

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

+ + + + +

THURSDAY

FEBRUARY 25, 2021

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

- MAXINE BROWN-ROBERTS
- BRANDICE ELLIOTT
- JENNIFER STEINGASSER
- ANNE FOTHERGILL
- MATT JESICK

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D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the
Regular Public Meeting held on February 25, 2021.

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(4:03 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public meeting by videoconferencing.

My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations.

If we call someone forward, we will ask you to introduce yourself at the appropriate time. Copies of today's meeting are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live via 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 Commissioner suggests otherwise.

The 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 | If you're experiencing difficulty accessing Webex or with your
2 | phone call-in, then please call the OZ hotline number at 202-
3 | 727-5471, for Webex log-in or call-in instructions. Again, this
4 | is Zoning Commission's Public Meeting for February 25th, 2021.
5 | Does staff have any preliminary matters?

6 | MS. SCHELLIN: No, sir.

7 | CHAIRPERSON HOOD: We will move our agenda as printed.
8 | First, we will call Zoning Commission from the consent calendar
9 | item -- Zoning Commission Case No. 05-24C, Kriegsfeld Corporation
10 | on behalf of the Glenncrest Residents Association. PUD
11 | Modification of Consequence at Squares 5318, 5319 and 5320.

12 | Commissioners you will recall that this is something
13 | that we looked for some information for but let me let Ms.
14 | Schellin tee it up and we'll come back to it. Ms. Schellin.

15 | MS. SCHELLIN: Yes, sir. The applicant did reach out
16 | the Homeowner's Association and the ANC advising them of the
17 | information that the Commission requested. The homeowner's
18 | association sent an email, however, it contained initials of the
19 | sender and stated that, "Our residents are very excited about the
20 | potential flexibility granted by this modification to allow decks
21 | to be installed in our community." Staff asked that a letter be
22 | submitted with the sender's actual name and title. So far, we've
23 | not received a letter, and the ANC advised the applicant that
24 | they do not meet until March 9th and ask the applicant if they'd
25 | like to be placed on their agenda, which the applicant replied

1 that they would.

2 So I don't know if the Commission wants to proceed this
3 evening or defer action until our March 11th meeting to allow the
4 applicant to go to the ANC. That's about two more weeks, I
5 believe.

6 CHAIRPERSON HOOD: Okay. Let me just ask, Mr. Young,
7 were you getting any feedback, because I did have my mute button
8 off -- I mean on, so did you get any feedback towards the end of
9 Ms. Schellin's comments?

10 MR. YOUNG: Not when you were on mute, but when you
11 weren't muted, I could hear an echo.

12 CHAIRPERSON HOOD: Okay. I will do my best to remember,
13 especially when Ms. Schellin talks so everybody will put it on
14 mute. Okay.

15 Commissioners you've heard the tee up by Ms. Schellin,
16 you've heard the request and you've heard the -- what's been
17 mentioned as moving forward in this case. We're kind of still
18 in the same place we were but let me hear from others to see what
19 our thoughts are. Commissioner May?

20 COMMISSIONER MAY: Mr. Chairman, I would be very happy
21 to defer this until March 11th to allow the ANC to consider it
22 and to allow the applicant to get us something a little bit more
23 official from like the homeowner's association.

24 CHAIRPERSON HOOD: Thank you. Anyone else feel any
25 different from what we've heard from Commissioner May?

1 (Negative nod.)

2 Okay. I think we're in the same place we were so we'll
3 keep that as the status and hopefully we can take this up on our
4 March 11th meeting, so we can give them an opportunity to meet
5 at their meeting.

6 Ms. Schellin, can we notify them and let them know
7 we're waiting on that information if they choose to submit it.
8 We just want to give them an opportunity to have their meeting.

