

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

+ + + + +

THURSDAY

MARCH 11, 2021

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The Virtual Public Meeting of the District of Columbia Board of Zoning Commission convened via videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- MICHAEL TURNBULL, Commissioner
- PETER SHAPIRO, Commissioner
- PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF:

- JENNIFER STEINGASSER
- ART RODGERS
- JONATHAN KIRSCHENBAUM

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- MAXIMILIAN TONDRO, ESQ.

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The transcript constitutes the minutes from the  
Public Meeting held on March 11, 2021.

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(4:00 p.m.)

CHAIRMAN HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public meeting by videoconferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff Ms. Sharon Schellin, as well as Mr. Paul Young who handles all of our virtual operations.

I will ask all those to introduce themselves at the appropriate time, if it applies and when we call someone up to speak.

Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the meeting. Accordingly, all those listening on Webex or by phone will be muted during the meeting, unless the Commission suggests otherwise.

For hearing action items, the only documents before us this evening are the application, the ANC setdown report, and the Office of Planning report. All other documents in the record will be reviewed at the time of the hearing.

Again, we do not take any public testimony at our meetings, unless the Commission requests someone to come forward

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1 to speak. If you experience difficulty accessing Webex or with  
2 your phone call-in, then please call our OZ hotline number at  
3 202-727-5471. Again, 202-727-5471 for Webex log-in or call-in  
4 instructions.

5 At this time we will consider any preliminary matters;  
6 does the staff have any preliminary matters?

7 MS. SCHELLIN: No, sir.

8 CHAIRMAN HOOD: Okay. Okay. There we go. Our first  
9 case on tonight's agenda is a consent calendar item. If everybody  
10 can go on mute, other than myself and Ms. Schellin, that would  
11 be great.

12 Consent calendar item, deliberations on the Commission  
13 Case No. 05-24C, Kriegsfield Corporation on behalf of Glenncrest  
14 Residents Association, PUD Modification of Consequence at Square  
15 5318, 5319 and 5320. And I'm hoping that's the last time I have  
16 to call this case. Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. I believe it will be. We  
18 have finally received a response from the ANC -- ANC 7E at Exhibit  
19 8. They submitted a report in support, and at Exhibit 9 we have  
20 the Glenncrest Residents Association letter in support, both  
21 items that the Commission has been waiting for in order to move  
22 forward. So I'd ask the Commission to consider taking final  
23 action on this case this evening.

24 CHAIRMAN HOOD: Okay, Commissioners, I think one of the  
25 -- two of the -- well, at least one of the documents that we

1 really were holding open has arrived, that was from the board  
2 president, Mr. Rodgers, and also, we did receive something from  
3 ANC 7E, and I know others were the ones who held it out, so I'll  
4 let you all speak and see whether you all are ready to move  
5 forward. I think it's pretty straightforward but let me open it  
6 up. Commissioner May, any comments or questions?

7 COMMISSIONER MAY: You're on mute.

8 CHAIRMAN HOOD: You're on mute. You're not? Okay. Do  
9 you have any questions or comments? See if we can hear you now?  
10 You want me to give you a minute to log back off -- let me give  
11 you a minute to log back off and log back on. Let's just wait a  
12 moment, because I think his comments are important because I  
13 think he was one of the ones who really pushed for this. So  
14 let's take a two-minute break.

15 (Whereupon, the above-entitled matter went off the  
16 record at 4:04 p.m., and reconvened at approximately 4:06 p.m.)

17 CHAIRMAN HOOD: I can't hear you. Say something again.  
18 Can everybody hear me? You can hear me. So, is your mic turned  
19 down? Okay. Okay. Yeah, I was having that problem. Let me go  
20 to everybody else and hopefully by that time Commissioner May  
21 will be back up and -- because I know that he was the one who  
22 really asked for this letter from the board president.

23 Let me see, Commissioner Shapiro, any questions or  
24 comments?

25 COMMISSIONER SHAPIRO: No questions or comments, Mr.

1 Chair, I'm satisfied with the letter from the Glenncrest  
2 Residents Association and the ANC, ready to take final action.

3 CHAIRMAN HOOD: Okay. Commissioner Turnbull, any  
4 questions or comments?

5 COMMISSIONER TURNBULL: I would concur with Commissioner  
6 Shapiro. I think the missing documents that we wanted, the other  
7 aspects of this case to review, have all been submitted and  
8 everything looks fine to me.

9 CHAIRMAN HOOD: Okay. Vice Chair Miller?

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. I agree.  
11 Thank you.

12 CHAIRMAN HOOD: Thank you. You straight, Commissioner  
13 May? Okay. Well, either way let me just say, Commissioner May  
14 has really pushed to make sure that we got a response from the  
15 association -- from Glenncrest Residents and we do have that. So  
16 with all that, I think, all that being straight, I'm ready to  
17 move forward. So unless I hear otherwise or see Commissioner May  
18 make a motion, I would move that we approve Zoning Commission  
19 Case -- and again, this is reference to the decks and I think  
20 the language has been worked out of the size and the text I think  
21 is there, because it was presented without any text and I think  
22 it's been done.

23 So with that I will move to approve Zoning Commission  
24 Case No. 05-24C with the recommendations from the Office of  
25 Planning, Office of Attorney General for the text to move forward

1 under the Glenncrest Residents Association, PUD Modification of  
2 Consequence at Square 5318, 5319 and 5320 and ask for a second.

3 VICE CHAIR MILLER: Second.

4 CHAIRMAN HOOD: Okay. It's been moved and properly  
5 second. Any further discussion? Okay. Ms. Schellin, could you  
6 do a roll call vote, and could you call Commissioner May last, I  
7 think he's trying to come back on.

8 MS. SCHELLIN: Yes, sir. Commissioner Hood?

9 CHAIRMAN HOOD: Yes.

10 MS. SCHELLIN: Commissioner Turnbull?

11 COMMISSIONER TURNBULL: Yes.

12 MS. SCHELLIN: Commissioner Miller?

13 VICE CHAIR MILLER: Yes.

14 MS. SCHELLIN: Commissioner Shapiro?

15 COMMISSIONER SHAPIRO: Yes.

16 MS. SCHELLIN: And we'll wait for Commissioner May to  
17 come on. Just to reiterate, the vote -- the language on that -  
18 - the rear decks are to a size of 10 foot -- up to 10 feet deep  
19 and 200 square feet regardless of lot occupancy and rear yard  
20 requirements, that was the language that was submitted.

21 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin.  
22 Commissioner May --

23 MS. SCHELLIN: -- hear me, Commissioner May?

24 CHAIRMAN HOOD: He just told me he voted in favor, but  
25 let's see if he can at least show a sign.

1 MS. SCHELLIN: Yes. Just doing a roll call vote,  
2 Commissioner May?

3 CHAIRMAN HOOD: Give him a moment and see if he get  
4 everything back up. Okay. That's what he's wanting to do there.

5 MS. SCHELLIN: He's saying yes.

6 CHAIRMAN HOOD: Thumbs up. Yes. Thumbs up.

7 MS. SCHELLIN: Yes.

8 CHAIRMAN HOOD: Let the record reflect he has a thumbs  
9 up.

10 MS. SCHELLIN: Okay. So the vote is 5 to 0 to 0 to  
11 approve Zoning Commission Case 05-24C for final action.

12 CHAIRMAN HOOD: Okay. Our next case is Zoning  
13 Commission Case No. 18-04A, Office of Planning Text Amendment to  
14 Subtitle A for Authorized Construction of Playing Fields and  
15 Accessory Structures on Unzoned Land, Parcel 149, Lots 65 through  
16 66. Ms. Schellin.

