

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

+ + + + +

MONDAY

JULY 29, 2019

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- PETER G. MAY, Commissioner (NPS)
- ROBERT MILLER, Vice Chair
- PETER SHAPIRO, Commissioner
- MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER, Deputy Director, Development Review & Historic Preservation
- JOEL LAWSON
- ELISA VITALE
- ANNE FOTHERGILL
- CRYSTAL MYERS
- BRANDICE ELLIOTT

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO
ALEXANDRA CAIN
PAUL GOLDSTEIN

The transcript constitutes the minutes from
the Regular meeting held on July 29, 2019.

C-O-N-T-E-N-T-S

Case No. 16-23/Motion passed 5-0-0 Valor Development LLC	7
Case No. 19-10 Citizens for Responsible Development	7
Case No. 07-18F Jemal's Up Against the Wall	12
Case No. 14-14A Jemal's CDC, LLC	19
Case No. 16-13E JS Congress Holding LLC	21
Case No. 12-02A 50 Florida Ave. Development Assoc. LLC	22
Case No. 19-04 Office of Planning Text Amendment to Establish Community Renewable Energy Facility	24
Case No. 19-09 Kenilworth Avenue North LLC	30
Case No. 08-34K Capital Crossing IV LLC	34
Case No. 19-14 Office of Planning Text Amendment to Subtitles C, D, E and X Nonconforming Structures	37
Case No. 14-12E Clarion Gables Multifamily Trust LP et al	40
Case No. 19-15 Chairman Mendelson & D.C. City Council	44

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

(6:49 p.m.)

1
2
3 CHAIRMAN HOOD: This meeting will come to order.
4 Good evening ladies and gentleman, this is the public meeting
5 of the Zoning Commission for the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Miller, Commissioner Shapiro, Commissioner May, and
8 Commissioner Turnbull. We are also joined by Office of
9 Zoning Staff Ms. Sharon Schellin.

10 Office of Attorney General Mr. Goldstein, Mr.
11 Tondro, Ms. Cain. Office of Planning Staff Ms. Steingasser,
12 Mr. Lawson, and Ms. Vitale, and I think we have others who
13 are in the audience and they will introduce themselves at the
14 appropriate time.

15 We do not take any public testimony at our
16 meetings unless we ask someone to come forward. So with
17 that, Ms. Schellin, do we have any preliminary matters?

18 MS. SCHELLIN: Yes. Staff would ask the
19 Commission to consider voting on having closed meetings in
20 September for the two public hearings, prior to the two
21 public meetings, I'm sorry, in September.

22 CHAIRMAN HOOD: Okay. All right. As Chairman of
23 the Zoning Commission for the District of Columbia, I move
24 that the Zoning Commission hold the following closed
25 meetings, September 9th and September 23rd, 2019 at 6:00 p.m.

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1 For the purpose to seek legal advice from counsel
2 405(b)(4) and to deliberate upon not voting on contested
3 cases per 405(b)(13) and to enact D.C. official code 2-
4 575(b)(4) and (13). Is there a second?

5 VICE CHAIR MILLER: Second.

6 CHAIRMAN HOOD: Okay then. Will the Secretary
7 please come up and call the roll on the motion before us now,
8 that has been seconded?

9 MS. SCHELLIN: Chairman Hood?

10 CHAIRMAN HOOD: Yes.

11 MS. SCHELLIN: Vice Chair Miller?

12 VICE CHAIR MILLER: Yes.

13 MS. SCHELLIN: Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Yes.

15 MS. SCHELLIN: Commissioner May?

16 COMMISSIONER MAY: Yes.

17 MS. SCHELLIN: Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: Motion carries.

20 CHAIRMAN HOOD: Okay. One second. As it appears
21 the motion has passed, I request that the Office of Zoning
22 provide notice of these closed meetings in accordance with
23 the Act. Anything else on that, Ms. Schellin?

24 MS. SCHELLIN: No, sir.

25 CHAIRMAN HOOD: All right. Let's go right to our

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1 Agenda colleagues. I think what we're going to do, we're
2 going to do Advance Party Status, after which I would suggest
3 that we move up the correspondence item and then go from
4 there. Any objections?

5 COMMISSIONER MAY: Do we want to do the
6 correspondence first?

7 CHAIRMAN HOOD: Okay. Want to do the
8 correspondence first, that's fine. I thought the Advance
9 Party Status might go quicker, but maybe you know something
10 I don't, so let's do the correspondence item first.

11 Okay, Ms. Schellin, would you call the -- let me
12 call it, Zoning Commission Case Number 16-34 Valor
13 Development Inc. Motion to withdraw the case. Ms. Schellin.

14 MS. SCHELLIN: Yes, sir. At Exhibit 439, there's
15 a motion from the applicant to withdraw the design review
16 application as they are planning to proceed with the PUD
17 application that they filed, which has a hearing scheduled
18 for October 7th. So I would ask the Commission to consider
19 this motion from the applicant.

CHAIRMAN HOOD: All
20 right. Commissioners, we have the request before us. Any
21 deliberations, conversations, questions, comments? No
22 objection? Okay.

23 COMMISSIONER TURNBULL: Yeah, I have no objection,
24 Mr. Chair.

25 CHAIRMAN HOOD: Okay. No objection. Would

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1 somebody like to make a motion?

2 COMMISSIONER TURNBULL: Mr. Chair, I would move --
3 how do you want to say this -- that we grant Zoning Case
4 Number 16-23, Valor Development LLC, a voluntary design
5 review, applicant's request to withdraw application. Look
6 for a second.

7 COMMISSIONER SHAPIRO: Second.

8 CHAIRMAN HOOD: Okay. It's been moved and
9 properly seconded, again we are accepting the request to
10 withdraw. Any further discussion? All in favor?

11 (Chorus of ayes.)

12 CHAIRMAN HOOD: Any opposition? Not hearing any.
13 So ordered. Ms. Schellin, will you please record the vote?

14 MS. SCHELLIN: Staff records the vote 5-0-0 to
15 grant the motion to withdraw the case in Zoning Commission
16 Case Number 16-23. Commissioner Turnbull moving,
17 Commissioner Shapiro seconding, Commissioners Hood, May and
18 Miller in support.

19 CHAIRMAN HOOD: Okay. Next I think we can go to
20 our Advance Party Status. Next Zoning Commission Case Number
21 19-10, Valor Development LLC, Request for Advance Party
22 Status.

23 This is a request from Citizens for Responsible
24 Development, represented by Mr. Ed Donohue. I know sometimes
25 I get that name mixed up, so I want to make sure I look at

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1 it before I pronounce it. Ms. Schellin, first is Mr. Donohue
2 here or a representative?

3 MS. SCHELLIN: The Party themselves are here.

4 CHAIRMAN HOOD: The Party is here. Okay. All
5 right. Ms. Schellin, you have anything else you want to tee
6 up?

7 MS. SCHELLIN: Just as you said, it's Exhibit 17,
8 the Citizens for Responsible Development, and that's it in
9 opposition. And they're also requesting that their expert
10 witnesses -- or that their witnesses be granted expert status
11 this evening. And the applicant had seven days to file
12 opposition and also the ANC if they chose to do so, and
13 neither did so.

14 CHAIRMAN HOOD: I'm going to ask the
15 representative if they can come up and identify themselves
16 for the record.

17 MR. REPP: Yes, I'm Shelly Repp. I'm Officer of
18 Citizens for Responsible Development. I'm the person that
19 signed the Form 140 that your request for Advance Party
20 Status.

21 CHAIRMAN HOOD: Okay. Thank you very much, Mr.
22 Repp, for putting that on the record. Let's open it up to
23 colleagues and see, questions or comments. We have a request
24 in front of us for Citizens for Responsible Development --
25 I better get used to saying that. Vice Chair Miller.

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1 VICE CHAIR MILLER: I support the request.

2 CHAIRMAN HOOD: Okay. We have no objections. I
3 would move that we grant Party Status. There has been no
4 objections in the record, as well as no objections by my
5 colleagues, that we grant Party Status to Citizens for
6 Responsible Development, Zoning Commission Case Number 19-10,
7 and I ask for a second.

8 COMMISSIONER TURNBULL: Second.

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

11 (Chorus of ayes.)

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

14 Ms. Douglas are you here for 19-10?

15 MS. DOUGLAS: You excuse me please, I just had
16 some concerns. I don't know if I have the opportunity to
17 speak.

18 CHAIRMAN HOOD: For 19-10?

19 MS. DOUGLAS: Yes, sir. I do believe so, from me,
20 I didn't get that information.

21 CHAIRMAN HOOD: Ms. Douglas, what I would like for
22 you to do is -- okay. Ms. Schellin, could you go down and
23 just do me a favor and just let Ms. Douglas know what this
24 case is.

