

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR MEETING

+ + + + +

MONDAY

MAY 11, 2020

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened via Video Teleconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- STEPHEN COCHRAN
- JOEL LAWSON
- CRYSTAL MYERS
- JENNIFER STEINGASSER, Deputy Director, Development Review & Historic Preservation

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALEXANDRA CAIN, ESQ.
MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from
the Regular meeting held on May 11, 2020.

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

2 3:59 p.m.

3 CHAIRMAN HOOD: Okay, we're ready to get started.
4 It's like it's 4:00 p.m. Good afternoon, ladies and
5 gentlemen. This is a public meeting of the Zoning Commission
6 for the District of Columbia.

7 My name is Anthony Hood. Joining me is Vice Chair
8 Miller, Commissioners Shapiro, May and Turnbull. We're also
9 joined by the Office of Zoning Staff, Ms. Sharon Schellin and
10 Mr. Paul Young who is doing our virtual assignments this
11 afternoon.

12 Contents of today's meeting agenda are available
13 on the web. I believe on our website. Again, we do not take
14 any public testimony at our meetings unless we ask someone
15 to present themselves and we have a question.

16 So with that, and again, I've asked everyone and
17 others if they could identify themselves at the appropriate
18 time. I ask that you be patient.

19 Again, this is a virtual meeting, go in and out,
20 things may happen. So far we have had a lot of success. And
21 I commend the Staff for really putting this together so it's
22 been very seamless.

23 Okay, does the Staff have any preliminary matters?

24 MS. SCHELLIN: No. No preliminary matters.

25 CHAIRMAN HOOD: Okay. We'll go to the agenda this

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1 evening. We all have our revised agenda. That's what I'll
2 be using.

3 Okay, so we have a modification of consequence,
4 determination or scheduling, dependent upon how we move
5 forward, Zoning Commission Case Number 17-05C. Ms. Schellin.

6 MS. SCHELLIN: Yes, sir. As you stated, this is
7 a request for a modification of consequence. It's for a
8 design review in order to make architectural modifications.

9 And it's also asking for a change in use from
10 retail to service to accommodate the DC Central Kitchen on
11 the ground floor of the building.

12 The change in use would also increase the building
13 FAR as the Applicant is proposing to construct a second
14 floor, on the second floor, in a portion of the double height
15 retail space. It would increase by 0.1.

16 The FAR, the Applicant is effectively asking for
17 a waiver of the rules as it acknowledges that the change in
18 use is typically a modification of significance.

19 At Exhibit 3, ANC 6D filed a report in support.
20 Exhibit 6 is an OP report that does not object to the change
21 in use and supports the Applicants request and recommends
22 approval.

23 They ask the Commission to consider, one, whether
24 they believe this is a modification of consequence, whether
25 they will waive the rules to accept the change in use in this

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1 case and proceed from there.

2 CHAIRMAN HOOD: Thank you, Ms. Schellin. I think
3 first, Commissioners, we have a request for a waiver from a
4 modification of significance to a modification of
5 consequence.

6 I believe that the merits, the facts of us being
7 able to do that I think are right. Especially upon the
8 advice of counsel and others. But let me hear from others.
9 Any objections to the waiver of requests? Okay.

10 COMMISSIONER TURNBULL: No objection.

11 CHAIRMAN HOOD: All right. So we have no
12 objections to making this a modification of consequence.

13 There are some factors in which I think allow us
14 to be able to consider this and deliberate tonight on this.
15 Does anyone have any objections to deliberating on this
16 tonight? No objections, okay. Good.

17 Okay, I think, as stated by counsel, the reasons
18 I think this waiver and everything is inducive for us to be
19 given tonight is a modification of consequence. It looks
20 like the proposed services of the use are the, will not
21 result in any exterior changes to the building.

22 And DC Central Kitchens current location,
23 including the termination of existing use is typically, its
24 primary food production facility. Especially with what we're
25 going through now in the world I think this is a very vital

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1 service to the city and to this area.

2 So let me open up for any other discussions on the
3 modification of consequence and what they're asking us to do.
4 Let me go to Commissioner May.

5 COMMISSIONER MAY: Yes. You know, again, normally
6 I like to stick with the rules when it comes to how we treat
7 modifications.

8 In this circumstance, the difference between a
9 service use and a retail use, I don't think it's likely to
10 have any more significant impact. In fact, it's like they
11 have less impact on the neighborhood from a negative point
12 of view.

13 It also has the potential to be a very positive
14 development. So I don't see a real problem with considering
15 it. And I think that the change is beneficial in many ways
16 so I'm happy to support it.

17 We have the report from the ANC. And of course,
18 this is only a design review to begin with, so I mean all
19 these things point in favor of moving forward tonight.

20 CHAIRMAN HOOD: Okay, thank you. Commissioner
21 Shapiro?

22 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
23 concur with Commissioner May. I have nothing further to add.

24 CHAIRMAN HOOD: Okay. Mr. Turnbull?

25 COMMISSIONER TURNBULL: Mr. Chair, I would agree

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1 with both my colleagues. And considering the state of
2 emergency right now I'm fine with doing this.

3 CHAIRMAN HOOD: Very good. Vice Chair, do you
4 have anything to add?

5 VICE CHAIR MILLER: Just to agree with all the
6 comments that my colleagues. And to acknowledge that DC
7 Central Kitchen, for many years, has provided an essential
8 food delivery service to needy people in the city and
9 workforce development as well for homeless and other low-
10 income people.

11 So I think even if there wasn't the pandemic it
12 might, because it's a permitted right, not a right use in
13 this zone anyway, it would have been okay by me to allow this
14 as a modification as consequence. But the pandemic certainly
15 emphasizes that point.

16 CHAIRMAN HOOD: Okay. I would agree with
17 everything that I've heard. I definitely think that, I
18 especially agree with Vice Chair Miller, his final comments.

19 Whether there was a pandemic or not, services are
20 provided. I think this is right for us either way, but
21 especially in this situation that we are in, and it's already
22 been stated.

23 So with that, what I would like to do is ask for
24 a motion.

25 COMMISSIONER TURNBULL: Mr. Chair, I would move

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1 that we approve Zoning Case Number 17-05C, 2100 2nd Street
2 Southwest, LLC, Design Review Modification of consequence at
3 Square 613. I look for a second.

4 VICE CHAIR MILLER: Second.

5 CHAIRMAN HOOD: It's been moved and properly
6 seconded. Any further discussions? Any further discussion?

7 All right, Ms. Schellin, could you do a roll call
8 vote please?

9 MS. SCHELLIN: Commissioner Turnbull?

10 COMMISSIONER TURNBULL: Yes.

11 MS. SCHELLIN: Commissioner Miller?

12 VICE CHAIR MILLER: Yes.

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRMAN HOOD: Yes.

15 MS. SCHELLIN: Commissioner May?

16 COMMISSIONER MAY: Yes.

17 MS. SCHELLIN: Commissioner Shapiro?

18 COMMISSIONER SHAPIRO: Yes.

19 MS. SCHELLIN: The vote is 5-0-0 to approve final
20 action on Zoning Commission Case Number 17-05C.

21 CHAIRMAN HOOD: Okay, thank you. Let's now go to
22 final action. Give me a moment to record everything.

23 Okay, let's go to Final Action Zoning Commission
24 Case Number 19-14, Office of Planning Text Amendment to
25 Subtitles C, D, E and X, Nonconforming Structures. Ms.

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1 Schellin.

2 MS. SCHELLIN: Yes. We have one new exhibit at,
3 Exhibit 13. It's an NCPC-delegated action advising of new
4 issues with regard to the federal comp plan or other federal
5 interests.

6 The Notice of Proposed Rulemaking was published
7 in the D.C. Register on April 3rd with no comments being
8 received. We'd ask the Commission to consider final action
9 this evening.

10 CHAIRMAN HOOD: Okay, Commissioners, we have the
11 request in front of us with final action. I think we vetted
12 a lot of this out at the hearing in our discussions, but let
13 me open it up to see if there are any additional comments or
14 questions. Commissioner May?

15 COMMISSIONER MAY: I have nothing more on this.

16 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Nothing, Mr. Chair.

18 CHAIRMAN HOOD: Okay. Commissioner Turnbull?

19 COMMISSIONER TURNBULL: I'm good to go with this.

20 CHAIRMAN HOOD: Okay. And, Vice Chair Miller?

21 VICE CHAIR MILLER: Good to go.

22 CHAIRMAN HOOD: All right. In that case, would
23 somebody like to make a motion?

24 COMMISSIONER SHAPIRO: Mr. Chair, I will move that
25 we take final action on Zoning Commission Case Number 19-14,

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1 Office of Planning Text Amendment to Subtitles C, D, E and
2 X, Nonconforming Structures. Perhaps you could move
3 approval.

4 CHAIRMAN HOOD: I will second that. It's been
5 moved and properly seconded. Any further discussion? Okay,
6 we'll do a roll call vote again. Commissioner May?

7 COMMISSIONER SHAPIRO: Chair, it's usually Ms.
8 Schellin.

9 CHAIRMAN HOOD: Commissioner May, roll call vote.

10 COMMISSIONER MAY: Oh, I don't do the roll call
11 vote.

12 CHAIRMAN HOOD: I was trying to say Commissioner
13 May so we can go ahead and say, yes, I was roll call. I'm
14 doing it now.

15 COMMISSIONER MAY: You're doing it now, okay?

16 CHAIRMAN HOOD: Yes.

17 MS. SCHELLIN: It's Commissioner Shapiro.

18 CHAIRMAN HOOD: Okay.

19 COMMISSIONER MAY: Yes.

20 MS. SCHELLIN: Commissioner Shapiro?

21 COMMISSIONER SHAPIRO: Yes.

22 MS. SCHELLIN: Commissioner Hood?

23 CHAIRMAN HOOD: I'll tell you wait, Ms. Schellin,
24 let's start all over again. Maybe I confused the issue. Ms.
25 Schellin, could you do the roll call vote?

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1 MS. SCHELLIN: Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: I still vote yes.

3 MS. SCHELLIN: Commissioner Hood?

4 CHAIRMAN HOOD: Yes.

5 MS. SCHELLIN: Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: Commissioner Turnbull?

10 COMMISSIONER TURNBULL: Yes.

11 MS. SCHELLIN: The vote is 5-0-0 to approve final
12 action on Zoning Commission Case Number 19-14.

13 CHAIRMAN HOOD: Okay. So for full disclosure,
14 most of the time we've, I've already moved to the next case
15 so I'm trying to figure out what we're doing. And I've
16 already moved so I can call the next case. So just bear with
17 me.

18 All right, thank you. Okay, next we have time
19 extension, Zoning Commission Case Number 80-07C Jemal's DARTH
20 Vader, LLC, two-year PUD time extension at Square 563. Ms.
21 Schellin.

22 MS. SCHELLIN: Yes, the Applicant is requesting
23 a two-year time extension in which to begin construction.
24 This will grant an extension to May 12th, 2022.

25 Exhibit 4 is an ANC 6E report in support.

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1 Exhibits 5 and 5A are the OP report in support. They ask the
2 Commission to consider granting this two-year time extension.

3 CHAIRMAN HOOD: So Commissioners, I've read this
4 over a few times and I looked at counsel's notes and I do
5 have a question for Mr. Bassett. Can we bring Mr. Bassett
6 up?

7 MR. BASSETT: Yes, I'm here.

8 CHAIRMAN HOOD: All right, Mr. Bassett. So I see
9 in the notes where it says that the actions we did at our
10 last meeting, which provided a six-month extension.

11 But still, even though the requests of May 12th
12 of 2022, it still would be, when I calculated it, it still
13 would be May 12th of 2022, is that correct?

14 MR. BASSETT: Yes. I believe that they are asking
15 for an extension until 2022 to file, or to begin
16 construction.

17 CHAIRMAN HOOD: Okay. Okay. All right, any other
18 questions of Mr. Bassett?

19 COMMISSIONER SHAPIRO: Mr. Chair?

20 CHAIRMAN HOOD: Okay, Commissioner Shapiro.

21 COMMISSIONER SHAPIRO: Based on, I'm still a bit
22 confused. Based on our emergency actions, this is already
23 extended till November 12th, so it's not two years from
24 November 12th?