17 MS. SCHELLIN: The proposed rulemaking was published  
18 in the D.C. Register on -- sorry -- was published on January 29th  
19 in the D.C. Register, no comments were received. Exhibit 9 is  
20 the NCPD Report advising the text is not inconsistent with the  
21 comp plan for the National Capital and it would not adversely  
22 impact any other identified federal interests, so this one is  
23 ready for final action.

24 CHAIRMAN HOOD: Okay. Again, I'm going to ask your  
25 indulgence. When you deal with technology -- I know I have

1 problems -- so we're going to wait. Commissioner May just said  
2 that he's going to restart again. So we're going to just take a  
3 few moments. We don't have a lot, we won't be here all night, I  
4 don't think, so we'll just take a few moments and why don't we  
5 give ourselves 5 minutes -- a 5-minute break and wait on  
6 Commissioner May.

7 (Whereupon, the above-entitled matter went off the  
8 record at 4:10 p.m., and reconvened at approximately 4:15 p.m.)

9 COMMISSIONER MAY: All right. Can you hear me now?

10 MR. YOUNG: Yes. We can hear you.

11 COMMISSIONER MAY: Thank you. You know, I tried that  
12 before too and I must have not done it right. Thank you.

13 MR. YOUNG: You're welcome.

14 CHAIRMAN HOOD: I wanted to say that was obvious, but  
15 no, we're glad you're back. Okay. Ms. Schellin, could you tee  
16 up Zoning Commission Case --

17 COMMISSIONER MAY: I can't hear you.

18 CHAIRMAN HOOD: You can't hear me? That's okay.

19 COMMISSIONER MAY: Now, I can. I muted you because you  
20 guys kept talking and Paul was trying to talk to me at the same  
21 time and I was like, I can't deal with it.

22 CHAIRMAN HOOD: All right.

23 COMMISSIONER MAY: All right. Sorry about that. I've  
24 had that happen to me once before and I sorted it out and I was  
25 doing what I thought was the same thing and it didn't work.

1 CHAIRMAN HOOD: So while we're on the subject, so when  
2 it happens to the rest of us, so what did you do? What did you  
3 have to do?

4 COMMISSIONER MAY: In the audio and video settings for  
5 Webex there is -- you can pull up this thing and there's a drop  
6 down for the different microphone settings and you just got to  
7 pick the other microphone -- if it gives you options, you pick  
8 the other one. I don't know why I have two, I only have one  
9 microphone, but -- and I didn't do anything to it to make it  
10 switch, I was just on the phone with you guys, so I don't know  
11 what happened.

12 CHAIRMAN HOOD: Okay. All right. Well, we'll believe  
13 what you say. Okay. So, anyway, Ms. Schellin, could you tee up  
14 18-04A, please, again?

15 MS. SCHELLIN: Yes. The proposed rulemaking was  
16 published in the D.C. Register on January 29th, no comments were  
17 received. Exhibit 9 is the NCPD Report advising the text is not  
18 inconsistent with the comp plan for the National Capital and  
19 would not adversely impact any other identified federal  
20 interests, so we'd ask the Commission to consider final action  
21 on this case this evening.

22 COMMISSIONER MAY: Mr. Chairman, I would vote that we  
23 approve final action for Zoning Commission 18-04A, OP text  
24 amendment to authorize construction of playing fields and  
25 accessory structures on unzoned land, Parcel 149, Lots 65 and 66.

1 COMMISSIONER SHAPIRO: Second.

2 CHAIRMAN HOOD: So moved and properly second. Any  
3 further discussion? Ms. Schellin, will you do a roll call vote,  
4 please?

5 MS. SCHELLIN: Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MS. SCHELLIN: I thought I heard Commissioner Shapiro  
8 second that?

9 COMMISSIONER SHAPIRO: Yes.

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRMAN HOOD: Yes.

12 MS. SCHELLIN: Commissioner Miller?

13 VICE CHAIR MILLER: Yes.

14 MS. SCHELLIN: Commissioner Turnbull?

15 COMMISSIONER TURNBULL: Yes.

16 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve final  
17 action in Zoning Commission Case No. 18-04A.

18 CHAIRMAN HOOD: Okay. Next, we have Zoning Commission  
19 Case No. 20-02, Office of Planning Text Amendment re: IZ Plus.  
20 Ms. Schellin?

21 MS. SCHELLIN: At Exhibit 34, there's -- 34B, there's  
22 an OP supplemental report. The revised proposed rulemaking was  
23 published in the D.C. Register on February 26th for a 7-day  
24 comment period. One comment was received at Exhibit 37 and that  
25 was from the Committee of 100, so we'd ask the Commission to

1 consider this case also for final action this evening. And I  
2 believe just in case there are any questions for the Office of  
3 Planning, Art Rodgers and Jonathan Kirchenbaum and Jennifer  
4 Steingasser are on this case.

5 CHAIRMAN HOOD: Okay. Thank you, Ms. Schellin. As  
6 Office of Planning is coming up, I'm sure we're going to have  
7 some questions and comments especially due to the letter that  
8 came in from the Committee of 100, which I thought raises some  
9 very valid -- some I thought raised some very valid circumstances  
10 and some of it I didn't. So, you know, I'm kind of in agreeance  
11 50/50, but let me see. I'd like to do a little more discovery  
12 on this.

13 But first, let me ask, Ms. Steingasser, have you had a  
14 chance to review Exhibit 37, the Committee of 100's letter?

15 MS. STEINGASSER: Yes. Yes, sir. We went over this  
16 at OP this afternoon.

17 CHAIRMAN HOOD: Oh, okay. So -- so -- okay, well -- I  
18 know one of the concerns that I know I had and others may have  
19 had, was whether or not we proceed or give you more time, but if  
20 you all have seen it and went over it this afternoon, see if you  
21 can respond to some of the questions.

22 One of the things fundamentally -- and I don't know if  
23 I want to go down in chronological order of their letter, just  
24 their letter, because I know there are other comments in the  
25 record as well. But chronologically -- like, for example, where

1 | it states we're weakening IZ, and we should go back to the first  
2 | OP suggestion in which I think Vice Chair Miller -- so from your  
3 | analysis and -- and let me back up. I like to see things, actual  
4 | and practical evidence that things are really working the way  
5 | they are. I have no problems in changing it, if it gets to that  
6 | point that we need to change it and we find out this is not  
7 | working. So let me say that up front.

8 |           But I'm going to ask, Ms. Steingasser, if you can just  
9 | kind of respond to the letter, especially where it says we're  
10 | weakening IZ.

11 |           MS. STEINGASSER: Yes, sir. And could I ask that Art  
12 | Rodgers also be brought in as a panelist?

13 |           CHAIRMAN HOOD: Sure. Art Rodgers -- I think Mr.  
14 | Kirchenbaum as well. Oh, he's already in. Okay.

15 |           MS. STEINGASSER: He's here. I didn't see --

16 |           COMMISSIONER SHAPIRO: I don't see Mr. Rodgers.

17 |           MS. STEINGASSER: Okay.

18 |           MS. SCHELLIN: I don't see him in the list.