9 MS. SCHELLIN: Yes, sir.

10 CHAIRPERSON HOOD: Okay. Thank you. Okay. Our next
11 case is Zoning Commission Case No. 14-13E -- 14-13E. This is a
12 Zoning Commission case of Office of Planning text amendment to
13 Subtitles A through K, U and X, modification and clarification
14 to penthouse and rooftop structure regulations. Ms. Schellin?

15 MS. SCHELLIN: At the conclusion of the public hearing
16 on this case the Commission requested that ANC 6C provide some
17 supplemental information and they did that. That is found at
18 Exhibit 15. The Office of Planning provided a supplemental report
19 which is found at Exhibit 16 and ask the Commission to consider
20 taking proposed action this evening. Thank you.

21 CHAIRPERSON HOOD: Okay. Commissioners we -- I think
22 we've talked about this on a number of occasions, we've also got
23 information back and requests from both ANC 6C, Goulston and
24 Storrs, Office of Planning and others. Let's see how -- let me
25 open it up and see if there are comments. If not, we could kind

1 of talk about whether we agree to delete the proposed Subtitle C
2 1504.2, balcony/rooftop deck guardrails. But let me see your
3 path forward, how you all want to proceed in this particular
4 situation. Commissioner May? I'm sorry, Commissioner Turnbull?

5 COMMISSIONER TURNBULL: Well, Mr. Chair, I would just
6 say that the OP report, Exhibit No. 16, replied with a lot of -
7 - they gave a lot of feedback, some of it they changed. They
8 were commenting upon various recommendations. Some of the things
9 they weren't going to change; there is an appendix added to it.
10 I think there's almost -- my feeling is that we ought to at least
11 -- we could take proposed action on this and allow the community
12 -- allow the rest of the city to reply back.

13 I think there's almost too much here for us to go
14 through and try to nitpick what OP has suggested or is
15 recommending but let us have a comment period where we can get
16 feedback from the public and then as its only proposed action,
17 we'll have another "bite at the apple" to go through this again.

18 CHAIRPERSON HOOD: Okay. That's one path forward. I
19 think that's very -- I think that would be very wise. But let
20 me hear from others, unless we want to hash through that, but I
21 would agree with Commissioner Turnbull. But let me hear from
22 others. Commissioner Shapiro?

23 COMMISSIONER SHAPIRO: I would agree with Commissioner
24 Turnbull. I think, you know, there may be things that come
25 through the comment period where we take that, and we may need

1 to make some tweaks that will require an additional notification
2 period. If that's it, that's it, but I think this is ready for
3 proposed action.

4 CHAIRPERSON HOOD: Okay. Anybody else? Vice Chair or
5 Commissioner May? Any comments, or do you agree with the path
6 forward?

7 VICE CHAIR MILLER: I'm comfortable, Mr. Chairman, will
8 moving forward with the Office of Planning's proposed revisions
9 and changes that they've made as a result of previous comments.
10 And seeing what further comments we get during the -- during the
11 comment period.

12 CHAIRPERSON HOOD: Okay. The only thing I would suggest
13 if -- and I don't want to have to ask the ANC 6C to continue
14 working as hard as I think they've already put a lot of time into
15 it. But I will ask the ANC 6C, particularly, Mr. Eckenwiler. I
16 really didn't understand his letter, whether he was asking for
17 it to be in or out, in the pictures. I was kind of -- didn't
18 really understand it, so maybe I'll read it again, but during the
19 comment period if he wants to enlighten me more on that, that
20 would be very helpful. It doesn't have to be a long piece, it
21 could just be a few sentences to let me know exactly, what is
22 the underlying fundamental way -- where you're trying to go?
23 That's all I need, maybe three or four lines of what you're saying
24 to me here. And I think I just don't recall all of the testimony
25 at the hearing.

1 But anyway, that's the path forward and I think that's
2 good unless I hear from others. Commissioner May? You're on
3 mute, Commissioner May. As much as I want you to stay on mute,
4 you're on mute. I need you to come off mute.

