

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

+ + + + +

MONDAY

SEPTEMBER 14, 2020

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened via Videoconference, pursuant to notice at 4:00 p.m. EDT with 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:

- JENNIFER STEINGASSER, Deputy Director, Development Review & Historic Preservation
- STEPHEN MORDFIN
- MAXINE BROWN-ROBERTS
- ELISA VITALE
- JONATHAN KIRSCHENBAUM
- ART RODGERS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from
the Regular meeting held on September 14, 2020.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

PAGE

Final Action

Z.C. Case No. 20-04 (Office of Planning -- Text Amendment to Subtitle K: CG Preferred Uses)	6
Z.C. Case No. 19-19 (Terrace Manor Redevelopment, LP -- Consolidated PUD @ Square 5894)	7
Z.C. Case No. 19-28 (Square 417, LLC -- Map Amendment @ Square 417)	9
Z.C. Case No. 19-24 (Children's National @ Walter Reed -- Text Amendment to Subtitle K)	13
Z.C. Case No. 19-24A (Children's National @ Walter Reed -- Map Amendment @ Square 2950)	14
Z.C. Case No. 19-13 (Office of Planning -- Text Amendment to Clarify Regulations Governing Alley Lots)	16
Z.C. Case No. 19-21 (Office of Planning -- Text Amendment to Subtitles D, E & U (Roof Top or Upper Floor Elements))	24
Z.C. Case 20-10 (Office of Planning -- Text Amendment to Subtitle U (Restrictions on Fast Food Establishments & Prepared Food Shops)	34
Z.C. Case No. 09-03F (Skyland Holdings -- PUD Modification of Significance @ Square 5633)	35
Z.C. Case No. 19-17 (Atlas MLK, LLC & 3715 MLK, LLC -- Map Amendment @ Square 6070)	44

Time Extensions

Z.C. Case No. 17-19A (The Warrenton Group - Two-Year PUD Time Extension @ Square 5197)	46
---	----

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Hearing Action

Z.C. Case No. 20-19 (Office of Planning -- Text Amendment to Subtitles B, D, E, & F to Clarify & Provide Consistency to Accessory Building Regulations)	48
Z.C. Case No. 20-20 (Office of Planning -- Text Amendment to Subtitle U re: Animal Care Uses)	54
Z.C. Case No. 20-21 (Office of Planning -- Text Amendment to Create the Barry Farm (BF) Zone)	56
Z.C. Case No. 20-02 (Office of Planning -- Text Amendment to Subtitles C, F, G, I, K, & X re: Expanded Inclusionary Zoning)	68

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

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

2 4:00 p.m.

3 CHAIRMAN HOOD: Good afternoon, ladies and
4 gentleman. We are convening and broadcasting a public
5 meeting by videoconferencing. My name is Anthony Hood.
6 Joining me this evening are Vice Chair Miller, Commissioner
7 Shapiro, Commissioner May, and Commissioner Turnbull. We're
8 also joined by the Office of Zoning staff, Ms. Sharon
9 Schellin, our secretary Mr. Paul Young who handles all of our
10 virtual operations.

11 This is a regular meeting of the Zoning Commission
12 for the District of Columbia. Today's date is September
13 14th, 2020. I ask at this time that all others will
14 introduce themselves at the appropriate time.

15 Copies of today's meeting agenda are available on
16 the Office of Zoning's website. Please be advised this
17 proceeding is being recorded by a court reporter and is also
18 webcast live, WebEx, and YouTube live. The video will be
19 available on the Office of Zoning's website after the
20 meeting.

21 Accordingly, those listening on WebEx or by phone
22 will be muted during the meeting unless the Commission
23 suggests otherwise. For hearing actions, the only documents
24 before us this evening are the application, the ANC set down
25 report, and the Office of Planning report. All other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 documents in the record will be viewed at the time of the
2 hearing.

3 Again, we do not take any public testimony at our
4 meetings unless the Commission requests someone to come
5 forward -- well, to speak in this case. If you experience
6 difficult accessing WebEx or with your phone call in, then
7 please call the Office of Zoning hotline number at 202-727-
8 5471 for WebEx login or call-in instructions or information.
9 So with that, does the staff have any preliminary matters?

10 MS. SCHELLIN: No, sir.

11 CHAIRMAN HOOD: Okay, okay. Let's go to our first
12 case. It's final action, Zoning Commission Case No. 20-04,
13 Officer of Planning, Text Amendment to Subtitle K, Capitol
14 Gateway Preferred Uses. Ms. Schellin?

15 MS. SCHELLIN: Yes, sir. At Exhibit 13, there's
16 an NCPC report advising the text is not inconsistent with the
17 National Capital Comprehensive Plan and that there are no
18 adverse impacts on federal interest. At Exhibit 15, there's
19 a notice of proposed rulemaking which was published in the
20 D.C. Register on July 13th -- I'm sorry, July 3rd. No
21 comments were received. We'd ask the Commission to consider
22 final action this evening.

23 CHAIRMAN HOOD: Thank you, Ms. Schellin. And
24 again, for those listening, these are changes to preferred
25 uses on Potomac Avenue, Southwest to encourage pedestrian

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 traffic and active streetscape. So with that, let me open
2 it up. I'm going to look for heads to shake. Any comments
3 from any Commissioners? Okay. Would somebody like to tee
4 up and make a motion? Mr. Shapiro, you're on mute.

5 COMMISSIONER SHAPIRO: Mr. Chair, I'd like to make
6 a motion that we take final action on Commission Case No. 20-
7 04, Office of Planning, Text Amendment to Subtitle K, Capital
8 Gateway Preferred Uses. Look for a second.

9 COMMISSIONER TURNBULL: Second.

10 CHAIRMAN HOOD: It has been moved and properly
11 second. Ms. Schellin, would you please do a roll call vote.

12 MS. SCHELLIN: Yes. Commissioner Shapiro?

13 COMMISSIONER SHAPIRO: Present, yes.

14 MS. SCHELLIN: Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Yes.

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRMAN HOOD: Yes.

18 MS. SCHELLIN: Commissioner May?

19 COMMISSIONER MAY: Yes.

20 MS. SCHELLIN: Commissioner Miller?

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
23 final action, Zoning Commission Case No. 20-04.

24 CHAIRMAN HOOD: Okay. Moving right along, let's
25 go to Zoning Commission Case No. 19-19. This is Terrace

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Manor Redevelopment, LP, Consolidated PUD at Square 5894.
2 Ms. Schellin?

3 MS. SCHELLIN: Yes, sir. At Exhibits 30 through
4 33 have the applicant's post-hearing submissions. And at
5 Exhibit 34 is a supplemental report filed by OP. Again, I'd
6 ask the Commission to consider final action on this case.

7 CHAIRMAN HOOD: Again, Commissioners, the summary.
8 For those listening, the applicant proposes to demolish the
9 existing 12 dilapidated apartment buildings containing 61
10 units on the property and replace with a single apartment
11 building with approximately 130 units, all of which will be
12 affordable units with a maximum medium -- MFI, medium family
13 income of 60 percent. Let me look and see if we have any
14 questions or comments. Commissioner May?

15 COMMISSIONER MAY: Yeah, I just want to note for
16 the record that this is a hearing where I was sort of in and
17 out because I was -- I had another meeting that was running
18 late. But I have reviewed the record completely and am
19 prepared to participate. And as far as the case goes, I'm
20 comfortable with the changes that have been made in response
21 to the Commission's comments. So I'm prepared to move
22 forward.

23 CHAIRMAN HOOD: Thank you, Commissioner May. Any
24 other comments or questions? Okay. Vice Chair Miller?

25 VICE CHAIR MILLER: I would just agree with

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Commissioner May that the applicant did respond to the
2 Commission's requests and comments at the hearing. And I
3 think its July 23rd submission adequately addressed those --
4 the questions that the Commission had.

5 CHAIRMAN HOOD: Okay. Any other questions or
6 comments? I'm not seeing any. So here's another thing that
7 I've actually learned from the BZA. If you're already
8 unmuted and you just got through talking, stay unmuted
9 because I can call on you to make the motion. That'll make
10 it easier. Just little tidbits as we go along. So Vice
11 Chair Miller, could you make the motion?

12 VICE CHAIR MILLER: Sure. I would just go with
13 your prompt, Mr. Chairman. I would move that the Zoning
14 Commission take final action on Case No. 19-19, Terrace Manor
15 Redevelopment, LP, Consolidated PUD at Square 5894 and for
16 a second.

17 COMMISSIONER SHAPIRO: Second.

18 CHAIRMAN HOOD: Okay. It's been moved and
19 properly second. I think that works a little easier. Great.
20 Moved and properly second. Any further discussion?

21 (No audible response.)

22 CHAIRMAN HOOD: Outstanding. Ms. Schellin, would
23 you please record the -- I mean, do roll call?

24 MS. SCHELLIN: Was that Commissioner May who
25 seconded?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Yes.

2 MS. SCHELLIN: That's what I thought.
3 Commissioner Miller?

4 VICE CHAIR MILLER: Yes.

5 MS. SCHELLIN: Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MS. SCHELLIN: Commissioner Hood?

8 CHAIRMAN HOOD: Yes.

9 MS. SCHELLIN: Commissioner Shapiro?

10 COMMISSIONER SHAPIRO: Yes.

11 MS. SCHELLIN: Commissioner Turnbull?

12 COMMISSIONER TURNBULL: Yes.

13 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
14 final action, Zoning Commission Case No. 19-19.

15 CHAIRMAN HOOD: Okay. Thank you. And if I'm
16 moving too fast, Ms. Schellin, just tell me to slow down.

17 MS. SCHELLIN: Sure.

18 CHAIRMAN HOOD: For some reason, I want to move
19 a little bit too fast. But I'll slow down a little bit.
20 Okay. Let's go to Zoning Case No. 19-28, Square 417, LLC,
21 Map Amendment at Square 417. Ms. Schellin?

22 MS. SCHELLIN: Yes, sir. The applicant's draft
23 order was submitted in Exhibit 27. Exhibit 28, again, we
24 have an NCPC report that states that the map amendment would
25 not be inconsistent with the National Capital Comp Plan, and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 it would have no adverse impacts on federal interest. Again,
2 we'd ask the Commission to consider final action this
3 evening.

4 CHAIRMAN HOOD: Okay. Again, in this case, thank
5 you. The summary of the applicant proposing to rezone the
6 property from the RF-1 zone to the RF-3 zone. RF-1 zone is
7 intended to provide where to predominantly develop with row
8 houses on small lots within which no more than two dwelling
9 units are permitted in order to be a moderate density
10 residential zone.

11 So any questions or comments, Commissioners? One
12 second. Okay. We will note in this case the ANC abutting
13 the ANC I believe is the who recommended denial from a map
14 amendment versus a PUD. And I think they had some issues.
15 And they looked at the PUD, I guess, for amenities and
16 others. But I think this is presented to us as a map
17 amendment. Anyway, let me open up any further questions or
18 comments. Commissioner May?

19 COMMISSIONER MAY: Yeah, Mr. Chairman, I certainly
20 understand and can appreciate the ANC's concerns. However,
21 it is a map amendment applicant and I think that it meets the
22 standards for us to approve it. And I would hope that the
23 ANC can continue to work with the property owner to achieve
24 its objectives. But I don't that -- the mere fact that this
25 is not being done as a PUD in this circumstance I don't think

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 warrants a denial of the application. I think we should be
2 approving it.

3 CHAIRMAN HOOD: Any other comments or questions?
4 (No audible response.)

5 CHAIRMAN HOOD: I would concur with Commissioner
6 May. So unless I see otherwise, Commissioner May, could you
7 make a motion?

8 COMMISSIONER MAY: Sure. I would move the
9 Commission take final action to approve Zoning Commission
10 Case 19-28, Square 417, LLC, Map Amendment at Square 417.

11 CHAIRMAN HOOD: I will second that motion. Any
12 further discussion? Moved and properly second. Any further
13 discussion?

14 (No audible response.)