25 MR. BASSETT: No. I believe it would be, I

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1 believe the deadlines are pushed through November, but for
2 this specific action that you're approving, it's granting an
3 application to push the time period until May of 2022.

4 COMMISSIONER SHAPIRO: Okay.

5 MR. BASSETT: If the time period was between now
6 and November, it would automatically be done, but because
7 they're asking through May of 2022 you'd have to approve this
8 application.

9 COMMISSIONER SHAPIRO: Okay. Thank you, Mr.
10 Chair.

11 CHAIRMAN HOOD: Okay. Any other questions? All
12 right, so unless I hear from someone I would move approval.
13 I think this is ready for us. The request has been warranted
14 in the merits of the case and have been presented to us.

15 But anyway, I would move approval of the request
16 Office of the General Counsel Zoning Commission Case Number
17 80-07C and ask for a second.

18 VICE CHAIR MILLER: Second.

19 CHAIRMAN HOOD: It's been moved and properly
20 seconded. Any further discussion? Okay, Ms. Schellin, could
21 you do the roll call vote?

22 MS. SCHELLIN: Commissioner Hood?

23 CHAIRMAN HOOD: Yes.

24 MS. SCHELLIN: Commissioner Miller?

25 VICE CHAIR MILLER: Yes.

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1 MS. SCHELLIN: Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: Yes.

3 MS. SCHELLIN: Commissioner May?

4 COMMISSIONER MAY: Yes.

5 MS. SCHELLIN: Commissioner Turnbull?

6 COMMISSIONER TURNBULL: Yes.

7 MS. SCHELLIN: The vote is 5-0-0 to approve final
8 action of Zoning Commission Case Number 80-07C for a two-year
9 time extension to May 12th, 2022.

10 CHAIRMAN HOOD: Okay. Let's move right along.
11 Zoning Commission Case Number 19-21 Office of Planning, Text
12 Amendment to Subtitles D, E and U, roof top or upper floor
13 elements. Ms. Schellin.

14 MS. SCHELLIN: This was deferred from the last
15 public meeting the Commission had to allow OP to provide a
16 supplemental report, which they've done at Exhibit 31. So
17 they would ask the Commission to consider taking proposed
18 action this evening.

19 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.
20 Commissioners, we did push this off because we asked them to
21 clarify some things. I think they've done it to the best of
22 their ability, but let me open it up for questions or
23 comments. Commissioner May?

24 COMMISSIONER MAY: Thank you, Mr. Chairman. So
25 on this one I think I was one of the ones who had the biggest

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1 concerns about the language that we have been working with
2 before which included the term, the impacts are being
3 mitigated to the greatest extent possible.

4 That was not much of a concrete measure for the
5 BZA to use when considering granting relief to the
6 limitations on building structures that would interfere with
7 the neighbor's solar power generation system.

8 So I think the language they came up with, it
9 doesn't necessarily address what is, what the range of
10 approvable circumstances might be, and with any great
11 specificity. But it does basically spell out the things that
12 the Board would have to be looking at and make submission
13 requirements associated with it.

14 I mean I do have one question that maybe it would
15 be helpful to have the Office of Planning answer, which has
16 to do with the fact that this is, I mean they had a statement
17 in their report that no one has requested this relief so far.
18 And I just wanted to probe that a little bit if it's
19 possible, for somebody in the Office of Planning to address
20 those questions.

21 MS. STEINGASSER: This is Jennifer Steingasser
22 with the Office of Planning. That's correct. We went
23 through the relief and there was no relief requested for this
24 particular --

25 (Telephonic interference.)

1 CHAIRMAN HOOD: We can't hear you.

2 COMMISSIONER MAY: And previously this was a form
3 of relief. Something that could be granted as a special
4 exception?

5 MS. STEINGASSER: It could up to, I think the
6 original language had a limit and so the issue was, after
7 that, how could there be relief. And it was dealt with as
8 a variance. Was the only option.

9 And we found that to be a very difficult
10 situation. I think everybody felt it should be a special
11 exception and not a variance, so we worked to come up with
12 this language that kind of gave the BZA direction.

13 COMMISSIONER MAY: Right. But it was -- but
14 you're saying that before, I mean there have been no cases,
15 no requests for relief --

16 MS. STEINGASSER: No.

17 COMMISSIONER MAY: -- under the current regs.

18 But I'm still a little bit confused. Does that
19 mean because they would have had to request a variance to get
20 relief for this?

21 MS. STEINGASSER: As far as I know nobody has
22 requested it or approached OP or the Staff about requesting
23 it.

24 COMMISSIONER MAY: Right.

25 MS. STEINGASSER: But I think when we're working

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1 through the overall case for 19-21, it was just one of the
2 things we realized is like, how would they get relief. And
3 it would have to be a variance.

4 COMMISSIONER MAY: Got it. So all right. So
5 nobody requested it, but if they did they probably would have
6 had to go for a variance?

7 MS. STEINGASSER: That's correct.

8 COMMISSIONER MAY: Okay, now I understand. Yes.
9 I mean that explains why they wouldn't go for the relief
10 because it would be a very hard thing to demonstrate the, or
11 to meet the variance test for.

12 I mean I can appreciate how difficult it is to try
13 to give guidance to the Board in making a decision when
14 evaluating impacts like this, but I think that the language
15 that you came up with does give some guidance to the Board
16 about what they need to look at.

17 And I think it's more likely to encourage
18 thoughtful decision making because I just thought the
19 previous language, which, you know, it was a pretty low
20 threshold to prove to say that it was mitigated to the
21 greatest extent possible.

22 MS. STEINGASSER: Yes.

23 COMMISSIONER MAY: I just thought you could drive
24 a truck through that, so.

25 MS. STEINGASSER: Previous language was broad and

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1 we did some research, nation-wide, of how other jurisdictions
2 looked at this issue. That's where we got some of the more
3 directional language of what to look at and to offer
4 suggestions, including design alternatives to the Applicant's
5 proposed construction and the potential for solar access
6 easement. Which was to try to encourage the property owners
7 to work together.

8 COMMISSIONER MAY: Right. Yes. Yes, so I mean I'm
9 okay with what's been proposed here. I mean I would have
10 liked to have something more specific, but I understand how
11 difficult it is to come up with something that's very
12 specific, so I think that this is acceptable.

13 MS. STEINGASSER: Okay, thank you.

14 COMMISSIONER MAY: I appreciate the extra work
15 that you put into it. I know you struggled with it for a
16 long time and then we gave you two weeks to come up with
17 something magical and new.

18 (Laughter.)

19 COMMISSIONER MAY: So I appreciate the work that
20 went into it. Thank you.

21 MS. STEINGASSER: Thank you.

22 COMMISSIONER MAY: That's it for me.

23 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Not
25 much to add. I mean I agree. I think that to find perfect

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1 on this would be near impossible. And this is a great
2 improvement over the previous language and I'm supportive of
3 it.

4 CHAIRMAN HOOD: Okay. Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Yes, I think this was a
6 problematic issue from the beginning. And we had a lot
7 comments to it. There's a lot of letters that we got when
8 people had come.

9 I don't think we've addressed the, I think the
10 language has not addressed everybody's concerns. And I think
11 right now I think we, I'm okay with it for now. That is
12 something we can go with.

13 For some reason I have a feeling that this might
14 come back again in the future. We might have to revisit it.

15 I think it's got to go, I think the BZA has got
16 to be able to have this in front of them to use it. And then
17 I think that we're going to find out if it really works or
18 not.

19 I think it's one of those things that we've got
20 to give it a try and if it doesn't quite come up to doing
21 exactly what we hope it will do, we may have to come back and
22 revisit it. But I think it's a start, I can go with it.

23 CHAIRMAN HOOD: Okay, thank you. Vice Chair
24 Miller?

25 VICE CHAIR MILLER: Thank you, Mr. Chairman. And

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1 thanks to Office of Planning and Office of Attorney General
2 for coming up with modified language to address, particularly
3 Commissioner's May concerns about the lack of specificity in
4 the last iteration of this. I think that the new language
5 is a very excellent attempt to create standards that will
6 guide the BZA.

7 In considering special exception applications
8 under the provision, it requires an Applicant to demonstrate
9 its best efforts, to mitigate the extent reasonably
10 practical, including design alternatives to the Applicant's
11 desired construction.

12 And just in response to what Commissioner Turnbull
13 had said. Yes, we had received, at the hearing I guess, and
14 maybe in the public record, concerns about this which were
15 actually, I think, addressed by OP's last report in March.

16 Sometimes there was a misunderstanding of what the
17 intent and effect of the proposed changes were, and in other
18 cases those concerns will be addressed in other cases that
19 were pending. And I think the ANCs recognized that they will
20 be addressed in other cases that are pending.

21 So I am very comfortable with moving forward with
22 proposed action at this juncture, Mr. Chairman. Thank you.

23 CHAIRMAN HOOD: Thank you. Thank you for all the
24 comments. I would agree. And I know some things will be
25 handled in other cases.

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1 And I think as Commissioner Turnbull mentioned,
2 sometimes we have to run the tests. And let's see what we
3 need to do.

4 And I would also ask the Office of Planning, we
5 see that we have to come back, something like they've done
6 in the past, bring it back to us as quick as possible.

7 But I will say, and I ask Alan Gambrell to submit
8 this. And when I read this, this is, a lot of times, this
9 is not throwing dispersions on it, but this is a lot of the
10 times what actually happens. And I ask them to memorialize
11 that for me so I can remember this as we continue to move
12 through doing regulations and writing them, trying to clarify
13 things.

14 He says, as you know, what OP intends and what the
15 Zoning Commission wants can get lost on what the BZA decides.
16 And to me, I think that's very important. That's not
17 throwing a dispersion.

18 I actually asked him to write that and he actually
19 gave it to me. I mean he sent this, it's in the record. But
20 I think that's important.

21 And that's why, it goes back to what Commissioner
22 Turnbull said. Sometimes we have to come right back and make
23 corrections but sometimes we also have to put stuff out there
24 to see what the best level of effort, to see if it works.

25 And if it doesn't, we've done this in the past,

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1 and we've always done it since I've been around, OP would
2 always bring it back and just try to clarify it, straighten
3 it up. This is, again, one of those cases for me.

4 So I appreciate Mr. Gambrell giving me that. I'm
5 going to use that more often. And I asked him to give that
6 to me in writing because I would never have remembered that.

7 All right, any further discussion? All right,
8 would someone like to make a motion?

9 VICE CHAIR MILLER: Sure, Mr. Chairman. I would
10 move that the Zoning Commissioner take proposed action on
11 Zoning Commission Case Number 19-21, Office of Planning, Text
12 Amendment to Subtitles D, E and U, roof top or upper floor
13 elements, and ask for a second.

14 COMMISSIONER TURNBULL: Second.

15 CHAIRMAN HOOD: Okay, it's been moved and properly
16 seconded. Any further discussion? Okay, Ms. Schellin, could
17 we get a roll call vote?

18 MS. SCHELLIN: Was that Commissioner Turnbull who
19 seconded or Commissioner Shapiro?

20 CHAIRMAN HOOD: Commissioner Turnbull seconded.

21 MS. SCHELLIN: Turnbull. Okay, that's what I
22 thought.

23 Commissioner Miller?

24 VICE CHAIR MILLER: Yes.

25 MS. SCHELLIN: Commissioner Turnbull?

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1 COMMISSIONER TURNBULL: Yes.

2 MS. SCHELLIN: Commissioner Hood?

3 CHAIRMAN HOOD: Yes.

4 MS. SCHELLIN: Commissioner Shapiro?

5 COMMISSIONER SHAPIRO: Yes.

6 MS. SCHELLIN: Commissioner May?

7 COMMISSIONER MAY: Yes.

8 MS. SCHELLIN: The vote is 5-0-0 to approve
9 proposed action in Zoning Commission Case Number 19-21.

10 CHAIRMAN HOOD: Okay, let me move to hearing
11 action. Okay, so we have, under hearing action, Zoning
12 Commission Case Number 19-30 ANC 5D, Map Amendment to add
13 Square 4494, Lot 827, which is inadvertently left off of
14 initial setdown. Mr. Kirschenbaum.