5 COMMISSIONER MAY: There you go. Thank you. So, no I
6 think there are a couple things that I would like to discuss now,
7 because there's at least one change that I would like to -- I'd
8 like to adopt an alternate that was suggested by the Office of
9 Planning. And so that one, in particular, has to do with the
10 setback of solar panels, that there will be no setback if it's
11 two feet or less, something like that.

12 I -- you know, I don't know why others don't necessarily
13 see this as an issue, but I've seen so many of these things that
14 are visible from the front of the house and they're really very
15 unattractive. So I think that the alternate that the Office of
16 Planning suggested which is that, if it's not going to be setback
17 from the front that it be screened, I think is a reasonable
18 alternative. And I think that's what we should be adopting in
19 this proposed action, rather than simply saying anything less
20 than two feet is okay. Because, you know, having a two-foot
21 structure that's visible over the parapet of the front of a
22 rowhouse is not a very good sight and I certainly wouldn't want
23 to look at it across the street from my house and I expect that
24 most people wouldn't either.

25 You know, as much as I love having solar panels myself

1 and like having them on many other neighbors and I see them, you
2 know, from the back all the time, I can -- I'm looking at some
3 right now out my window, at the back -- you know, down an alley,
4 looking at the back -- seeing them on the front of the house is
5 a different thing. So I suggest that we adopt that alternative
6 language.

7 CHAIRPERSON HOOD: I will say on that note,
8 Commissioner May, I'm going to go to yield to your expertise and
9 what you believe, as I think we probably most of the time are
10 going on the same (audio interference). The only problem I have
11 with doing something like that in the blind, especially, when I
12 get on BZA and I see what comes before me, then it's not what I
13 expected. You know what I mean? I would like to see how they
14 look, because to me and thinking this thing through, it looks
15 like if you're going to do a whole lot of screening -- and maybe
16 I'm not understanding you, but if you do too much screening it's
17 going to be a lot of -- it looks like it's going to be a lot of
18 clutter. Now, I don't know if anybody agrees with me on that.
19 I would really like to see an example of it, before I adopt it.
20 But if others feel strongly about it and they agree with you --
21 I'm not saying I disagree, but I just don't want it to look like
22 clutter, because I don't have the perception of (audio
23 interference.)

24 COMMISSONER MAY: Well, yeah, I mean, I honestly
25 believe it would be less cluttered, because instead of looking

1 | at panels and the structure that supports them, we would be
2 | looking at, you know, something that is neutral and hopefully
3 | more subtle than that. I mean, again, an example of my own house,
4 | it's a flashing on the side of the house that's a foot tall and
5 | painted black and it's -- you know, it's -- most people wouldn't
6 | notice it at all. And it's that sort of thing that I think we
7 | would be encouraging -- well, requiring if they're going to put
8 | the panels all the way at the front. They also have the option
9 | of moving them two feet back. It's also not something that's
10 | going to interfere with the efficacy of the solar panels because
11 | it doesn't have to be any taller than the panels themselves, it
12 | would just screen the structure.

13 | CHAIRPERSON HOOD: Okay. Let me hear from others.
14 | Commissioner Shapiro?

15 | COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yeah, I
16 | mean, I hear where you are, Commissioner May, and I think I've
17 | got some of the concerns that you had, Mr. Chair, just that --
18 | the panels could look worse -- I mean, the screens could look
19 | worse. I mean, I don't -- it's not clear to me what that screen
20 | is going to look like on the front of a rowhouse, and how are we
21 | regulating that?

22 | You know, I thought the compromise was -- because if
23 | memory serves me, they started with more height on the solar
24 | panels and dropped it down to two feet. And I thought that
25 | seemed like a reasonable compromise, because then you had much

1 less visual intrusion.

2 I mean, I guess I kind of like the idea of what you're
3 saying, minimal screening in front of the solar panels that are
4 two feet that are right up against the front, but are we saying
5 anything about what kind of screening that could be?