15 CHAIRMAN HOOD: Okay. Ms. Schellin, would you do
16 a roll call vote?

17 MS. SCHELLIN: Commissioner May?

18 COMMISSIONER MAY: Yes.

19 MS. SCHELLIN: Commissioner Hood?

20 CHAIRMAN HOOD: Yes.

21 MS. SCHELLIN: Commissioner Miller?

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: Commissioner Shapiro?

24 COMMISSIONER SHAPIRO: Yes.

25 MS. SCHELLIN: Commissioner Turnbull?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Yes.

2 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
3 final action in Zoning Commission Case No. 19-28.

4 CHAIRMAN HOOD: Okay. Next, let's go to Zoning
5 Commission Case No. 19-24 which 19-24 is the Children's
6 National at Walter Reed, Text Amendment to Subtitle K. Ms.
7 Schellin?

8 MS. SCHELLIN: Yes. At Exhibit 57, the notice of
9 proposed rulemaking was published in the D.C. Register.
10 Exhibit 59, the NCPC report advising the text is not
11 inconsistent with the National Capital Comp Plan and will
12 have no adverse impact on federal interest. No other
13 comments were received, so we'd ask the Commission to
14 consider final action this evening.

15 CHAIRMAN HOOD: Thank you, Ms. Schellin. Again,
16 the summary in this case is proposed new WR zones to
17 accommodate Children's Medical on the former Walter Reed
18 campus. Any questions or comments?

19 (No audible response.)

20 CHAIRMAN HOOD: Okay. So with that, since I'm
21 unmuted, I would move that we approve Zoning Commission Case
22 No. 19-24, the Children's National at Walter Reed, Text
23 Amendment to Subtitle K and ask for a second.

24 COMMISSIONER SHAPIRO: Second.

25 COMMISSIONER TURNBULL: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: It's been moved and properly
2 second. Any discussion?

3 (No audible response.)

4 CHAIRMAN HOOD: Not seeing anyone, Ms. Schellin,
5 would you please do a roll call vote? I think you're --
6 there you go.

7 MS. SCHELLIN: Am I muted? No, I'm not muted.

8 CHAIRMAN HOOD: You aren't muted now.

9 MS. SCHELLIN: Yeah. Commissioner Hood?

10 CHAIRMAN HOOD: Yes.

11 MS. SCHELLIN: Commissioner Miller?

12 VICE CHAIR MILLER: Yes.

13 MS. SCHELLIN: Commissioner May?

14 COMMISSIONER MAY: Yes.

15 MS. SCHELLIN: Commissioner Shapiro?

16 COMMISSIONER SHAPIRO: Yes.

17 MS. SCHELLIN: Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
20 final action, Zoning Commission Case No. 19-24.

21 CHAIRMAN HOOD: Okay. Thank you. Ms. Schellin,
22 let's move right along. Zoning Commission Case No. 19-24A,
23 this is Children's National at Walter Reed, Map Amendment at
24 Square 2950. Ms. Schellin?

25 MS. SCHELLIN: Yes. In this case, we have Exhibit

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 46 which was the applicant's draft order. And Exhibit 48,
2 once again, NCPD notifying that they had no issues with this
3 case, found that the text is not -- I'm sorry, the map
4 amendment is not inconsistent with the National Capital Comp
5 Plan and that there were no adverse impacts on federal
6 interest.

7 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.
8 Again, the summary of this case is the map, new WR zones onto
9 unzoned portions of the formal Walter Reed campus to
10 accommodate Children's Medical. I think both of those, the
11 text amendment and the map amendment, went very well. The
12 hearings had a lot of support, and I think I will be voting
13 in support of this. But let me see what others may have on
14 this. Let me see. Any questions or comments?

15 (No audible response.)

16 CHAIRMAN HOOD: Okay. So somebody like to unmute
17 so you can make a motion? Okay. Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Mr. Chair, I would
19 recommend that we take the final action on Zoning Case No.
20 19-24A, Children's National at Walter Reed, Map Amendment at
21 Square 2950.

22 COMMISSIONER SHAPIRO: Second.

23 CHAIRMAN HOOD: Okay, great. It's been moved and
24 properly second. Any further discussion?

25 (No audible response.)

1 CHAIRMAN HOOD: Ms. Schellin, would you do a roll
2 call vote, please?

3 MS. SCHELLIN: Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Yes.

5 CHAIRMAN HOOD: Commissioner Shapiro?

6 COMMISSIONER SHAPIRO: Yes.

7 MS. SCHELLIN: Commissioner Hood?

8 CHAIRMAN HOOD: Yes.

9 MS. SCHELLIN: Commissioner May?

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Miller?

12 VICE CHAIR MILLER: Yes.

13 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
14 final action of Zoning Commission Case No. 19-24.

15 CHAIRMAN HOOD: Okay. Thank you. So moving
16 along, Zoning Commission Case No. 19-13, Office of Planning,
17 Text Amendment to Clarify Regulations Governing Alley Lots.
18 Ms. Schellin?

19 MS. SCHELLIN: Yes, sir. In this at Exhibit 29,
20 there was a notice of proposed rulemaking which was published
21 in the D.C. Register on August 17. There were no comments
22 received other than the NCPC report at Exhibit 30. And that
23 report, once again, advised that the text amendment is not
24 inconsistent with the National Capital Comp Plan and we'd
25 have no adverse impacts on federal interest. Again, we'd ask

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the Commission to consider final action this evening.

2 CHAIRMAN HOOD: Okay, Commissioners. Any
3 questions or comments on this?

4 (No audible response.)

5 CHAIRMAN HOOD: Okay. So I believe that maybe I'm
6 just not understanding it. I have some problems with the way
7 I feel. I don't feel comfortable. I will not be supporting
8 this.

9 While I'm not necessarily against it, my problem
10 is when I look and see that we're reducing setbacks from 12
11 feet to 7 and a half feet. And I appreciate this being
12 brought to light. I know we're trying to achieve something,
13 but I just don't know what the unintended consequences are
14 on these alley lots. We have to be very careful.

15 My concern may be something I'm reading into too
16 much. And especially making things a matter of right and
17 those houses in the city, I just don't want to see us
18 creating a problem. And I know the Office of Planning and
19 I'm sure others have tried to mitigate this.

20 But I just don't have a comfort level or maybe I
21 need to -- for me, maybe I just need it explained in simpler
22 terms. I'll be honest. Because I don't know what we're
23 creating here. I think we may be creating a problem. And
24 then later on down the line and we're going to be -- or BZA
25 or all of us are going to be fighting with trying to fix

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 something.

2 That's just where I am. I don't know how others
3 feel. If you all have a comfort level, I'm only one vote.
4 But I just have a problem with -- especially when I see
5 reducing the center setback from 12 feet to 7 and a half feet
6 when anytime you're reduce something, you're putting
7 something closer.

8 And I just don't know what the unintended
9 consequence or what the impacts will be on existing
10 residents. And I just have some concern about some of this.
11 So let me open it to any other questions or comments. Vice
12 Chair Miller?

13 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
14 don't know if my comments will alleviate any of your
15 discomfort level. But I am comfortable based on the public
16 hearing record including the Office of Planning zone analysis
17 of I think it was 30-some-odd alley lot cases that the BZA
18 has reviewed.

19 And the overwhelming majority of them, I mean, all
20 but a few, they were supported by both the Office of Planning
21 and by the ANC. And the issue in some of the cases that were
22 denied is that the variance standard was such a hard standard
23 to overcome. It wasn't a question of what was being proposed
24 being out of character with the surrounding homes and the
25 alley area or in the adjacent houses.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 So that gave me a comfort level that we could move
2 forward, in addition to just facilitating making it less
3 difficult to produce this type of housing where, as I said,
4 in the overwhelming majority of cases. In 28 out of 33, the
5 ANC was supportive of it. It wasn't out of character with
6 the neighborhood.

7 We need housing and all types of housing. And I
8 think this helps accommodate that need in the city. So those
9 would be my comments. I don't know if I clarified anything
10 for you. I can say that, as you've said in the past, that
11 as we go forward, if this creates any unintended
12 consequences, we always can come back and revisit and tweak
13 it as necessary. But those were just my initial comments,
14 Mr. Chairman.

15 CHAIRMAN HOOD: Thank you, Vice Chair.
16 Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
18 agree with Vice Chair Miller, and I appreciate your concerns,
19 Mr. Chair. And I feel like my read on this is it actually
20 is an incremental step.

21 So it doesn't feel particularly radical to me.
22 But I think it's a helpful incremental step. And again, to
23 Vice Chair Miller's point, if there's anything that pops up,
24 we can always address it as we go along. So I'm comfortable
25 supporting this as written.

1 CHAIRMAN HOOD: Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Thank you, Mr. Chair.
3 When I first read this, I shared your angst and agreed with
4 some of your concerns. The only thing that in reading the
5 OP report on their first page, the one paragraph says, it is
6 difficult to create absolute standards when, one, there have
7 not been any prior BZA cases to try the standards. And two,
8 the technology of solar panels is inconsistent, resulting in
9 a multitude of potential outcomes for each case.

10 It was acknowledged that once the applications for
11 the special exception relief have been reviewed by the BZA,
12 it may be necessary for OP to revisit the text to add or
13 clarify our criteria. So I think OP recognizes that once we
14 get into this, there's going to be an opportunity to go back
15 and revisit all of this. So that way, I think this isn't
16 etched in stone. There's going to be an opportunity if we
17 do develop problems, we can go back and change it.

18 CHAIRMAN HOOD: That may be -- is that the next
19 case? I think that is.

20 COMMISSIONER TURNBULL: Oh, I'm sorry. I jumped
21 ahead.

22 CHAIRMAN HOOD: Yeah, we're on alley lots.

23 COMMISSIONER TURNBULL: Oh, excuse me.

24 CHAIRMAN HOOD: No, that's fine. But I want you
25 to remember that because (Audio interference.) the very next

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 meeting -- I mean, very next case. Do you have anything on
2 this one, Mike?

3 COMMISSIONER TURNBULL: I do have one -- no, I do
4 have -- I thought I was moving on that case. But you're
5 right. No, I think I would agree, that this is the kind of
6 case where I share your concerns. But I think that as we get
7 going along, if we see an issue, we can go back and we can
8 change this thing. And I think -- the BZA, I think, Fred and
9 the other members of the BZA will let us know quite quickly
10 if there's going to be some issues that come up out of this.

11 CHAIRMAN HOOD: So let me just ask this, and I
12 know, like the Vice Chair said, I always say we can hurry up
13 and change it. But my problem is not necessarily the cases
14 that we have heard and the track record that those have had.
15 My problem is the cases, the stuff out there that we don't
16 know.

17 And I hear what all four of my colleagues are
18 saying which I'm going to trust what you all are saying and
19 I'm not going to vote against this. But my issue is, what's
20 out there that we don't know? And by the time something
21 comes up that we don't know, it'll be said that the Zoning
22 Commission did this on September the 14th. They did this.
23 And by the time, we will have impacted some folks.

24 And that's just my concern. And I know the track
25 record -- what the track record says. But there's a record

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 out there that we don't have, if that makes sense. It may
2 not make sense.

3 COMMISSIONER MAY: Mr. Chairman, if I can just put
4 in my --

5 (Simultaneous speaking.)

6 COMMISSIONER MAY: I tend to agree with my other
7 colleagues that modifying the setback requirement is a pretty
8 straightforward change. It is often frustrating in BZA cases
9 that folks even have to address or have to establish a 12
10 foot setback because it pushes whatever building would be on
11 the alley more deeply into the main property. This happens
12 with garage cases and things like that.

13 And there just have been so many of them. And
14 again, so many of them get approved. I don't know that
15 there's really any potential downside from having a building
16 that goes right up to the edge of the alley.

17 I mean, you're allowed to put a fence there as a
18 matter of right, right up against the alley. Why not allow
19 the building to go all the way there? So I don't really see
20 what the potential downside is, and I have seen how these
21 cases can be a lot more work than they have to be.

22 Besides, even a 7 and a half foot setback does
23 require that there be some minimum distance within the alley.
24 Theoretically, if you have, like, a 15 foot alley, you could
25 be right on the alley lot line. But a 15 foot alley is a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 reasonably sized alley. It's like some of the 10 foot alleys
2 that we have.