15 I probably could tee that one up but we'll go to
16 Mr. Kirschenbaum.

17 MR. KIRSCHENBAUM: Hi. Good afternoon, Chair Hood
18 and Members of the Zoning Commission. Jonathan Kirschenbaum
19 with the Office of Planning for Zoning Commission Case 19-30.

20 We were informed by the Office of Zoning that this
21 Tax Lot 827 in Square 4494 was inadvertently left off from
22 the RF-4 re-zoning area for this case. And the Applicant has
23 requested that it be included in the RF-4 re-zoning area,
24 which we fully support as the entire area should be zoned RF-
25 4.

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1 This little triangular lot, which is about like
2 60 square feet in area, were to not be included it would be
3 this very unusual lot zoned RA-2, completely surrounded by
4 RF-4. So we recommend approval that this also be setdown as
5 part of Zoning Commission Case 19-30 that was setdown by the
6 Commission two weeks ago.

7 Please let me know if you have any further
8 questions. Thank you.

9 CHAIRMAN HOOD: Thank you, Mr. Kirschenbaum.
10 Commissioners, any questions to add this one piece? I'm
11 looking for heads to shake. Normally we don't do that but
12 I'm trying to move that fast.

13 Okay, so not hearing anyone. I would ask for,
14 Commissioner May.

15 COMMISSIONER MAY: Yes, I'm sorry. Sorry to be
16 slow on this but where exactly is this triangular lot? I was
17 trying to figure that out but I couldn't figure it out from
18 what I had.

19 MR. KIRSCHENBAUM: It's so small. It's above Lot
20 30 if you are looking, it's so small it may not, it barely
21 shows on the zoning map prepared by the Office of Zoning.

22 I mean essentially I went back into the surveyor
23 system and it seems what happened was, when this square was
24 being subdivided in the late 1930s and '40s, there were two
25 parcels that existed. And basically, for whatever reason,

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1 we are, one of the parcels did not get subdivided and it's
2 been a tax lot ever since.

3 And it's above Lot 30. It's at the end of Lot 30
4 in Square 4494.

5 COMMISSIONER MAY: Yes, I don't have a map from
6 the record that shows where Lot 30 is. And I tried to look
7 at the zoning map to find something labeled A27 and I
8 couldn't find it. So could you just tell me what street it's
9 on?

10 MR. KIRSCHENBAUM: Oh no, it's on 18th Street.
11 Let me, it's on 18th street just south of H Place.

12 MS. SCHELLIN: Commissioner May, if I may? I
13 think when we talked with our IT guy, one of the reasons why,
14 or the reason why it was missed when we provided the ANC a
15 list of all the lots is because there was a label literally,
16 a math label over that lot. And that was how it got missed.

17 COMMISSIONER MAY: All that's great, I don't
18 really care.

19 MS. SCHELLIN: Yes.

20 COMMISSIONER MAY: I just want to know where it
21 is.

22 MS. SCHELLIN: Yes. Oh, okay.

23 COMMISSIONER MAY: In your presentation last time
24 around, it is within the area of the map that's outlined in
25 red?

1 MR. KIRSCHENBAUM: It is.

2 COMMISSIONER MAY: And the only issue is that we
3 left out that lot number?

4 MR. KIRSCHENBAUM: That's correct. And I'm sorry,
5 I misspoke, it is on 19th, it runs parallel to 19th Street,
6 just south of H Place above Lot 38. Lot 38 is a corner lot
7 and --

8 COMMISSIONER MAY: Okay, I trust you.

9 MR. KIRSCHENBAUM: Yes.

10 COMMISSIONER MAY: Just as long as I know that
11 it's within the red boundary --

12 MR. KIRSCHENBAUM: Yes.

13 COMMISSIONER MAY: -- then I'm all right.

14 MR. KIRSCHENBAUM: Yes.

15 COMMISSIONER MAY: Sorry to take so much time.

16 CHAIRMAN HOOD: That's okay. Well let's continue.

17 Commissioner Shapiro, do you have any questions?

18 COMMISSIONER SHAPIRO: No, sir, no questions.

19 CHAIRMAN HOOD: Mr. Turnbull, do you have any
20 questions?

21 COMMISSIONER TURNBULL: No. I'm good with this.

22 CHAIRMAN HOOD: Okay. Vice Chair, do you have any
23 questions?

24 VICE CHAIR MILLER: Not to prolong this but yes,
25 it makes sense that we include it since it's right in the

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1 middle of what's being re-zoned. And the OP report indicates
2 that it's not probably developable because it is so small.
3 But I guess it could be combined with an adjacent lot for
4 development, theoretically, Mr. Kirschenbaum?

5 MR. KIRSCHENBAUM: Theoretically it could be
6 combined with Lot 38. It adds, again, I mean it is so small
7 that it --

8 VICE CHAIR MILLER: Right.

9 MR. KIRSCHENBAUM: -- 60 --

10 VICE CHAIR MILLER: Okay.

11 MR. KIRSCHENBAUM: -- 80 square feet to the lot
12 size. Yes.

13 VICE CHAIR MILLER: Okay, thanks.

14 CHAIRMAN HOOD: All right, so we have a request,
15 thank you, Mr. Kirschenbaum. We have a request before us to
16 add square, by a lot.

17 But anyway, let me open it up for a motion. Would
18 somebody like to make a motion? I mean I could make them all
19 but I'd like for everybody to --

20 COMMISSIONER TURNBULL: Mr. Chair, I would move
21 that we setdown Zoning Case 19-30, ANC 5D, map amendment to
22 add Square 4494, Lot 827 left off the initial setdown, and
23 look for a second.

24 COMMISSIONER SHAPIRO: Seconded.

25 CHAIRMAN HOOD: Okay, it's been moved and properly

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1 seconded. Thank you. Ms. Schellin, would you do a roll call
2 vote? I just love this virtual stuff. Ms. Schellin, you on
3 mute? Okay.

4 MS. SCHELLIN: Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Yes. Yes.

6 MS. SCHELLIN: Commissioner Shapiro?

7 COMMISSIONER SHAPIRO: Yes.

8 MS. SCHELLIN: Commissioner Hood?

9 CHAIRMAN HOOD: Yes.

10 MS. SCHELLIN: Commissioner Miller?

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: The vote is 5-0-0, to include the
15 square and lot that was inadvertently left off with Case
16 Number 19-30 as a rulemaking case.

17 CHAIRMAN HOOD: Okay, thank you. Let's go to our
18 next case, which is Zoning Commission Case Number 20-06,
19 Felice Development Group, 1st-Stage and Consolidated PUD and
20 Related Map Amendment at Squares 1025E and 1048S and
21 Reservations 129 and 299. Mr. Cochran.

22 MR. COCHRAN: Thank you, Mr. Chair. I'm Steve
23 Cochran with the Office of Planning. I'll be addressing
24 Applicant 20-06. Let me try and share my screen. If I could
25 ask, Mr. Young. The share screen is greyed out.

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1 MR. YOUNG: There should be, if you hover your
2 mouse on the bottom of the screen --

3 MR. COCHRAN: I am.

4 MR. YOUNG: -- one of the icons that says share
5 content.

6 MR. COCHRAN: No.

7 MR. YOUNG: Or there is a tab on the top left that
8 says share.

9 MR. COCHRAN: Ah, okay. Sorry. My screen is
10 greyed out also.

11 MS. SCHELLIN: It sounds like it's something with
12 your screen. You may have to pull it back up again.

13 MR. COCHRAN: Sorry.

14 CHAIRMAN HOOD: And just take your time, we'll get
15 it. We can take a few moments to try to get it straight.

16 MR. YOUNG: If you go to the share tab and click
17 file, can you pull it up that way?

18 MR. COCHRAN: Yes, I'll try to do that. I'll have
19 to close it out a different way then. Of course, it goes --
20 if there is another, well --

21 CHAIRMAN HOOD: Mr. Cochran, would you like for
22 us to come back to this case?

23 MR. COCHRAN: Yes, please.

24 CHAIRMAN HOOD: Okay.

25 MR. COCHRAN: Thank you.

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1 CHAIRMAN HOOD: No problem. This is something,
2 trial and error, we're trying to make it work. So to me,
3 whatever you're dealing with over there try to get it, I
4 think works to our benefit.

5 So as we continue to move on and we get into more
6 of these cases, especially potential cases, this will help
7 us. So that's why I don't mind taking the time now, let's
8 try to work out some of the kinks. But if you want us to
9 come back, we can do that.

10 MS. SCHELLIN: If he could just turn his camera
11 off.

12 (Simultaneous speaking.)

13 MR. YOUNG: He can email the file too.

14 CHAIRMAN HOOD: Okay, so we'll come back. Okay --

15 COMMISSIONER MAY: Can I also make a suggestion --

16 CHAIRMAN HOOD: Sure.

17 COMMISSIONER MAY: -- that if in fact it continues
18 to have difficultly that Mr. Cochran can email the
19 presentation to Paul Young, who then can put it up on the
20 screen and just --

21 MR. YOUNG: Yes.

22 COMMISSIONER MAY: -- Paul run through the
23 presentation at Steve's direction.

24 CHAIRMAN HOOD: Okay, why don't we just stay here
25 and let's just work it out.

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1 COMMISSIONER MAY: Well I was not suggesting that,
2 I was just saying as a backup.

3 CHAIRMAN HOOD: Well let's just see because here's
4 the thing, I --

5 MR. COCHRAN: I'll be happy to do that, I'll send
6 it to Paul Young.

7 CHAIRMAN HOOD: Okay, so we can wait.

8 MR. COCHRAN: Why don't you go ahead, it might
9 take a couple, a minute or two.

10 CHAIRMAN HOOD: Oh, okay. All right, we'll go
11 ahead. Let's move on now.

12 Let's go to Zoning Commission Case Number 20-10.
13 This is the Office of Planning, Text Amendment to Subtitle
14 U, Chapters 510 and 516, MU Use Groups D and E, fast food
15 establishments and prepared food shops. Ms. Crystal Myers.

16 MS. MYERS: Good afternoon, Commissioners. The
17 Office of Planning is pleased to bring forward Case 20-10,
18 which is a Text Amendment to Subtitle U, Sections 510 to 516.

19 This text amendment to MU Use Groups D and E would
20 allow for more fast food and prepared food shops in these low
21 to moderate density mixed-used zones. The nature of fast
22 food has changed significantly over the last decade with the
23 evolution and popularity of fast casual restaurants.

24 Many small businesses are prepared food shops and
25 fast food establishments. These uses provided employment for

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1 many and provide business ownership opportunities through
2 franchises.

3 After viewing the zoning regulations OP identified
4 barriers and challenges on these types of businesses in areas
5 appropriate for mixed-use development. So OP is proposing
6 changes that include, distinguishing between fast food uses
7 and single-tenant detached buildings and fast food uses in
8 shopping centers or multi-tenant buildings because of their
9 differing impacts on neighborhoods.

10 And U3 zones now allowing fast food uses in
11 shopping centers multi-tenant buildings as special exceptions
12 and removing the maximum number of seats permitted as a
13 matter of right for prepared food shops because occupancy is
14 already regulated by building and fire codes.

15 These proposed changes would allow more land use
16 opportunities for smaller eating and drinking establishments
17 to start up and grow in the District. And these changes
18 would not be inconsistent with the comprehensive plan.

19 The OP is recommending the Commission setdown text
20 amendment case 20-10 for public hearing. And OP requests the
21 flexibility to work with the Office of Attorney General on
22 any conforming language, which is something the proposed text
23 is necessary. Thank you.

24 CHAIRMAN HOOD: Thank you, Ms. Myers, I think that
25 report was very well done. Let me see if my colleagues have

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1 any questions or comments. Commissioner May? Commissioner
2 Shapiro?

3 COMMISSIONER MAY: I have no comments, no.

4 CHAIRMAN HOOD: Commissioner Shapiro?

5 COMMISSIONER SHAPIRO: No comments, sir.

6 CHAIRMAN HOOD: Commissioner Turnbull?

7 COMMISSIONER TURNBULL: Mr. Chair, I have no
8 comments other than any, any possibility of increasing
9 employment is to me fine. I'm totally in favor of it.