6 COMMISSIONER MAY: Not yet. We don't have anything
7 from the Office of Planning.

8 COMMISSIONER SHAPIRO: But that's kind of it for me,
9 if feels like, you know, I'm always worried about the unintended
10 consequences and this -- to be requiring a kind of screening that
11 then is a virtually unregulated screening.

12 COMMISSIONER MAY: Yeah, I'm not sure I have the fear
13 of what that screening could be. Again, I -- you know, I have
14 seen numerous very bad examples, not where I live because I live
15 in a historic district and, you know, we don't have to put up
16 with stuff, right? It all has to be reviewed and approved by
17 the staff at the Office of Planning or the Historic Preservation
18 Office.

19 I mean, this is in some ways, you know, one of those
20 issues of well, the historic preservation, you know, the historic
21 neighborhoods get better protections than the rest of the
22 neighborhoods, which is not the case.

23 COMMISSIONER SHAPIRO: Well, there was a battle right,
24 over solar panels in historic neighborhoods?

25 COMMISSIONER MAY: What's that?

1 COMMISSIONER SHAPIRO: There was this battle over solar
2 panels --

3 COMMISSIONER MAY: Yeah, but that was a -- I mean, that
4 was a completely different thing, right? That had to do with
5 very visible panels on a sloped roof; it's a completely different
6 thing. I'm talking about the visibility of the structure at the
7 front of the house.

8 COMMISSIONER SHAPIRO: I think the combination for me
9 is that the assumption is that solar panels are unattractive.

10 COMMISSIONER MAY: No, that's not the assumption. The
11 assumption is that the structure of them can be. And, you know,
12 if you want -- I mean, I don't know if I can do this, but I can
13 give you photographs of how bad they can look. Because I -- you
14 know, I walk around my neighborhood and I take pictures of good
15 things and bad things and that's one of the bad things that I
16 see.

17 CHAIRPERSON HOOD: That would be helpful for me, but
18 don't take anybody that knows you, house. And I don't know if
19 we can do that either, but maybe we can ask OP to give us some
20 examples and that would give me a comfort level --

21 COMMISSIONER MAY: Yeah.

22 CHAIRPERSON HOOD: Maybe -- we don't put us in going
23 out doing that kind of stuff, so -- I think that would be helpful.
24 I don't say I disagree with you. I just know that when I get to
25 the BZA or wherever I go to, and I say we didn't do that, we

1 | couldn't have done that. So that's just kind of where I am.

2 | COMMISSIONER MAY: Well, I think you run the risk of
3 | not doing it and then -- I mean, if you allow these things two
4 | feet above the front of the roof like that, I think you -- you
5 | know, you run that risk of people saying, hey, you allowed that?

6 | CHAIRPERSON HOOD: So here's the thing though,
7 | Commissioner May, it's not saying -- we're not saying -- I think
8 | -- I'm not sure how to proceed. Do we do an alternative before
9 | we go out for final, or do we just do it one way and then some
10 | kind of way we get the Office of Planning to show us exactly --
11 | at least me and maybe Commissioner Shapiro and others exactly
12 | what you're talking about? Because I --

13 | COMMISSIONER MAY: Well, I imagine that the Office of
14 | Planning --

15 | CHAIRPERSON HOOD: (Audio interference.)

16 | COMMISSIONER MAY: -- I imagine the Office of Planning
17 | could craft some language that would, you know, give some idea
18 | of what the screening should be -- what it should look like, you
19 | know, significant -- substantially neutral in color and texture
20 | and something like that. I mean, that kind of language; they're
21 | good at coming up with those sort of guidelines. But I don't
22 | know that we can do that, whether we can simply give the Office
23 | of Planning and the Office of the Attorney General flexibility
24 | to incorporate something like that or whether we'd have to
25 | evaluate it before we take proposed action.