3 If it were a 10 foot alley, they'd have to be set
4 back 7 and a half from that centerline. So okay, in that
5 section, they've got a 12 and a half foot alley. But the
6 property next door has got a fence right on the alley, and
7 the property on the other side has got a fence. I mean, I
8 just don't see the potential downside.

9 CHAIRMAN HOOD: Okay. I've heard a lot from my
10 colleagues. I'm going to go with this one. But again, I'm
11 concerned about the ones that we don't know about. But
12 anyway, I respect all four of you all's judgment.

13 And as we said, we're going to change it. But I
14 don't know what damage we will have done by then, if we have
15 done some. So I don't know. Maybe it's just me reading into
16 it too much. All right. With that, any further questions
17 or comments?

18 (No audible response.)

19 CHAIRMAN HOOD: All right. Somebody like to make
20 a motion? Vice Chair Miller?

21 VICE CHAIR MILLER: Sure. Thank you, Mr.
22 Chairman. And so I would move that the Zoning Commission
23 take final action on Case No. 19-13, the Office of Planning,
24 Text Amendment to Clarify Regulations Governing Alley Lots
25 and ask for a second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER MAY: I'll second.

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

4 (No audible response.)

5 CHAIRMAN HOOD: Ms. Schellin, would you do a roll
6 call vote?

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: Commissioner May?

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRMAN HOOD: Yes.

13 MS. SCHELLIN: Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Yes.

15 MS. SCHELLIN: Commissioner Turnbull?

16 COMMISSIONER TURNBULL: Yes.

17 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
18 Zoning Commission Case No. 19-13.

19 CHAIRMAN HOOD: Okay. Our next case -- thank you.
20 Our next case is Zoning Commission Case No. 19-21, Office Of
21 Planning, Text Amendment to Subtitles D, E, and U, Roof Top
22 or Upper Floor Elements. Ms. Schellin?

23 MS. SCHELLIN: Yes, sir. At Exhibit 34, there was
24 a notice of proposed rulemaking that was published on June
25 26, 2020. Comments in support were received at Exhibits 45

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and 66. Comments in opposition were received at Exhibits 35
2 through 44 and 46 through 65.

3 An OP supplemental report was received at Exhibit
4 67. Today at Exhibit 68, we received a request from the
5 Committee of 100 requesting the record to be reopened to
6 accept an additional document from them regarding their
7 perceived concerns that OP has made factual misstatements
8 about the regulations and also has mischaracterized the
9 public's comments in this case. So before the Commission
10 considers final action on this case, staff asks the
11 Commission the request to reopen the record before them from
12 the Committee of 100.

13 CHAIRMAN HOOD: Okay, Commissioners, I have
14 consulted with our counsel, and I was trying to figure out
15 the request. I didn't do the request on my own which I think
16 our regulations allow me to do. I didn't do that. I wanted
17 to bring this to all of us because we all are making the
18 decision.

19 But I did talk to counsel, and I wanted to make
20 sure that I did ask just normally what does our regulations
21 says. And I kind of knew, but I wanted to ask him. So I
22 want to read this, especially so the Committee would hear
23 this. And then I have a proposal after that, and I'll open
24 it up.

25 With regards to the Committee of 100's request to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 reopen the record to respond to the supplemental report filed
2 by the Office of Planning, the Commission notes that the
3 Office of Planning is the petitioner in this rulemaking and
4 therefore has a responsibility to respond to the comments
5 submitted to the record. I will tell you that we don't go
6 back and forth, as my colleagues already know, because they
7 didn't like or disagreed with some of the statements or want
8 to let us know to correct it. I think we -- that's our job.
9 We can do that.

10 So I would just say out of respect to the
11 Committee and others, what I propose -- and I don't know what
12 my colleagues -- this goes against our -- and I don't like
13 to get into this because we'll be going back and forth, back
14 and forth. It's not a back and forth on who gets the last
15 word. The way we make our decisions is not on who gets the
16 last word. We have a procedure we need to follow.

17 But in this case -- and I know we -- I think we
18 extended it once before for the Committee. But in this case,
19 what I would be willing to do is to postpone -- not postpone
20 but delay this another month. And we have to give and allow
21 what the Committee did into the record and let the Office of
22 Planning, if they choose to respond.

23 They might not need to respond. And then cut it
24 off. I don't know if others agree. That's my proposal. If
25 you don't, then let me hear from you. Commissioner May or

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 whoever wants to go first?

2 COMMISSIONER MAY: So I have mixed feelings about
3 this. I really don't like just sort of cutting off the
4 conversation of something relevant that we need to know. But
5 I'm a little concerned that what we're doing is extending it
6 for not very good reasons. I do have great respect for the
7 Committee of 100 and the work they do.

8 However, a good number of the opposition letters
9 that were entered into the record here and, of course, some
10 of the opposition that we heard on the night of the hearing
11 was based on a misunderstanding of what the regulations are
12 proposing. And in some cases, they do understand but they
13 just disagree. There are some who disagree that we should
14 allow the HPRB to make certain decisions or the OGB,
15 Commission of Fine Arts.

16 So it's hard for me to imagine what we will hear
17 from the Committee of 100 that actually is new and different
18 and meaningful or whether it's just a repeat of other
19 misunderstandings or disagreements with what the Office of
20 Planning has proposed. So that being said, if the Chairman
21 feels very strongly that you'd like to leave the record --
22 reopen the record to allow the Committee of 100 only to
23 submit something and then to have the Office of Planning
24 respond to it, I would not object to that. But of course,
25 I'm interested in hearing what my fellow Commissioners have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to say.

2 CHAIRMAN HOOD: Let me just respond, Commissioner
3 May. I appreciate that. The reason why I wanted all of us
4 to say is I kind of was exactly where you are. I didn't feel
5 strongly. I was just trying to figure out what the best way
6 to balance this because specifically we don't normally do
7 that.

8 We don't go back and forth. And as you know, we
9 don't like to go back and forth. That's typically not our
10 process. But I just figured -- that's why I brought it here
11 because I was kind of in between, the same place. And I was
12 waiting for the answer here. But let me hear from others.
13 Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.
15 Yeah, I'm more aligned where Commissioner May is and perhaps
16 even stronger. The Committee of 100 actually provided
17 substantial testimony, and there was a lot of back and forth
18 on this. And the petitioner does have the last word, and I'm
19 comfortable with the information that we have to be able to
20 make a decision.

21 So I'm not as comfortable with a precedent of
22 allowing another round of back and forth. An OP can -- if
23 we were to do this, OP might choose to not respond at all.
24 I don't know. But it's not as if the Committee of 100 didn't
25 have a pretty significant bite at the apple.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 We have a lot of information from a lot of folks.
2 So I would be more inclined to not accept this. So that's
3 where I am, Mr. Chair.

4 CHAIRMAN HOOD: Okay. Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
6 would agree with both Commissioner May and Commissioner
7 Shapiro. And as you know how I misread from the last
8 hearing, but that one paragraph in the OP report carries a
9 lot of weight with me, I think.

10 And as both Commissioner May and Shapiro said,
11 that there's a lot of testimony that have been added and in
12 the case and in the hearing. And we went through an awful
13 lot of -- and we argued a lot back and forth on some of these
14 issues. And I think that the Committee of 100 also had the
15 opportunity to do that, and they did.

16 But I think that for me right now, that's really
17 not a reason to go forward on this. I think -- and I hate
18 to change your regulations. I understand where you're coming
19 from and their arguments for wanting to refute some of the
20 things at OP. But at this point in time, I think we're ready
21 to vote and go ahead. So I would not agree to open up the
22 record.

23 CHAIRMAN HOOD: Okay. Thank you. Commissioner
24 Turnbull, Vice Chair Miller?

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

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 allowing me to go last because I probably would've said as
2 the Vice Chair, I'll defer to the Chairman, and leave it at
3 that. But having heard all of the arguments and remembering
4 that there has been a lot of back and forth on this
5 particular case which I think for whatever reason one was
6 first put out there, there was a lot of misunderstanding
7 about what was being proposed. And I think it was that
8 initial misunderstanding that led to -- I don't know -- a
9 trust level or whatever in what was being proposed or a lack
10 of understanding.

11 I think OP has tried to -- and what we had before
12 is try to address and clarify what most of those concerns and
13 questions were. And I'm prepared to go forward. But I
14 understand where you're coming from. I usually don't like
15 to cut off anybody putting anything into the record. I
16 wouldn't have a -- I haven't seen whatever they've submitted,
17 have you? I mean, I'm not sure what the status of this is.

18 CHAIRMAN HOOD: No, I have to see. I brought it
19 to all of us to discuss because I was aware Commissioner May
20 as it was when he spoke. I didn't know which way to go. And
21 normally I don't have a problem making -- believe me, I don't
22 have a problem making a decision. But I wanted to bring it
23 to all of us --

24 VICE CHAIR MILLER: Yeah.

25 CHAIRMAN HOOD: -- going forward.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIR MILLER: Well, maybe you should just
2 go ahead and make that decision without consulting us. But
3 we appreciate your consultation as long as you have. I will
4 say let's go forward.

5 CHAIRMAN HOOD: Okay. Well, I tell you I
6 appreciate that you all are helping me. So we will go ahead
7 and move forward. The summary of this case is clarify
8 rooftop -- is there anything to the letter?

9 MS. SCHELLIN: I'm sorry, yes. You need to --
10 either by consensus to deny the request or -- so it sounds
11 like by consensus, you're denying the request to reopen the
12 record.

13 CHAIRMAN HOOD: So Commissioners, by general
14 consensus, we would deny the request to reopen the record of
15 Committee of 100. I mean, open the record for the Committee
16 of 100's additional letter. We already have accommodated
17 them. And I think as we said the last case which we can
18 always make changes.

19 And as Mr. Turnbull -- I'm going to leave it to
20 Mr. Turnbull because I'm going to call on him first and he
21 can cite that paragraph and we can move forward. So we'll
22 do it be general consensus, Ms. Schellin. But let me just --
23 the summary of this case is clarify rooftop regulations for
24 renovations on construction to protect both solar panels on
25 adjacent structures and original architectural rooftop

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 permits on a renovation. Let me start with Mr. Turnbull.

2 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
3 would move that we take final action on Zoning Case No. 19-
4 21, Office of Planning, Text Amendment to Subtitles D, E, and
5 U, Roof Top or Upper Floor Elements and look for a second.

6 CHAIRMAN HOOD: Okay. I'll second that. But I
7 want to have discussion further. I wanted you to read that
8 paragraph.

9 COMMISSIONER TURNBULL: Oh, I would love to read
10 that paragraph. This is on Exhibit No. 67, OP page 1, item
11 mainly in about paragraph 5 or 6. It is difficult to create
12 absolute standards where, one -- when, one, there have not
13 been any prior BZA cases to try to standards, and two, the
14 technology of solar panels is inconsistent, resulted in a
15 multitude of potential outcomes for each case.

16 If it was acknowledged that once applications for
17 the special exception relief have been reviewed by the BZA,
18 it may be necessary for OP to revisit the text to add clarify
19 or criteria. What a strange way that ends. But I think they
20 need to add criteria. And that's basically it.

21 CHAIRMAN HOOD: Okay. Thank you. We have a
22 motion that has been second. Any further discussion?

23 VICE CHAIR MILLER: I second. I'm not sure we had
24 a second for it.

25 CHAIRMAN HOOD: Oh, I thought I second it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIR MILLER: Oh, I'm sorry. Go ahead.

2 CHAIRMAN HOOD: I did second. Ms. Schellin,
3 didn't I second?

4 MS. SCHELLIN: I did not hear it, but I'll take
5 your word for it.

6 CHAIRMAN HOOD: I might've been on mute. But
7 anyway, I seconded because I wanted Mr. Turnbull to read
8 exactly what he read which I think is very good, justify --
9 gives me comfort to justify and think all of this as moving
10 forward. That's a very key paragraph. And so it's been
11 moved and seconded with that discussion from Mr. Turnbull.
12 Any additional discussion?

13 (No audible response.)