19 |           MS. STEINGASSER: Okay. We're checking to see whether  
20 | he can get into the --

21 |           MS. SCHELLIN: He's not listed --

22 |           MS. STEINGASSER: Okay. Art Rodgers is our Senior  
23 | Housing Policy Specialist at OP and has been very instrumental  
24 | in this whole -- designing this program and creating the economic  
25 | model that we use to model these kinds of things.

1           So I'm happy to walk through the concerns raised by the  
2 Committee of 100 in their letter, the first one being that IZ  
3 Plus could lead to less affordable housing and that is not true.  
4 That is absolutely not quite right.

5           The tables -- the sliding scale tables that IZ Plus is  
6 based on, starts at an 8.3 percent. So it starts where IZ Plus  
7 -- regular IZ maxes out. So where regular IZ maxes out at 8.3  
8 and 12.5, that's where IZ Plus begins, so there's really no way  
9 it could result in less.

10           Number two, it's a discretionary request. And we would  
11 have an opportunity to analyze every potential application that  
12 comes before us.

13           They asked then about bonus density formula being  
14 eliminated. In the base IZ there is a bonus density, so if you  
15 get 8 percent for 50 -- 50 percent of the bonus density to 10  
16 percent or 75 percent of the bonus density. In the IZ Plus the  
17 entire rezoning is considered some form of bonus, so we didn't  
18 do a percent of that because we're using that entire rezoning  
19 request as the type of bonus. And that's why it's a sliding  
20 scale that increases with the larger the percent of density  
21 gained.

22           And then the next one they talked about was that the  
23 uncertainty arising from density utilized, that's just a  
24 continuation of the current program. We never know what exactly  
25 the level of IZ per project is going to be until that project

1 applies for a building permit. That's the point at which that  
2 IZ Plus would then look at the base zone -- they'd look at how  
3 much is proposed in the building permit, they'd go to the table  
4 and find the appropriate number. And those numbers are a healthy  
5 spread of 20 percent. Basically, every 20 percent, it goes up  
6 again.

7           So, I -- you know, the point of IZ Plus is to result  
8 in more housing and more affordable housing. So I absolutely  
9 agree with you, Chairman Hood, that if we find we're not getting  
10 what we want or that people are manipulating the request to move  
11 between categories in such a way that we haven't been able to  
12 anticipate, we absolutely will close that loophole and come back,  
13 because this -- the whole point of this program, IZ Plus, is to  
14 build -- to pick up where IZ regular stops and build on top of  
15 that and create more.

16           I think we, you know, we've already talked to the  
17 Commission several times about conversions and the zones that are  
18 currently not covered by IZ regular and we've been bringing those  
19 forward in incremental pieces. So, I just got a Teams text that  
20 Art Rodgers is logging in now, so he should be able to join us.

21           So one of the cases that you're going to consider later  
22 this evening is what to do with conversions of non-residential  
23 to residential and making those subject to IZ regular, and then  
24 obviously we'll still be working in the downtown zones and looking  
25 very carefully at what is available to us there.

1           Okay, so Art has joined us a panelist now.

2           So with that, we think that the IZ Plus is ready for  
3 final action this evening. We're happy to report back as we  
4 start to see applications come in for this, as to how it's  
5 working, and we absolutely will be bringing back amendments if  
6 necessary, as these programs (audio interference).

7           With IZ regular we've been tweaking that for the last,  
8 you know, 14 years to make sure it functions as we want to and  
9 we absolutely will do the same with IZ Plus.

10           CHAIRMAN HOOD: Okay. Thank you, Ms. Steingasser. I  
11 -- what I appreciate about all your comments, and I know sometimes  
12 we've got to put our first foot forward -- what I appreciate  
13 about your comments because I can tell you I came into this  
14 hearing -- I mean, into this meeting very hesitant especially  
15 after I started reading what the Committee of 100 had put down  
16 and start trying to analyze it, but now that I'm hearing it --  
17 you know, let's put it out -- I mean, I would be willing to put  
18 it out there and as we've done in the past, if there are issues,  
19 concerns, it's not working, we need to fine-tune something, we  
20 do it as soon as possible and that's always been my moto, let's  
21 get it done as soon as possible.

22           But I still want to make sure that we continue to keep  
23 this letter, because there's some things in here that I want to  
24 see if it comes true or if it comes -- but sometimes you've got  
25 to put stuff in existence so we can get a track record, but that's

1 | why I'm -- let me open it up to others. Commissioner May, do  
2 | you have any questions or comments?

3 |           COMMISSIONER MAY: So, I have a question. There was a  
4 | specific example in the Committee of 100 letter regarding Mazza  
5 | Gallerie and they ran their own calculations of what would happen  
6 | with IZ Plus versus the more typical or the current requirement  
7 | for -- that would include the bonus density calculation and they  
8 | came up with numbers that actually showed reduced IZ requirement  
9 | in those development scenarios.

10 |           So I'm wondering if you all had a chance to look at  
11 | that, because, you know, it did seem pretty clear that we could  
12 | wind up with less IZ in that -- at that development should, you  
13 | know, if their calculations were correct.

14 |           MS. STEINGASSER: I'm going to ask if Art Rodgers can  
15 | come in and address that, because he worked through that scenario.

16 |           MR. RODGERS: Hi, Commissioners, can you hear me?

17 |           COMMISSIONER MAY: Yes.

18 |           MR. RODGERS: Hi. So I'm Art Rodgers, I'm the Senior  
19 | Housing Planner for OP. We did look at the numbers they provided  
20 | and we're not sure because they didn't provide it in a form where  
21 | we can understand how they were making these calculations, they  
22 | just provided the numbers.

23 |           We made our own calculations based on our understanding  
24 | of what's being proposed, and we found that, basically, under IZ  
25 | Plus, under the proposed regulations, that the square footage

1 requirement increases under all IZ Plus scenarios, with the  
2 exception of the family scenario where we reduce the overall  
3 requirement, but what that ends up providing is exactly the same  
4 percentage as we would have gotten under the current rules where  
5 there is no IZ Plus requirement. So if we did a rezoning there  
6 would be an increased requirement, but the overall percentage  
7 wouldn't increase.

8           And out of IZ Plus we are getting these family units  
9 and we're getting the same overall square footage of IZ  
10 requirement as we would have under current circumstances. But I  
11 think, not only are we getting affordable family units but we're  
12 also getting market rate family units and that's also something  
13 lacking in new development right now.

14           COMMISSIONER MAY: Okay. That's reassuring. Thank  
15 you.

16           CHAIRMAN HOOD: Okay. Any other questions,  
17 Commissioner May? Commissioner Shapiro?

18           COMMISSIONER SHAPIRO: Thank you, Mr. Chairman. Yeah,  
19 if -- Ms. Steingasser, there's one other point that you didn't  
20 pick up through the Committee of 100 letter, which was related  
21 to planned unit developments. So if you could just speak to your  
22 intention around that, it's item C under Concerns and Comments.  
23 D was just a positive comment, but C went to the intention. And  
24 they're putting the intention on the Zoning Commission, which is  
25 fair, but I -- if you could be clear with what your intention is

1 around this and the approach you're taking.