25 MS. SCHELLIN: Yes. So she wants to come over.

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1 CHAIRMAN HOOD: Oh, if you can come over. Come
2 over, come see Ms. Schellin and before I move forward, I want
3 to make sure that we are talking about the same thing.

4 MS. DOUGLAS: Okay.

5 CHAIRMAN HOOD: We might -- I don't think we're
6 talking about the same thing.

7 MS. DOUGLAS: What location is the --

8 CHAIRMAN HOOD: It's the Northwest.

9 MS. DOUGLAS: Oh, okay. No we don't.

10 CHAIRMAN HOOD: I was trying not to expose all
11 that. Okay. All right. Thank you, Ms. Douglas.

12 MS. DOUGLAS: Don't hurt to ask.

13 CHAIRMAN HOOD: You're right, it doesn't. Okay.
14 Okay. So what did we do?

15 MS. SCHELLIN: All in favor.

16 CHAIRMAN HOOD: All in favor?

17 (Chorus of ayes.)

18 CHAIRMAN HOOD: Any opposition. Not hearing any.
19 Ms. Schellin, would you please record the vote?

20 MS. SCHELLIN: Staff records the vote 5-0-0 to
21 grant Party Status and Opposition to the Citizens for
22 Responsible Development. Commissioner Hood moving,
23 Commissioner Turnbull seconding, Commissioners May, Miller
24 and Shapiro in support.

25 And they also filed a letter -- if the Commission

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1 decides to take it up this or not -- their expert witnesses.

2 CHAIRMAN HOOD: I do know that that was a request,
3 and typically -- colleagues, we typically do that at the
4 hearing. I understand why the ask is here because this is
5 a community, and I know they're putting money out, but let's
6 talk about that. Let me hear from others. Your thoughts on
7 that. Vice Chair Miller.

8 VICE CHAIR MILLER: Well I appreciate them
9 providing that information in advance, but I think we can
10 deal with it at the time of the hearing, but I don't feel
11 strongly about it either way.

12 CHAIRMAN HOOD: Okay. Anybody else on this? So
13 let me just ask, it's not typically our practice. Mr. Repp,
14 is there a rationale, because the last few requests we had,
15 not just in your area but other areas, but usually turn that
16 -- we usually wait until the night of the hearing.

17 MR. REPP: Well, all I can say is at a prior
18 hearing with respect to this development project, we were
19 criticized for not making our request for Party Status
20 timely, so and --

21 CHAIRMAN HOOD: So you're getting it all in. Well
22 you've done Party Status, which is our normal procedure.

23 MR. REPP: But it's -- and also the witnesses, I
24 mean, I'm sorry, the request for expert status for the
25 witnesses we were --

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1 CHAIRMAN HOOD: So I understand that. So you have
2 them -- you already have them now, so at the time of the
3 hearing they're not going anywhere, they're in the record for
4 us, and just make sure we bring it back up again when the
5 hearing takes place.

6 I think you're covered on that. Because this --
7 that's not our normal practice, okay?

8 MR. REPP: All right.

9 CHAIRMAN HOOD: All right. So we're good Mr.
10 Repp?

11 MR. REPP: I'm good as long as we have the
12 opportunity to bring it up later, so yes.

13 CHAIRMAN HOOD: Sure, sure. Yes, that's normal
14 process. Okay. Anything else up here? All right. Ms.
15 Schellin, we need to do anything else with this?

16 MS. SCHELLIN: No, sir.

17 CHAIRMAN HOOD: All right. Let's go to -- one
18 second. Yeah, let's go to Consent Calendar Items,
19 modification of consequence. We're going to the termination
20 of these, or scheduling.

21 First let me call Zoning Commission Case Number
22 07-18F. Jemal's Up Against The Wall PUD modification of
23 consequence to square 347. Ms. Schellin.

24 MS. SCHELLIN: The applicant is seeking a
25 modification of consequence as you stated in order to install

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1 two new rows of windows located on the third and fourth
2 floors of the building's south facade.

3 At Exhibit 4, you have an OP report in support.
4 In OP's report, they advise that the Historic Preservation
5 Office raised no concerns and stated the proposed windows
6 could be approved without referral to the HPRB.

7 At Exhibit 5 is an ANC 2C report in support.
8 There were no other parties to this case. I would ask the
9 Commission if they do find this is indeed a modification of
10 consequence, that they could proceed with action this evening
11 if they choose to do so.

12 CHAIRMAN HOOD: Okay. Let me first ask
13 Commissioners: has anyone seen that this needs to come off
14 the calendar as a modification of consequence? Not hearing
15 any. Are we ready to deliberate? Okay. Would someone like
16 to get us started?

17 COMMISSIONER MAY: Mr. Chairman, I don't see any
18 problem with this. We have a pretty straightforward, modest
19 change, and the record is full. We have a report from the
20 ANC in support, so I would say that there's no reason why we
21 couldn't deliberate tonight. We have no reason to delay it.
22 We wouldn't be receiving any other information before we make
23 a decision, so I'm in favor of proceeding tonight.

24 CHAIRMAN HOOD: Okay.

25 COMMISSIONER TURNBULL: I agree, Mr. Chair.

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1 CHAIRMAN HOOD: Anybody else? I would also agree.
2 I think this is a very modest ask. The windows, I think this
3 is pretty straightforward, as has already been stated, and
4 I think the record speaks for itself.

5 So with that, I would move that we approve the
6 request, Zoning Commission Case Number 07-18F, and I ask for
7 a second.

8 VICE CHAIR MILLER: Second.

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

11 (Chorus of ayes.)

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

14 MS. SCHELLIN: Yes. Staff records the vote 5-0-0
15 to grant, I'm sorry, final action in Zoning Commission Case
16 Number 07-18F. Commissioner Hood moving, Commissioner Miller
17 seconding. Commissioners May, Shapiro and Turnbull in
18 support.

19 CHAIRMAN HOOD: Okay. Next we have Zoning
20 Commission Case Number 06-04I, Florida & Q Street, LLC, PUD
21 modification of consequence to square 3100. Ms. Schellin.

22 MS. SCHELLIN: So on this one, the applicant is
23 requesting this modification in order to harmonize the
24 architectural drawings that the Commission previously
25 approved with those recently approved by HPRB. In addition,

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1 the applicant is seeking to update the community benefits.

2 Exhibit 4 is an OP report in support. The other
3 parties include ANC 5E, Bloomingdale Civic Association, and
4 Eckington Civic Association. No responses have been received
5 so far.

6 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.
7 Colleagues, does anyone see that this needs to come off the
8 agenda as a modification of consequence? Not hearing any.
9 Ms. Schellin, could you proceed, we'll determine with
10 scheduling.

11 MS. SCHELLIN: Yes, sir. Because the ANCs don't
12 meet in August, I think it might be better if we put this on
13 for the second meeting in September. Does the Commission
14 agree with that?

15 CHAIRMAN HOOD: Second meeting in September?

16 MS. SCHELLIN: Yes. Just because they don't meet
17 in August, and our meeting in September -- our first meeting
18 is the 9th, which is kind of early in the month.

19 CHAIRMAN HOOD: Right. I think that's -- the
20 second meeting will suffice. Hopefully they'll have a
21 meeting by then.

22 MS. SCHELLIN: Right. So we could just have the
23 submissions from the parties, if the applicant could work
24 with those parties and have them submit something by say the
25 18th of September, and that would give them I think as much

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1 time as they need. And then we can put this on for September
2 23rd. They can get it before then, great. But yeah.

3 CHAIRMAN HOOD: Okay. Anything else on this?

4 MS. SCHELLIN: No, sir.

5 CHAIRMAN HOOD: All right. Next let's go to
6 Zoning Commission Case Number 10-03C, H Street Residential,
7 LLC, PUD modification of consequence to square 912. Ms.
8 Schellin.

9 MS. SCHELLIN: Okay. The applicant is requesting
10 this modification for approval of a veterinary hospital use
11 in a portion of the ground floor retail space. This also
12 requires a special exception relief from Subtitle H, Section
13 1101.4G1C. At Exhibit 4 is an OP report in support of the
14 modification and special exception.

15 As of this writing, we've not received anything
16 from the ANC, and they do not meet until September again.

17 CHAIRMAN HOOD: Okay. First let me ask, does
18 anyone see that this should come off as a modification of
19 consequence? Commissioner Shapiro.