14 CHAIRMAN HOOD: Okay. Not hearing any, Ms.
15 Schellin, would you please do a roll call vote?

16 MS. SCHELLIN: Yes. Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes.

18 MS. SCHELLIN: Commissioner Hood?

19 CHAIRMAN HOOD: Yes.

20 MS. SCHELLIN: Commissioner May?

21 COMMISSIONER MAY: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 VICE CHAIR MILLER: Yes.

24 MS. SCHELLIN: Commissioner Shapiro?

25 COMMISSIONER SHAPIRO: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
2 final action in Zoning Commission Case No. 19-21.

3 CHAIRMAN HOOD: Okay. Thank you. Let's move on
4 to Zoning Commission Case 20-10. This is the Office of
5 Planning, Text Amendment to Subtitle U, Restrictions on Fast
6 Food Establishments and Prepared Food Shops. Ms. Schellin?

7 MS. SCHELLIN: Yes. At Exhibit 8, there was a
8 notice of proposed rulemaking published in the D.C. Register
9 on July 31. It was referred to NCPC on July 23rd. However,
10 we received no response. We'd ask the Commission to consider
11 final action this evening.

12 CHAIRMAN HOOD: Thank you, Ms. Schellin. Again,
13 the summary of this case is to clarify regulations for fast
14 food and prepared foods in the MU use group D and E. Let me
15 open up any questions or comments. Looking to see if anybody
16 has any questions or comments on this. Okay. Mr. Shapiro,
17 would you like to make a motion?

18 COMMISSIONER SHAPIRO: Yes, Mr. Chair. I move
19 that we take final action on Zoning Commission Case 20-10,
20 Office of Planning, Text Amendment, Subtitle U, Restrictions
21 on Fast Food Establishments and Prepared Food Shops and look
22 for a second.

23 CHAIRMAN HOOD: Okay. I'll second that. It's
24 moved and properly second. Any further discussion?

25 (No audible response.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Ms. Schellin, could you do a roll
2 call vote?

3 MS. SCHELLIN: Commissioner Shapiro?

4 COMMISSIONER SHAPIRO: Yes.

5 MS. SCHELLIN: Commissioner Hood?

6 CHAIRMAN HOOD: Yes.

7 MS. SCHELLIN: Commissioner May?

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner Turnbull?

12 COMMISSIONER TURNBULL: Yes.

13 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
14 final action in Zoning Commission Case No. 20-10.

15 CHAIRMAN HOOD: Okay. Thank you. Our next case
16 -- okay, Zoning Commission Case No. 09-03F, Skyland Holdings,
17 PUD Modification of Significance at Square 5633. Ms.
18 Schellin?

19 MS. SCHELLIN: At Exhibits 32 and 33, you have the
20 applicant's list of proffers and conditions. Exhibit 34 is
21 an email in opposition from Robin Marlin. Exhibit 35 through
22 35C is the applicant's post-hearing submissions and ask the
23 Commission to consider final action in this case this
24 evening.

25 CHAIRMAN HOOD: Okay. Again, for the -- excuse

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 me -- summary, the modification project continues to provide
2 a town center project based around a central drive anchored
3 by community service retail and with significant retail and
4 residential component. The modification will include an
5 anchor retail grocery, a medical office, and a first stage
6 PUD block of four, a property of a future residential
7 building. So let me open up for any questions or comments.

8 There are a few things that I think we've asked
9 for. I think there were some additional drawings. I know
10 we have some IZ issues we need to address in Block 4. Let's
11 see. What else? Okay. Let me open it up. Any questions
12 or comments?

13 (Simultaneous speaking.)

14 COMMISSIONER MAY: I went through all of the open
15 issues and I believe everything has been addressed.
16 Certainly the questions that I had have been addressed. I
17 am interested in seeing what happens with the access road
18 around the back of the building. That comes back in a Stage
19 2 design.

20 But I think they clarified the questions that we
21 had about the loading of the small retail building and
22 addressed the questions about parking garage and the corner
23 portion of the medical building. Yeah, I mean, I think the
24 one thing that still is a little bit concerning is the
25 continued objections from Robin Marlin. But I mean, I feel

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 satisfied that there's been the opportunity to air that out
2 and that the applicant has been trying to address those
3 concerns, even if there's no full success in that file. So
4 I am okay with approving tonight the final action.

5 CHAIRMAN HOOD: Okay. Thank you, Commissioner --
6 excuse me -- Commissioner May. Commissioner Shapiro, do you
7 have any questions or comments?

8 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I
9 don't have any questions. I agree with Commissioner May.
10 There's a few things that may be helpful to note for the
11 record if I can.

12 There were some questions around the arch walk
13 issue. And so OP noted that was a concern that the parking
14 garage's location along the street could be -- that would be
15 a large blank wall which could be an adverse impact. And the
16 applicant had said that there would be an art walk that would
17 address this issue.

18 But I think we need to see that formally
19 memorialized as a condition of the order. So I would ask --
20 if we were to take this final action, I would ask the Office
21 of the Attorney General to do that, to memorialize that
22 condition in the order. So that's one issue.

23 There's an issue about IZ compliance as well for
24 Block 4. In this, there was an unresolved issue about
25 whether Block 4 -- the Block 4 building should be required

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to comply with IZ. And this is, in part, because of the --
2 this is a pretty substantial redevelopment.

3 And so does this apply to the new standards? I
4 think we have a precedent on this in the Kayford case. And
5 if we follow that precedent, then I think that they're in
6 compliance. And so I think that's worth noting as well.

7 And then one other issue on the comp plan
8 consistency for Block 4. And so portions of the building
9 appear inconsistent with the low density designations of the
10 FLUM and the generalized policy map as a neighborhood
11 conservation area. So the applicant makes some arguments
12 about why that's okay which I'm not sure help my thinking or
13 our thinking as much as they could. But I think it's still
14 okay.

15 And I think that if we look at other areas in the
16 comp plan that outweigh this inconsistency and there are a
17 number of them, there's land use elements 2.4. The
18 neighborhood commercial -- I'm just going to list them
19 because the details will come out in the order. The land use
20 element 2.4, land use element 2.4.1, housing element 1.1.3
21 which is balanced growth, housing element 1.1.4, mixed use
22 development, the far northeast and southeast area elements
23 1.1.2, and 2.7.1 and 2.7B. Those are all ways in which I
24 think that the inconsistency is outweighed by these other
25 elements. And I think I've captured them all. Am I missing

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 any, colleagues?

2 CHAIRMAN HOOD: I think you covered most of them.
3 Let me see. Do you have anything else, Commissioner Shapiro?

4 COMMISSIONER SHAPIRO: No, that's all, Mr. Chair.

5 CHAIRMAN HOOD: Let me see. Commissioner
6 Turnbull?

7 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I
8 would say that I agree with Commissioner May's comment and
9 Commissioner Shapiro's comments and thank Commissioner
10 Shapiro for going through the comp plan consistency elements
11 and with that. And I would just say that the only other
12 thing is that Exhibit 35 and 35A -- hang on. There's
13 something screwing up my machine here. Anyways, can you hear
14 me all right?

15 CHAIRMAN HOOD: Yes.

16 COMMISSIONER TURNBULL: I think I've just lost
17 video. I would just say that Exhibit 35 and 35A do address
18 some of the main concerns that we had previously. And I
19 think they basically explained about the parking garage
20 towers and the lightening. And I think that's been
21 significantly addressed. So I don't have any more issues
22 with the project.

23 CHAIRMAN HOOD: Okay. And Commissioner Turnbull,
24 we can still see you, so --

25 COMMISSIONER TURNBULL: You can see me?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: Yeah, we can see you.

2 COMMISSIONER TURNBULL: I can't see you guys.
3 That's why I'm trying to figure out what the --

4 (Simultaneous speaking.)

5 CHAIRMAN HOOD: You probably minimized us.

6 COMMISSIONER TURNBULL: And I think Norton came
7 on and interrupted my --

8 (Simultaneous speaking.)

9 COMMISSIONER TURNBULL: So I don't know what it
10 did. I'll get you guys back.

11 CHAIRMAN HOOD: Okay. All right. Vice Chair
12 Miller?

13 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
14 agree with the comments of my colleagues. And as one who I
15 think at the hearing -- I think it was at the hearing -- at
16 the proposed action asked about the comp plan consistency
17 issue and the inclusionary zoning exemption issue.

18 I am satisfied that -- as Commissioner Shapiro
19 outlined, that the -- on a comp plan consistency that even
20 in light of -- well, especially in light of the Bruce Monroe
21 park case, that there are a lot of other policies that
22 outweigh -- in the comprehensive plan that outweigh any
23 potential inconsistency with the small portion of the comp
24 plan maps that designate part -- a very small portion of this
25 site for low density residential and neighborhood

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 conservation area. I think most of the site is designated
2 as moderate density residential or moderate density
3 commercial. And also the policy map I think designates
4 almost all of the conservation area as a multi-neighborhood
5 center, envisioning it as a retail center.

6 So there's some inconsistency in the existing comp
7 plan policy map on that point. But nonetheless, if there is
8 a potential inconsistency, I think Mr. Shapiro has outlined
9 the other policies in the overall plan that outweigh any
10 potential inconsistency. And I think the applicant also in
11 their Exhibit 35B dated September 1st on pages 4, 5, and 6
12 called out those other comprehensive plan policies as well.

13 On the inclusionary zoning, yeah, we do -- Mr.
14 Shapiro correctly pointed out that we have this precedent of
15 another case where the IZ originally did not apply when the
16 case first came up. And we allowed that to go forward in
17 other iterations, even though the IZ has been strengthened
18 since the time of the original adoption of that PUD and this
19 PUD. So even though I had some, I guess -- well, so -- and
20 I will also note that there are affordable -- there's a lot
21 of housing in this project that's been long awaited by the
22 community and wants to see this project move forward as a
23 town center with both the grocery store and all these housing
24 units which do include affordable housing requirements.

25 Maybe not as deep a level or as great set aside

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 as we currently have in current inclusionary zoning
2 requirements and in future ones that we may be considering.
3 But there are affordable housing requirements for this site
4 that were part of the land disposition agreement approved by
5 the city council and approved by the Commission in the
6 original PUD. So I'm satisfied that we can forward at this
7 point finally with final action and see this important
8 Skyland project continue to move forward. Thank you.

9 CHAIRMAN HOOD: So I would agree with everything
10 I've heard. And I just want to echo the fact so wherever it
11 goes, the transcript, about what Commissioner Shapiro and
12 others already alluded to that we have made the
13 acknowledgment that this building is inconsistent in the
14 guidance. It's inconsistent with the density and the height.

15 We've made that acknowledgment, but we also
16 acknowledge that the project has -- or Commissioner Shapiro's
17 outline -- land use elements. The project as a whole is not
18 inconsistent with the comprehensive plan because there are
19 other policies that outweigh. And he decided the land use
20 elements. I want to make sure that's a part of our order.

21 The Commission has already looked through that and
22 fairly reviewed that. So I'm hoping that this challenge or
23 whatever the case, that we respectfully done our due
24 diligence is noted. So I appreciate that, and it'll be in
25 the order and reference Mr. Shapiro has alluded to when he

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 cited the other land use elements. So with that, is there
2 anything else?

3 (No audible response.)

4 CHAIRMAN HOOD: All right. So with that, we move
5 approval since I'm unmuted once I figure out -- hold on one
6 second. Give me one moment, please. I move approval, the
7 Zoning Commission Case No. 09-03F as discussed and ask for
8 a second.

9 VICE CHAIR MILLER: Second.

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

12 (No audible response.)

13 CHAIRMAN HOOD: Not seeing any, Ms. Schellin,
14 could we do a roll call vote? I think you're muted.

15 MS. SCHELLIN: Sorry. I keep forgetting.
16 Commissioner Hood?

17 CHAIRMAN HOOD: Yes.

18 MS. SCHELLIN: Commissioner Miller?

19 VICE CHAIR MILLER: Yes.

20 MS. SCHELLIN: Commissioner May?

21 COMMISSIONER MAY: Yes.

22 MS. SCHELLIN: Commissioner Shapiro?

23 COMMISSIONER SHAPIRO: Yes.

24 MS. SCHELLIN: Commissioner Turnbull?

25 COMMISSIONER TURNBULL: Yes.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
2 final action of Zoning Commission Case No. 09-03F.