10 CHAIRMAN HOOD: And Vice Chair Miller?

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes,
12 thank you, Ms. Myers, for your report. I agree with
13 generally everything that's in your report.

14 I never thought I would say this but I think this,
15 at least in this temporary period that we're in need to look
16 at as well the permit prohibitions on drive thru. Remember
17 that case, I think in our last meeting, with Skyland.

18 A need to look at the current prohibitions to see
19 whether they should be, if not remove the prohibition in
20 mixed-use areas, at least allow some kind of temporary
21 special exception for them while we practice a lot of social
22 distancing and different types of contact through delivery.
23 But I appreciate your report, thank you.

24 CHAIRMAN HOOD: Okay. I really do appreciate your
25 report and I think it's very timely, so I don't have anything

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1 else to add. I think the parties already hit it so the
2 request to set it down. I remove that we setdown Zoning
3 Commission Case Number, thank you, Ms. Myers.

4 I remove that we setdown Zoning Commission Case
5 Number 20-10 and ask for a second.

6 VICE CHAIR MILLER: Second.

7 CHAIRMAN HOOD: It's been moved and properly
8 seconded. Ms. Schellin, could you do a roll call vote?

9 MS. SCHELLIN: Commissioner Hood?

10 CHAIRMAN HOOD: Yes.

11 MS. SCHELLIN: Commissioner 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: The vote is 5-0-0, to setdown
20 Zoning Commission Case Number 20-10 as a rulemaking case.

21 CHAIRMAN HOOD: Let's keep right on going. We'll
22 come back to Mr. Cochran after we do this next case. I
23 believe he ought to be ready by then, I think.

24 Give me a second. Okay, next we have Zoning
25 Commission Case Number 20-11, Office of Zoning. This is the

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1 Office of Zoning, Text Amendment to Subtitles Y and Z,
2 Virtual Hearings. They have one, a request for emergency
3 action, immediate publication of proposed rulemaking and we
4 have setdown, I believe.

5 Ms. Schellin, are you, Ms. Schellin?

6 MS. SCHELLIN: Yes. Yes. So we are asking, as
7 the Zoning Commission and the Board of Zoning Adjustment,
8 move forward with contested case hearings.

9 We thought it would be best to put in our
10 regulations some text amendments that would set some rules
11 and procedures for the Board and the Commission to have in
12 place for virtual hearings and meetings. And so we've come
13 up, after working with OAG, some text for Subtitles Y and Z.

14 And we're asking the Commission to take emergency
15 action on these, because by the time we would have a hearing
16 it would be after we're planning to move forward. The Board
17 is planning to have their first rescheduled hearings June
18 3rd. And so we'd like to have the Commission take emergency
19 actions today and authorize the immediate publication of a
20 proposed rulemaking, and consider setdown. If you would
21 please do so.

22 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.
23 I will tell you that when I looked at this, I'm going to go
24 first here, I went through. I have a few questions that I
25 would like to ask, Counsel.

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1 But first thing is, while I understand that this
2 is basically tailored, the way I read it, towards the
3 pandemic and what's going on now. And I think as former
4 Chair of the BZA mentioned some years ago, that this was
5 already being done and it already was permissible.

6 I think that we need to add, to not limit
7 ourselves just to this pandemic, that while we're taking the
8 bite of the apple we also need to give ourselves the
9 opportunity, if the Board or the Commission chooses to, and
10 everything else falls in place, like it's doing now for the
11 most part, if the Board chooses to, they can do it other than
12 just a pandemic.

13 So I think, I don't know if that, I don't see that
14 in there. If it's in there, somebody can direct me to it.
15 But I think that needs to be added. I would ask OAG and the
16 Office of Zoning to work on that.

17 I just think that if we're going to go down this
18 line, I know this has been mentioned some years back, that
19 we need to go on down the line. And not just for a pandemic
20 and then that's the end of it.

21 And I know there is some other things that may
22 have to take place, but I think if we put it in our
23 regulations, it was up to the Commission and to the Board,
24 whether we see. Because I can tell you, there's a whole lot
25 of people not going to be rushing even after they say open

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1 up. A whole lot of people not going to be rushing to go
2 places even then. I can assure you of that.

3 So those are my comments, but let me hear from
4 others. Commissioner May?

5 COMMISSIONER MAY: Sorry, I'm still not use to
6 like always being the first one talking in this environment,
7 so.

8 Mr. Chairman, sorry, somebody is typing and they
9 have not muted, I don't know who that is but it's loud.

10 I agree this is something that we should be
11 thinking about as a longer-term option. I will say that when
12 the former Chairman of the BZA brought this up on a regular
13 basis I was steadfastly resistant to it because I always felt
14 that when members of the public come and seek to testify in
15 front of the Board or in front of the Commission that we, it
16 was our duty to be there in person, to hear them when they
17 were going to be there in person.

18 The pandemic does change our perspective on things
19 a little bit. And I'm thinking about this, not so much in
20 terms of what this does for the convenience of the
21 Commissioners and the Board Members, because that was really
22 what was, a lot of the thinking before when this was
23 discussed.

24 It's really for the people who don't want to come
25 down and sit in the hearing room for a long period of time.

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1 And I think especially about circumstances like BZA cases
2 where people will wait eight hours to have their case heard.
3 And they've spent a lot of time not knowing when they're case
4 might be called or not knowing how long they might have to
5 sit there.

6 And I just think the notion, even if we go back
7 to in-person meetings and the Board goes back to in-person
8 meetings, I think having the option of participants in,
9 particularly BZA cases, do so remotely I think would be a
10 tremendous service and convenience for them.

11 So I'm open to the idea of keeping it as a printed
12 option in some way. I'm not sure how best to do that or
13 whether we need to address that immediately. I think
14 certainly we need to take action today to make sure that
15 we're on solid footing when we have our hearings starting on
16 June 3rd.

17 I do have questions about some of the particular
18 language. And I was hoping I could ask about those.

19 The first one is, there is a change, or a proposed
20 change to the regulations, that requires that any new
21 exhibits be submitted to the record 24 hours in advance. And
22 I can appreciate that.

23 Certainly want to get information further in
24 advance whenever possible. It changes the rule that had said
25 that it had to be submitted by 9:00 a.m. on the day of the

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1 hearing, or whatever.

2 The thing that I find confusing about that is that
3 we also do have new exhibits submitted to the record at the
4 hearing. And I don't know how that fits into this. Whether
5 we need to keep language in there that allows for exhibits
6 to be submitted to us at the hearing.

7 But I personally find that very helpful. And I
8 certainly would not want to be in the middle of a hearing
9 wanting to see some latest version of a design or some
10 photograph that's submitted by a concerned neighbor without
11 the ability to enter that information into the record.

12 So I don't know, maybe, Ms. Schellin, is that
13 something that, I mean how do we handle that now given that
14 theoretically everything is supposed to be in there at 9:00
15 in the morning?

16 Ms. Schellin, are you --

17 MS. SCHELLIN: Yes, that's, I think that's, yes,
18 for BZA is supposed to be by 9 o'clock in the morning. And
19 that's only to, if they want to submit it through IZIS.
20 Otherwise they have to bring it to the hearing. That is the
21 rule.

22 And it's the same way with the Zoning Commission.
23 The way it is, is they have to submit it by 5 o'clock or they
24 have to bring it to the hearing.

25 COMMISSIONER MAY: Right.

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1 MS. SCHELLIN: So it isn't that they can't submit
2 it at the hearing, it's that they can't submit it through
3 IZIS. Because if we're not, if we're in the middle of a
4 hearing and we're trying to pay attention to what you guys
5 want and we don't see it uploaded and don't release it to you
6 while you're in the middle of asking questions, then you
7 don't see it. And if you proceed to take action on the case
8 that evening, you may not have known something was submitted
9 because we don't know.

10 COMMISSIONER MAY: Right.

11 MS. SCHELLIN: So that was the reason for that.
12 It's not that they could not submit at the hearing, it's that
13 they can't submit through IZIS --

14 COMMISSIONER MAY: Okay, that's fine.

15 MS. SCHELLIN: -- at that time, on the day of the
16 hearing.

17 COMMISSIONER MAY: So how do we accommodate that
18 in this circumstance? Because if we're going to be having
19 contested hearings, we're going to have the equivalent of
20 submitting it to us at the hearing?

21 MS. SCHELLIN: Well I think that, because this is
22 a different type of hearing, the idea was that they submit
23 it prior to the hearing for that exact reason, they can't
24 hand it in.

25 If you guys don't like the 24-hour bit, it's up

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1 to you to change that. But we thought that that would be a
2 good time to have it by 4 o'clock the day before for the
3 Zoning Commission and 9 o'clock the day before for the BZA.
4 Or 9:30, whenever they start. And that way it allows staff
5 time to upload it or whatever.

6 This would just be for the emergency action that's
7 being taken, unless you guys change that right now before we
8 submit that. I mean that's up to you guys.

9 COMMISSIONER MAY: Right. I mean I think somehow
10 it would be good for us to be able to get new information at
11 the hearing, even if it's a virtual hearing.

12 So I'm not sure how best to do that. Whether it
13 means changing this particular language or whether it means
14 that we have some other way of doing it.

15 I mean are going to have people testifying on
16 screen, will we be able to see them when they testify? And
17 so will they be --

18 MS. SCHELLIN: Yes.

19 COMMISSIONER MAY: -- able to share their screen
20 and then show us that information?

21 MS. SCHELLIN: Yes. And you can always, these are
22 the Board and Commissions rules, so they are waivable.

23 So an applicant could, maybe that day they have
24 a meeting with the ANC and the community and they come up
25 with a new landscaping plan.

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1 CHAIRMAN HOOD: So --

2 MS. SCHELLIN: And because it's less than 20 days
3 prior to the hearing, they would have to ask for a waiver
4 because they're making changes to the plan.

5 CHAIRMAN HOOD: Let me just interrupt.

6 MS. SCHELLIN: So they would have to ask for a
7 waiver.

8 CHAIRMAN HOOD: Ms. Schellin, let me just
9 interrupt. Commissioner May, I hear you loud and clear and
10 I would agree. We do have people come right in at the
11 hearing and we need to hear from them.

12 Whatever we need to do to make that work, that's
13 what we'll do. If they need to share their screen, if we
14 need to show them how to do it. But we will not
15 disenfranchise --

16 COMMISSIONER MAY: Right.

17 CHAIRMAN HOOD: -- I'm sure nobody wants to
18 either, we will not disenfranchise anybody who wants to come
19 into a hearing.

20 But we will, and again, some of what we have here,
21 we probably do need to tweak, so I hear you loud and clear.
22 As we move forward today, we need to make sure that we, we
23 might have to come back and tweak exactly what you're saying.

24 Somebody calls in or tunes in and they want to
25 submit something to us, if they know how they can share the

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1 screen or whatever the case is. Or we can hear their
2 testimony and they may be able to submit that one piece
3 source or however they see fit and however they know how to
4 do it.

5 So I hear you loud and clear. And that 24-hour,
6 I want to make sure that we take, and I wrote in my notes
7 walk-ins. We're going to have to do that, just like we do
8 at regular hearings.

9 MS. SCHELLIN: Right.

10 CHAIRMAN HOOD: I didn't want to interrupt but I'm
11 trying to help move it along.

12 MS. SCHELLIN: Yes.

13 COMMISSIONER MAY: No, that's good.

14 MS. SCHELLIN: All right.

15 COMMISSIONER MAY: I'm glad about that.

16 MS. SCHELLIN: Yes. Yes.

17 COMMISSIONER MAY: And then I --

18 MS. SCHELLIN: Just like we are now, we're always
19 accommodating.

20 COMMISSIONER MAY: Yes. And then the other
21 question I have, so I assume that this is something that we
22 can take action on what's before us today knowing that we
23 might need to introduce flexibility at the actual hearings,
24 but I do think that if we're going to come up with some sort
25 of system for doing this that we should codify it in some

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1 way. So we may have to come back and tweak these rules later
2 on.

3 Okay. And the next question had to do with
4 essentially, we'll, you said, you used the words walk-ins,
5 Chairman Hood, my question is more about, if we have, say we
6 have a hearing where we have a lot of people testifying, the
7 rules say you have to be signed up 24-hours before the
8 hearing.

