically means to me that we're saying,
16 you know, the purpose of this is to stop
17 people from going in a place that they want to
18 go to utilize the park. The purpose of our
19 park should be to accommodate, you know, the
20 uses that -- you know the enjoyment of the
21 open space, which is what it's for.

22 The rounded corner I think does

1 not necessarily add very much additional
2 space. You know, that diagram showed a lot
3 more space that people were using beyond just
4 the small rounded corner, though moving the
5 bus stop most likely will suffice, or may
6 suffice to provide extra pedestrian
7 circulation. I guess we'll see based on
8 whether the grass gets worn down again now.

9 Ideally this would have been an
10 opportunity to actually change some elements
11 of the design, and I was actually told by
12 members of the community who had been dealing
13 with this for several years that they were
14 told by the Park Service that they weren't
15 going to be allowed to consider any redesigns
16 to the layout of the hard scape. I think
17 that's a shame just because again, you know,
18 it's been a long time and the circumstances
19 around the park have changed and it would
20 certainly have been possible to design a new
21 park layout that's sort of compatible with the
22 initial intent and feel of the park, but

1 without maybe being quite so slavishly
2 adherent to the exact position of every
3 individual bench and sidewalk element.

4 So at this point, that's
5 apparently possible, but there are a number of
6 other reservations that are being either
7 repaired or potentially modified. I know like
8 one in Chinatown is under consideration, the
9 Chinatown Park, for example. And I hope that
10 we can have the opportunity as more of these
11 small reservations are fixed up to, you know,
12 take a look at what's the best way to lay them
13 out to, you know, still be true to the purpose
14 of the park but also accommodate the uses of
15 this city today, and the residents, and the
16 visitors who would use that parks.

17 Thank you very much and I'd be
18 happy to answer any questions if you may have
19 any.

20 CHAIRMAN BRYANT: Thank you, Mr.
21 Alpert. Thank you very much.

22 MR. ALPERT: Thank you.

1 COMMISSIONER MAY: Mr. Chairman,
2 if I could say a couple of words? You know,
3 I think when it comes to fixing up parks like
4 this or other parks within the city we are
5 very interested in hearing what people have to
6 say about the current design and use of the
7 park, and certainly we learn things by
8 patterns that develop, desire lines that
9 develop across the parks, and we try to do
10 what we can to accommodate those.

11 We also are a bit constrained in
12 the environment we're in, having to deal with
13 historic preservation issues and having to
14 deal with compliance with NEPA, not that those
15 are necessarily reasons in themselves not to
16 do something. They just make it a little bit
17 longer and more complicated. But I think
18 we're certainly always interested in hearing
19 what members of the public have to say, what
20 particular user groups have to say when they
21 make use of these parks. And I'm frankly
22 encouraged by the discussion that's occurred

1 in the process of this project, and I think
2 that we'll wind up with a better park as a
3 result. And I look forward to that continuing
4 as we go forward.

5 COMMISSIONER TREGONING: It might
6 be too late, but one suggestion I might make
7 that has nothing to do with any placement of
8 the benches, but if they were backless benches
9 people could orient themselves however they
10 wanted to on the space. They could face the
11 Metro. They could face away from the Metro.
12 If they're wide enough you could both face the
13 Metro and have someone face away from the
14 Metro, which might, you know, be an
15 acknowledgement of this but without actually
16 moving the placement of any of the street
17 furniture.

18 COMMISSIONER MAY: Right. I
19 actually would like to ask Steve Lorenzetti,
20 who's the deputy superintendent, to step up.
21 I think that he's indicating that there is
22 some flexibility on the benches, but he knows

1 more of the details than I do.

2 MR. LORENZETTI: Yes, good
3 afternoon. I'm Steve Lorenzetti, deputy
4 superintendent, National Mall and Memorial
5 Parks, and that's something we could
6 definitely look at. I don't think it's too
7 late to look at that.

8 CHAIRMAN BRYANT: Mr. Provancha?

9 COMMISSIONER PROVANCHA: One
10 additional comment about the fence.
11 Appreciate the receptivity from the Park
12 Service to removing the fence. A 30-inch-high
13 fence in between pedestrians and a bus stop;
14 we're glad to hear that the bus stop is going
15 to be removed, presents nothing but an
16 opportunity to impress the young ladies and
17 hurdle at your peril over that fence, not once
18 but twice to get to the bus top.

19 COMMISSIONER MAY: Speak from
20 experience, do you?

21 COMMISSIONER PROVANCHA: It's been
22 a few years, sir. Those injuries have healed

1 over time.

2 CHAIRMAN BRYANT: Thank you for
3 that. Thank you.

4 Hearing no additional discussion
5 -- oh, I'm sorry. Mr. Miller? Excuse me.

6 COMMISSIONER MILLER: Yes, I just
7 wanted also to thank the Park Service for
8 removing the fence and being receptive to the
9 comments about the benches, because I think
10 that the comments Mr. Alpert made are all very
11 appropriate. And historic preservation
12 doesn't have to lock us into whatever 150-
13 year-old design that didn't account for
14 current day circumstances. And if you need
15 assistance in paving any of the desire lines
16 within your jurisdiction, just call upon DDoT.

17 CHAIRMAN BRYANT: Mr. Acosta?

18 MR. ACOSTA: If the Commission is
19 -- or if they are not planning to put in the
20 fence, the Commission should amend this EDR --

21 CHAIRMAN BRYANT: Oh, indeed.

22 MR. ACOSTA: -- with an exception.

1 COMMISSIONER TREGONING: Amend the
2 EDR to say with the exception of a proposed
3 fence?

4 COMMISSIONER MAY: Actually I
5 would prefer that it be written noting that
6 the Park Service has removed the fence from
7 the proposal, because when people look back on
8 this a few years from now they'll know that we
9 did it as opposed to the Commission deciding
10 it should not happen.

11 COMMISSIONER TREGONING: Okay.

12 COMMISSIONER MAY: Thanks.

13 CHAIRMAN BRYANT: Okay. I don't
14 think we have to have the exact words. We
15 have the concept.

16 COMMISSIONER MAY: Okay.

17 CHAIRMAN BRYANT: So the concept
18 of that language. Is there a motion on that
19 language?

20 COMMISSIONER MAY: I would move
21 the EDR with the language as noted.

22 CHAIRMAN BRYANT: That's a

1 friendly amendment, yes.

2 (Seconded.)

3 CHAIRMAN BRYANT: And it's been
4 moved and seconded. Sensing no further
5 discussion, all in favor of the amended EDR,
6 say aye?

7 (Chorus of ayes.)

8 CHAIRMAN BRYANT: Opposed, no?

9 (No audible response.)

10 CHAIRMAN BRYANT: Thank you. That
11 concludes our meeting today. Thank you.

12 (Whereupon, the meeting was
13 adjourned at 2:06 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Open Meeting

Before: National Capital Planning Commission

Date: 11-03-11

Place: Washington, DC

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