3 CHAIRMAN HOOD: Okay. We'll move to the next
4 case. Okay. Zoning Commission Case No. 19-17. This is
5 Atlas MLK, LLC and 3715 MLK, LLC, Map Amendment at Square
6 6070. Ms. Schellin?

7 MS. SCHELLIN: Yes. At Exhibit 38, once again,
8 an NCPC court advising that the map amendment is not
9 inconsistent with the National Comp Plan and would not have
10 any adverse effects on federal interest. We ask the
11 Commission to consider final action this evening.

12 CHAIRMAN HOOD: Okay. I would ask everybody to
13 go on mute. Someone is giving feedback. The summary in this
14 case, the applicant is requesting to rezone the property from
15 MU-3A zone to the MU-4 zone. And the property consists of
16 four properties that are on the west side of Martin Luther
17 King, Jr. Avenue and the 3700 block.

18 The properties are located improved with a Unity
19 of Love Praise Temple, Fort Carroll Market, and two office
20 buildings. Properties are designed as a neighborhood
21 commercial center. On the FLUM, Future Land Use Map, the
22 applicant contends that the rezoning will facilitate the
23 redevelopment of the underutilized sites.

24 The MU-3A zone allows a maximum density of 1.0
25 floor area ratio, which is FAR, with 1.2 FAR for the IZ,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 inclusionary zoning, a maximum height of 40 feet, three
2 stories. The MU-4 zone allows a maximum density of 2.5 FAR
3 which is 3.0 of IZ and a maximum height of 50 feet. That's
4 the summary of what we're getting ready to deal with. I
5 think this was pretty straightforward, but let me open it up
6 and see if you have any comments or questions. Anybody?

7 (No audible response.)

8 CHAIRMAN HOOD: Okay. Again, I think the record
9 is complete in this case. We're addressed a lot of the
10 issues that may have come up. I believe we did. Okay. The
11 ANC believed in this case that the application is consistent
12 with the future land use map and the VPM. Okay. All right.
13 Any other questions or comments?

14 (No audible response.)

15 CHAIRMAN HOOD: Not seeing any. Would somebody
16 like to make a motion?

17 COMMISSIONER SHAPIRO: Mr. Chair, as you said, OP
18 is in support. DDOT has no objections. The ANC is on board.
19 I would move that we -- is this -- pardon me.

20 (Simultaneous speaking.)

21 COMMISSIONER SHAPIRO: Thank you. Move that we
22 take final action on Zoning Commission Case No. 19-17, Atlas
23 MLK, LLC and 3715 MLK, LLC, Map Amendment at Square 6070 and
24 look for a second.

25 VICE CHAIR MILLER: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 CHAIRMAN HOOD: It has been moved and properly
2 second. Any further discussion?

3 (No audible response.)

4 CHAIRMAN HOOD: Not seeing any, Ms. Schellin,
5 would you do a roll call vote, please?

6 MS. SCHELLIN: Commissioner Shapiro?

7 COMMISSIONER SHAPIRO: I vote yes.

8 MS. SCHELLIN: Commissioner Miller?

9 VICE CHAIR MILLER: Yes.

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRMAN HOOD: Yes.

12 MS. SCHELLIN: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Yes.

16 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
17 final action in Zoning Commission Case No. 19-17.

18 CHAIRMAN HOOD: Okay. We have a time extension
19 case, Zoning Commission Case -- yeah. Time extension case,
20 Zoning Commission Case No. 17-19A, The Warrenton Group, Two-
21 Year PUD Time Extension at Square 5197. Ms. Schellin?

22 MS. SCHELLIN: Yes. The applicant requested a
23 two-year time extension of the validity of the PUD and cites
24 the reason is unexpected delays in obtaining sufficient
25 project financing. The applicant subsequently requested a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 two-year extension for the start of construction also.
2 Exhibit 6 is an OP report in support of the extension. So
3 I'd ask the Commission to consider taking final action on
4 this request this evening.

5 CHAIRMAN HOOD: Okay. Commissioners reviewing
6 this, this is the applicant requests a two-year time
7 extension over PUD Zoning Commission order 17-19. It was
8 effective July 6, 2018 and required a building permit
9 application be filed by July 5, 2020 and construction to
10 begin July 6, 2021 as the effective date. And they're asking
11 for an extension which I think is warranted without further
12 detail especially what we're going through now. So I would
13 be in support of it. Any comments? No comments?

14 (No audible response.)

15 CHAIRMAN HOOD: So I would move that we grant the
16 time extension as noted in Zoning Commission Case No. 17-19A,
17 The Warrenton Group, Two-Year PUD Time Extension at Square
18 5197 and ask for a second. Mr. Turnbull, can I get a second?
19 You just muted -- you are muted.

20 COMMISSIONER TURNBULL: Second, Mr. Chair.

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

23 (No audible response.)

24 CHAIRMAN HOOD: Not seeing any, Ms. Schellin,
25 would you please record the vote?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 MS. SCHELLIN: Commissioner Hood?

2 CHAIRMAN HOOD: Yes.

3 MS. SCHELLIN: Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Yes.

5 MS. SCHELLIN: Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: Commissioner Shapiro?

10 COMMISSIONER SHAPIRO: Yes.

11 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
12 final action in Zoning Commission Case No. 17-19A.

13 CHAIRMAN HOOD: So I'm sure you all don't have
14 this problem. But when you say something, after you say it,
15 you say, no, that was totally wrong. That was wrong. I say,
16 oh, it doesn't work. All right.

17 So let's go to hearing action. Office of Planning
18 -- no, that's wrong too. I shouldn't have said it. Now
19 everything is going to be wrong. Office of Planning, let me
20 go to the first case. Zoning Commission Case No. 20-19,
21 Office of Planning, Text Amendment to Subtitles B, D, E, and
22 F to Clarify and Provide Consistency to Accessory Building
23 Regulations.

24 Ms. Vitale -- well, let's just bring out Ms.
25 Vitale in this case. And then for the rest of them, we'll

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 just bring out Mr. Lawson and Ms. Steingasser for all of
2 them. And for this particular case, Ms. Vitale, and then Mr.
3 Tundra, I believe, will come up as well. Okay.

4 MS. VITALE: Good evening, Mr. Chair and members
5 of the Commission. Elisa Vitale with the Office of Planning
6 for Case 20-19. The Office of Planning is recommending set
7 down of the text amendment to Subtitles B, D, E, and F to
8 clarify and provide consistency for the accessory building
9 regulations.

10 The key modifications include the following,
11 including a definition for a shed. This would be an
12 accessory structure that could not exceed 50 square feet in
13 area and 10 feet in height, and then allowing for the
14 placement of a shed and a rear or side yard. Shifting the
15 rules of measurement for accessory buildings to a new section
16 in Subtitle B. Increase the permitted height of accessory
17 buildings from 20 feet to 22 feet in all R zones while
18 maintaining the two story limit.

19 Aligning the development standards to regulate
20 maximum building area for accessory buildings. The language
21 currently uses both lot occupancy and maximum building area
22 interchangeably which has created some confusion. Deleting
23 redundant use-related permissions that are already contained
24 in Subtitle U. And finally, aligning the alley centerline
25 setback requirements with the setback provisions for alley

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 buildings.

2 With respect to the accessory building rules of
3 measurement for height, OP would like to ensure that the
4 provisions align with the alley building rules of
5 measurement. And we would request flexibility to work with
6 OAG to refine this proposed language as well as any other
7 provisions that may be set down today. This concludes my
8 presentation, and I'm happy to answer any questions. Thank
9 you.

10 CHAIRMAN HOOD: Thank you, Ms. Vitale. I was
11 think about, tell Ms. Elliott I need to see her so I'll stop
12 mispronouncing her name. I haven't seen her in a while.
13 Anyway, Commissioners, any questions or comments for this
14 recommendation? Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Ms. Vitale, thank you for
16 your report. I was just going back through it. Is there a
17 side yard requirement for these little sheds? Do they have
18 to be so far away from the property? I'm missing -- maybe
19 I missed it.

20 MS. VITALE: We were proposing that these small
21 garden shed structures, that they could be located in a side
22 yard. Currently, the regulations allow for a bit larger of
23 an accessory building in a side yard. And so the current
24 regulations, it does require some separation if it's in a
25 side yard from the principle building and also requires

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 conformance with the side yard setback requirements.

2 COMMISSIONER TURNBULL: Okay, okay.

3 MS. VITALE: So this is a bit different than
4 what's there in the regulations now. It would be a smaller
5 building and would allow for bigger flexibility in where it's
6 placed.

7 COMMISSIONER TURNBULL: I was just curious. Could
8 someone put a shed -- if they had a fence -- if it's a row
9 house and they put a fence, can they go right up against the
10 fence with a shed?

11 MS. VITALE: That is how we had proposed it now.
12 We're certainly happy to look at this language if the
13 Commission has concerns about these --

14 COMMISSIONER TURNBULL: Well, I'm just worried
15 more about the Board of Zoning Adjustment in cases where
16 someone is going to put something in and it's right up
17 against. I just wonder if we're going to hear complaints by
18 neighbors saying, oh, it's right up against my hibiscus or
19 something and it's not going to grow. I don't know. I'm
20 just thinking out loud. Just talking out loud here about
21 somebody putting something right up against the fence of a
22 next door neighbor and somebody complaining. I'm just
23 throwing that out.

24 MS. VITALE: Sure. We can certainly take a look
25 at that.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TURNBULL: Okay. Thank you.

2 COMMISSIONER MAY: Commissioner Turnbull, I would
3 note that the shed is by definition limited to 10 feet in
4 height. So hopefully, that won't cause really big problems
5 with abutting neighbors. I know there -- I live in a row
6 house neighborhood, and I see plenty of shed structures in
7 the back, up against the fence. And it's not really
8 practical to put them anywhere else because the lots are
9 usually pretty narrow. So anyway, you're muted. Mr.
10 Turnbull, you're muted. Missed all of that.

11 COMMISSIONER TURNBULL: I'm muted all the time.
12 No, I just remember having a house and put up a fence. And
13 the wife of the next door neighbor was just going ballistic.
14 So it's little things that set people off.

15 So I'm just throwing that out. I understand where
16 you're coming from and I've seen sheds right up against it.
17 I'm just -- I'm not opposed. I'm just throwing it out as a
18 possible BZA issue that might come up.

19 CHAIRMAN HOOD: Okay. Any other questions or
20 comments?

21 (No audible response.)

22 CHAIRMAN HOOD: Okay. Thank you, Ms. Vitale. We
23 have the proposal in front of us. So with that, I would move
24 that we set -- excuse me -- set down Zoning Commission Case
25 No. -- no, Zoning Commission Case No. 20-19, Office of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Planning, Text Amendment to Subtitles B, D, E, and F to
2 Clarify and Provide Consistency to Accessory Building
3 Regulations and ask for a second.

4 VICE CHAIR MILLER: Second.

5 CHAIRMAN HOOD: It's been moved and properly
6 second. Anything else? Any further discussion?

7 (No audible response.)

8 CHAIRMAN HOOD: Ms. Schellin, would you do a roll
9 call vote, please?

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRMAN HOOD: Yes.

12 MS. SCHELLIN: Commissioner Miller?

13 VICE CHAIR MILLER: Yes.

14 MS. SCHELLIN: Commissioner May?

15 COMMISSIONER MAY: Yes.

16 MS. SCHELLIN: Commissioner Shapiro?

17 (No audible response.)

18 MS. SCHELLIN: Commissioner Shapiro?

19 (No audible response.)

20 CHAIRMAN HOOD: I think she has to hear you for
21 the record, I think.

22 MS. SCHELLIN: I'm sorry?

23 COMMISSIONER SHAPIRO: I was having technical
24 difficulties. I couldn't get to my mute. So --

25 MS. SCHELLIN: Okay.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SHAPIRO: -- apparently thumbs up
2 doesn't count. So --

3 MS. SCHELLIN: No, no. You have to speak.
4 Commissioner --

5 COMMISSIONER SHAPIRO: Yes.

6 MS. SCHELLIN: -- Shapiro, yes? Okay.
7 Commissioner Turnbull. I'm sorry, not Commissioner Turnbull.
8 That's 5 to 0 to 0 to set down Zoning Commission Case No. 20-
9 19 as a rulemaking case.