2 MS. STEINGASSER: It is a fine line, but what we have  
3 been seeing over the last year is that the lift of PUDs coupled  
4 with by the risk of appeals and the multiple years that extend  
5 from that have pushed developers away from PUDs to (audio  
6 interference) and in the last three years we've seen a trend  
7 where they're almost 50/50 (audio interference) as they go  
8 forward and we work -- the point of IZ Plus is to say okay, if  
9 we're going to keep seeing this trend of where they're equal to  
10 or surpassing PUDs just in the number of applications, we want  
11 to make sure we get some of the benefits, at least for affordable  
12 housing, that we would have gotten through a PUD.

13 So, no, we don't see it as incentivizing people away  
14 from PUDs. We've said multiple times, PUD is still our preferred  
15 course for development. It provides a creative opportunity for,  
16 you know, achieving the goals and policies. It provides for  
17 public input, you understand the project better, but if there are  
18 places where people are going to apply for these map amendments,  
19 especially under the current future land use map where we have  
20 looked at areas that are ripe for increased density, we want to  
21 make sure that there is something in between.

22 COMMISSIONER SHAPIRO: Okay. Thank you. And that's  
23 the only other question I had, Mr. Chair. Thank you.

24 CHAIRMAN HOOD: Okay. Thank you. Commissioner  
25 Turnbull, you have any questions or comments?

1           COMMISSIONER TURNBULL: Well, I guess my question was  
2 the same thing as Commissioner Shapiro's. We are seeing a lot  
3 more map amendments, as if someone's trying to "game" the zoning  
4 system and there -- people aren't -- the communities aren't being  
5 involved. Are you saying that the IZ Plus is going to compensate  
6 for that?

7           MS. STEINGASSER: First of all, I want to -- I don't  
8 think developers or property owners are "gaming" the system.  
9 They're entitled to request a map amendment and make that case  
10 to the Zoning Commission, that's -- anybody has that right.

11           We are seeing that they -- that property owners and  
12 developers are doing so because the PUD process has gotten so  
13 heavy, and it's both heavy in terms of getting an application in  
14 front of the Commission and then getting from the Commission  
15 approval and the issuance of that order to the building permit.  
16 It's so prone now for delays and the carrying cost of the land,  
17 from what we're hearing, people have to expect almost five years  
18 with the carrying cost, just of the land, before they can get  
19 anywhere near a permit.

20           So we're not saying IZ Plus compensates a community for  
21 a lack of involvement, we're saying, IZ Plus is an opportunity  
22 for additional housing, additional affordable housing especially,  
23 that furthers the goals that we would be analyzing a PUD against.

24           COMMISSIONER TURNBULL: Are you saying that we'll end  
25 up with more affordable housing than we would under a PUD or

1 | about the same?

2 |           MS. STEINGASSER: You know, we don't know. We don't  
3 | know, because -- we're saying a PUD should have the opportunity  
4 | to talk to other issues and benefits and amenities -- benefits,  
5 | you know, that the community may come up with, there may be  
6 | benefits that are of significant value to the city. For instance,  
7 | you know, building over the 395 air rights and building that --  
8 | you know, that's a huge, huge benefit to the city to create that,  
9 | basically, land up there. So there's an opportunity that PUDs  
10 | have to waive those benefits that the PUD may generate against  
11 | inclusionary zoning and affordability.

12 |           But shy of being able to assess that, then we would say  
13 | okay, we know that the text of the comprehensive plan that's in  
14 | front of the council right now identifies that affordable housing  
15 | should be a priority PUD benefit and it talks to it in several  
16 | ways, in terms of the framework element and in terms of the  
17 | housing element and the land use element. And so it's very clear  
18 | that shy of that ability to look at other benefits and amenities,  
19 | affordable housing needs to be considered the priority benefit.  
20 | And so this is a way for us to address that issue through map  
21 | amendments.

22 |           COMMISSIONER TURNBULL: Okay. Well, thank you very  
23 | much for that explanation. Will you be looking at the PUD process  
24 | in general to see what can be tweaked to make it work a little  
25 | bit better?

1 MS. STEINGASSER: We are. We're looking at the PUD  
2 process and also in terms of affordable housing and bringing back  
3 options that kind of reduce the burden for a lot of these smaller  
4 affordable housing providers. And then we're also looking at it  
5 in terms of institutional land that's out there. And when it's  
6 a mission of insufficient, how they can provide affordable  
7 housing? And PUD also has just -- just some opportunities to  
8 fine-tune it and maybe streamline it in certain places.

9 COMMISSIONER TURNBULL: Okay. Thank you for that.

10 CHAIRMAN HOOD: Okay. Vice Chair Miller?

11 VICE CHAIR MILLER: Thank you, Mr. Chairman and thank  
12 you, Ms. Steingasser and Mr. Rodgers for all your work on this  
13 inclusionary zoning case and all of the inclusionary zoning cases  
14 that are -- the Commission is working on.

15 I think you've given a good response to some of the  
16 Committee of 100 concerns. I am satisfied with the response. I  
17 think I still would like to have it -- not necessarily wait for  
18 a written (audio interference) -- wait for OP to put this in  
19 writing -- and wait for us to act until OP puts it in writing,  
20 and then I am going to wait (audio interference) see what my  
21 fellow commissioners want to do, but I think it would be useful  
22 to have it in the record of this case. The verbal rebuttal  
23 response that OP provided today in the record in writing, because  
24 I think they have -- and they can elaborate even further, with  
25 examples, if they need to. I just think that would be -- might

1 | be useful Mr. Chairman, to have it in writing. Whether or not  
2 | we wait or not to see it, I don't think I need to wait to see  
3 | it, because I think I understand the explanations today, but I  
4 | just throw that out there, that it would be useful to have that  
5 | in the record and I'm ready to move forward with final action  
6 | whenever the Commission is.

7 |           CHAIRMAN HOOD: Okay. So --

8 |           MS. STEINGASSER: We could provide something in writing  
9 | within the next couple of days, by next week. We would ask that  
10 | the Commission do consider final action this evening. Obviously,  
11 | this -- anything we put into the record at the Commission's  
12 | request could be filed before the order is issued, there's a  
13 | little bit of a window there and we'd be happy to do that.

14 |           CHAIRMAN HOOD: Well, let me just say this -- let me  
15 | just say to the Vice Chair, you know, as I stated, I was very  
16 | hesitant as I came in. I've heard the responses and it's all  
17 | right for us to move forward. I would recommend that we put it  
18 | out there. And here's the other thing too, we could leave it  
19 | open and ask for the record -- I mean, that Ms. Steingasser put  
20 | her comments on the record, but for me it's on the transcript.  
21 | So if it's on the transcript, that's very helpful. So I think  
22 | that will -- that alleviates my concern about them providing  
23 | something for the record, even though they -- in which they still  
24 | can.

25 |           I think after what I'm hearing and, especially, the

1 term -- the commitment to do a 360, I would be in favor of going  
2 ahead and dealing with final action with this tonight. Let me  
3 hear from others, Commissioner May?

4 COMMISSIONER MAY: I'm certainly fine with going ahead  
5 today. It's a little unusual to get something into the record  
6 after we've made a decision. And I don't know whether that's  
7 technically correct. Ms. Schellin seems to be shaking her head  
8 no. Maybe Mr. Tondro also has an opinion on that, but as you  
9 say, it's already in the record.