9 So is that on day one of the hearing or is that,
10 I mean I guess we can also pay attention to that question if
11 we come to the end of Day 1 of the hearing we can say, people
12 will be able to continue to sign up until 24-hours before the
13 next hearing or we could say no, we're only going to hear
14 from the people who've already signed up.

15 But I just wanted to flag that because we are
16 changing, we're tweaking the rules just a little bit on how
17 we get people signed up. And I think that given that we're
18 doing this all online it makes sense to have that 24-hour in
19 advance rule. Or at least to have some deadline in advance
20 to make sure that everybody is signed up. So those are the
21 couple of things I wanted to say.

22 MS. SCHELLIN: And if I may, I think that what you
23 guys have done in the past was, depending on where you were
24 in your hearing, you know, if you had already started taking
25 witnesses, then you cut it off --

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1 COMMISSIONER MAY: Right.

2 MS. SCHELLIN: -- as far as sign ups, you know.
3 Depending on where you were.

4 If you were just on the ANC giving their report
5 then you didn't shut it off, the Chairman would always say
6 people could still sign up. If you had already started the
7 witnesses then, and you got through those in support, then
8 it wasn't really fair that those in opposition could continue
9 to add on and it was always cut off that evening.

10 COMMISSIONER MAY: Right. Okay, thank you.

11 CHAIRMAN HOOD: All right. And again, I think it
12 pretty much has worked in the past and if we need to tweak
13 it, even in this virtual situation, we will.

14 But we have dealt with those different add-ons and
15 people coming in late. But I think it would work out as we
16 get a track record going, so I think those are great
17 questions.

18 Okay, Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. And
20 I had some of the same questions actually, and just to
21 comment on them.

22 I want to err on the side of walk-ins as well.
23 So I don't think I understand this. We are saying that an
24 individual has to sign up 24-hours in advance just to speak?

25 That's what this language reads as opposed to now

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1 when they could just show up at the hearing and they can
2 speak?

3 MS. SCHELLIN: Yes. And part of that is because
4 we do go onto WebEx and then register them and then they get
5 an invitation sent just like you guys do.

6 So they get that information ahead of time so it
7 allows us to, and I think we're thinking more like, when we
8 get those cases where there could be a lot of people who sign
9 up. So it gives us the time to get everybody registered and
10 send the invitation to them through WebEx. That's the
11 thought behind it.

12 And obviously not everything is a hard-fast rule.
13 We're not saying, oh, if you don't sign up 24-hours in
14 advance you can't testify. But that's what we're trying to
15 get people to hold to just so that it gives the office and
16 staff as much time as possible. Because it is a new process
17 for us too to have to, a little more work for us to do too.
18 So we want to have as much time as possible to get people
19 registered.

20 COMMISSIONER SHAPIRO: Yes. And I appreciate the
21 balance around this. So Mr. Chair, I'd say that language for
22 me is really tough. Even, and I get how complicated it can
23 be for the Staff, but I just think it sends a really
24 complicated message to people.

25 Even if we're going to be constantly flexible

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1 about it, I wouldn't, I'd find some way to build that
2 flexibility in on that one.

3 I'm not sure the best way to do it but I wouldn't
4 want to see, you got to sign up 24-hours in advance for you
5 know anyone.

6 CHAIRMAN HOOD: So Commissioner Shapiro, maybe
7 it's how it's worded. The Office of Zoning, or the Zoning
8 Commission, would prefer. I think that can be worked out
9 because I do, I don't want it to be as Sharon, you mentioned,
10 a hard-fast rule.

11 COMMISSIONER SHAPIRO: Yes.

12 CHAIRMAN HOOD: It should not be a hard fast rule.

13 COMMISSIONER SHAPIRO: I prefer it as a good
14 guideline.

15 CHAIRMAN HOOD: Yes. I think it's how we word it.
16 We would prefer or strongly encourage. But not saying that
17 if you don't do that we're going to cut off. I don't think,
18 that, I can tell you, as long as I'm Chairman that will not
19 be the case.

20 We will not cut anybody off. We will hear from
21 everybody. It's just how we do it. Kind of like our regular
22 hearings when we meet in person. I don't think --

23 COMMISSIONER SHAPIRO: So I'm with that. I
24 appreciate that. And I'm also sensitive to how complicated
25 this can be for staff. And also, and this goes to Point I

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1 on here as well.

2 It says a party to a case may request the Board
3 not to hold a public hearing as an online virtual hearing,
4 but instead postpone the public hearing until the time the
5 Commission resumes regular in-person public hearings.

6 That one feels complicated for me as well. That's
7 open to any party to a case. And I feel like, I don't know
8 how to say it, but say it. That feels like it's ripe for
9 abuse.

10 And I'm not quite sure what to do about that. But
11 it feels like that a party who doesn't want to see something
12 move forward gets to just kick it down the road, and kick it
13 down the road pretty significantly.

14 And if we feel that this virtual, if we feel like
15 these virtual hearings are quality, then I'm not sure why we
16 would give somebody the power to permanently postpone until
17 the world situation, or our situation changes with COVID-19.

18 I don't think that we want to say that this is so
19 less than that a hearing shouldn't even move forward if
20 somebody isn't comfortable with it.

21 MS. SCHELLIN: Could I recommend that maybe that
22 just be the applicant, and not all parties?

23 COMMISSIONER SHAPIRO: That makes, that absolutely
24 makes absolute sense to me that an applicant would have that
25 authority to decide. But not all parties, yes.

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1 MS. SCHELLIN: I mean you know, another party may
2 make the recommendation. But maybe let the applicant be the
3 one to decide. Because it's ultimately going to be on them
4 whether the case, knowing whether another party might decide
5 to appeal their case or not. So --

6 COMMISSIONER SHAPIRO: And it's -- just one more
7 thing I'd like to say, building on that. Before --

8 CHAIRMAN HOOD: Before we leave your last point
9 --

10 COMMISSIONER SHAPIRO: Go ahead.

11 CHAIRMAN HOOD: Let me go back to your last point.
12 What was your, because, let an applicant decide. What, can
13 you go back to your last point? Unfortunately, I was moving
14 ahead to the next case. Yes. So let's go back to your
15 point. I'd like to hear that again. I want to make sure --

16 COMMISSIONER SHAPIRO: So it says, a party to a
17 case may request the Board or the Commission to hold a public
18 hearing as an online, not to hold.

19 In other words, any party could request. Now
20 granted, it's a request. It's not a, they don't have the
21 authority. They're just making a request to us to postpone
22 it if they don't want to do it virtually.

23 And the way this language is written, any party
24 can request postponement. Now, the flip side of this is,
25 right now any party can request postponement at -- if they

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1 want to anyhow.

2 So at some level it doesn't really change a whole
3 lot. So I'm kind of talking out loud as I'm talking this
4 through. Because I'm kind of wondering whether it really
5 matters, considering anyone can request anything they want
6 anyhow.

7 CHAIRMAN HOOD: So the way I understood that, and
8 I think I need to go back and look at that again. I thought
9 that if somebody wanted to opt out of a virtual hearing, then
10 they can do it. And --

11 MS. SCHELLIN: That -- yes, Commissioner, or
12 Chairman Hood, you're correct. And we would actually ask the
13 applicant that question before we would even schedule it.
14 If they opt out, we would not even schedule it.

15 CHAIRMAN HOOD: So here's my issue. If an ANC,
16 some, you know, some people, including myself, are not all
17 that technically savvy. So you know, don't be surprised if
18 I get on a half an hour early for all the mistakes that I'm
19 going to make.

20 So some people may not have the advantages of some
21 of the things. So even a party, Commissioner Shapiro, this
22 goes, you're saying should be on just the applicant.

23 Even a party may not have all of the stuff to be
24 able to do it. So we have to take that into consideration
25 as well. And they may too, whoever the party is in the case,

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1 need to opt out of a virtual, and then they do it in person.

2 So I just don't think it should all be solely up
3 to the applicant, unless I'm missing the point. But I don't
4 think I am.

5 COMMISSIONER SHAPIRO: I think that's accurate.
6 And I also think that the piece here is that it really is a
7 request to the Board. Even if an applicant says, we would
8 request that this hearing not move forward, we can still
9 choose to say, no, it is going to move forward.

10 CHAIRMAN HOOD: Move forward as a virtual?

11 COMMISSIONER SHAPIRO: Yes. This does not, we do
12 not -- I do not want us to give away our authority to
13 determine whether a case moves forward or not. This is, and
14 this --

15 CHAIRMAN HOOD: So well --

16 COMMISSIONER SHAPIRO: -- doesn't do that. This
17 language only says it's a request. And that's fine.

18 CHAIRMAN HOOD: Okay. As, I think we're probably
19 saying the same thing. My only concern is, I don't want us
20 to, I would not be -- well you know what, let's just run this
21 race --

22 MS. SCHELLIN: Our --

23 CHAIRMAN HOOD: -- and see where it's going.

24 MS. SCHELLIN: Chairman Hood, if I may, our
25 understanding from Gottlieb Simon is that all ANCs are

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1 holding virtual hearings except for maybe, I think it's two.

2 So the ANCs are actually holding virtual hearings.

3 And you have to remember, you don't have to do this visually.

4 They can participate just by phone also.

5 CHAIRMAN HOOD: Correct.

6 MS. SCHELLIN: As you can see, several people are

7 doing this by phone. You don't have to be on camera either.

8 So almost everyone has a phone these day. So you can

9 participate by phone.

10 And it doesn't have to be a cell phone. They can

11 call from their home. So it really is difficult for someone

12 to say that they can't participate virtually.

13 COMMISSIONER SHAPIRO: This is, and again, I

14 brought this up, and as we're talking it through, I'm making

15 better sense of it. All this is is a request anyhow. As

16 long as we're clear --

17 MS. SCHELLIN: Yes.

18 COMMISSIONER SHAPIRO: -- that that's not

19 somebody's -- that's it not their decision, I'm fine with

20 this language.

21 CHAIRMAN HOOD: Okay. Okay.

22 MS. SCHELLIN: Right. Because anybody can make

23 a motion. And as Chairman Hood brought up, we have had a

24 separate discussion that an applicant could opt out.

25 That was something that came up I think it was

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1 through the Planning Association. Then we would not even
2 schedule them.

3 And so if they were, you know, if an applicant was
4 worried about the applicant and the ZC or BZA was afraid to
5 move forward, because they were worried about an appeal, then
6 I think that would be justifiable for them to be postponed
7 until you guys were back in the hearing room.

8 I mean that seems to make total sense to, you
9 know, postpone that. But of course, I don't make the
10 decisions. It would be you guys or the Board.

11 COMMISSIONER SHAPIRO: That doesn't -- everything
12 you just said is the case before COVID. If an applicant
13 requests to postpone a hearing, they don't make that
14 decision, but we'd certainly entertain that.

15 So at some level, I just want to be clear in my
16 head. At some level none of this really changes. Because
17 that's all the way it is anyhow.

18 MS. SCHELLIN: Yes. And if I may, I'm just I'm
19 sorry, I'm texting also back and forth with our Director,
20 because, you know, we all worked on this language together
21 with OAG.

22 She is good with the language of strongly
23 encourage the 24 hour sign up that somebody, Commissioner May
24 or Commissioner Shapiro recommended. We like that. That's
25 fine.

1 CHAIRMAN HOOD: Okay, yes. Well since everybody
2 likes it, Chairman Hood represent.

3 MS. SCHELLIN: Oh, okay. Okay.

4 COMMISSIONER SHAPIRO: Then again --

5 MS. SCHELLIN: Whoever.

6 COMMISSIONER SHAPIRO: I'm now fine with the
7 language in I. So and I'm done. I don't have any more
8 questions. And I'm fine with the language in I.

9 CHAIRMAN HOOD: But I think though, to your point,
10 Commissioner Shapiro, I think that discussion helps us to
11 come up with a better resolve as we continue to move forward
12 in this virtual arena that we're in. Okay. Commissioner
13 Turnbull.