10 CHAIRMAN HOOD: Okay. Let's move right on.
11 Zoning Commission Case No. 20-20, Office of Planning, Text
12 Amendment to Subtitle U, Animal Care Uses. Mr. Mordfin from
13 the Office of Planning?

14 MR. MORDFIN: Okay. Good afternoon, Chair and
15 members of the Commission. OP recommends the Commission set
16 down the following text amendments to the zoning regulations
17 as they're related to animal care uses. The first relates
18 to a provision requiring animal care -- animal boarding, a
19 special exception use, to be separated from residential uses
20 by a minimum of one floor of nonresidential use when located
21 within a mixed use building in the MU downtown and some SP
22 zones.

23 Recently, the BZA had difficulty justifying area
24 variances from this provision and requested OP reevaluate
25 this criterion. Additional criteria for this use contain

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 provisions intended to protect the occupants of the building
2 from potential adverse effects from the use such as odor and
3 noise, negating the need for the one floor separation. OP
4 also recommends the addition of a provision to permit the
5 Board to waive any of the other criteria based on a finding
6 of no adverse impact.

7 The second request relates to previous text
8 amendments that were adopted by the Commission for animal
9 care uses within the commercial and industrial zoned
10 districts under ZR 58 but were never properly incorporated
11 into the zoning regulations. And this proposal is to correct
12 that error. And lastly, OP recommends that pet grooming
13 establishments be permitted within MU use groups C, D, E, F,
14 and G as matter-of-right uses provided there are no medical
15 or boarding uses that are associated with that use. Thank
16 you, and OP is available for questions.

17 CHAIRMAN HOOD: Thank you, Mr. Mordfin. Let's see
18 if we have any questions or comments, Commissioners? I don't
19 see anyone. All right. So we have a request before us.
20 Would someone like to make a motion, accept or set down,
21 whatever your pleasure? Mr. Turnbull?

22 COMMISSIONER TURNBULL: Mr. Chair, I would look
23 to set down Zoning Case No. 20-20, Office of Planning, Text
24 Amendment to Subtitle U, re: Animal Care Uses and look for
25 a second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SHAPIRO: Second.

2 CHAIRMAN HOOD: Thank you. It's been moved and
3 properly second. Any further discussion?

4 (No audible response.)

5 CHAIRMAN HOOD: Okay. Ms. Schellin, would you
6 please do a roll call vote?

7 MS. SCHELLIN: Commissioner Turnbull?

8 COMMISSIONER TURNBULL: Yes.

9 MS. SCHELLIN: Commissioner Shapiro?

10 COMMISSIONER SHAPIRO: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRMAN HOOD: Yes.

13 MS. SCHELLIN: Commissioner May?

14 COMMISSIONER MAY: Yes.

15 MS. SCHELLIN: Commissioner Miller?

16 VICE CHAIR MILLER: Yes.

17 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
18 set down in Zoning Commission Case No. 20-20 as a rulemaking
19 case.

20 CHAIRMAN HOOD: Okay. Thank you, and thank you,
21 Mr. Mordfin. Let's go to the Zoning Commission Case 20-21,
22 Office of Planning, Text Amendment to Create the Barry Farm
23 Zone, BF Zone. Ms. Brown-Roberts?

24 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman
25 and members of the Commission. Can I get the slide, please?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 Thanks. Can I get the next one, the next slide? Thanks.
2 Good evening, Mr. Chairman and members of the Commission.
3 Maxine Brown-Roberts representing the Office of Planning on
4 Zoning Commission Case 20-21.

5 The Office of Planning proposes a text amendment
6 to create a new zone to cover Barry Farm and Wade Road
7 development, also known as Barry Farm. The property is
8 currently zoned RA-1 and the proposed amendment to Subtitle
9 K would introduce a new BF zone with a number of subzones
10 along with development standards and use permissions. The
11 new zone category would implement the Barry Farm
12 redevelopment plan which is approved as a small area plan.

13 The BF-1 zone is proposed as a moderate density
14 mixed use zone that would be allow residential use and
15 apartments with broad full neighborhood and retail uses and
16 services with a maximum building height of 65 feet, an FAR
17 of up to 6.0. The BF-2 zone is a moderate density
18 residential zone that would allow row dwellings, semidetached
19 units, flats, and a maximum height of 40 feet. Within the
20 BF-2 zone would also be an area designated for community park
21 and historic landmark. Next.

22 The future land use map indicates that the site
23 is appropriate for moderate density residential. The
24 proposed row dwellings, semidetached units, flats, and
25 multifamily buildings and neighborhood retail and service

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 uses are appropriate for this location and is recommended by
2 the detailed study of which the Barry Farms small area plan
3 is to accommodate moderate density development. Next.

4 The generalized policy map indicates the site is
5 designated as a neighborhood enhancement area. The proposed
6 BF zone would not be inconsistent with this designation as
7 it would allow for redevelopment of the District owned
8 property to be mainly residential with various housing types
9 reflected of the diversity of housing types in the Anacostia
10 area. To complement the residences, the new zone provides
11 for neighborhood retail uses and services and would serve the
12 everyday needs of residents.

13 The proposed text amendment would allow for
14 development that would meet or further many of the citywide
15 elements of the comprehensive plan. In particular, land use
16 housing element including replacement housing, economic
17 development, and historic preservation. Barry Farm is
18 identified as the -- in the far southeast-southwest area
19 element as a policy focus area and recommends additional
20 density and moderate density and allow for the incorporation
21 of retail and service uses to serve the daily needs of
22 residents.

23 The vision of the Barry Farm, Park Chester, Wade
24 Road redevelopment plan is to create a vibrant mixed income
25 neighborhood where residents have quality housing options,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 real economic opportunities, and access to appropriate human
2 services for children and adults. The proposal would be
3 consistent with this recommendation as it would allow for the
4 redevelopment of a mix of housing types to accommodate the
5 mix of replacement housing, affordable, and market rate
6 units.

7 In summary, the proposed text amendment would not
8 be inconsistent with the moderate density mixed use
9 development anticipated by the comprehensive plan map,
10 policies, and goals and would implement the vision of the
11 Barry Farms small area plan. Because once the BF zone is set
12 down, a separate map amendment case will be filed to map the
13 new zone. The Office of Planning therefore recommends that
14 the Zoning Commission set down for public hearing the
15 proposed text amendment. Thank you, Mr. Chairman, and I'm
16 available for questions.

17 CHAIRMAN HOOD: Thank you, Ms. Brown-Roberts.
18 Let's see if we have any questions or comments. Commissioner
19 May?

20 COMMISSIONER MAY: No questions or comments.

21 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

22 (No audible response.)

23 CHAIRMAN HOOD: Commissioner Turnbull?

24 (No audible response.)

25 CHAIRMAN HOOD: And Vice Chair Miller?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 (No audible response.)

2 CHAIRMAN HOOD: You want to unmute.

3 VICE CHAIR MILLER: Yeah, let me unmute. Thank
4 you, Mr. Chairman. I strongly support setting down this
5 zoning case for a hearing.

6 Fourteen years, the council approved the small
7 area plan that the Mayor -- I think it was Mayor Williams --
8 submitted for this redevelopment of a new community. So it's
9 been a long promised mixed income development which has had
10 a storied history which has been landmarked by -- some of
11 which has been landmarked by the Historic Preservation Review
12 Board. But it's had a history here at the Zoning Commission
13 and the D.C. Court of Appeals.

14 I guess I would be interested in seeing -- I think
15 I can recall the problem I had, some of this. But at least
16 some analysis, if not from the Office of Planning, I guess
17 from our own council which may not then be part of the public
18 record. But I think it probably would be used for part of
19 the public record to how much development potential this type
20 of rezoning will allow of the site versus the (Audio
21 interference) PUD the Zoning Commission approved and that was
22 vacated by the Court of Appeals, I believe, over almost two
23 and a half years ago.

24 So I get the sense that it's somewhat of a lesser
25 development in terms of the total number of housing units

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 that's being proposed. I don't really have a sense off the
2 top of my head about how much retail. They were supposed to
3 be neighborhoods served in retail, a lot of parks and
4 recreation, open space in the previous order. I'd be
5 interested in seeing either from our council or for the
6 public record I think to justify moving forward in this
7 fashion as to what the differences are in the development
8 potential that will be happening here. So that's one thing.

9 I do strongly support it being set down for a
10 hearing and moving forward. I guess I think it's important
11 that we know the status of the tenants that had been at Barry
12 Farm, where they have -- how many are remaining, if any, how
13 many have been relocated. Maybe -- I don't know if the
14 Housing Authority has this -- is tracking this information.

15 But I think it'd be useful to know just given the
16 history here where the tenants -- how many tenants were here,
17 public housing tenants, where they had been located,
18 relocated to, nearby. I know some of them located --
19 relocated nearby as there's been demolition going forward,
20 and what the plans are for providing an opportunity to return
21 to the site to any tenants that the Housing Authority has
22 been keeping track of, wherever they may be.

23 There was something else I was interested in. Oh,
24 so the comprehensive plan land use map, Ms. Brown-Roberts
25 designates this site as it has for a while a moderate

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 density. The future land use map is moderate density
2 residential. Is that correct?

3 MS. BROWN-ROBERTS: That's correct.

4 VICE CHAIR MILLER: And is there any -- the Mayor
5 has a number of map and other amendments that she has
6 proposed to the council that are pending before the council
7 which is having a public hearing -- set a public hearing
8 (Audio interference.) Is any of those (Audio interference.)
9 Do any of those proposed amendments deal with Barry Farms
10 (Audio interference.)

11 CHAIRMAN HOOD: Mr. Miller, let me just interrupt.
12 I don't know if anybody else is getting it, but I'm getting
13 a lot of feedback.

14 VICE CHAIR MILLER: Yeah, I'm getting feedback
15 too.

16 CHAIRMAN HOOD: So what I'm going to ask is that
17 everybody mute. I'm not sure. I guess there's six of you
18 on the phone. But if everybody can mute, that way we can
19 hear what the Vice Chair and his conversation between Ms.
20 Brown-Roberts and the Vice Chair because it sounds real
21 muffled. So you can go ahead, Vice Chair.

22 VICE CHAIR MILLER: Okay. I'll just conclude,
23 asking Ms. Brown-Roberts by the time of the hearing if you
24 could just provide on this final point if there are any
25 proposed amendments the Mayor has proposed that would affect

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 the Barry Farm site. I think there are general amendments
2 that may -- affected both in the framework element that was
3 recent, that has already been adopted, but also the ones that
4 are proposed. But specifically, if you can answer the
5 question especially land use map amendment pending for Barry
6 Farm and you if you know off the top of your head what that
7 is from moderate -- the current moderate density residential
8 designation.

9 MS. BROWN-ROBERTS: I think it's up to medium or
10 in order to -- and then in order to accommodate the
11 commercial -- the retail uses also.

12 VICE CHAIR MILLER: Just to have that at the time
13 of the hearing.

14 MS. BROWN-ROBERTS: Okay.

15 VICE CHAIR MILLER: So that won't be law, and we
16 can acknowledge that it's not law. It certainly -- but it
17 certainly has been proposed by the Mayor. And maybe by the
18 time we consider this, it may have already been approved by
19 the council although it probably won't be law yet.

20 But it'd just be useful to have all the proposed
21 amendments and also the amendments that were adopted in the
22 last round of framework element amendments. There may be
23 general policies that interpret -- how you interpret the map
24 and everything that might be helpful for this project to
25 finally move forward. So thank you for that. Thank you for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 your report.

2 CHAIRMAN HOOD: Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. It's
4 just a quick technical question. Ms. Brown-Roberts, when I
5 was looking at your presentation, did I see that a very small
6 corner of what is being proposed within a different time?