20 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
21 do, actually. I think that this is more appropriately set
22 as a modification of significance -- that there's a request
23 for a special exception for a veterinary hospital.

24 There's a proposed change of use, and there's a
25 request for additional relief, and so for those reasons I

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1 believe this would be better set as a modification of
2 significance.

3 CHAIRMAN HOOD: Okay. I think that pretty much
4 all it takes is one, but I'm kind of in line with
5 Commissioner Shapiro.

6 COMMISSIONER MAY: Yeah, I agree as well.

7 CHAIRMAN HOOD: So it's more than one. So I guess
8 we will send it back to the applicant, and ask them to
9 resubmit as a modification of significance.

10 MS. SCHELLIN: Yes. They would have to refile
11 this case as a modification of significance and go through
12 what the regulations require.

13 CHAIRMAN HOOD: Okay. So is there anything else
14 we -- do we need to do anything else on that?

15 MS. SCHELLIN: No, sir.

16 CHAIRMAN HOOD: Okay. All right, next --

17 MS. SCHELLIN: I would just, so they know, they
18 would not have to -- whatever filing fee they've already paid
19 for this case would go towards the modification of
20 significance.

21 CHAIRMAN HOOD: Are they here?

22 MS. SCHELLIN: Yes.

23 CHAIRMAN HOOD: Okay. So they've heard it. Okay.
24 Good. All right. Thank you. Okay. Zoning Commission Case
25 Number 02-26D, George Washington University, PUD modification

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1 of consequence at square 42. Ms. Schellin.

2 MS. SCHELLIN: The applicant is requesting this
3 modification of consequence in order to extend the third
4 expanded use group to December 31, 2020. And I believe the
5 only party in this party was ANC 2A, and although they did
6 go ahead and serve the West End Civic Association and the
7 Foggy Bottom Association.

8 CHAIRMAN HOOD: But 2A was the only party in this
9 case, and they've already responded.

10 MS. SCHELLIN: They have not submitted a report
11 yet.

12 CHAIRMAN HOOD: They have not responded?

13 MS. SCHELLIN: Right.

14 CHAIRMAN HOOD: Okay. So in that case, first let
15 me ask -- I don't know, I thought they responded.

16 COMMISSIONER MAY: We also didn't have a report
17 from Office of Planning.

18 MS. SCHELLIN: That's correct.

19 COMMISSIONER MAY: Which is unusual.

20 CHAIRMAN HOOD: Okay, they have not served. Okay.
21 Does anyone believe that this should come off as a
22 modification of consequence? No objections to that? Okay.
23 Ms. Schellin, could you do the scheduling?

24 MS. SCHELLIN: Yeah. I think we could keep the
25 same schedule, September 18th from the ANC, and put it on for

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1 September 23rd, and of course OP, if we could get theirs the
2 normal 10 days prior, that would be great.

3 CHAIRMAN HOOD: So maybe I'm confused, how many
4 parties was in this case? Just the ANC, right?

5 MS. SCHELLIN: Right. When we looked at the prior
6 -- or the original order 02-26, it only showed the ANC, the
7 original order.

8 CHAIRMAN HOOD: Okay. All right. I'll leave it
9 at that. All right. Anything else on this case?

10 MS. SCHELLIN: No, sir.

11 CHAIRMAN HOOD: Okay. Next let's go to our
12 deliberations. Zoning Commission Case Number 14-14A, Jemal's
13 CDC, LLC, PUD modification of consequence to square 833. Ms.
14 Schellin.

15 MS. SCHELLIN: Since the Commission decided this
16 was a modification of consequence, ANC 6C submitted a report
17 of conditional support at Exhibit 7. And then at Exhibits 8-
18 8B, you have a submission by the applicant responding to the
19 ANC by providing the documents that it had requested of the
20 applicant. So those are in the record. I'd ask the
21 Commission to consider taking final action.

22 CHAIRMAN HOOD: Okay. Commissioners, I think in
23 this case it looks like the applicant and ANC worked very
24 well with some of the issues that they had with the visitor
25 passes and saw how RPP was being used and everything, and I

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1 think that was one of the agreements that got them all on the
2 same page.

3 I think a lot of work was done to get us to where
4 they are. While I know that we don't necessarily put that
5 into our order, we will point at it, I believe in our -- and
6 I'm looking at OAG because they'll shake their heads if what
7 I'm saying is incorrect.

8 But I think we will point at it within our order
9 as we move forward. So I think this is ready for our vote.
10 Unless others have something else they want to add to that?
11 Okay.

12 So with that I would move as the approval and also
13 point to the MOU, Zoning Commission Case Number 14-14A,
14 Jemal's CDC, LLC, PUD modification of consequence to square
15 833, and I ask for a second.

16 VICE CHAIR MILLER: Second.

17 CHAIRMAN HOOD: It's been moved and properly
18 seconded. Any further discussion? All in favor?

19 (Chorus of ayes.)

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

22 MS. SCHELLIN: The staff records the vote 5-0-0
23 to approve final action for 14-14A. Commissioner Hood
24 moving, Commissioner Miller seconding. Commissioners May,
25 Shapiro and Turnbull in support.

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1 If we could have the applicant provide a draft
2 order, that would be great.

3 CHAIRMAN HOOD: Okay. Next, Zoning Commission
4 Case Number 16-13E, JS Congress Holdings, LLC, PUD
5 modification of consequence to square 748, lot 78 and 819.
6 Ms. Schellin.

7 MS. SCHELLIN. Yes. The only new submission to
8 the record on this case was a submission to the record that
9 the ANC has notified that they will not be taking this case
10 up. So the Commission could proceed with action. Thank you.

11 CHAIRMAN HOOD: Okay. It's noted the ANC has said
12 they will not be taking the case up. We will take that and
13 leave it right there. So colleagues, any comments on this
14 particular request? Okay.

15 Seems like it's pretty straightforward. Would
16 somebody like to make a motion? And I think the deadlines
17 are in order. Let me, are the deadlines -- the times and the
18 dates in order? Okay. I'll leave it that.

19 COMMISSIONER TURNBULL: Mr. Chair, I would move
20 approval of Zoning Case Number 16-13E, JS Congress Holdings,
21 LLC, PUD modification of consequence at square 748, lots 78
22 and 819, and I look for a second.

23 VICE CHAIR MILLER: Second.

24 CHAIRMAN HOOD: It's been moved and properly
25 seconded. Any further discussion? All in favor?

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1 (Chorus of ayes.)

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

4 MS. SCHELLIN: Staff records the vote 5-0-0 to
5 grant final action for Zoning Commission Case Number 16-13E.
6 Commissioner Turnbull moving, Commissioner Miller seconding.
7 Commissioners Hood, May and Shapiro in support.

8 Again, if the applicant is in the audience, if we
9 could have a draft order, that would be great.

10 CHAIRMAN HOOD: Okay. Next, let's go to Zoning
11 Commission Case Number 12-02A, 50 Florida Avenue Development
12 Associates LLC, PUD modification of consequence to square
13 3516. Ms. Schellin.

14 MS. SCHELLIN: There were no new submissions to
15 the record on this case. We'd ask the Commission to proceed.
16 The ANC had already responded at Exhibit 2, and the record
17 the Commission was waiting for, a party by the name of Ms.
18 Conkle (phonetic) to respond, and she was given time but did
19 not provide a response.

20 CHAIRMAN HOOD: Okay. And this -- thank you, Ms.
21 Schellin -- and this actually happened prior to us changing
22 our regulations. This is a request for condition B4 of
23 Zoning Commission Order 12-02 requiring neighborhood
24 streetscape improvements.

25 Let me open it up, any questions or comments of

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1 the ask? All right. This was already in the pipeline before
2 we made some of our changes, so I don't see any problems with
3 moving this forward and continue to -- because a lot has
4 already been done. A lot of money has already been spent for
5 that particular community.

6 So with that, if I don't hear anything else, I
7 would move that we approve Zoning Commission Case Number 12-
8 02A, 50 Florida Avenue Development Associates LLC, PUD
9 modification of consequence to square 3516, and I ask for a
10 second.

11 COMMISSIONER SHAPIRO: Second, Mr. Chair, and
12 under discussion, I believe that OAG felt that there was a
13 slight tweak to clarify that the specific streetscape
14 improvements must be specified prior to the issuance of the
15 certificate of occupancy. But OAG can work with the
16 applicant to finalize those tweaks.

17 CHAIRMAN HOOD: Sounds good. Okay. So it's been
18 moved and seconded, with the notation by Commissioner Shapiro
19 for OAG to do their tweaking and clarification. Anything
20 else? It's been moved and seconded. Any further discussion?
21 All in favor?