10 But if we do decide that we can get a paper -- virtual  
11 paper, I guess, submission -- I would like to get more detail on  
12 Mr. Rodgers' analysis of the Mazza Gallerie scenario, so that we  
13 understand, you know, what his take on it was, in more detail.  
14 But I'm also happy to go ahead without anything further in the  
15 record, if that's not appropriate.

16 CHAIRMAN HOOD: So, I think with this modern  
17 technology, because I've had to use a record -- a case that we  
18 had about six years, for people to go back and look at, I think  
19 I'm going to stick with what I said. I don't know if she needs  
20 to supplement -- if Ms. Steingasser needs to supplement the  
21 record, Vice Chair, because it's already in the record, it's on  
22 the transcript. The transcript has already been transcribed and  
23 we'll just go from there.

24 So, I will withdraw that, but I think your request,  
25 Commissioner May, I think that's outside of what we're really

1 | doing. They should be able to provide that, because I, too, want  
2 | to see that.

3 |           COMMISSIONER MAY: So maybe just provide it as a point  
4 | of information at a future meeting.

5 |           CHAIRMAN HOOD: Right. I think that would be good.  
6 | Okay. Commissioner Shapiro, any questions or comments?

7 |           COMMISSIONER SHAPIRO: I do not and I'm ready to take  
8 | action, Mr. Chair.

9 |           CHAIRMAN HOOD: Okay. Commissioner Turnbull?

10 |           COMMISSIONER TURNBULL: I'm ready to proceed, Mr.  
11 | Chair.

12 |           CHAIRMAN HOOD: Okay. So with that, I will entertain  
13 | the motion from somebody, maybe the IZ chairman, Vice Chair  
14 | Miller, but whoever --

15 |           VICE CHAIR MILLER: I'll gladly accept that moniker.  
16 | The -- I would ask that the Zoning Commission -- move that the  
17 | Zoning Commission take final action on Case No. 20-02, that's the  
18 | Office of Planning's text amendment on Inclusionary Zoning Plus  
19 | and ask a for a second.

20 |           COMMISSIONER SHAPIRO: Second.

21 |           CHAIRMAN HOOD: Okay. It's been moved and properly  
22 | second. Any further discussion or comments? Not seeing any, Ms.  
23 | Schellin, will you do a roll call vote, please?

24 |           MS. SCHELLIN: Commissioner Miller?

25 |           VICE CHAIR MILLER: Yes.

1 MS. SCHELLIN: Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Yes.

3 MS. SCHELLIN: Commissioner Hood?

4 CHAIRMAN HOOD: Yes.

5 MS. SCHELLIN: Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MS. SCHELLIN: Commissioner Shapiro?

8 COMMISSIONER SHAPIRO: Yes.

9 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve final  
10 action in Zoning Commission Case No. 20-02.

11 CHAIRMAN HOOD: Okay. Our next case is a hearing  
12 action, Zoning Commission Case No. 21-05 this is Office of  
13 Planning Text Amendment to Subtitle C, IZ-XL Phase #2, applying  
14 inclusionary zoning to conversions of non-residential buildings  
15 to residential use.

16 I think, Mr. Kirchenbaum. Do we have Mr. Kirchenbaum?  
17 Oh, there he is. Okay. Mr. Kirchenbaum?

18 MR. KIRCHENBAUM: Paul, could you bring up the  
19 presentation?

20 So, good evening, Chair Hood and members of the Zoning  
21 Commission. Jonathan Kirchenbaum with the Office of Planning for  
22 Case 21-05.

23 We are pleased to bring forward the second phase of IZ-  
24 XL. These proposed text amendments would apply the IZ program  
25 to buildings that convert existing floor area from non-

1 residential to residential use.

2           The Office of Planning recommends set down of these  
3 proposed text amendments, which would not be inconsistent with  
4 the comprehensive plan. Since filing the OP setdown report, the  
5 zoning administrator has provided us with some additional text  
6 to consider and we would like to work with OAG on refining the  
7 proposed text prior to a public hearing. Next slide, please.

8           So a bit of background of why we're bringing forward  
9 these text amendments. Existing non-residential buildings, such  
10 as office buildings and hotels that convert to residential use  
11 are currently entirely exempt from the IZ program if the size of  
12 the building does not increase.

13           When the IZ program was initially adopted there was a  
14 concern that applying an IZ requirement to such conversions could  
15 disincentivize the conversion to residential use. This proposal  
16 seeks to balance keeping ahead of changing market dynamics of  
17 conversion of non-residential buildings to residential use, while  
18 minimizing disincentives for conversion. Next slide, please.

19           This proposed text amendment will apply IZ when there's  
20 a change in use from non-residential to residential that would  
21 result in 10 or more dwelling units at the time of the building  
22 permit. Further, the conversion must be located in a zone where  
23 IZ already applies.

24           And finally, this text amendment proposes to apply IZ  
25 regardless of whether the size of the existing building is

1 retained or enlarged. All other requirements of the IZ program  
2 would apply to a conversion, including existing set-aside  
3 requirements and the use of bonus density if that is applicable  
4 or possible for the property. Next slide, please.

5 So we created a couple different examples to show you  
6 how this text amendment would apply to these conversions. So in  
7 this example, this is an existing non-residential building  
8 converted to all residential housing. The building size is  
9 retained, and all of the floor area is converted to residential  
10 use, which means that under this text amendment IZ would apply  
11 then to the entire building. Next slide, please.

12 In this example, an existing non-residential building  
13 is partially converted to a residential -- to residential  
14 housing. So in this scenario, again, the building size is  
15 retained but only the upper floors were converted to residential  
16 use. And so IZ in this scenario would only, of course, apply to  
17 the part of the building that's going to be used as residential  
18 use. Next slide, please.

19 And then this last example, this is an existing non-  
20 residential building converted to all residential housing with  
21 an addition on top. So you can see the original part of the  
22 building is below, there's a new addition on top but because the  
23 whole building is going to be used for residential use, IZ would  
24 apply to the whole building. Next slide, please.

25 OP will continue to analyze the conditions that support

1 conversion of commercial properties to residential housing.  
2 Commercial to residential conversions represent an opportunity  
3 to create both market rate and affordable housing units.

4 OP's continued analysis will explore the functional  
5 differences between a normal redevelopment of existing uses that  
6 trigger -- that already trigger IZ requirements and compare that  
7 to conversions, such as hotels and office buildings. And the  
8 varying comprehensive plan policies cited in the OP's setdown  
9 report work together to support new ways to distribute additional  
10 mixed income housing more equitably across the entire District.  
11 Many buildings with a potential to be converted from non-  
12 residential to residential use are located in high-cost areas  
13 where affordable housing is limited and the applicability of IZ  
14 to conversions will help increase the supply of affordable  
15 housing in these areas.

16 This concludes my presentation. Please let me know if  
17 you have any questions regarding this application. Thank you.

18 CHAIRMAN HOOD: Thank you, Mr. Kirchenbaum. I'm trying  
19 to say your name like you say it, I've been working on that too.  
20 So let the ladies of OP know that I don't just mess up their  
21 name, I mess up yours as well. So I'm working on that. All right.  
22 So any questions or comments? Commissioner May?

23 COMMISSIONER MAY: Thank you. My only thought is that,  
24 you know, we're considering all these different changes to IZ  
25 over multiple cases, and it would be good, either the next time

1 | we get a setdown for one of these or we actually wind up having  
2 | a hearing on one of them, that we get sort of a recap that shows,  
3 | you know, where we started with IZ, what changes have been made,  
4 | what changes are still in the works. And I think that's the most  
5 | important part, is what's still in the works. That would just  
6 | be helpful for future context.