7 MS. BROWN-ROBERTS: Pardon me? I didn't hear.

8 COMMISSIONER SHAPIRO: When you were giving your
9 presentation on one of the slides, it looked like a very
10 small corner of what is being proposed for is in a different
11 zone. I'm just --

12 (Simultaneous speaking.)

13 COMMISSIONER SHAPIRO: -- the last case that we
14 were in.

15 MS. BROWN-ROBERTS: No, it's not. It's all area
16 one.

17 COMMISSIONER SHAPIRO: So can you -- maybe it's
18 just something that's not done right on the map that you
19 have. Is it possible to bring that up again?

20 MS. BROWN-ROBERTS: I don't know if Paul could
21 bring it up.

22 COMMISSIONER SHAPIRO: I know this is a minor
23 technical issue, but after the (Audio interference)
24 attention. Go back one more. There.

25 MS. BROWN-ROBERTS: I'm not seeing where.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SHAPIRO: Right off Eaton Road,
2 Southeast. Not where it's zoned outside of --

3 (Simultaneous speaking.)

4 MS. BROWN-ROBERTS: Oh, are you talking about
5 where it looks purple? Is that the area you're talking
6 about?

7 COMMISSIONER SHAPIRO: I can't highlight it. But
8 if you go to the right of Sumner Road at the intersection,
9 come around Wade Road, that area.

10 MS. BROWN-ROBERTS: Oh, yeah. The -- yeah, the
11 back lot is just extended a little into that and we just need
12 to put it back there.

13 COMMISSIONER SHAPIRO: Okay. Thank you. I'll let
14 it go. That's all I have now.

15 MS. BROWN-ROBERTS: Okay.

16 CHAIRMAN HOOD: Okay. The only question I have,
17 Ms. Brown-Roberts, is -- and I agree with the Vice Chair
18 about the status of the residents. We had the PUD, and I
19 don't want to rehash. We have a little more control, a
20 little more finding out and being passionate considering
21 those who were then -- who were being relocated for the time
22 being.

23 So even though I'm still going to ask that, I'm
24 sure my legal counsel will tell me because of the format in
25 which we're moving forward, I might not be able to do it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 But I'm going to ask it anyway because I think it's very
2 important. But have we -- Ms. Brown-Roberts, have we been
3 talking to the residents about this? Do they know about
4 what's being proposed?

5 MS. BROWN-ROBERTS: I am not absolutely sure
6 because between DMPED and the property owners, they were
7 looking at that. They're dealing with that section. So I'm
8 not completely sure, but I have also spoken to them about
9 prior to the public hearing to make sure that they are
10 notified.

11 CHAIRMAN HOOD: Thank you, Ms. Brown-Roberts,
12 because, to me, that's going to be crucial as we continue to
13 move forward to try to increase the quality life of all D.C.
14 residents. I think this case is very big because there were
15 some things that we had put in place, excuse me, in the PUD
16 which would've been very beneficial, I believe. But anyway,
17 I don't want to rehash that. We are where we are now. We'll
18 continue to try to do the best effort possible. Any other
19 questions or comments?

20 (No audible response.)

21 CHAIRMAN HOOD: Okay. So with that,
22 Commissioners, let me go back to this case. I move that we
23 set down as proposed Zoning Commission Case No. 20-20 and ask
24 for a second.

25 VICE CHAIR MILLER: Second.

1 CHAIRMAN HOOD: It's been moved and properly
2 second. Any further discussions?

3 (No audible response.)

4 CHAIRMAN HOOD: Not hearing any, Ms. Schellin,
5 would you please do a roll call vote?

6 MS. SCHELLIN: Just to clarify, that's 20-21.

7 CHAIRMAN HOOD: What'd I say? Twenty -- oh.

8 MS. SCHELLIN: 20-20, yeah.

9 CHAIRMAN HOOD: 20-21. Let me do this. I move
10 that we set down Zoning Commission Case 20-21, Office of
11 Planning, Text Amendment to Create Barry Farm Zone and I ask
12 for a second.

13 VICE CHAIR MILLER: Second.

14 CHAIRMAN HOOD: It has been moved and properly
15 second. Any further discussion?

16 (No audible response.)

17 CHAIRMAN HOOD: Okay. Ms. Schellin, would you
18 please do a roll call vote?

19 MS. SCHELLIN: Commissioner Hood?

20 CHAIRMAN HOOD: Yes.

21 MS. SCHELLIN: Commissioner Miller?

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: Commissioner May?

24 COMMISSIONER MAY: Yes.

25 MS. SCHELLIN: Commissioner Shapiro?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER SHAPIRO: Yes.

2 MS. SCHELLIN: Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Yes.

4 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down
5 Zoning Commission Case No. 20-21 as a rulemaking case.

6 CHAIRMAN HOOD: Okay. Thank you. I think our
7 last case is Zoning Commission Case 20-02, Office of
8 Planning, Text Amendment to Subtitles C, F, G, I, K, and X,
9 Expanded Inclusionary Zoning. Mr. Kirschenbaum and Mr.
10 Rodgers?

11 MR. KIRSCHENBAUM: Could we lower the
12 presentation? Thank you. Good evening, Chair Hood and
13 members of the Zoning Commission. Jonathan Kirschenbaum with
14 the Office of Planning for Case 20-02.

15 We are pleased to bring forward these proposed
16 text amendments to increase the District's existing IZ set
17 aside requirements. For clarity sake, we refer to the
18 existing IZ program as regular IZ and the proposed text
19 amendments as expanded IZ. The Office of Planning recommends
20 set down of these proposed text amendments which would not
21 be inconsistent with the comprehensive plan. Next slide,
22 please.

23 This application is a culmination of work that
24 started almost a year ago at OP. As you probably remember,
25 we brought forward a concept proposal for expanded IZ in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 January of this year. The concept proposal requested that
2 OP explore ways to create higher affordable housing set aside
3 requirements for certain types of map amendments.

4 A public -- Zoning Commission was supposed to held
5 to engage the public on the concept proposal but was canceled
6 due to the COVID-19 emergency. With public hearing, OP held
7 a virtual public roundtable on May 15th, 2020 to discuss the
8 applicability of expanded IZ, the proposed set aside
9 requirements, and the financial modeling. Approximately 90
10 people attended the roundtable discussion and of those who
11 testified, most were in support of the concept proposal.
12 Next slide, please.

13 Expanded IZ would apply to map amendments that
14 would allow higher density residential development. It would
15 also apply to map amendments going from PDR to a zone that
16 permits residential use or from unzoned to a zone that
17 permits residential use. The expanded IZ concept proposes
18 to supersede the set aside requirements of regular IZ as will
19 be discussed on the next slide.

20 All other program requirements of regular IZ are
21 proposed to remain the same, including the bonus density of
22 up to 20 percent FAR. OP does not propose that expanded IZ
23 applies at PUDs. Existing, proposing, or future PUDs would
24 continue to be subject to the regular IZ requirements and any
25 PUD-related negotiations to provide IZ units.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 OP would continue to provide a report to the
2 Zoning Commission, analyzing of the proposed map amendment
3 would not be inconsistent with the comprehensive plan. A new
4 component of this review would require OP to comment on
5 whether the applicability of expanded IZ would be appropriate
6 based on their analysis of the local housing market, the
7 distribution of existing affordable housing around the area
8 of the proposed map amendments, the comprehensive plan, and
9 also the housing equity report. It is expected that expanded
10 IZ would be appropriate for most map amendment applications.
11 Next slide, please.

12 The table in front of you shows proposed expanded
13 IZ set aside requirements. In summary, the more FAR gain for
14 a map amendment, the higher the expanded IZ set aside
15 requirements. The expanded IZ set aside percentage will be
16 based on the increase in residential FAR resulting from being
17 rezoned.

18 The increase in FAR would be the difference
19 between the maximum IZ FAR and the new zone and the maximum
20 by right residential FAR in the existing zone. Lots that are
21 rezoned from TDR, unzoned land, or a downtown zone without
22 a prescribed residential FAR would have 20 percent set aside
23 requirements. The proposed text amendment would also allow
24 a reduction in the expanded IZ set aside requirement for
25 making all IZ units reserved for households earning equal to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 or less than 50 percent MFI or making half of the IZ units
2 three bedrooms or larger.

3 This text amendment proposes to be set aside
4 requirements on whether the building uses steel construction
5 or is located in a zone of the by right height limit of 85
6 feet instead of 50 feet as currently used in the regular IZ
7 regulations. This accounts for changes in the building code
8 and construction and technology which allow taller nonseal
9 buildings. Next slide, please.

10 An economic model was developed to inform the
11 expanded IZ set aside requirements and to ensure the
12 feasibility of the proposed text amendments. The model
13 fulfills several important functions, including two central
14 ones, maximizing the potential production of affordable
15 housing and ensuring that expanded IZ is economically
16 feasible for the private sector to pursue while not creating
17 impediments to developing more housing on the whole including
18 more affordable housing. My colleague, Art Rodgers, who is
19 our senior housing planner is also with me tonight and can
20 answer questions you may have about the financial model.
21 Next slide, please.

22 We view expanding IZ as sitting between the by
23 right IZ process of regular IZ and PUDs. PUDs continue to
24 be the District's preferred tool to both increase in housing
25 and affordable housing above the regular IZ requirements and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 to analyze broader public benefits and amenities. However,
2 as we know, there has been a trend away from PUD applications
3 to map amendment applications.

4 And PUDs and expanded IZ set aside for map
5 amendments furthers the District goals to -- sorry, furthers
6 the District's efforts to achieve the affordable housing
7 goals through density increases anticipated by updates to the
8 comprehensive plan and associated future land use map. This
9 concludes my presentation. Please let me know if you have
10 any questions regarding this application. Thank you.

11 CHAIRMAN HOOD: So I want to thank you, Mr.
12 Kirschenbaum as well as Mr. Rodgers. Let's see if we have
13 any questions or --

14 MR. KIRSCHENBAUM: I'm sorry. I'm sorry. I'm
15 sorry. I have one more -- I'm so sorry. I have one more
16 slide.

17 CHAIRMAN HOOD: Oh, okay.

18 MR. KIRSCHENBAUM: Sorry. Could you put on slide
19 7? I apologize for that. Many participants at the
20 roundtable that we had in July shared ways that either the
21 concept proposal or the regular IZ program could be refined
22 to create additional affordable housing units.

23 We anticipate bringing forward additional text
24 amendments to the regular IZ program in fall of 2020 to
25 provide additional opportunities for the creation of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 affordable housing. Such amendments that we are thinking of
2 bringing forward include applying the regular IZ requirements
3 to existing floor area of nonresidential buildings that are
4 converted to residential buildings. Such conversions are
5 currently exempt from the regular IZ program.

6 We would like to also bring forward a text
7 amendment to apply the regular IZ requirements to certain
8 zones that are currently exempt from the program and also to
9 increase the matter-of-right height limit of 50 feet to 85
10 feet for inclusionary developments that do not use Type 1
11 construction which is nonseal buildings. And this would
12 match the -- sort of the height change that we're proposing
13 as part of expanded IZ. And now this concludes my
14 presentation. Thank you.

15 CHAIRMAN HOOD: Okay. No problem. Again, Mr.
16 Kirschenbaum and Mr. Rodgers, thank you for your presentation
17 to us. Mr. Rodgers, did you have anything that you wanted
18 to say?

19 MR. RODGERS: I wanted to say that (Audio
20 interference)

21 CHAIRMAN HOOD: Okay. Yeah, for questions. All
22 right. Let's open it up. Commissioner May, any questions
23 or comments?

24 COMMISSIONER MAY: I do not have any questions.
25 I'm just glad that we're moving forward with it and look

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 forward to getting it to a hearing.

2 CHAIRMAN HOOD: Okay. Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. The
4 only -- I concur with Commissioner May. The only question
5 I have is that the feedback, the input that was received at
6 the July public roundtable, is that going to be provided in
7 some kind of a digestible matrix, a quantifiable way?

8 MR. KIRSCHENBAUM: Well, currently, we have that
9 summarized and organized by topic in the OP set down report
10 in Appendix 3.

11 COMMISSIONER SHAPIRO: Okay. All right. Thank
12 you. That's all I was looking for. Thank you. That's all
13 I have, Mr. Chair.