22 (Chorus of ayes.)

23 CHAIRMAN HOOD: Any opposition? Not hearing any.
24 Ms. Schellin, would you please record the vote?

25 MS. SCHELLIN: Staff records the vote 5-0-0 to

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1 approve final action Zoning Commission Case Number 12-02A.
2 Commissioner Hood moving, Commissioner Shapiro seconding.
3 Commissioners May, Miller and Turnbull in support.

4 Again, if the applicant is in the audience, if
5 they could provide a draft order, that would be great.

6 CHAIRMAN HOOD: Okay. I think we're at final
7 action. Zoning Commission Case Number 19-04, Office of
8 Planning, Text Amendment to Establish Community Renewable
9 Energy Facility. Ms. Schellin.

10 MS. SCHELLIN. Yes, sir. On this one at Exhibit
11 34 there was an NCPC report advising that they had no issues
12 with this case, and then Exhibits 36-56 are comments that
13 came in after the proposed rulemaking was published in the
14 D.C. Register. So we'd ask the Commission to consider taking
15 final action this evening. Thank you.

16 CHAIRMAN HOOD: Okay Commissioners, I know we
17 vetted this quite a bit. I saw the comments that came in
18 during that proposed time. I didn't see where anything
19 changed my position.

20 Some of them I don't even know if they were even
21 applicable to what we were even doing here and questioning
22 some of our authority, and I'll leave that up to the systems
23 and the other systems to determine that, but I would be in
24 favor of moving forward with what we have here in front of
25 us. But let me open it up to others.

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1 COMMISSIONER SHAPIRO: Mr. Chair, I share your
2 views.

3 CHAIRMAN HOOD: Okay. Is there anyone else?

4 COMMISSIONER MAY: Mr. Chairman, I think that some
5 of the submissions that we received in opposition, there were
6 multiple letters that were received in opposition, as well
7 as a number of letters in support from solar companies who
8 were in favor of this.

9 But I think that the opposition is substantial,
10 and I think -- I feel like we're moving ahead with something
11 that needs further consideration, and that the total area
12 that might be permitted for ground based solar facilities
13 should be reduced at the very least from the very large
14 facilities that are now permitted under these -- under the
15 proposed regulations.

16 You know, there was a petition in opposition with
17 73 signatures on it. I mean we usually don't get that much
18 between proposed action and final action. But in this case
19 we did, and I just feel like we're stepping into something
20 that's going to result in some very bad circumstances in a
21 number of neighborhoods across the city.

22 So I am not in favor of these particular proposed
23 regulations, even though I was -- I did vote in favor of the
24 emergency action last time around because I thought it was
25 better than the previous version.

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1 But as it stands right now, I'm not in favor of
2 it, and I think that we should not approve it and that we
3 should perhaps table it so we can work on it more, or turn
4 it down.

5 CHAIRMAN HOOD: Vice Chair Miller.

6 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
7 strongly support moving forward with final action on this
8 community solar zoning text amendment that has been brought
9 forth by the Office of Planning.

10 I think, at the behest of the District Department
11 of Environment and Energy, I think it's a very important
12 District of Columbia initiative to -- as part of the Solar
13 For All and trying to increase percentage of energy use that
14 is obtained by solar energy.

15 And it particularly benefits low income District
16 of Columbia residents who don't have access, like others, to
17 individually install solar on their residential homes.

18 We've restricted this at the behest of those who
19 -- of those neighbors who've opposed it and Commissioner May
20 at least twice as I recall in terms of where it initially
21 started out, in terms of the size of the ground mounted solar
22 array.

23 And so I think we've found the right balance of
24 where a special exception should be required if it's more
25 than 1.5 acres. I think it started out at five acres or

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1 three acres, or anyway it started out at least twice as large
2 where it would be matter of right. And now it has a special
3 exception process for a much lower threshold and buffering
4 requirements. And as I pointed out from the very first
5 hearing that the -- what would be allowed as a matter of
6 right in these residential zones would be a much greater
7 impact than a ground array of solar even at 1.5 acres.

8 If you have 1.5 acres of RF1 or even in a single
9 family zone, as much as I love all the eight neighbors who
10 abut my own single family home, I wouldn't mind having all
11 of them be changed out for solar ray at a lesser height.

12 And when I hear the construction that goes on, and
13 each one of my neighbors over the period of the last eight
14 years, when they do their renovation, to just be done with.
15 But these are mostly vacant properties as I understand it
16 anyway, not something that's displacing any residential. But
17 the matter of right development that would be allowed in
18 these residential zones would be higher in height than these
19 solar -- ground solar arrays.

20 They'd have more adverse impact in terms of
21 parking, and the rest of it. So I just don't really
22 understand the resistance from -- maybe I'm missing
23 something. I just don't understand what has been substantial
24 opposition that has been raised, but there's also been
25 substantial support in the record for this.

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1 And if we need to tweak it, as we do with all of
2 our zoning regulations since 1958, to improve them, to
3 address issues that we weren't aware, we can do that. But
4 I think this is ready to move forward.

5 It's an important initiative. I think even with
6 the emergency restrictions, I think we had something in the
7 record that said actually four projects were turned down that
8 would have gone forward under the original proposal, so
9 already it would require a special exception process that
10 wasn't required for some things that were in the pipeline.

11 So I think that we've struck a right -- we've
12 stricken a right balance, Mr. Chairman, and I think this is
13 an important initiative that we should move forward with
14 tonight on final action.

15 CHAIRMAN HOOD: Okay. I would agree with the Vice
16 Chair. Even though I will say for your neighbors that are
17 watching, I want them to know that you really love them as
18 neighbors.

19 But I think this is -- we've been about solar
20 energy for a long time, and I'm starting to see it now branch
21 out into other areas of the city, and I don't want this to
22 be a missed opportunity. This kind of reminds me of
23 when we did the antennas, it was a big thing, then you don't
24 hear nothing about it. But I know times have changed, but
25 it was a lot of pushback, a lot of uncertainty there, you

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1 know, about what it would do to you and all that, but you
2 didn't hear nothing about that after a week or so. So I
3 think this is very important, especially for low income, so
4 everybody can share some of what's going on around here with
5 the newer way to provide solar energy.

6 So I think it's very -- this to me is very
7 important. It's also one of the city's initiatives, so I'm
8 ready to move forward as well. Anybody else? Okay.
9 Somebody like to make a motion?

10 VICE CHAIR MILLER: Mr. Chairman, I would move
11 that Zoning Commission take final action on Case Number 19-
12 04, Office of Planning, Text Amendment to Establishment
13 Community Renewable Energy Facility, and I ask for a second.

14 COMMISSIONER SHAPIRO: Second.

15 CHAIRMAN HOOD: It's been moved and properly
16 seconded. Any further discussion? And again, I've asked the
17 Office of Planning on a number of occasions, and everyone,
18 if we need to make changes and do some tweaking, let's do it
19 immediately.

20 And this is not the first and only case I've ever
21 asked that, and I'm sure that if you see that we need to make
22 a change, then we will do it at the appropriate time. Any
23 further discussion? All in favor?

24 (Chorus of ayes.)

25 CHAIRMAN HOOD: Any opposition?

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1 COMMISSIONER MAY: Opposed.

2 CHAIRMAN HOOD: So ordered. Ms. Schellin, would
3 you please record the vote?

4 MS. SCHELLIN: Yes. Staff records the vote 4-1-0
5 to approve final action in Zoning Commission Case Number 19-
6 04. Commissioner Miller moving, Commissioner Shapiro second.
7 Commissioners Hood and Turnbull in support. Commissioner May
8 opposed.

9 CHAIRMAN HOOD: Okay. Next, Zoning Commission
10 Case Number 19-09, Kenilworth Avenue North LLC, Voluntary
11 Design Review at square 5113. Ms. Schellin.

12 MS. SCHELLIN: Exhibit 20 is the applicant's post-
13 hearing submission. Exhibit 21 is the applicant's draft
14 order, and Exhibits -- maybe that's 20A, I'm not sure now
15 reading my own notes, but at 21 and 22 we have two -- I'm
16 sorry, that was 19 and 20 from the applicant.

17 And then 21 and 22 are submissions from the
18 National Park Service advising about their discussions and
19 meetings with the applicant. So I would ask the Commission
20 to consider final action.