14 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Let
15 me be the first to say that I really do miss the drama of our
16 hearings, the intensity, and the camaraderie, and the love
17 between the applicant and the opposition.

18 You can't really get the full flavor of that
19 unless you're actually in the hearing room, and notice the
20 difference, the looks on the peoples' faces.

21 I mean there's something about the hearing room
22 that brings everything together. But we're in a new era.
23 And I don't think it's going to -- it may change a little bit
24 in the future as we go forward.

25 But I think, I mean there have been times in the

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1 past when I reached the BZA when we've often said, hey, so
2 and so's not going to be here. They're going to send in an
3 absentee ballot.

4 Well they could have been at the hearing if they
5 had a remote connection to be able to say something. So I
6 think those opportunities are going to be able, or still be
7 around in the future.

8 That somebody who maybe can't be at the hearing
9 in person, but could be there remotely, I think those
10 opportunities are going to be still around as we go forward.

11 When we talk about someone wanting to get, submit
12 something the day of the hearing, I mean maybe it's an email.
13 Maybe it comes in as an email to either Sharon or Paul, or
14 somebody. And maybe through a split screen technology.

15 I'm not an IT guy. So I don't know what you can
16 do to get that image up on the screen right away. But I am
17 sure that it's out there. I'm sure there is a way that it's
18 out there.

19 I'm fine with the language that's in here now.
20 And I think between now and final, maybe if some of the
21 comments that we've already said can be looked at a little
22 bit further, maybe we can tweak this again going on.

23 But I think I'm in favor of that. As we go
24 future, as we go on for our hearings, things aren't going to
25 be the same. So we have to be prepared to use new tools, and

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1 use the tools.

2 I mean WebEx has taken us a long time just to get
3 to even where we are now. And I'm sure we all realize that
4 this is not the perfect way. But it's going to get better.

5 You know, I mean I know other people that are on,
6 what's that other one, Zoom. People are Zooming. And so
7 there are other, there are ways to do this.

8 I'm sure that as we go along with WebEx, we're
9 going to be able to tweak it and get it better, and maybe get
10 a lot of that last minute stuff.

11 I mean we have to be able to see it. If it comes
12 in, we've got, all five of us have got to be able to see it
13 on the screen. But I think it's there. I think the
14 technology can be used, can be adapted. But I'm totally in
15 favor of this going forward.

16 CHAIRMAN HOOD: Okay. All right. Thank you, Mr.
17 Turnbull. Vice Chairman Miller.

18 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
19 would just associate myself with all of the remarks by you,
20 Mr. Chairman, and all of my colleagues, and by Ms. Schellin.

21 And appreciate the work that the Office of Zoning
22 staff, and Office of Attorney General staff have done in a
23 very short time period to make sure that our regulations
24 authorize these virtual hearings in a way that works as
25 closely as and as efficiently as possible, as our previous

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1 reality hearings.

2 And that in between proposed and final we're doing
3 emergency tonight, and we're doing proposed I think tonight.
4 Maybe between proposed and final, we look at what you said,
5 Mr. Chairman, making sure that we have the ability to do
6 virtual public hearings in the future, beyond the public
7 health emergency that has been declared by the Mayor, and
8 authorized by the Council.

9 There may be a reason why we would want to
10 continue to do that. We may need additional statutory
11 authority. OAG can advise us in the future whether we do
12 need that, when, if and when, hopefully when, not if this
13 public health emergency expires in the future.

14 So I'm comfortable with going forward, and thank
15 everyone for all their work and dialogue.

16 CHAIRMAN HOOD: Okay. So with that, I appreciate
17 all the comments. I think I've commented enough. And again,
18 this is another one of those cases where we'll continue to
19 monitor.

20 And as all of my colleagues, Commissioner May,
21 Shapiro, Turnbull, and Vice Miller mentioned, we will take,
22 make some changes, then we will. We will definitely do this
23 immediately.

24 So I would go ahead and I would move approval, I
25 mean not approval, I will move that we set down an emergency

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1 basis Zoning Commission Case number 20-11, Office of Zoning
2 text amended to Subtitles Y and Z, virtual hearings, request
3 for emergency actions, and the immediate publication of
4 proposed rulemaking with the comments we mentioned, and the
5 alternative about the pandemic.

6 And adding that that should be taken as by
7 example, make sure we put that in there, not just for the
8 pandemic. And also move that we set this down, case down for
9 a hearing. Is there a second?

10 VICE CHAIR MILLER: Second. Second.

11 CHAIRMAN HOOD: Okay. It's been moved and
12 properly second. Any further discussion?

13 COMMISSIONER MAY: Yes. I would just want to
14 clarify, we're talking about with the tweak to the language,
15 saying that people are strongly encouraged to sign up 24
16 hours in advance.

17 CHAIRMAN HOOD: Yes. Every comment that we made,
18 Mr. May, that is doable right now, we need to, I'm asking
19 staff to put that in.

20 COMMISSIONER MAY: Include that. Okay.

21 CHAIRMAN HOOD: Every comment that's been
22 discussed.

23 COMMISSIONER MAY: Okay.

24 CHAIRMAN HOOD: Any further discussion? Ms.
25 Schellin, can we do a roll call vote?

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1 MS. SCHELLIN: Commissioner Hood.

2 CHAIRMAN HOOD: Yes.

3 MS. SCHELLIN: Commissioner Miller.

4 VICE CHAIR MILLER: Yes.

5 MS. SCHELLIN: Commissioner Shapiro.

6 COMMISSIONER SHAPIRO: Yes.

7 MS. SCHELLIN: Commissioner May.

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner Turnbull.

10 COMMISSIONER TURNBULL: Yes.

11 MS. SCHELLIN: The vote is five, to zero, to zero
12 to approve emergency, set the case down to approve emergency
13 action to publish the, for the immediate publication of the
14 proposed rulemaking. And to make the tweaks that the
15 Commission discussed this evening on the dais.

16 CHAIRMAN HOOD: Okay. Side note, Mr. Turnbull --

17 MS. SCHELLIN: And this is set down as a
18 rulemaking. This is set down as a rulemaking case.

19 CHAIRMAN HOOD: Mr. Turnbull said he missed the
20 camaraderie. I understand awhile back, maybe a couple of
21 weeks ago, one of the Boards in the city, I think the Charter
22 School Board, they were having a hearing, and they had a lot
23 of camaraderie. We don't want that tight. But, I'm --

24 MS. SCHELLIN: No.

25 CHAIRMAN HOOD: -- assuming we'll have some

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1 camaraderie. So anyway, I just wanted to respond to that
2 point. All right. Are we ready to go back? Or should we
3 continue to keep moving? Let me check in with Mr. Cochran,
4 with Paul. Are we straight?

5 MR. COCHRAN: With Paul, I think we're good.

6 CHAIRMAN HOOD: We're good? Okay. Well let's go
7 back. Let me call that case, and then we'll go back to it.
8 Okay.

9 Let's go back to Zoning Commission Case, all is
10 in order, Zoning Commission Case number 20-06, Felice
11 Development Group, first stage PUD & consolidated PUDs and
12 related map amendment at Square 1025E and 1048S, and
13 Reservations 129 and 299. Mr. Cochran.

14 MR. COCHRAN: Okay. Thank you, Mr. Chair. And
15 thanks for your patience. I'm still Stephen Cochran. And
16 I'm still going to address Application 20-06. First slide,
17 Paul. Okay.

18 OP recommends the Commission set down this
19 application for a first stage PUD, and a consolidated PUD,
20 each with a related map and --

21 CHAIRMAN HOOD: Can I interrupt?

22 MR. COCHRAN: Sure.

23 CHAIRMAN HOOD: Can I interrupt? Maybe I'm not
24 seeing, I don't see, is anybody else seeing the presentation?
25 Okay, Paul, we need to see the presentation. Hold on a

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1 second, Steve, Mr. Cochran. Oh, there it is. Okay. We're
2 good. You can go ahead.

3 MR. COCHRAN: You know, it's a relief to know I'm
4 not the only one that has some issues with this. Okay. OP
5 is recommending that the Commission set this application
6 down.

7 It's for a first stage PUD and a consolidated PUD.
8 And each of those has a related map amendment to MU-9.

9 The location is a 2.9 acre site overlooking the
10 Anacostia River, east of the Navy Yard and the 11th Street
11 bridges. The Potomac Avenue Metro is a half mile to the
12 north. Third slide. Next slide, yes. Okay.

13 The site is bounded by Virginia Avenue on the,
14 that's that diagonal on the left, M Street, which is up on
15 the north, and Water Street, which is the diagonal to the
16 right.

17 The consolidated PUD is the blue area in the
18 center of your slide. And first stage PUD are the two orange
19 areas that flank it. Next slide. This shows the general
20 massing on the top, from the north. And then on the bottom
21 picture it's from the south. The consolidated PUD tower is
22 circled in sort of a purple. It's right in the middle.

23 And the completed project would have an FAR of
24 6.22. This would be generated by one 90 foot tall building,
25 which is the building on the left in the top slide, the top

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1 image.

2 And there would also be a second 130 tall
3 building. This would be divided into two towers, which would
4 be connected for zoning purposes by a bridge, which you see
5 in between those two towers.

6 There would be 900 apartments in the overall
7 project, and 45,000 square feet of retail or other
8 nonresidential space. At the bottom of your slide, where it
9 says, zoning compared to, you see how it would compare with
10 development permitted under both the existing PDR zoning and
11 the related map amendment of MU-9.

12 You would have housing, which of course PDR can't
13 have. There would be about the same density as a PDR
14 development. And the larger building would be 40 feet taller
15 than PDR allows. On the other hand, the height results in
16 the buildings covering only 63 percent of the site.

17 Of course, some zoning relief is requested. The
18 most notable would be the absence of parking or loading in
19 Building 2, that smaller building. The applicant also asks
20 that a relatively broad range of the uses be considered as
21 retail. Next slide.

22 Slide 5, yes. Thanks. Public benefits would
23 include extensive infrastructure and landscaping improvements
24 within public and private space, intended to provide both
25 publicly accessible gathering places, and to foster

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1 connectivity with the riverfront.

2 On this slide, the public space is in color. And
3 the applicant's land is greyed out. The applicant would also
4 provide 10 percent of inclusionary zoning units, as opposed
5 to the 8 percent IZ that is required by regulations. Next
6 slide.

7 The consolidated PUD is shown here from its
8 riverfront. This would contain 496 apartments, 49 or so
9 which would be IZ units. It would have most of the project's
10 retail space, and would also deliver most of the public
11 benefits with the consolidated PUD.

12 On this slide you can see the pedestrian
13 connection to the waterfront, from Virginia Avenue in yellow
14 on the left, and from M Street in yellow on the right.

15 And then the open spaces that exist next to the
16 retail, which is that red brick, almost podium like space.
17 Next slide. These elevations show that the consolidated PUD
18 tower's design incorporates both modernism and
19 traditionalism. Next slide.

20 Overall, the proposal would be not inconsistent
21 with the comprehensive plan, and other plans covering the
22 site. These include the future land use map, which
23 designates the site for medium density, mixed use
24 development, and institutional uses.

25 The policy map, which shows it as a land use

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1 change area, the housing element, and other policies in the
2 city wide, and Lower Anacostia near southeast elements. And
3 the Anacostia Waterfront Framework Plan, which recommends
4 this site be developed with a mixed use project, providing
5 open space and connections between Virginia Avenue and the
6 Waterfront.

7 Of course, next slide, there are a few concerns
8 the applicant would need to address before a public hearing.
9 First, they'd need to provide more information about the
10 implementation and maintenance in the public access details,
11 regarding the extensive improvements they're proposing within
12 public space. And then the access that the public would have
13 to certain improvements on private land.

14 Second, the applicant should enhance its current
15 proffer to its affordable housing proffer of 2 percent more
16 than is required. OP has examined this housing proffer
17 within the context of ANC 6B, which is mostly within the
18 boundaries of the Capitol Hill Planning Area.

19 The Mayor's 2019 housing equity report identifies
20 a need for 1,400 more affordable housing units in that
21 planning area, over the next five years. This vacant site
22 could provide a significant contribution to making that goal.
23 Additionally, OP has encouraged the applicant to commit to
24 LEED Gold and solar panels to CBE participation, and to
25 better integrating the different architectural styles in that

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1 consolidated PUD building.