14 CHAIRMAN HOOD: Okay. Thank you. Commissioner
15 Turnbull?

16 COMMISSIONER TURNBULL: I tried to -- I can't pull
17 up my tablet to get to the documents, exhibits. But there
18 seemed to me, if I remember, there was either one or two that
19 were talking about -- they were worried about the so-called
20 economic impact caused by construction that was maybe
21 limiting the amount of IZ that could be accrued on a project.
22 And I'm wondering if you have any comments on that.

23 MR. KIRSCHENBAUM: Could you be a little bit more
24 specific? I'm not sure what that comment was.

25 COMMISSIONER TURNBULL: As I said, I can't pull

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 up my template to get to the exhibits. But it seems to me
2 there was some -- somebody made a comment that they were
3 concerned that the way it was being structured, they saw some
4 limitations on the amount of IZ that could be had on
5 particular buildings.

6 MR. KIRSCHENBAUM: Certainly something we can
7 review further. I'm just not quite sure what that's in
8 reference to.

9 COMMISSIONER TURNBULL: Okay.

10 CHAIRMAN HOOD: Commissioner Turnbull, was it in
11 the Committee of 100's lunch?

12 COMMISSIONER TURNBULL: I don't remember, Mr.
13 Chair. And as I said, my tablet is frozen and I can't pull
14 up my document. So I can't pull up any exhibits.

15 CHAIRMAN HOOD: Okay. We'll -- Mr. Kirschenbaum,
16 if you all can look through the record and we can maybe
17 answer that at a later time.

18 COMMISSIONER TURNBULL: Thank you.

19 CHAIRMAN HOOD: I believe that's where it is,
20 though. But I don't want to assume that. Anything else,
21 Commissioner Turnbull?

22 (No audible response.)

23 CHAIRMAN HOOD: All right. Vice Chair Miller?

24 VICE CHAIR MILLER: Thank you, Mr. Chairman, and
25 thank you, Mr. Kirschenbaum, for your report. And thank all

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 of the folks at the Office of Planning. And Mr. Rodgers I
2 know is involved in this in bringing forward this expanded
3 inclusionary zoning case which all of us on the Zoning
4 Commission and many stakeholders have been looking forward
5 to seeing moving forward.

6 So I strongly support the setting down of this
7 case for a public hearing. And I appreciate all of the
8 analysis that's been provided. I appreciate the last slide
9 that Mr. Kirschenbaum brought us, the additional case and
10 text amendments that are designed -- that are being looked
11 at to -- well, that he says the Office of Planning will be
12 bringing forward this fall to further strengthen inclusionary
13 zoning, including in the case of -- as Mr. Kirschenbaum said,
14 the case of a building that's converting from office to
15 residential which we dealt with in a couple of those.

16 And it's just been so unfortunate that we didn't
17 capture affordable units in those particular buildings or
18 particular zoning districts where it's exempt altogether,
19 whether it's historic districts, Georgetown and Anacostia,
20 or other districts. So removing as many of the current
21 exemptions -- zone exemptions as is possible, economically
22 feasible. And increasing IZ as a matter-of-right height
23 limit at 50 feet to 85 feet for inclusionary developments
24 that do not use Type 1 construction.

25 And so you said you'll be bringing that forward

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 in the fall in terms of a set down report, I guess, to the
2 Zoning Commission. Will that be at our -- do you have any
3 more specificity? Will that be at one of our October
4 meetings or do you know yet?

5 MR. KIRSCHENBAUM: We hoped that it will be at a
6 fall September meeting, but we certainly are aiming to have
7 it done this fall.

8 VICE CHAIR MILLER: Okay. Well, we look forward
9 to seeing those. And I also asked previously and had
10 dialogues with Ms. Steingasser, I think, and maybe others at
11 OP as we've had cases, and maybe whether they're a Zoning
12 Commission case or a BZA cases that have come forward. In
13 the case of residential -- in case of conversions in row
14 house districts where in the RF zone, the row house zone, if
15 it's able to meet the criteria of -- the other criteria for
16 conversion from two flats to more than two units, we
17 currently have a requirement I think that every fourth and
18 other -- every other unit after that would have to be offered
19 at the affordability level of 50 percent. That's the current
20 law.

21 And I think I'd asked OP to look at it, and I
22 think you already have looked at whether we could apply that
23 in every case where there's -- in every additional unit in
24 the conversion cases. And I think the answer that came back
25 was that it was not economically feasible, that that would

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 provide a disincentive to do any conversions at all which
2 maybe some people in this neighborhood would like. But we
3 don't want that to be the case.

4 But if you're able to provide at some point the
5 analysis as to whether there's any way we can strengthen that
6 existing requirement that every fourth and every other unit
7 after that in conversion cases be at the 50 percent
8 affordability meeting the family income level. If we're able
9 to strengthen that in any way or if you ever provide analysis
10 that it can't be strengthened, when you bring forward either
11 this case at the hearing or you bring forward the other
12 cases, I'd be interested in seeing that because we hear
13 there's all those BZA cases where you met all the other
14 conversion requirements but it was only providing the
15 affordable unit every other unit. And they might've done
16 more if they had been required to or if it was economically
17 feasible.

18 So maybe you have analysis, Mr. Rodgers, that
19 shows that. And I'm just really interested in seeing a
20 summary of that at some point, not today, either in the
21 context of this case or other cases that are coming forward.
22 But I thank you, OP, for bringing this forward, and I look
23 forward to supporting setting it down for a hearing.

24 MR. KIRSCHENBAUM: Thank you for your comments.

25 CHAIRMAN HOOD: Okay. Thank you. Any other

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 questions or comments?

2 (No audible response.)

3 CHAIRMAN HOOD: I will add, Mr. Kirschenbaum and
4 Mr. Rodgers, that the Committee of 100 responded. They have
5 a letter. Has that been looked at? I'm sure they
6 participated in the -- I guess you call it a roundtable or
7 the interaction that you all did a couple weeks ago. Have
8 some of their comments been responded to?

9 MR. KIRSCHENBAUM: Are you referring to the
10 exhibit that was recently added to the record?

11 CHAIRMAN HOOD: It's dated April the 10th. So let
12 me ask you. When did you all do the hearing -- well, not
13 hearing -- the Office of Planning roundtable, whatever you
14 want to call it?

15 MR. KIRSCHENBAUM: It was conducted on July 15th,
16 2020.

17 CHAIRMAN HOOD: Oh, okay. So I'm sure that was --
18 okay. All right. Because I don't believe this recently
19 happened. The date on it is April 10th. Anyway, we can test
20 that as we move forward because I'm in support to set this
21 down.

22 I'm more curious about the roundtable that the
23 Office of Planning had with the residents. Did you get a lot
24 of participation? And I know it's on your website, I
25 believe. I think it's somewhere where we can go look at it,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 and I've done that. Did you get a lot of participants? A
2 lot of --

3 MR. KIRSCHENBAUM: We had approximately 90
4 participants, and we were pretty -- we were very happy to see
5 that turnout for the public roundtable.

6 CHAIRMAN HOOD: Oh, okay. So do you think that
7 the 90 participants will come to the zoning hearing as well?
8 Or do you think they got what they -- I'm just trying to get
9 a feel.

10 MR. KIRSCHENBAUM: I'm not sure. I haven't done
11 that. But there were definitely many people who were very
12 interested in this new approach to (Audio interference)

13 CHAIRMAN HOOD: I guess I need to redirect my
14 question. I'm just curious if a lot of what they have come
15 and testified to has been put into what we are now being
16 presented with and they were part of the makeup of what we
17 have in front of us. That's probably a better way for me to
18 ask that question. Maybe Ms. Steingasser, I see she --

19 (Simultaneous speaking.)

20 MS. STEINGASSER: I'm joining the party. Yes, we
21 did incorporate those comments into the enhanced IZ, several
22 of the comments. And I would say probably half were beyond
23 the scope of the enhanced IZ Plus. And part of those will
24 be feeding into the cases that we bring forward this fall
25 that had to do with the regular IZ. But yes, where we could,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 we did incorporate their comments into the text.

2 CHAIRMAN HOOD: Okay. That was all. And if we
3 have 90, it doesn't matter. That's what we're here for. But
4 I just wanted to see what's happening so we can kind of know
5 what to expect. So thank you all for doing the roundtable.
6 And it sounds like we had a lot of success, and we look
7 forward to -- I'm looking forward to setting this down for
8 a hearing. Any other questions or comments, Commissioners?
9 Vice Chair Miller?

10 VICE CHAIR MILLER: Yeah, Mr. Chairman. I think
11 the only other question I had was a request was maybe at the
12 time of the public hearing or before we considered it -- I
13 mean, well, at the time of the public hearing, maybe we can
14 get an update from DHCD or Office of Planning on how many
15 inclusionary zoning units had been produced or in the
16 pipeline just so we can get a sense of the program working.
17 I know the annual reports come out. But it'd be timely to
18 share that information at the time we have the public hearing
19 on this.

20 And if you have any projections on what this
21 proposal of expanded inclusionary zoning would -- if you have
22 any projections on the number of IZ units and what would be
23 produced under it. I know that's probably even more -- that
24 may not be possible because this is going to be driven by map
25 amendments that aren't necessarily under OP's control, a map

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 amendment application. You don't necessarily know which
2 ones.

3 But you probably have some sense, better than the
4 rest of the public, than the rest of us, than I do as to what
5 map amendments might be coming forward either to make them
6 consistent with the existing comprehensive plan or proposed
7 amendments, the map amendments that the Mayor has proposed.
8 If you have any sense of the number of units that may be
9 produced under this proposal, that'd be useful to have. But
10 also an update on how many actually have been produced under
11 the current law or the previous law and how many are in the
12 pipeline.

13 So I would just appreciate getting that. I think
14 the public would appreciate getting that information at some
15 point. And I thank again the Office of Planning, Ms.
16 Steingasser, and everyone there for bringing forward this
17 case.

18 CHAIRMAN HOOD: I'd like to just echo in thanking
19 the Office of Planning for all their work and doing the
20 roundtable and everything that you all did to get us to this
21 point. So I greatly appreciate it. Any questions or
22 comments?

23 (No audible response.)

24 CHAIRMAN HOOD: I'm not seeing any. Commissioner
25 -- Vice Chair Miller, would you make a motion?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 VICE CHAIR MILLER: I'd be happy to, Mr. Chairman,
2 to ask that the Zoning Commission set down Case No. 20-02,
3 Office of Planning, Text Amendment to Subtitle C, F, G, I,
4 K, and X regarding Expanded Inclusionary Zoning and ask for
5 a second.

6 CHAIRMAN HOOD: I'll second. It's been moved and
7 properly second. Any further discussion or comments?

8 (No audible response.)

9 CHAIRMAN HOOD: Not seeing any, Ms. Schellin,
10 would you please record the vote?

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: Commissioner Turnbull?

20 COMMISSIONER TURNBULL: Yes.

21 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down
22 Zoning Commission Case No. 20-02 as a rulemaking case.

23 CHAIRMAN HOOD: Okay. Ms. Schellin, do we have
24 anything else?

25 MS. SCHELLIN: I have nothing else. I don't know

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 if the Office of Planning has anything. I don't think they
2 do, but --

3 CHAIRMAN HOOD: Okay. All right. So I don't --

4 MS. STEINGASSER: No, sir. We don't.

5 CHAIRMAN HOOD: Okay, great. All right. I want
6 to thank my colleagues. I want to thank the Office of Zoning
7 staff, Office of Attorney General, Office of Planning, and
8 public and everyone who participated in this meeting tonight.
9 And with that, this meeting is adjourned.

10 Before I do that, we're meeting September the
11 17th. The Zoning Commission has a case, and we will start
12 at 4:00 in the afternoon, this coming September 17th at 4:00
13 in the afternoon. You can reach us on the same call -- look
14 at the website at Office of Zoning. So with that, this
15 meeting is adjourned. Good night.

16 (Whereupon, the above-entitled matter went off the
17 record at 5:54 p.m.)

18

19

20

21

22

23

24

25

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: 09-14-20

Place: teleconference

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



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701