21 CHAIRMAN HOOD: Okay. Any discussion? Okay.
22 There's no discussion. It seems like this is pretty
23 straightforward.

24 COMMISSIONER TURNBULL: Yeah, Mr. Chair, there has
25 been some concern from the Park Service, but the latest

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1 letter, Exhibit Number 22 from Mr. Camiso (phonetic) is a
2 follow up to the matters raised in our letter to the Zoning
3 Commission of June 20th, 2019.

4 We recently met with Greg Cardone (phonetic) our
5 partners on the Kenilworth resident's project. While we
6 haven't finalized any plans or wetland mitigations just yet,
7 we have agreed to work together to find a solution for both
8 wetland mitigation and resource damage repairs.

9 So, it sounds like the reluctance that they had
10 previously has gone away. That they feel confident that they
11 can at least try to reach a solution.

12 COMMISSIONER MAY: Yeah. The way I'm interpreting
13 this is that they were not well informed of it as it was
14 being developed and --

15 COMMISSIONER TURNBULL: Yeah.

16 COMMISSIONER MAY: -- they're now having the
17 conversations they need to have. I mean, I think that was
18 apparent from the hearing so, I'm not part of those
19 discussions but staff at the Park, I understand are now
20 talking to them and having productive discussions. So, I'm
21 prepared to move forward and vote in favor.

22 CHAIRMAN HOOD: Okay. Hold one second.

23 MS. SCHELLIN: Mr. Chairman.

24 CHAIRMAN HOOD: Mr. Tondro. Yes?

25 MS. SCHELLIN: Just wanted to point out on the

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1 record that in the applicant's post-hearing submission they
2 had requested provisional special exception relief from the
3 IZ requirements that are the subject of Zoning Commission
4 Case Number 04-33I.

5 We've determined that they do not need that
6 special exception relief because that case is not yet been
7 published. So, the regs do not apply to them. So, they do
8 not need that additional special exception relief.

9 CHAIRMAN HOOD: Okay. All right. Thank you.
10 Give me one minute. Mr. Tondro. Okay. So noted since my
11 fellow colleagues Commissioner May has mentioned that he is
12 ready to move forward, vote on this.

13 And also the IZ is not applicable to where we are
14 here today as stated. So, I would move that we approve
15 Zoning Commission Case Number 19-09 Kenilworth Avenue North
16 LLC, Voluntary Design Review, as square 5113 and ask for a
17 second.

18 COMMISSIONER TURNBULL: Second.

19 CHAIRMAN HOOD: It's been moved and properly
20 second, any further discussion? All in favor?

21 (Chorus of ayes)

22 CHAIRMAN HOOD: Any opposition? Not hearing any.
23 Ms. Schellin, would you please record the vote.

24 MS. SCHELLIN: Staff records the vote 5-0-0 to
25 approve final action Zoning Commission Case Number 19-09.

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1 Commissioner Hood moving, Commissioner Turnbull seconding.
2 Commissioners Miller, Shapiro and May in support.

3 VICE CHAIR MILLER: Mr. Chairman?

4 CHAIRMAN HOOD: Yes.

5 VICE CHAIR MILLER: Could I ask that if it's
6 possible that we expedite the order in this case since there
7 is another order that might affect them and if there is, this
8 an affordable housing project.

9 And if that other IZ case does take effect
10 beforehand then they might have to come back here so, if we
11 could expedite the order then that would address the time
12 concern that they had about, which is why they were asking
13 for that perspective relief. If that's possible to expedite
14 this order.

15 CHAIRMAN HOOD: Sure. But who do we ask?

16 VICE CHAIR MILLER: I'm asking, I'm looking at
17 Office of Attorney General since --

18 CHAIRMAN HOOD: Well whoever's to ask, we asking
19 that we expedite it. I don't, somebody's confused --

20 MS. CAIN: The order has been reviewed by our
21 office and should be done by middle of this week.

22 VICE CHAIR MILLER: Great. Thank you.

23 CHAIRMAN HOOD: That's quick reaction on our Vice
24 Chair. All right. All right, thank you. Okay, so on the
25 agenda we have, and I should have announced this earlier, I'm

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1 sorry, or is it still on the agenda, time extension?

2 Oh, that was taken off the agenda? Okay. I'm
3 looking at two different things up here, that's why. Okay.
4 All right. So, we don't need to do anything with that?
5 That's been taken off the agenda?

6 MS. CAIN: Mr. Chairman, you do have preliminary
7 issues on that case that we advise that you address tonight.

8 CHAIRMAN HOOD: Okay. So, we'll, can we do that
9 at the end?

10 MS. CAIN: Yes.

11 CHAIRMAN HOOD: Okay. All right. Let's going to
12 hearing actually. Zoning Commission Case Number 08-34K
13 Capital Crossings IV LLC, modification of significance of
14 first stage PUD, square 566.

15 Ms. Fothergill? See, I have to look and see who's
16 smiling or hits their mic and then I know whose case it is.

17 MS. FOTHERGILL: Good evening Chairman Hood and
18 members of the Commission. For the record, I'm Anne
19 Fothergill with the Office of Planning.

20 OP recommends that the Zoning Commission set down
21 for a public hearing that proposed modification of
22 significance to the approved Capital Crossings Stage 1 PUD.

23 The overall PUD sit is three blocks and the
24 proposed modification will be for the center block as you can
25 see in the slide on your monitor. The applicant is proposing

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1 to include lodging and college or university educational uses
2 within the center block building that was approved for
3 commercial use with office and ground floor retail.

4 The building would continue to have the approved
5 ground floor retail use and there would be no change to the
6 building's approved overall height, bulk and density.

7 Lodging and college or university educational uses
8 are permitted in the C4 zone. The applicant would confirm
9 the use and provide detailed plans for the new building as
10 part of a future second stage application, which must be
11 filed by July 2021.

12 And that concludes my report and I'm happy to take
13 any questions.

14 CHAIRMAN HOOD: Okay. I know I should have
15 probably said this at the very beginning but I want to wish
16 everyone a safe August and the rest of the summer. This is
17 our last meeting.

18 We do have a hearing on Wednesday, which I don't
19 know whether it's Mr. Turnbull or who scheduled that one for
20 Wednesday but we do have another meeting coming up on
21 Wednesday so, but I wish everyone to have a great August off.
22 I'm sure we'll enjoy ours and I hope you enjoy yours.

23 Okay. So, any question on this case or comments?
24 Anybody? Vice Chair Miller?

25 VICE CHAIR MILLER: I support setting this down

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1 for a hearing, is that what we're doing? Yeah. I think the
2 modification that's being proposed to allow lodging to hotel
3 or college educational uses instead of the, or in lieu of the
4 office if that's necessary, is actually a good change.

5 That would be more active for that particular,
6 24/7 use for that Capital Crossing project and for the newer
7 downtown area and so, it would be a benefit to allow for that
8 possibility if they need to go that route. So, I support
9 setting it down.

10 CHAIRMAN HOOD: Okay. Any other comments.
11 Commissioner May.

12 COMMISSIONER MAY: Yeah. Just to be clear, I
13 mean, because we're in the commercial zone here, if it were
14 a university use it would not have to be a part of a campus
15 plan or a campus plan modification right?

16 MS. FORTHERGILL: That's correct.

17 CHAIRMAN HOOD: All right. Any other questions
18 or comments? Somebody like to make a motion?

19 VICE CHAIR MILLER: Mr. Chairman, I would move
20 that the Zoning Commission set down Case Number 08-34K
21 Capital Crossings IV LLC, modification of significance, First
22 Stage PUD at square 566 and ask for a second.

23 COMMISSIONER SHAPIRO: Second.

24 CHAIRMAN HOOD: Okay. It's been moved and
25 properly second. Any further discussion? All in favor?

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1 (Chorus of ayes)

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

4 MS. SCHELLIN: Staff records the vote 5-0-0 to set
5 down Zoning Commission Case Number 08-34K as a contested
6 case. Commissioner Miller moving, Commissioner Shapiro
7 seconding. Commissioners Hood, May and Turnbull in support.

8 CHAIRMAN HOOD: Okay. Next, Zoning Commission
9 Case Number 19-14, Office of Planning TA to Subtitles C, D,
10 E, and X, Nonconforming Structures. Ms. Myers.

11 MS. MYERS: Good evening, Commissioners. The
12 Office of Planning recommends that the Commission set down
13 Text Amendment 19-14 to modify Subtitle C, Section 202.2 and
14 Chapter 52 and Subtitles D and E of the zoning regulations.

15 The amendment to C202.2 would clarify that
16 conforming enlargements or additions to nonconforming
17 structures are permitted. Relief would only be needed from
18 the specific development standard sections when a
19 nonconformity is extended or created.