2 We've also asked for renderings of the project's
3 appearance from the southern part of Capitol Hill, and from
4 across the river. And that concludes the testimony. And of
5 course I'm available to answer any questions.

6 CHAIRMAN HOOD: Okay. Thank you very much, Mr.
7 Cochran. We appreciate the report. Let's see if we have any
8 questions or comments. Let's start with Commissioner May.

9 COMMISSIONER MAY: Thank you. So I do remember
10 this case from 2015, or not this case, but this site from
11 2015 when it was a different PUD. It seems to have some
12 characteristics in common.

13 I'm wondering, was it, in terms of the overall
14 massing of it, is it approximately the same as what we had
15 previously reviewed and approved? I just don't remember off
16 the top of my head.

17 MR. COCHRAN: Yes. Each one of them had a
18 pedestrian pass through. And one of them had a vehicular
19 pass through in what would align with 13th and 14th Street.

20 They're slightly different in their geometry in
21 this one. But they're there. This one also has a bit more
22 of a cut through, not a cut through, but like a way to seem
23 to look through the building, in that large consolidated PUD.

24 There's a cut through up to about the third level.
25 Other than that it's pretty much the same site plan. All of

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1 the benefits in the public space are precisely the same.

2 COMMISSIONER MAY: Sure.

3 MR. COCHRAN: It's just 40 feet taller on the two
4 towers for the Building 1.

5 COMMISSIONER MAY: Okay. So that's the thing.
6 So the height of it has gone up 40 feet.

7 MR. COCHRAN: Yes. The height's gone up. And the
8 number of units has gone up by about close to 400.

9 COMMISSIONER MAY: Okay. Yes, I did not remember
10 how tall it was before. And what was the -- what's the
11 zoning there?

12 MR. COCHRAN: Excuse me, Mr. Commissioner. The
13 tallest building in the old one was 110 feet. So beyond
14 that, it's gone up only 20 feet.

15 COMMISSIONER MAY: Beyond 20 feet.

16 MR. COCHRAN: It's just 40 feet over what the PDR
17 allows.

18 COMMISSIONER MAY: Got it. That's a little bit
19 less --- a little bit less shocking. Is that it? I did not
20 remember it being that different. Okay. There's a bridge
21 between two buildings. You say for zoning purposes. Why is
22 that necessary?

23 MR. COCHRAN: It's actually for functional
24 purposes too. I -- we'd have to wait for the hearing to
25 explain the zoning reason. I'm sorry.

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1 COMMISSIONER MAY: Yes.

2 MR. COCHRAN: Because the applicant has made
3 theoretical lots here. And I haven't analyzed that.

4 COMMISSIONER MAY: Okay.

5 MR. COCHRAN: But it would be an actual connection
6 of a corridor at about the third level. So they would
7 function as one building.

8 The parking garage is under both of the towers.
9 That would get constructed in the first stage. With the
10 consolidated PUD the entire garage would be constructed. So
11 there's a lot of functional relationship, as well as the
12 probable zoning relationship.

13 COMMISSIONER MAY: And the -- that, the space
14 that's being bridged there, that's not a paper street, or was
15 never supposed to be a street, right?

16 MR. COCHRAN: No. The streets, and a couple of
17 the formerly federal reservations were closed well before the
18 last PUD as well, the previous PUD.

19 COMMISSIONER MAY: Right. No. I'm talking about
20 historically. Were they streets? I mean I remember this
21 being an issue at one point, I thought with this case, with
22 the State Historic Preservation Officer --

23 MR. COCHRAN: Yes.

24 COMMISSIONER MAY: -- wanting to make sure that
25 what were original L'Enfant streets continue to be open

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1 spaces. Is that, am I misremembering something?

2 MR. COCHRAN: I will be happy to get back to you
3 on that. I'd need to double check.

4 COMMISSIONER MAY: Yes. It doesn't look it.
5 Because when you look at it with the rest of the street grid,
6 it looks like the major portion of the site aligns with the
7 street grid to the north. But there's something about it
8 that I was just, you know, again, going off my hazy memory
9 of this.

10 I appreciate the fact that you're asking for views
11 from across the -- to the north from southern Capitol Hill,
12 as well as from across the river. I think that that's --
13 those are critically important, being able to see this
14 building from a distance, and not just in the sort of aerial
15 views that we've seen so far.

16 I think the one concern that I have
17 architecturally, I mean I think they're on reasonable footing
18 with this sort of marriage of something a bit traditional,
19 and then something more modern. But I would say that the use
20 of arches in a couple of locations, it just comes off as
21 silly. And so you know, where you have that view, maybe you
22 want to bring it back up on the screen, so other people know
23 what I'm talking about. I forget which slide it was.

24 MR. COCHRAN: Paul, that would be Slide 6, and
25 then Slide 7. Those arches, there are arches here that go

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1 into the food hall, what they're proposing as a food hall.

2 And then Paul, if you could switch to the next
3 slide. You can see the arches on the right. They go up
4 about 12 or 13 stories.

5 COMMISSIONER MAY: Yes. So yes, this actually is
6 a good view because you can see the food hall ones on the
7 bottom rendering, and then you see the other ones in the top.

8 So the ones at the top, I mean that's -- it's
9 reminiscent of certain architecture in the District, old,
10 very old heavy masonry buildings, like the Office of, it's
11 the GPO I think.

12 MR. COCHRAN: The Government Printing Office.

13 COMMISSIONER MAY: Yes. And then there's a sort
14 of a historicist postmodern building next to it that mimics
15 that. And I think does a reasonably good job of it.

16 Here it just seems a little silly. The
17 proportions of the, you know, width between the columns, and
18 then the arches at the top, I mean it's very clearly not a
19 load bearing masonry facade. It's just so decorative.

20 And it just doesn't come off well, I think
21 particularly given that it's a full round. I think if it
22 were, if you were to do a shallower arch, it might look
23 better.

24 But here it just, it sort of looks random and
25 silly, and kind of, you know, it's hard for me to come up

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1 with a polite term that describes what it looks like. But
2 it doesn't look very good. I would explore something else.

3 And I think, you know, given this particular
4 design firm's past buildings, I mean I think they're capable
5 of doing that sort of marriage of eras that you describe.
6 But I don't they're on the right track necessarily with that
7 particular feature.

8 MR. COCHRAN: We'll continue to work with them.

9 COMMISSIONER MAY: Yes. And I appreciate the fact
10 that you are on the case, and you'll work with them to
11 improve the design. So I think that's it for me.

12 CHAIRMAN HOOD: Thank you. Let's go to
13 Commissioner Shapiro.

14 COMMISSIONER SHAPIRO: Thank you, Mr. Chairman.
15 I don't have a lot to add, although I do agree with the
16 comments Commissioner May has about the arches. They just,
17 yes. I'll join with them, and I'd ask them to take a look
18 at it a different way.

19 But I appreciate that the OP report calls out the
20 not particularly extensive environmental benefits. And so
21 I would, you know, I'd like to see their, either the LEED
22 Gold proffer, the solar panels, or some absolutely clear
23 explanation about why one or both won't work. And with that,
24 Mr. Chair, I'll leave it at that.

25 CHAIRMAN HOOD: Okay. Thank you. Commissioner

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1 Turnbull.

2 COMMISSIONER TURNBULL: Yes. Thanks, Mr. Chair.
3 Mr. Cochran, thank you again for a very thorough report, as
4 usual. And I think you mentioned that in your report, we
5 really need some better architectural drawings. I mean it's
6 really hard to get a good feel for this with the scale of
7 drawings that I've seen so far.

8 And I would agree with the comments of
9 Commissioner May and Commissioner Shapiro. I think that
10 there's some elements of this that just, I don't know if
11 they've been carefully thought out as far as an integrated
12 whole.

13 I think this could be, well it was going to be an
14 exciting project before. And hopefully it will be an
15 exciting project still as it goes forward. It's a very
16 awkward site. I think when we looked at it before there was
17 concerns about how the retail was going to work on the ground
18 floor. It's kind of like removed. But -- and like getting
19 people there. Maybe it's going to be mainly for the people
20 in the building.

21 I guess one of the things, and I'm sure
22 Commissioner Miller will get on this. The balconies don't
23 look that well integrated. Some of them very tacked on.

24 It just doesn't look like it's a very thorough,
25 and maybe it's because of the drawings and views that I

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1 really can't get a good idea of what this thing really looks
2 like, and how it's going to work.

3 But I'm sure you'll work with them on trying to
4 get better drawings, and clearer drawings, and try to
5 integrate this whole building, buildings, a little bit
6 better.

7 One of the things about the affordable units, I
8 think you said, I think for, if it's going to be an
9 apartment, it's 60 percent AMI.

10 MR. COCHRAN: Yes.

11 COMMISSIONER TURNBULL: But if it's condo, it's
12 going to be 8 percent AMI?

13 MR. COCHRAN: That's -- those are the rules.

14 COMMISSIONER TURNBULL: Yes, I know. That's so
15 sad. That's -- I wish we could change that a lot.

16 MR. COCHRAN: There's been no indication that it
17 would not be rental.

18 COMMISSIONER TURNBULL: Okay.

19 MR. COCHRAN: So it's likely 60 percent.

20 COMMISSIONER TURNBULL: You're still thinking that
21 they're really going for rental units?

22 MR. COCHRAN: I haven't heard otherwise.

23 COMMISSIONER TURNBULL: Okay. All right. I just
24 wanted to go back. Some of the, they had a couple of
25 requests for flexibility. One of the things that stands out

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1 is, vary somewhat the final selection of exterior materials,
2 without reducing their quality.

3 We never usually, we don't usually grant that.
4 We usually grant they can change the colors. We grant them
5 flexibility of the colors within the materials they choose,
6 but not flexibility in changing the actual materials. So I
7 think we want to point that out.

8 Signage. We're going to see something on signage
9 when that comes in. You're looking to push them to LEED
10 Gold?

11 MR. COCHRAN: Yes.

12 COMMISSIONER TURNBULL: Are they going to go
13 through LEED Gold, do you know?

14 MR. COCHRAN: They'll be discussing that. They
15 haven't made it to that.

16 COMMISSIONER TURNBULL: Well thank you again. I
17 think there's, again, it's going to be, it's an interesting
18 project on a very constricted site. It's a very limited
19 site.

20 And we went through it before. And I thought we
21 had a solution that would work. We'll -- I think this one
22 has to be tweaked again a bit more. But thank you again for
23 an excellent report.

24 CHAIRMAN HOOD: All right. Thank you,
25 Commissioner Turnbull. Vice Chair Miller.

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1 VICE CHAIR MILLER: Thank you, Mr. Chairman. And
2 I thank you, Mr. Cochran, for the OP report. I agree with
3 all the recommendations in your report. And I agree with all
4 the -- I generally agree with all the comments of my, of the
5 Chairman and my colleagues on this project.

6 The, particularly on the affordable housing, I
7 think we really, although they are proffering 2 percent more
8 than what's the minimal that is required under our minimal
9 inclusionary zoning regulations, there's a lot of height
10 that's being asked for through the map amendment 48, beyond
11 what the other, the previous project on the site was asking
12 for, 90 feet, and what the adjacent, I think adjacent, or
13 nearby Maritime Plaza project got.

14 So I think because it's designated medium density
15 on the existing comprehensive plan, although there's I think
16 pending amendments, they're not, it might help facilitate
17 this higher height.

18 There's a question about the consistent, potential
19 inconsistency with the existing land use map designation for
20 this site. And so the benefits, amenities, really have to
21 be much stronger than they currently exist.

22 And the OP has indicated they're going to work
23 with the applicant on strengthening that, whether that's the
24 environmental commitments on LEED Gold and solar panel, or
25 the affordable housing that really needs to be upped,

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1 increased way beyond the 2 percent, beyond that they've gone
2 now.

3 This is 900 units. They're going to get 130 feet
4 on the waterfront for medium density, called for medium
5 density development, the highest height in the city, even
6 though that higher height is allowing supposedly, although
7 I can't really see it in the renderings that we have,
8 supposedly more porous openings than we would get with a 110
9 foot building as previously proposed, or a 90 foot building.