7 |           MR. KIRCHENBAUM: Absolutely. And we can certainly do  
8 | that for the -- we'll be having a public hearing on the first  
9 | phase of IZ-XL next month and we can certainly put that timeline  
10 | in that presentation.

11 |           COMMISSIONER MAY: That would be great. Thank you very  
12 | much.

13 |           MR. KIRCHENBAUM: Thank you.

14 |           CHAIRMAN HOOD: Thank you. Commissioner Shapiro?

15 |           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yeah, Mr.  
16 | Kirchenbaum, question about -- so there's some new housing uses  
17 | that kind of fall in between. I was just reading an article  
18 | about this, that are short-term rentals that are sort of much  
19 | more than hotels, more Airbnb, but not quite permanent -- I don't  
20 | even know how to frame it, but you must know what I'm getting at  
21 | here; how does this apply?

22 |           MR. KIRCHENBAUM: This -- again, this -- the IZ program  
23 | that's currently in place would apply to these conversions. IZ  
24 | is based on dwelling units and those dwelling units have to be  
25 | occupied by a tenant for at least 30 days per month. So the

1 regulations for short-term rentals really don't have anything to  
2 really do with how the current IZ program works. If these are  
3 dwelling units, then the IZ program would apply.

4 COMMISSIONER SHAPIRO: So -- and it may just be my  
5 ignorance, but the product that I'm talking about is -- I think  
6 it's considered a dwelling unit, it's just marketed differently.

7 MR. KIRCHENBAUM: You know, as far as I understand with  
8 the short-term rental regulations, they always -- a short-term  
9 rental is an accessory use to a principal use, which is the  
10 dwelling unit. So, again, you know, IZ would have to -- IZ would  
11 have to apply it to these dwelling units, if there are ten or  
12 more in the building.

13 COMMISSIONER SHAPIRO: Okay. All right. Thank you,  
14 Mr. Chair.

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

17 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Mr.  
18 Kirchenbaum, thank you for your presentation tonight. So ten is  
19 the magic number; is that what I'm hearing you say?

20 MR. KIRCHENBAUM: Ten is the magic number because that  
21 is what the existing -- that is what is triggered by the existing  
22 IZ program.

23 COMMISSIONER TURNBULL: Okay. Is there any reason why  
24 we're sticking with that or --

25 MR. KIRCHENBAUM: Right now, we're basing -- it's more

1 or less applying the existing IZ program to conversions. We, at  
2 the moment, are not proposing buildings with any modifications  
3 to the way the actual IZ program operates.

4 COMMISSIONER TURNBULL: Okay. I was just curious if  
5 you had -- I'm just wondering why we're limited at only ten or  
6 more. But it seems like we could -- I know the existing regs  
7 are saying that, but I'm just wondering, are you looking at all  
8 to changing that in the future?

9 MR. KIRCHENBAUM: Well, we're sort of continuing to  
10 analyze how, you know, applying IZ to conversions work, and you  
11 know, that can certainly be something we continue to look at as  
12 we fine-tune this proposal.

13 COMMISSIONER TURNBULL: Okay. Well, thank you very  
14 much.

15 MR. KIRCHENBAUM: Thank you.

16 CHAIRMAN HOOD: Okay. Thank you, Mr. Turnbull. Vice  
17 Chair Miller, questions or comments?

18 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank  
19 you, Mr. Kirchenbaum for the presentation. Let me try to  
20 understand how this will work. Well, I'm very supportive of  
21 setting this down for a public hearing and hearing the public  
22 comments on the proposal at that time.

23 Let me just -- throw out an example of -- a couple  
24 examples that have been in the news. The Marriott Wardman Hotel  
25 in Woodley Park, there's talk about it being sold, perhaps, to -

1 - the hotel part to a residential developer or we were just  
2 talking about the Mazza Gallerie scenario that the Committee of  
3 100 used as an example in another IZ case.

4           Without this conversion would IZ -- wouldn't IZ apply  
5 in those particular conversion cases because it applies in the  
6 underlying -- IZ in -- the base IZ applies in those zones or is  
7 it that it -- inclusionary zoning would only be triggered under  
8 the current regulations if -- why don't you just tell me the  
9 difference --

10           MR. KIRCHENBAUM: Sure.

11           VICE CHAIR MILLER: -- between now and after we do this  
12 case as proposed --

13           MR. KIRCHENBAUM: Sure.

14           VICE CHAIR MILLER: -- would there be any difference  
15 for Marriott Wardman or Mazza Gallerie when it's conversion and  
16 under what situation?

17           MR. KIRCHENBAUM: I don't exactly know what the  
18 proposals are for either of those, but let's just assume that for  
19 either of those the existing building size is retained, so they  
20 don't add any floors, they don't add any rear extensions to the  
21 building, the entire building envelope stays the same, under the  
22 current IZ program because there's no changes being -- there's  
23 no changes to the existing building envelope, that means it's  
24 exempt from the IZ program fully.

25           So, you know, in either of those situations, you know,

1 | if they add on a couple new floors to the building, generally  
2 | speaking, then those new floors would have an IZ requirement, but  
3 | just those new floors, not the existing or the original part of  
4 | the building, that would be exempt.

5 |           So this proposal is to, basically, say that regardless  
6 | if you're keeping the building envelope the way it is, if you're  
7 | adding floors, you're adding a rear addition or whatever it is,  
8 | IZ is going to apply to any part of the building that is currently  
9 | not residential that would be converted to residential use.

10 |           VICE CHAIR MILLER: Okay. Thank you. I appreciate you  
11 | putting that on the record. And as you all have said before and  
12 | I agree that these conversions, from an office or a hotel or a  
13 | non-residential to residential offer a big opportunity to capture  
14 | -- to trigger the affordable housing requirements in our IZ  
15 | regulations and as much as we can get in there -- I know downtown  
16 | is going to be looked at later, but I know we've already missed  
17 | a couple opportunities, I think, in the Buzzard Point area, for  
18 | example, where there was a conversion where inclusionary zoning  
19 | didn't apply.

20 |           So the sooner we can get all of this in place to capture  
21 | the opportunities that are there to create affordable housing,  
22 | the better we'll all be, I think, as a city. So, looking forward  
23 | to setting it down and getting it into place, Mr. Chairman.

24 |           CHAIRMAN HOOD: Okay. Let's go back to Commissioner  
25 | Shapiro.

1           COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yeah, I  
2 just had one quick -- for the record, the rationale behind capping  
3 it -- at setting the minimum at ten units. So what are the  
4 examples of that and why ten?

5           MR. KIRCHENBAUM: Well, right now the existing IZ  
6 program gets triggered at ten or more units and so our theory  
7 behind this was to not modify the existing IZ program, but just  
8 to make the existing IZ Program apply to conversions.

9           You know, if the Commission feels like the trigger  
10 number should be different, you know, that's definitely something  
11 OP can, you know, analyze and see if that would work. But that  
12 was the rationale to simply apply the existing IZ regulations to  
13 these conversions.

14           COMMISSIONER SHAPIRO: So at some level it was just  
15 around simplicity?

16           MR. KIRCHENBAUM: Correct. And to not --

17           COMMISSIONER SHAPIRO: But we need to figure out what  
18 the negative impact or the unintended consequences of dropping  
19 that down to zero for something like that.