20 Additional relief would no longer be needed from
21 C202.2 itself. References to C202.2 relief would also be
22 removed from Subtitles D, E and X.

23 The amendments to Chapter 52 in both Subtitles D
24 and E would clarify which development standards are eligible
25 for special exception relief for additions to residential

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1 buildings on street facing lots.

2 It would also clarify which development standards
3 are eligible for special exception relief for expansions or
4 new accessory structures and alley lots. The proposed
5 amendments would also reflect the new format for the new zone
6 names. Thank you.

7 CHAIRMAN HOOD: Thank you, Ms. Myers.
8 Commissioners, any questions?

9 COMMISSIONER MAY: So, my take on this is that
10 essentially we're cleaning up the regulations so that we
11 don't just have to throw in this relief from changes to
12 nonconforming structures.

13 Because the cases are already before us for other
14 relief. Right? So, it just, because, you know, every once
15 in a while there'll be these A cases, they can file them
16 where you have relief requested but oh, they've forgotten the
17 nonconforming structure.

18 We're just getting rid of that part of it
19 essentially.

20 MS. MYERS: Exactly. I mean, most times it's
21 redundant so, you would no longer have to ask for both relief
22 you would just ask for the development standard relief.

23 CHAIRMAN HOOD: All right. Any other questions
24 or comments? Somebody like to make a motion, set this down
25 or not set it down?

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1 COMMISSIONER SHAPIRO: Mr. Chair, I move that we
2 set down Zoning Commission Case Number 19-14 Office of
3 Planning, what's TA?

4 CHAIRMAN HOOD: Text Amendments.

5 COMMISSION SHAPIRO: Thank you, sir.

6 CHAIRMAN HOOD: I didn't know what it was either
7 --

8 COMMISSION SHAPIRO: Text Amendments to Subtitle
9 C, D, E, and X, Nonconforming Structures, look for a second.

10 CHAIRMAN HOOD: I'll second it. It's been moved
11 and properly seconded. Any further discussion? All in
12 favor?

13 (Chorus of ayes)

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

16 MS. SCHELLIN: That's my shorthand. That's what
17 that it.

18 CHAIRMAN HOOD: TA?

19 MS. SCHELLIN: TA is Text Amendment.

20 (Simultaneous speaking)

21 MS. SCHELLIN: I forgot to spell it out when it
22 got to you guys. But anyways, staff records the vote 5-0-0
23 to set down Zoning Commission Case Number 19-14 as a rule
24 making case. Commissioner Shapiro moving, Commissioner Hood
25 seconding. Commissioners Miller, Turnbull and May in support.

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1 CHAIRMAN HOOD: Okay. Just for the record, Ms.
2 Schellin, Commissioner Shapiro and I both didn't do well in
3 shorthand. I guess that's noticeable.

4 MS. SCHELLIN: You wouldn't like the rest of my
5 shorthand then. They get harder.

6 CHAIRMAN HOOD: All right. Zoning Commission Case
7 Number 14-12E Clarion Gables Multifamily Trust LP et al,
8 Second Stage PUD at square 3591. Ms. Elliott. Did I get
9 that right?

10 MS. ELLIOTT: You sure did. We've come a long
11 way.

12 CHAIRMAN HOOD: A long way.

13 MS. ELLIOTT: A long way. Good evening, Mr.
14 Chairman, members of the Commission. OP recommends that the
15 application for a Stage 2 PUD for the North Union Market
16 Building be set down for a public hearing.

17 The North Building would be located in the
18 Northeast area of the market. North of the Union Market
19 Building at 1309 5th Street NE. We do have a map up on the
20 screen provided by the applicant.

21 It's at Exhibit 2J1 in the applicant's submission,
22 but it shows the actual location of the North Building in
23 respect to the Union Market Building. It's probably a
24 familiar sight by now.

25 The development would consist of an eleven story,

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1 120 foot high mixed used building with ground floor retail
2 and ten stories of residential use, having about 300 dwelling
3 units.

4 It would provide proffers that are consistent with
5 the Stage 1 PUD, however, OP does recommend improvements to
6 those proffers to bring the project in line with current PUD
7 expectations.

8 The project would devote 8 percent of the gross
9 floor area to IZ units with approximately 18,400 square feet
10 at 80 percent MFI and 4,600 square feet at 50 percent MFI.
11 OP strongly encourages the applicant to devote a greater
12 percentage of the floor area to IZ units.

13 The unit mix would also consist of studio, one
14 bedroom and two bedroom units and OP is strongly encouraging
15 the applicant to add three bedroom units to the unit mix,
16 which is essential to meet the housing needs of District
17 residents.

18 The building would be certified LEED-Silver and
19 the applicant knows that they're studying the placement of
20 solar panels on the roof. OP recommends that the building
21 be certified LEED-gold and that solar panels be provided on
22 the roof and on the green roof if possible.

23 The applicant has proposed to improve the original
24 development by constructing half of the ground floor to
25 industrial specifications and to reserve approximately 1,100

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1 square feet of that space for PDR maker uses for a period of
2 five years.

3 OP is recommending that half of the ground floor,
4 which is about 11,500 square feet, be set aside for the PDR
5 maker uses for the life of the project.

6 We have requested additional information from the
7 applicant, which is provided at the beginning of our report
8 including additional renderings and architectural details,
9 plaza features and design considerations intended to activate
10 5th Street and enhance the street scape.

11 The proposal continues to meet the requirements
12 of the C3C PUD Zone and it's not inconsistent with the future
13 land use map, the generalized policy map and small area plans
14 and studies as demonstrated at the first Stage PUD and in
15 OP's report.

16 We will continue to work with the applicant to
17 address the issues identified in our report and of course
18 anything additional requested by the Zoning Commission prior
19 to the public hearing and I'm happy to answer any questions
20 you have.

21 CHAIRMAN HOOD: Thank you, Ms. Elliot. Any
22 questions or comments? Commissioner Shapiro.

23 COMMISSIONER SHAPIRO: Just a quick comment, Mr.
24 Chair. First of all I think this ready to be set down, but
25 I just wanted to, I appreciate the work that OP has done on

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1 this.

2 And I especially appreciate your environmental
3 comments that PDR maker space, the additional designs. I
4 think this is a, the thoughtful and thorough comments that
5 you have I just wanted to note. That's all I have Mr. Chair.

6 CHAIRMAN HOOD: Any other questions, comments.
7 Vice Chair Miller.

8 VICE CHAIR MILLER: Yeah, thank you Mr. Chairman.
9 I support setting down the case for hearing and also
10 appreciate, concur with Commissioner Shapiro's comment about
11 the, all the excellent recommendations by the Office of
12 Planning and concur with all of them and since Commissioner
13 Shapiro didn't call out the affordable housing --

14 COMMISSIONER SHAPIRO: Because I knew you would.

15 VICE CHAIR MILLER: -- recommendations, you knew
16 I would. You called out the environmental ones so, okay.
17 Thank you.

18 CHAIRMAN HOOD: Okay. Any other comments? Not
19 seeing any. Somebody like to make an excellent motion?

20 VICE CHAIR MILLER: Mr. Chairman, I would move
21 that the Zoning Commission set down for public hearing Case
22 Number 14-12E Clarion Gables Multifamily Trust LP et al,
23 Second Stage PUD at square 3591 and ask for a second.

24 COMMISSIONER TURNBULL: Second.

25 CHAIRMAN HOOD: Okay. It's been moved and

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1 properly second. Any further discussion? All in favor?

2 (Chorus of ayes)

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

5 MS. SCHELLIN: Staff records the vote 5-0-0 to set
6 down Zoning Commission Case Number 14-12E as a contested
7 case. Commissioner Miller moving, Commissioner Turnbull
8 seconding. Commissioners Hood, May and Shapiro in support.

9 CHAIRMAN HOOD: Okay. All right. Let's see if
10 I can work through this particular case, this next one.
11 Zoning Commission Case Number 19-15. This is a request from
12 Chairman Mendelson of the D.C. City Council. Text Amendment
13 Short Term Rentals.

14 Before I do this, let me just ask this first, Ms.
15 Steingasser is there a status update on the previous report?

16 MS. STEINGASSER: No, sir. There's no update on
17 it.

18 CHAIRMAN HOOD: So, it's in the same, it's going
19 through legal review?

20 MS. STEINGASSER: There are several outstanding
21 legal issues that are being reviewed.

22 CHAIRMAN HOOD: Okay. All right. We have a
23 request from, the first request we got, let me try to kind
24 of put this all together. The first request we have is from
25 Chairman Mendelson and the Council on October 17, 2018.