1 COMMISSIONER SHAPIRO: If we take -- if I can, sir. If
2 we take proposed action and include that recommendation you made
3 and ask the Office of Planning and perhaps OAG to require that
4 language, that feels -- that feels good enough for me.

5 COMMISSIONER MAY: Okay. So, Mr. Tondro, do you think
6 that if we took proposed action and asked that you and OP work
7 on language that describes the nature of that screening that you
8 would be able to -- we'd be able to proceed and advertise? Or
9 would we have to come back and evaluate that again?

10 MR. TONDRO: Yes, I think that that should -- that's
11 clear enough that we can work with that and put that in proposed.
12 And I think, the one thing I say is there was one other -- I
13 mean, if that is the -- I think the one point of clarification
14 would be good is what we're talking about is adopting -- not
15 adopting the alternative language by OP but instead putting in
16 this language that OP would draft with OAG about the screening
17 itself; is that right?

18 COMMISSIONER MAY: Well, the Office of Planning's
19 report say that, you know -- regarding the question of whether
20 there be required screening or one to one setback from the front
21 façade; they recommended no change to the proposal, but they said
22 alternatively, amend Chapter C, Section 1504.2 to require
23 screening or structural support system for solar panels from the
24 front wall if the solar system is not setback from the façade.

25 MR. TONDRO: So therefore we would adopt that language

1 the alternative -- what the Commission wants to do would be to
2 adopt that alternative language which would screening in lieu of
3 a setback provided that OP and OAG come up with specific
4 standards; is that right?

5 COMMISSIONER MAY: Yeah, some kind of standard.

6 COMMISSIONER SHAPIRO: It's either or though, right?
7 They could set it back --

8 MR. TONDRO: Right.

9 COMMISSIONER MAY: Right.

10 MR. TONDRO: Right. Exactly. Yep. Then that is clear
11 enough that we could work with them and put that in the proposed
12 language, yes.

13 COMMISSIONER MAY: Well, then that's what I would
14 recommend and support, because I do think it's worth doing.

15 COMMISSIONER SHAPIRO: I'm fine with that as well.

16 COMMISSIONER MAY: Okay.

17 CHAIRPERSON HOOD: And I would also ask at some point
18 the Office of Planning, if they're listening, if we could come
19 up with a picture or something, so I can visualize it and know
20 how to deal with it and understand once I get it. At some point,
21 whether it would be -- if we could find some kind of examples of
22 exactly what we're talking about here, that would be very helpful.

23 COMMISSIONER SHAPIRO: Yeah, actually, can I jump in
24 on that? Because that's a good point. It's not totally clear
25 to me what two feet up front, whatever, 40 feet in the air looks

1 | like. So there's a part of me that wants that perspective from
2 | the ground, because I don't -- I trust your photographs,
3 | Commissioner May, but I can't envision it, so that would be
4 | helpful for me.

5 | COMMISSIONER MAY: Well, let me just tell you, none of
6 | them are on 40-foot buildings. They're on 20- and 25-foot
7 | buildings, which is a more typical rowhouse height.

8 | COMMISSIONER SHAPIRO: Right.

9 | COMMISSIONER MAY: And they are quite visible from
10 | across the street, because it's almost at an angle of one to two
11 | at that point.

12 | COMMISSIONER SHAPIRO: Okay. Thank you, that's all.

13 | CHAIRPERSON HOOD: Yeah, and Commissioner May, I really
14 | think I -- especially since you told me how -- the height of the
15 | rowhouses. So, yeah, I think we're in tune, I just want to make
16 | sure. I would agree from what I'm hearing from the other group.

17 | Okay. Anybody else want to opine on that? Commissioner
18 | Turnbull? Oh, that's right, you've already given us a direction.
19 | Vice Chair Miller?

20 | COMMISSIONER TURNBULL: I would just say the third
21 | option would be to have Commissioner May walk the neighborhood.