20           MR. KIRCHENBAUM: Right. And again, I can't comment  
21 on it right now, but if that's something the Commission would  
22 like us to look at, we can certainly, you know, analyze that.

23           COMMISSIONER SHAPIRO: I think it would help me.

24           MR. KIRCHENBAUM: Okay.

25           COMMISSIONER SHAPIRO: That's it, Mr. Chair. Thanks.

1 MR. KIRCHENBAUM: Thank you.

2 CHAIRMAN HOOD: Okay. Thank you. Thank you, Mr.  
3 Kirchenbaum, for the work you all are doing on this.

4 So I only have one request and I think the Committee  
5 of 100 alluded to it, but I'm not going to call any other  
6 organizations out, I'm just going to say Anthony Hood. I want  
7 you all to make this as simple for me to understand as possible.  
8 I think that would be very helpful. I know a lot of times we  
9 get tied up and convoluted with a lot of legal jargon and all -  
10 - so if you all could do that for me, not just this IZ case but  
11 from now on, as simple as possible. Because one of the things I  
12 want to make sure is, the resident understands -- I'm sure the  
13 applicants pretty much, because they're going to probably be  
14 represented, they'll understand it, but I want to make sure that  
15 the residents of the city understand exactly what's going on. So  
16 let's make it as easy as possible, because they don't do this  
17 every day. So if we could make it as easy as possible, I think  
18 we're going in the right direction. It actually was alluded to  
19 in the Committee of 100's letter as well. So that's all I have  
20 on that.

21 Any follow-up questions? Okay. So Commissioners, I  
22 kind of like that Chairman IZ, I hope he likes that name. So  
23 somebody -- anybody can make a motion -- like to make a motion.

24 VICE CHAIR MILLER: I'll let somebody else go. But I'd  
25 like to second it.

1 CHAIRMAN HOOD: Somebody like to make a motion, please?

2 COMMISSIONER SHAPIRO: Mr. Chair, I move that we set  
3 down Zoning Commission Case No. 21-05 Office of Planning text  
4 amendment to Subtitle C IZ-XL Phase 2, applying inclusionary  
5 zoning conversions of non-residential buildings to residential  
6 use and look for a second --

7 VICE CHAIR MILLER: Second it.

8 COMMISSIONER SHAPIRO: -- from the Vice Chair.

9 VICE CHAIR MILLER: Thank you.

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

12 COMMISSIONER MAY: I just want to know if everybody's  
13 going to get their Chairman designation for their issues of their  
14 particular concern? Because I would note that it seems that this  
15 one was moved by "Chairman Green Building," which is a little  
16 better than "Chairman Solar Panel." And, of course, the last one  
17 could have been done by "Chairman Balcony," but I think that's  
18 not -- that doesn't do him any justice.

19 COMMISSIONER SHAPIRO: You left out "Chairman Signage."

20 COMMISSIONER MAY: Yes.

21 CHAIRMAN HOOD: Well since we're going to Chairman and  
22 Commissioner May brought it up, your case was on tonight earlier.

23 COMMISSIONER MAY: My case?

24 CHAIRMAN HOOD: Yeah.

25 COMMISSIONER MAY: Which one was that?

1 CHAIRMAN HOOD: You figure it out. I'm going to let  
2 you figure it out and you let me know. Because you're the  
3 "Chairman of the Soccer Playing," so I'll leave it at that.

4 COMMISSIONER MAY: Oh, okay.

5 CHAIRMAN HOOD: All right. So -- now I done forgot  
6 where I was. Moved and seconded.

7 COMMISSIONER MAY: That was for the discussion.

8 CHAIRMAN HOOD: Oh, okay.

9 COMMISSIONER MAY: It was very valuable, I know.

10 CHAIRMAN HOOD: And it's actually good to do that  
11 sometimes, because we're really always into our work, so I  
12 appreciate that, I really do. Sometimes we've got to lighten it  
13 up, so thank you.

14 COMMISSIONER MAY: Yes.

15 CHAIRMAN HOOD: Okay. It's been moved and properly  
16 second. Any further discussion, other than Chairmanships? Okay.  
17 Ms. Schellin, would you please do a roll call vote?

18 MS. SCHELLIN: Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: I vote yes.

20 MS. SCHELLIN: Commissioner Miller?

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: Commissioner Hood?

23 CHAIRMAN HOOD: Yes.

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: Commissioner Turnbull?

2 COMMISSIONER TURNBULL: Yes.

3 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down  
4 Zoning Commission Case No. 21-05 as a rulemaking case.

5 CHAIRMAN HOOD: So the only other thing we have, I  
6 think, on tonight's agenda is correspondence and this is new  
7 interpretations from the Zoning Administrator. Ms. Schellin?

8 MS. SCHELLIN: Yes, sir. On February 23rd, the ZA sent  
9 staff an email advising that he had recently added 10 new  
10 interpretations on the zoning interpretations webpage of DCRA's  
11 website, for a total of about 30, and he wanted to advise the  
12 Commission of those.

13 He further stated that it is his intent to provide the  
14 Commission with future interpretations as they are published. He  
15 advised that he issues these formal interpretations of a given  
16 regulation to clarify his office's explanation for consistency  
17 and transparency when the office receives repeated requests for  
18 an explanation or clarification. The interpretations typically  
19 include the citation of the zoning regulation, an explanation of  
20 the basis of the interpretation and an illustrative example if  
21 necessary.

22 It's my understanding that the Office of the Attorney  
23 General has spoken with the ZA and discussed possible attendance  
24 at the next joint training session that the Zoning Commission and  
25 Board of Zoning Adjustment has and so, there could be some

1 interaction at that training session.

2 CHAIRMAN HOOD: So let's kind of open it up among my  
3 colleagues. We've heard Ms. Schellin tee it up and this is the  
4 last time I'm going to do this, because this just came to me.  
5 "Chairman Penthouse," we know who that is -- so let's start with  
6 "Chairman Penthouse," Commissioner May, first. And let's talk  
7 about how we want to proceed, Commissioner May.

8 COMMISSIONER MAY: Thank you very much. So, yeah, I  
9 mean, I really appreciate the fact that the Zoning Administrator  
10 is making these determinations and publishing them in this way,  
11 I think that's very helpful. But I do feel like we kind of have  
12 fallen behind on keeping up with these interpretations and I  
13 would like to know more about what has been done and sooner rather  
14 than later.

15 I don't know when we're scheduled for another training,  
16 but I would even say that doing a training session, you know, as  
17 soon as possible would be desirable so that we can get up to  
18 speed on these things.

19 I would also suggest that since on a certain level  
20 these are the domain of the Zoning Commission, that we wouldn't  
21 necessarily need to bring the BZA into them at this moment. It's  
22 really just a matter of us getting educated on what the Zoning  
23 Administrator has determined. And for us to consider whether,  
24 in fact, that is consistent with what we think the Zoning  
25 Regulations were intended to say and if not, where we need to be

1 talking about further clarifications of the regulations to  
2 address those things.

3 So that's why I think of it more as a Zoning Commission  
4 matter than a BZA matter. Certainly, we want to have the BZA  
5 fully educated on these things, but I think that at the moment,  
6 given that there are a number that we haven't considered, that  
7 it's -- it would be appropriate for us to take a look at them  
8 critically on our own in a training session.