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1 It stated, his letter to us tonight, we
2 immediately proceeded it move to forward and within our
3 regulations we send it to Department of Transportation and
4 the Office of Planning and our normal dispatch. That is not
5 happened as of yet as you just heard of the first is still
6 in legal reviews.

7 So, on July 29th we received something again from
8 the Chairman asking us to proceed forward with the Text
9 Amendment again and anyone can provide a Text Amendment.

10 The way I read the regulations, to the Zoning
11 Commission, in which he is, I guess the Council as a whole,
12 through the leadership of the Chairman, have done.

13 So, this from my standpoint, and I will hear from
14 others as well, we have to treat this the same way, even
15 though it's coming from the Council, or a regular citizen or
16 whomever. We have to do our due diligence, I believe.

17 So, I don't know who really to turn this over to,
18 but we can do the assignments to, we can ask the Office of
19 Planning to look at the Text Amendment. I'm not sure what's
20 going to happen with that.

21 So, who do I turn this over to? Who do I ask to
22 do -- hold on for a second. Before I talk all, think out
23 loud, let me talk to Mr. Tondro.

24 Okay. I think, I think what we can do, we can set
25 this down. I can ask Ms. Schellin the necessary dates. I

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1 think we do have some requirements of public hearing notice.
2 Especially make sure it goes to the ANC's. I
3 think that's, we're required to do that by law. So, we want
4 to make sure that the community especially sees this Text
5 Amendment as well. Let me hear from others. Anybody else?
6 Vice Chair Miller.

7 VICE CHAIR MILLER: Thank you, Mr. Chairman. We
8 did receive a request as you noted from the Council in
9 October of last year asking that we proceed with a Zoning
10 Text Amendment to legalize essentially under the zoning
11 regulations what isn't lawful right now, which is short term
12 rental units.

13 The AirBnb's, the vrbo's, those type of short term
14 rental units, which the Council had acted, I think on the
15 almost unanimous basis, if not the unanimous basis, to set
16 up a whole regulatory licensing scheme last year.

17 But it was dependent upon a change in the zoning
18 regulations, which don't permit that type of use at all in
19 any residential neighborhood despite the fact that are
20 operating and have been operating for, I think, as long as
21 there's been these AirBnb and other types of entities.

22 They've been operating essential illegally but not
23 enforced by the city, but I think they are collecting revenue
24 because the CFO has entered into some memorandum of
25 understand with the AirBnb and other entities.

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1 So, all that to say is that we did ask the Office
2 of Planning to develop a Text Amendment that we could set
3 down for a hearing immediately upon receiving that letter
4 originally from the Office of Planning.

5 And you have diligently almost at every meeting
6 since then asked what the status is of that set down report,
7 which we normally get from the Office of Planning,
8 recommending specific text and whether we should even set
9 down that type of a case.

10 And we understand that's being worked on and maybe
11 under legal review, but it's been awhile. So, I support
12 setting it down and the Chairman has sent simple Text
13 language to make it lawful in residential neighborhoods to
14 have these types of short term rental units.

15 The Council's whole regulatory and licensing
16 schemes set up all the restrictions and durations of time and
17 how many types of units one owner can have.

18 So, I'm not sure that's something we can even get
19 into in terms of making any less restrictive than they've,
20 the Council has acted on the whole regulatory and licensing
21 scheme.

22 So, I support setting this down for a public
23 hearing so we can hear from the public and the Office of
24 Planning, hopefully this time, in terms of what's being
25 recommended.

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1 And maybe the Office of Attorney General I would
2 suggest should, as I do with all Texts that we set down for
3 public hearing, should work with the petitioner in this case,

4 Like the Council Chairman and his colleagues and
5 the Office of Zoning staff and the Office of Planning staff
6 on any tweaks that maybe should be made to that Text.

7 But it should go forward with and be advertised
8 for a public hearing and due course sometime in the Fall
9 whenever, you know, the first available date will be
10 available and hopefully we'll get all the reports we need to
11 get from the executive agencies, but particular the Office
12 of Planning, whose reports we are statutorily required to
13 give great weight to if we receive a report.

14 And we'd like to give them great weight, to the
15 Office of Planning's report. So, I hesitate to bring one
16 other point. Maybe I shouldn't Mr. Chairman? But I don't
17 want to --

18 CHAIRMAN HOOD: You should. Don't.

19 VICE CHAIR MILLER: But, I appreciate the Council
20 Chairman's approach on this, in this letter as opposed to the
21 approach taken, I think it was a month ago, where they
22 actually passed emergency legislation statutorily mandating
23 this independent agency to contract with a third party to get
24 the report recommending set down language for a hearing.

25 Something that I think you objected to publicly

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1 at one of our recent meetings and I have too in a
2 correspondence with the Council and others so, we all are
3 entitled to do-overs. We certainly do plenty of ours of ours
4 here.

5 I think this is a good do-over and a more
6 appropriate do-over than that statutory mandate, which was
7 very inappropriate and unprecedented and I think this is a
8 way forward that we can work through this case and go forward
9 Mr. Chairman. So, I will support setting down this case for
10 a hearing.

11 CHAIRMAN HOOD: Okay. I just want to comment on
12 what the Vice Chair said. I think one of things that this
13 Commission has always looked at is making sure we keep our
14 independence and not taking necessary directives.

15 We act all independently. Actually, if you look
16 at some of the way we vote, we're definitely independent.
17 But one of things I think moving forward we could do this
18 because the Chairman has just as much right as anybody else.

19 The Chairman of the Council I'm not clear who all
20 is, but there is one question I want to ask before we get to,
21 before we start having these discussions and get to a hearing
22 and I'm not sure who to direct it to anymore.

23 But, even though the Council has made things
24 restrictive, what happens if the zoning law is less
25 restrictive and so, I mean, I guess that might put us back

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1 in the same place where we are now.

2 So, that's one of the questions because I don't
3 necessarily, I think the zoning law should -- but anyway,
4 we'll see as we have these discussions and we're ready to
5 hear from the public.

6 I think we can do the normal directives, or the
7 normal push outs with the Office of Planning to comment on
8 the Text Amendment to DDOT and everybody to comment.

9 I think we'll set a date, if we don't anything
10 back, I don't know how this is all going to work out because
11 all this is new to me. So, we will proceed with a hearing
12 I guess. Mr. Tondro?

13 MR. TONDRO: I think you need a motion and vote
14 to set down. I think that's before you now.

15 CHAIRMAN HOOD: Right. But I was kind of putting
16 out how I'm trying to visualize how this is all going to
17 work. But maybe I can do that between now and then. So,
18 okay so, I will take counsel's advice and do a motion.

19 Do we first, let's see, do we have a motion,
20 Commissioner Shapiro.

21 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'm
22 happy to make a motion. First of all I agree. I associate
23 myself with both remarks of you Mr. Chair and the Vice Chair.
24 Just one other matter, which is that as part of the
25 Chairman's letter he was requesting that we waive our rules

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1 requiring report from OP.

2 And I think just for our own clarification, I
3 think it's helpful to note that we're not required to have
4 a report from the Office of Planning. We are required to
5 notice the Office of Planning.

6 I forgot the exact language Mr. Tondro, but we're
7 not required to actually get the report. But I think it is
8 appropriate given the circumstance and it's not rocket
9 science if you've been following this at all that we're in
10 the midst of a bit of a political tussle.

11 But I think it is appropriate for us set this down
12 and I can't, if we do set this down and we have a hearing in
13 say September, October I can't say I know exactly what will
14 happen in September, October but I say we take one step at
15 a time.

16 And I ask Mr. Tondro just to make sure I get that
17 language right about, again where OP's not required to have
18 a report but we're required to ask them for a report. Is
19 that accurate?

20 MR. TONDRO: Yes. I believe that the operative
21 section is Subtitle Z 305.6 that requires a petition for a
22 Text Amendment to be accompanied by a Certificate of Service
23 on OP and also the ANCs.

24 COMMISSIONER SHAPIRO: So, they are served but
25 whether they respond or not is up to them? Okay. So, thank

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1 you Mr. Chair. And if you're ready I'm happy to make a
2 motion.

3 CHAIRMAN HOOD: But now who serves them? The
4 petitioner serves them, which would be the Chairman and the
5 Council? They would have serve them? I think they did that
6 already. Okay. Okay, just making sure. All right.

7 Any other questions or comments? So we'll do our
8 regular process and Ms. Schellin will come up with a date.
9 So anyway, let's set it down first, I'm just trying to think
10 this thing through. Somebody can make a motion?