22 | COMMISSIONER MAY: I'm looking forward to retiring and
23 | being the solar panel visibility inspector across the city; how
24 | about that?

25 | COMMISSIONER SHAPIRO: It may be a full-time job the

1 way D.C. is going.

2 COMMISSIONER MAY: There's other things I would see
3 along the way too.

4 CHAIRPERSON HOOD: Okay. All right. Vice Chair Miller,
5 you had something you wanted to add?

6 VICE CHAIR MILLER: I just would reiterate what you
7 said. I think pictures will be "worth a 1,000 words" and I would
8 like to see with screening and without, because I think I'd still
9 like in my own mind to retain the option of not having any
10 screening if it's going to look worse. But I realize that's a
11 subjective thing, so we'll see -- we'll see it when we see it.

12 CHAIRPERSON HOOD: Okay. So we're going to move forward
13 with the addendums that Commissioner May and Shapiro and others
14 have mentioned before we go to final. So will somebody make a
15 motion -- it sounds like we're ready to -- Commissioner May?

16 COMMISSIONER MAY: Yeah, I just want to say one other
17 thing. I mean, I believe I understand Mr. Eckenwiler's submission
18 to be a demonstration of the type of enclosed unit that he didn't
19 think would require screening. That's the, you know, the complete
20 unit, the commercial style as opposed to, you know, just a
21 standard condenser unit for residential purposes, that larger box
22 thing that's in his submission.

23 And I did not find that particularly persuasive, so I
24 think the regulations as drafted require that something like that
25 be screened and I'm in favor of keeping that requirement.

1 CHAIRPERSON HOOD: I just want -- I need to look back
2 again. I've actually looked at that submission a couple times and
3 still I didn't really get -- I'm thinking -- seeing others
4 bringing a lot of added value and different perspective and a
5 humanistic perspective that we actually live. So that's why I
6 wanted to make sure I didn't miss the point --

7 COMMISSIONER MAY: Uh-huh.

8 CHAIRPERSON HOOD: -- of this whole -- I don't know
9 what others feel, but I still request them to send that before
10 we make a final, if they choose to do it.

11 COMMISSIONER MAY: Right.

12 CHAIRPERSON HOOD: Anything else, Commissioner May?

13 COMMISSIONER MAY: No.

14 CHAIRPERSON HOOD: Okay. All right. Would somebody
15 like to make a motion that we set this down with the caveat of
16 all the things we just discussed? Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes, Mr. Chair, I would move
18 that we take proposed action on Zoning Case No. 14-13E, proposed
19 zoning text amendments to penthouse regulations with the comment
20 -- which would include the revised comments by Commissioner May
21 and Commissioner Shapiro, looking for the extra information we
22 wanted from OP and ask for a second.

23 COMMISSIONER MAY: Second.

24 CHAIRPERSON HOOD: Okay. It's been moved and properly
25 seconded. Any further discussion? Not hearing any, Ms. Schellin,

1 would you please record the vote?

2 MS. SCHELLIN: Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Yes.

4 MS. SCHELLIN: Commissioner May?

5 COMMISSIONER MAY: Yes.

6 MS. SCHELLIN: Commissioner Hood?

7 CHAIRPERSON HOOD: Yes.

8 MS. SCHELLIN: Commissioner Miller?

9 VICE CHAIR MILLER: Yes.

10 MS. SCHELLIN: Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: Yes.

12 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve
13 proposed action in Zoning Commission Case No. 14-13E as
14 discussed.

15 CHAIRPERSON HOOD: Okay. Let's go to -- thank you.
16 Let's go to hearing action -- that's wasn't too bad.

17 Let's go to hearing action on Zoning Commission Case
18 No. 21-03. This is the Office of Zoning text amendment to
19 Subtitles Y and Z, compliance with Clean Hands Mandate and
20 Corporate Registration Requirements. Ms. Schellin?