9 CHAIRMAN HOOD: Okay. Thank you, Commissioner May.  
10 Good comments. Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: That sounds like a good plan of  
12 action to me, Mr. Chair. I have nothing further to add.

13 CHAIRMAN HOOD: Thank you. Commissioner Turnbull?

14 COMMISSIONER TURNBULL: Mr. Chair, I am always up for  
15 a good healthy session with the Zoning Administrator to get into  
16 the ins and outs of how he works and I'm looking forward to  
17 meeting with him. Thank you.

18 CHAIRMAN HOOD: Okay. And Vice Chair Miller?

19 VICE CHAIR MILLER: I have nothing to add, Mr. Chairman,  
20 thank you.

21 CHAIRMAN HOOD: Okay. I think the path what I've heard,  
22 the suggestion is that we have training sooner than later. I do  
23 agree with the proposal that we go first, the Zoning Commission.  
24 My only comment is I want to make sure that we're not rewriting  
25 the Zoning Regulations, which we and others who've sat on this

1 Commission have put in place, that's my only thing. And I  
2 understand the purpose of why we're doing this, but I want to  
3 make sure the interpretations are consistent to some degree --  
4 the main degree to what the Commission -- not some degree, the  
5 main degree to what the Commission's intentions were.

6 COMMISSIONER MAY: Completely agree.

7 CHAIRMAN HOOD: Yeah. Okay. What -- yes, completely.  
8 So anyway, and I know sometimes when you have to put the actions  
9 in -- you know, in actuality I know sometimes you may have to  
10 tweak it, I think it adds what, 2 percent, or 1 percent or  
11 whatever the case is on certain instances. But anyway -- Ms.  
12 Schellin, could you come up with a date or something?

13 MS. SCHELLIN: Yeah, we can work with the ZA to see  
14 when he's available, but before we do that, did you want OAG to  
15 maybe go -- because he said there are about 30 now, to go through  
16 those 30 and give you maybe a short and sweet condensed -- this  
17 is what the 30 are, this is what they say and give that to you  
18 before we schedule the training, so that he knows which ones you  
19 would like to discuss?

20 CHAIRMAN HOOD: Yes, I think that would be a good plan  
21 of action, so thank you for bringing that up. I would like for  
22 OAG, Mr. Tondro, I know he's listening, I'd like for him to do  
23 that. And also, if we can convey to the ZA for some of the ones  
24 -- some of the more difficult ones that he's made interpretations,  
25 that he comes with maybe one live example, so I think that would

1 | be very helpful, so we can kind of actually see what his rulings  
2 | are.

3 |           MS. SCHELLIN: So you want him -- OAG to provide the  
4 | list to you guys by when?

5 |           CHAIRMAN HOOD: Let's see -- I'm -- can we get it by  
6 | tomorrow?

7 |           MS. SCHELLIN: I don't know. Ask Max.

8 |           COMMISSIONER MAY: I mean, I would like to have it some  
9 | -- at a moment that's timely with whenever the training occurs.  
10 | So --

11 |           MS. SCHELLIN: Well, that's what I'm saying, you want  
12 | the list prior and then he's got to provide it --

13 |           COMMISSIONER MAY: Yeah.

14 |           MS. SCHELLIN: -- to the ZA to come prepared to talk  
15 | about those.

16 |           COMMISSIONER MAY: Right.

17 |           MS. SCHELLIN: So there has to be that preparation time,  
18 | so we need to coordinate.

19 |           COMMISSIONER MAY: Yeah. I mean, it's -- I don't want  
20 | to get the list though, you know, in March and then not have the  
21 | training until June. I'd rather get it closer to the date.

22 |           COMMISSIONER SHAPIRO: Yeah, I agree. Two or three  
23 | weeks.

24 |           COMMISSIONER MAY: Yeah, two or three weeks in advance  
25 | would be great.

1 CHAIRMAN HOOD: So what about by -- if we could get the  
2 list by the next meeting and then we'll leave other coordination  
3 up to you Ms. Schellin. And I agree with Commissioner May, we  
4 don't need it too far in advance and then we have it three months  
5 later. So if we can get all that -- if you can coordinate all  
6 that, I think that would be helpful to us. You're on mute. Ms.  
7 Schellin, you're on mute. Are you talking to us?

8 MS. SCHELLIN: I was -- my dogs don't understand.  
9 Although they're sitting here watching. So if Max provides the  
10 -- OAG provides the list by March 25th, then you guys can let me  
11 know what off of that list you'd like and then I will schedule  
12 the training. Or I'll try to schedule the training in between  
13 now, knowing that you guys will get the list March 25th, I'll go  
14 ahead and try to schedule that training for you guys.

15 COMMISSIONER MAY: Yeah, two or three weeks after March  
16 25th would be good.

17 MS. SCHELLIN: Okay.

18 CHAIRMAN HOOD: Okay. All right.

19 COMMISSIONER SHAPIRO: Are we -- excuse me, are we  
20 assuming this is an evening training for us or is it possible  
21 for it to be a daytime training for us?

22 MS. SCHELLIN: I had assumed daytime, but --

23 COMMISSIONER MAY: Me too.

24 COMMISSIONER SHAPIRO: I would prefer daytime, I was  
25 just checking on the assumption.

1 CHAIRMAN HOOD: Okay. So why don't -- Ms. Schellin,  
2 if you could just send us some dates?

3 MS. SCHELLIN: I'll send you guys dates.

4 CHAIRMAN HOOD: Okay.

5 MS. SCHELLIN: Okay.

6 CHAIRMAN HOOD: All right. Do we have anything else  
7 on the agenda for tonight?

8 MS. SCHELLIN: Not unless OP -- and they did not advise  
9 that they did, so I think we're good.

10 CHAIRMAN HOOD: Okay. So unless my colleagues have  
11 anything else to say, we will adjourn. But before I do that,  
12 the Zoning Commission will have a hearing on March the 15th,  
13 which is Zoning Commission Case No. 20-32, 45 Q Street Southwest,  
14 LLC, and this is a Capital Gateway Design review case. So you  
15 tune in at 4:00, same web links and you'll be able to follow us  
16 on that.

17 So with that, unless I hear anything else. Not hearing  
18 anything, I want to thank everyone for their participation in  
19 this meeting tonight. Stay safe and we'll see you on the 15th.  
20 Good night.

21 MS. SCHELLIN: Thank you.

22 (Whereupon, the above-entitled matter went off the  
23 record at 5:10 p.m.)

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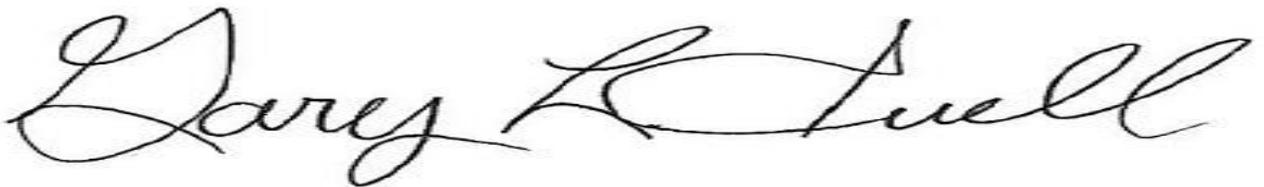
In the matter of: Public Meeting

Before: DCZC

Date: 03-11-21

Place: Teleconference

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