10 We're going to really need to have that affordable
11 housing upped in this particular area of the city, which the
12 Mayor's recent housing, some kind of housing study showed is
13 where people want to have more affordable housing.

14 Though, and yes, if you're going to have housing
15 on the waterfront there need to be balconies on the
16 waterfront, especially in this time where we're constricted
17 to our little limited enclosed outdoor space.

18 But always, I've always thought that balconies
19 make a residential building. There need to be balconies all
20 over the place, and integrated appropriately, as another
21 Commissioner pointed out.

22 So I'm supportive of this going forward. I'm glad
23 that in this economic crisis, as well as the crisis that
24 somebody is going forward with a very ambitious project. And
25 I certainly don't want to discourage that in any way. But

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1 there need to be a lot of benefits and amenities associated
2 with it that are not inconsistent with the comprehensive
3 plan.

4 And so I support this being set down for a public
5 hearing, Mr. Chairman. But I look forward to more
6 information and renderings, including the additional
7 information requested by the ANC in their most recent letter.

8 They're supportive of this also being set down.
9 But they had information, more information that they wanted
10 to see at the time of hearing. So I'll look forward to
11 seeing all of that. Thanks.

12 CHAIRMAN HOOD: Okay. Thank you. I too think
13 that this is ready for us to go ahead and dissect it, and
14 have a hearing. I appreciate the applicant bringing
15 something like this forward.

16 While I know we have some changes and some tweaks
17 that we'd like to see, and further discussions, and some
18 other things that as the Vice Chair just alluded to, the ANC
19 set down report, I didn't even know we did that part. I get
20 confused at times.

21 But anyway, I think they brought up some very
22 valuable, and very meaningful comments. So I think all the
23 comments my colleagues, and also what's in the record. I
24 know there will probably be some things that we inquire, some
25 things that we may want to see changed. But I appreciate

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1 going forward. And I think this is ready for it.

2 I'd love to get to a hearing so we can have some
3 serious discussion about how we're, certain things, and get
4 some feedback from the applicant about they plan to prepare
5 to develop. And hopefully actually happen to see this
6 actually happen. That's kind of where I am.

7 So let me see who would like to make a motion.
8 Someone like to make a motion? First, any other comments?

9 COMMISSIONER MAY: Yes, Mr. Chairman, I have one
10 other question for Mr. Cochran. I know there has been a lot
11 of study of the roadway just to the north. What was the
12 freeway became the boulevard. And all sorts of studies of,
13 I don't know, various things that DDOT was working on, you
14 know, bus parking and stuff like that.

15 It would be very helpful to understand where that
16 stands at this moment. Because I kind of lost track of where
17 it all is. So when we get to that at the hearing, knowing
18 what they're, what the plans are immediately to the north
19 would be helpful.

20 MR. COCHRAN: Fine. The one thing that's
21 important to the project is that the Southeast Boulevard
22 proposal also includes a bridge across the Southeast
23 Boulevard that would align with 14th Street. And the
24 applicant is aware of that, and has kept that as an element
25 of their plan.

1 COMMISSIONER MAY: Yes, right. That's a lot of
2 what I'm concerned about, yes. Okay, thanks.

3 CHAIRMAN HOOD: All right. Vice Chair Miller.

4 VICE CHAIR MILLER: Thank you, Mr. Chairman for
5 recognizing my finger. I guess there's a hand signal I could
6 have given on the digital part of this.

7 But anyway, yes, that reminds me. I did have a
8 question. Maybe at the hearing it can be answered, about the
9 pedestrian bridge and Southeast Boulevard, new Southeast
10 Boulevard.

11 Is that -- whether that's in the District's
12 Capital, existing Capital Improvement Program, or is the city
13 looking for adjacent private developers to maybe contribute
14 at least to the pedestrian bridge, as what happened in
15 another part of the city recently?

16 And so there's that aspect of it that I just
17 wanted to bring up at the hearing, if that could be answered.
18 And maybe if that's not something the developer's
19 contributing to, maybe that's another public benefit that can
20 be considered.

21 CHAIRMAN HOOD: Okay. Mr. Cochran, I do have one
22 quick question. Does -- this ANC is one of the ANCs that
23 meet virtually? Do you know about --

24 MR. COCHRAN: Yes. They do meet virtually.

25 CHAIRMAN HOOD: Oh, okay. Okay, good. That's

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1 good. All right. Thank you, Mr. Cochran. Any other
2 questions? Not seeing any, someone like to make a motion?

3 VICE CHAIR MILLER: Yes. I'll make a motion, Mr.
4 Chairman, that the Zoning Commission set down for a public
5 hearing Case number 20-06, Felice Development Group, which
6 at the hearing I would like to know who the principles are.
7 Sorry to add that at this point.

8 Set down Zoning Commission Case number 20-06,
9 Felice Development Group, First Stage and Consolidated PUDs,
10 and Related Map Amendment at Squares 1025E and 1048S, and
11 Reservations 129 and 299, and ask for a second.

12 COMMISSIONER TURNBULL: Second.

13 CHAIRMAN HOOD: Okay. It's been moved and
14 properly second. Any further discussion? Okay, Ms.
15 Schellin, can we do a roll call vote?

16 MS. SCHELLIN: Commissioner Miller.

17 VICE CHAIR MILLER: Yes.

18 MS. SCHELLIN: Commissioner Turnbull.

19 COMMISSIONER TURNBULL: Yes.

20 MS. SCHELLIN: Commissioner Hood.

21 CHAIRMAN HOOD: Yes.

22 MS. SCHELLIN: Commissioner May.

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: Commissioner Shapiro.

25 COMMISSIONER SHAPIRO: Yes.

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1 MS. SCHELLIN: The vote's five to zero to zero to
2 set down Zoning Commission Case number 20-06 as a contested
3 case.

4 CHAIRMAN HOOD: Okay. So I think we've finished
5 now all of our hearing actions. Let's go to this
6 correspondence. Zoning Commission Case number 04-08/02-45,
7 memorandum from OAG. That's an amendment to PUD Covenant.
8 Ms. Schellin.

9 MS. SCHELLIN: Yes. This memo was filed by the
10 Office of the Attorney General requesting that the Commission
11 approve that OAG be allowed to amend the PUD Covenant. It's
12 something that's typically not done by the Commission, but
13 this was a covenant that was done before new language was
14 created in the covenants that allows OAG to do that. So they
15 are just asking that the Commission allow them to make this
16 amendment.

17 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.
18 Commissioners, you've heard the request. Let me see if we
19 have any comments. Commissioner May.

20 COMMISSIONER MAY: No comments.

21 CHAIRMAN HOOD: Okay. Commissioner Shapiro.

22 COMMISSIONER SHAPIRO: Nothing, sir.

23 CHAIRMAN HOOD: Okay. Commissioner Turnbull.

24 COMMISSIONER TURNBULL: I have no comments.

25 CHAIRMAN HOOD: Vice Chair Miller.

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1 VICE CHAIR MILLER: No comments, other than to
2 support what the ZA is interpreting.

3 CHAIRMAN HOOD: Okay. The request for the
4 covenant. Okay. Would somebody like to make a motion? I
5 would move that we grant the request for the amendment to the
6 PUD Covenant as asked for by Attorney General, as stated in
7 the request to us, which typically is normally not the
8 process.

9 But I was going to say that maybe we look at the
10 legislative history, but I didn't want to go through all
11 that. But anyway, I would move that we grant that request
12 as submitted in Zoning Commission Case number 04-08/02-45,
13 and I ask for a second.

14 VICE CHAIR MILLER: Second.

15 CHAIRMAN HOOD: It's moved and properly second.
16 Any further discussion? Not seeing anyone, Ms. Schellin,
17 would you call for a roll call vote?

18 MS. SCHELLIN: Commissioner Hood.

19 CHAIRMAN HOOD: Yes.

20 MS. SCHELLIN: Commissioner Miller.

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: Commissioner May.

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: Commissioner Shapiro.

25 COMMISSIONER SHAPIRO: Yes.

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1 MS. SCHELLIN: Commissioner Turnbull.

2 COMMISSIONER TURNBULL: Yes.

3 MS. SCHELLIN: The vote is five to zero to zero
4 to grant OAG the permission to revise the Covenant as they've
5 requested.

6 CHAIRMAN HOOD: Okay. Let's go to the next
7 correspondence item, Zoning Commission Case number
8 06-46B/06-46E, Zoning Administrator determination pursuant
9 to Subtitle A of 304.5.

10 I'm not sure if we need a vote on this. But
11 anyway, we usually just concur. I don't guess it matters.
12 Let me open up. Any discussion in the determination?

13 Do we usually, Ms. Schellin, do we usually vote
14 on it? We don't usually vote on determinations.

15 MS. SCHELLIN: No. If you have an issue, if
16 you're okay with this, that's fine. If not, then you usually
17 tell me to let the ZA know that they should tell the
18 applicant to come back to the Commission and file for a
19 modification.

20 CHAIRMAN HOOD: Okay. Does anybody think that
21 he's over his 2 percent? Okay. I don't see anyone saying
22 yes. So let them know we don't think so this time. Okay.

23 MS. SCHELLIN: Okay.

24 CHAIRMAN HOOD: So he can proceed.

25 MS. SCHELLIN: All right.

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1 CHAIRMAN HOOD: That's by general consensus. So
2 do we have anything else before us?

3 MS. SCHELLIN: No, sir.

4 VICE CHAIR MILLER: When is our next meeting, Mr.
5 Chairman?

6 CHAIRMAN HOOD: Do we have one Thursday? I have
7 to go back and look at the email.

8 MS. SCHELLIN: We --

9 CHAIRMAN HOOD: I think it's -- when is the next
10 --

11 MS. SCHELLIN: We do not have anything until our
12 public meeting on June 8th.

13 VICE CHAIR MILLER: Okay.

14 MS. SCHELLIN: Unless something gets scheduled
15 prior to then.

16 CHAIRMAN HOOD: So when are we going to start --

17 MS. SCHELLIN: I am working on the schedule.

18 CHAIRMAN HOOD: Let me just say --

19 (Simultaneous speaking.)

20 CHAIRMAN HOOD: I'm looking forward to our
21 contested. I want to do one contested hearing. That's sort
22 of the --

23 MS. SCHELLIN: Okay. Because we've already
24 scheduled some of those hearings that were suspended because
25 of COVID-19, I've just got to reschedule them. And I don't

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1 think, based on my conversations with OAG, that I have to do
2 a full new 40 day notice period, since they've previously
3 been scheduled, or actually were noticed under the regs with
4 the 40 day notice. So this would just be a re-noticing.

5 So I'm going to try to schedule some of those in
6 June. And per the Commission's agreement to meet, to hold
7 hearings Monday, Tuesday and Thursdays, I'd like to try to
8 get those cases.

9 And it's only a couple of them since this pretty
10 much started right when we were about to have hearings in
11 March. So we don't have a whole lot of them that needed to
12 be rescheduled.

13 So I'd like to get those taken care of as quickly
14 as possible, and then have a little bit of leeway to schedule
15 some others that have had pre-hearing statements filed, and
16 their right to schedule. And so I'd like to try to get a
17 couple of those scheduled before the recess.

18 CHAIRMAN HOOD: Okay. Sounds good. Let me just
19 ask this, Commissioner May, are you all doing virtual
20 volleyball on Tuesdays?

21 COMMISSIONER MAY: I wish.

22 VICE CHAIR MILLER: And I'm at the virtual beach
23 every day.

24 CHAIRMAN HOOD: Okay. All right. Everybody's
25 doing something virtual. So anyway, I really appreciate all

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1 the work that goes into this. I appreciate the public who's
2 listening, as well as my colleagues, Office Planning, Office
3 of Attorney General, everybody, everybody who's doing work,
4 all parties involved.

5 I think this is working very well. And I
6 appreciate all the effort, the level of effort that goes into
7 this. So with that, I can't hit the gavel because my table
8 may fall. But what I'll do is I'll say with that, this
9 meeting is adjourned. Take care.

10 (Whereupon, the above-entitled matter went off the
11 record at 5:51 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: 05-11-20

Place: teleconference

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



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