21 MS. SCHELLIN: Yes, sir. This was on a prior agenda
22 for consideration and so, we worked with OAG and after looking
23 at the Act, there does seem to be difficulty in coming up with
24 proper language to make this work for the zoning regulations.
25 However, we did provide some draft language that OAG came up

1 with. I'm not sure if it's going to meet with the Commission's
2 satisfaction; however, you do have that before you to consider.

3 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. And
4 I want to thank both the Office of Zoning as well as the Office
5 of the Attorney General for coming up with this language. As
6 I've mentioned previously, we've tried something similar to this.
7 I've always thought it should be in place. The issue for me
8 though is, how do we put it in place? That seems to be the big
9 deal. So anyway, let me open it up to others because we all
10 brought up some great points that I didn't think about last time,
11 which took me back to try to figure out why we didn't deal with
12 it 20 years ago. I don't want to sound redundant but there must
13 be something here, why we just gave up on it. I don't know whether
14 they got tired, like I'm getting now of it, or -- I'm not sure
15 what the case is. But I think this is something that we need to
16 press on and at least get some finality to it. So let me open
17 it up to any questions or comments. Commissioner May?

18 COMMISSIONER MAY: Yeah, so, you know, given what we've
19 gotten and having had some time to think about since the original
20 discussion, I'm not in favor of setting this down at this point.
21 I'm not sure I would go so far as want to deny it, but certainly,
22 you know, I don't see the advantage to proceeding with this at
23 this moment.

24 We're not -- we would -- you know, in the process of
25 zoning and, you know, BZA cases, we're not actually giving

1 permission for some entity with less than "Clean Hands" to, you
2 know, move forward with building something, which I think is
3 really the intention of that law, since it's focused on DCRA.

4 You know, yeah, it's possible that we could go through
5 an exercise that would, ultimately, get stopped at the building
6 permit stage because they don't have "Clean Hands" and so we will
7 have wasted our time and some public time and so on. But I just
8 don't see enough value in that to our regulations and to our
9 processees to want to pursue it.

10 Now, you know, that's not to say that it couldn't be
11 done, but I think, you know, what's being proposed right now in
12 terms of the language, I'm just not -- I'm not there, I'm not
13 persuaded that this is something that we really have to do or
14 can, very effectively, do. And this is not because I think that
15 we should be, you know, supporting or allowing activities by
16 organizations or entities that have less than "Clean Hands," but
17 it's also, you know, when the law was passed it wasn't directed
18 at our process, so it just -- again, I don't see the value in
19 it. And then there are all the other complications that we talked
20 about last time and maybe others want to talk to that more. I
21 know Commissioner Shapiro had particular concerns about how this
22 could be playing out.

23 So I just don't see the value in it, and I would either
24 deny it or at least put it aside for the moment until there's
25 further discussion and, frankly, persuasion by DCRA that this is

1 necessary since it seems to have originated with them. Okay.

2 CHAIRPERSON HOOD: Thank you. Commissioner Shapiro,
3 do you have anything you want to add?

4 COMMISSIONER SHAPIRO: I join Commissioner May on this
5 one. I expressed some concerns at the last meeting. Yeah, I
6 just don't think this is really our lane. You know, some of this
7 is about the optics where, you know, this is kind of a -- there's
8 an intuitive piece around why would we approve something if
9 somebody doesn't have "Clean Hands." But this could stop, you
10 know, to Commissioner May's point, you know, this will get stopped
11 at DCRA. So, you know, it is a bit of a waste of resources if
12 we go through the process and then it's stopped. But, you know,
13 that's -- if some applicant or authorized agent comes before us
14 without "Clean Hands" and they get it through us, they're going
15 to get stopped by DCRA. And they need to do what they need to
16 do to be able to get their building permit.