11 VICE CHAIR MILLER: Mr. Chairman, I would move
12 that the Zoning Commissioner set down Case Number 19-15? Is
13 that the case? Number 19-15 Text Amendment for Short Term
14 Rental Units and ask for a second.

15 COMMISSIONER SHAPIRO: Second.

16 CHAIRMAN HOOD: Okay. It's been moved and
17 properly second. Any further discussion? All those in
18 favor?

19 (Chorus of ayes)

20 CHAIRMAN HOOD: Any opposition? So ordered. Ms.
21 Schellin, would you please record the vote.

22 MS. SCHELLIN: Staff records the vote 5-0-0 to set
23 down Zoning Commission Case Number 19-15 as a rule making.
24 Commission Miller moving, Commissioner Shapiro seconding.
25 Commissioners May, Hood and Turnbull in support.

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1 CHAIRMAN HOOD: So, I guess the dates and stuff,
2 do we set a date?

3 MS. SCHELLIN: I heard Commissioner Miller, I'm
4 sorry, Vice Chair Miller, saying that, directing staff to
5 schedule it for the first available, which will probably be
6 in October.

7 CHAIRMAN HOOD: As long as the ANC's have --

8 MS. SCHELLIN: Right. They'll get the special,
9 they'll get the same notice as normal. 40 days, yeah.

10 CHAIRMAN HOOD: Okay. All right. Anything else
11 on this?

12 MS. SCHELLIN: No, sir.

13 CHAIRMAN HOOD: All right. So, with that, we have
14 one more, anything else? Okay. All right, so what I'd like
15 to do is have a discussion on, even though we postponed, what
16 was 13-08A, understand we do have some, luckily they're here,
17 we do have some preliminaries that we need to discuss. Ms.
18 Cain could you help us with that.

19 MS. CAIN: So the Office of the Attorney General
20 submitted a second letter in response to the applicant's
21 response to their letter, which came in on Friday and along
22 with that letter they request a waiver that the Commission
23 reopen the record to allow it in.

24 There are also three other requests to reopen the
25 record from non-parties, which are residents in the nearby

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1 area who want to voice their opinion on this matter. So you
2 have those four motions to reopen the record in front of you
3 right now.

4 CHAIRMAN HOOD: Oh, we don't. So, typically
5 though, there's usually no responses after they ask you. I
6 haven't seen it so, I see what's going on here. Do we need
7 to reopen the record or is it already open?

8 MS. SCHELLIN: The record is open so, it's really
9 opening the record to allow a non-party to file. All of
10 these are non-party.

11 CHAIRMAN HOOD: So, typically that's not what we
12 do so, we would do, I guess obviously we're going to do it
13 this time. But at some point in time we got to cut it off
14 because we'll be going back and forth always. Yes.

15 COMMISSIONER SHAPIRO: It's typically not what we
16 do and my personal view is that we don't do it in this case.

17 CHAIRMAN HOOD: Okay. Well my question is how did
18 we already, didn't we already do that? Did I do that?

19 MS. SCHELLIN: You did. You opened, you allowed
20 OAG to first put in their letter and I think at the time it
21 was thought that since OAG is technically the Commission's
22 attorney that they didn't really have to ask to reopen the
23 record, but then it was found out it was really a different
24 department. So, that was the problem.

25 CHAIRMAN HOOD: Okay. Let me just say this to

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1 justify the Chairman's rationale, I think that's exactly,
2 you're exactly right. Because it didn't make sense to me why
3 we were even doing that.

4 So, since I got us here, what I would recommend
5 is that we take this and everything else, because I've done.
6 Now this is not precedent setting, we're not going to do this
7 for everybody.

8 We're going to stick to our rule, but since, I'll
9 say I made the mistake, okay. So, since the Chairman made
10 a mistake because I'm not used to being asked by OAG.

11 So, since I've done that, we'll take this and then
12 we will give the applicant a chance to respond to this and
13 that's it. Okay. So, we will take OAG's letter, what they
14 gave us and the three people who've submitted, then after
15 that the applicant can give us a quick response, not a six
16 page letter, but a quick response and we'll leave it at that.

17 And we'll work with, I'm sure probably between all
18 that we already have enough to operate on and that's it.
19 Nothing else.

20 MS. SCHELLIN: Right. The ANC of course gets to
21 submit their letter and he can do that through the record.
22 He can submit it through the record.

23 CHAIRMAN HOOD: Okay, so the ANC, no I definitely
24 don't, I never want to leave the ANC's out. I'm talking
25 about the back and forth.

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1 (Simultaneous speaking)

2 MS. CAIN: Well the ANC is a party. This is just
3 waivers to allow non-parties to see this.

4 MS. SCHELLIN: Right. This is non-parties.

5 CHAIRMAN HOOD: Yeah. This is because I, okay.
6 Again, if somebody, I want to make sure that the transcript
7 and the record reflects, because will come down here ten
8 years from now and say well the Zoning Commission did this.

9 The only reason this was done is because this was
10 a unique request and I didn't understand, I personally did
11 not understand all the dynamics behind this because OAG has
12 never asked.

13 Or I don't think they ever should have asked, but
14 I wasn't clear on this whole process so anyway and that's it.
15 So, don't come down ten years from now asking to do this
16 unless that Commission decides to do that. All right.
17 Commissioner Shapiro.

18 COMMISSIONER SHAPIRO: Thank you. So, I just want
19 to be clear because I maybe misunderstand the action that
20 you're proposing. We are reopening the record just for these
21 four submissions? And that's it?

22 CHAIRMAN HOOD: Apparently I've already reopened
23 it right?

24 MS. SCHELLIN: For OAG's for first submission but
25 now OAG is asking for a waiver to file a reply to the

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1 applicant's response to what you allowed in.

2 CHAIRMAN HOOD: Okay. So, what I would recommend
3 is that we allow everything and that last letter from OAG
4 also be allowed in and then the applicant can respond to that
5 and that's it.

6 MS. SCHELLIN: And the applicant also will have
7 seven days to respond to the other three letters.

8 CHAIRMAN HOOD: Yeah. They can respond to
9 everything else and that's it. The ANC as well is already
10 an automatic.

11 MS. SCHELLIN: Is already a party and they also
12 get seven days to respond to all of those letters.

13 CHAIRMAN HOOD: So, the cut off will be after
14 everything comes in, the cut off will be the applicant has
15 last response. That's normally our process. Okay. Anything
16 else? Is everybody clear?

17 VICE CHAIR MILLER: Yes. I support your action
18 Mr. Chairman and I'm hopeful that over the summer maybe there
19 will be some resolution of this issue so that we can move
20 forward more smoothly.

21 CHAIRMAN HOOD: Yeah, because it's ending kind of
22 rocky. Okay. Do we need to do anything else? Is there
23 another issue? Any other issues?

24 MS. SCHELLIN: So, you're doing it by consensus
25 and not voting? Okay.

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1 CHAIRMAN HOOD: Yeah. No objections. Do we have
2 anything else before us tonight?

3 MS. SCHELLIN: Unless OP?

4 CHAIRMAN HOOD: Office of Planning have anything?
5 All right. I hope everything --

6 MS. SCHELLIN: Actually I do have one that's not
7 on the agenda, well it was on the agenda earlier related to
8 Valor. Just a staff question. Would you like for staff to
9 set aside a second hearing night for that case?

10 CHAIRMAN HOOD: You think it's going to take us
11 two nights?

12 MS. SCHELLIN: I don't know but OP is saying yes
13 and Peter May has said yes. Okay. So staff will set aside
14 a second day, just because since we're going to be scheduling
15 this rental --

16 CHAIRMAN HOOD: So, can we do the Valor case back
17 to back?

18 MS. SCHELLIN: Yes. I will do, set a date, a
19 Monday and Thursday, yes.

20 COMMISSIONER TURNBULL: Or we could do a
21 Wednesday.

22 MS. SCHELLIN: No, we can't.

23 CHAIRMAN HOOD: That's volleyball night. For
24 those who play volleyball.

25 MS. SCHELLIN: And some of us go to church.

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1 CHAIRMAN HOOD: Oh, and church. Okay. And
2 everything else. All right. So, do we have anything else?
3 All right. I hope everyone have a good time off, well we'll
4 back Wednesday, but after that, have a good time off.

5 And with that, if we have nothing else, this
6 meeting is adjourned.

7 (Whereupon, the above-entitled matter went off the
8 record at 8:03 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: Public Meeting

Before: DCZC

Date: 07-29-19

Place: Washington, DC

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



Court Reporter

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