17 So, it's not that I don't, you know, it's not that I
18 don't want to take an opportunity to stop bad actors, it's just
19 that's the role of DCRA. And I don't think we should be in that
20 business. So I don't support this, I would be in support of
21 denying it right now, because I just think this -- you know,
22 regardless of the optics, because one might say and we might even
23 get push back that says, well, why don't you take every
24 opportunity you can to stop bad actors. You know, I think that
25 safeguard is in place and it's not us. That's all I have.

1 CHAIRPERSON HOOD: Thank you, Commissioner Shapiro.
2 Commissioner Turnbull, do you have any comments on it?

3 COMMISSIONER TURNBULL: Well, I'm just concerned, the
4 language that I see before us is, we talk about a valid "Clean
5 Hands" self-certification. I mean, we get self-certification
6 from Zoning BZA cases that they're -- what they're going for, but
7 this says from the Department of Consumer and Regulatory Affairs.
8 Self-certified from the Department -- I mean, if it's self-
9 certified isn't the applicant self-certifying without having to
10 go through the DCRA? I'm confusing, but it sounds like we're
11 not even going to be able to hear a case unless you have this
12 self-certification and I'm just wondering if it's something --
13 if that's mixing -- putting something into the zoning process
14 that is more of a hindrance and that really doesn't do exactly
15 what we want it to do. I mean -- and I think it's been said by
16 both Commissioner May and Shapiro that the DCRA is really in the
17 responsibility aspect here for the building. And this sounds like
18 before we can even have a hearing on the zoning issues, we need
19 this self-certification from them. So I'm just wondering if it's
20 really monkeying up the process for us more than we really want
21 it to. Is it really doing exactly what we think it's going to
22 do? I mean, this is really at an early stage when you're doing
23 the zoning, not the building. So I'm a -- I can see the point
24 of looking for this at times, you want "Clean Hands", you want
25 to make sure that nobody is -- but I'm just concerned if it's -

1 - the language is stated the way it should be and is this really
2 the right process that we want to have?

3 CHAIRPERSON HOOD: Thank you. Vice Chair Miller, do
4 you have anything you want to add?

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
6 understand the points that my colleagues are making; however,
7 just off the top of my head in general -- or maybe it's the
8 intuitive thing that Commissioner Shapiro was alluding to, I
9 generally don't want to waste my time or the Commission's time
10 going through a zoning entitlement case if the person before us
11 doesn't have "Clean Hands."

12 There's a process for getting "Clean Hands"
13 certification from DCRA that has existed for a long time. I
14 don't know what that process is exactly, but it's existed for a
15 long time. If that process needs to be improved, let it be
16 improved, but I don't think anyone doing business with the city
17 should have *unclean hands* and ought to be able to meet the
18 requirements of the city to have "Clean Hands" and I'm,
19 personally, not interested in taking the time to give an
20 entitlement to somebody who doesn't have the "Clean Hands" to
21 begin with. So I think it would be better to take care of that
22 at the outset and is a -- I realize that there are safeguards at
23 the end, someone won't get a building permit, but I don't know
24 why we want someone without "Clean Hands" doing any kind of
25 business with the city or getting any entitlement from the city

1 and taking up our valuable time to try to get that entitlement
2 if they haven't bothered to take the time to resolve their *unclean*
3 *hands* before the city. So that's where I am on that.

4 But I realize that there's some reluctance and maybe
5 we've lived without it for 20 years or whatever -- since there's
6 been a law applying to permits and licenses. So I don't think
7 it's necessarily harmful, because there is the failsafe of the
8 building permits won't be issued, because that does apply --
9 "Clean Hands" does apply at that stage, but I don't see any
10 problem with extending it to other -- to this zoning process as
11 well. And I am worried about the optics of not extending it,
12 now that it's a public meeting and we're not extending the "Clean
13 Hands" requirement to the zoning -- to zoning stakeholders. So
14 that's where I am.

15 CHAIRPERSON HOOD: Well, for me, as one who's mentioned
16 this whole process over and over again. We looked at it 20 years
17 and it disappeared, I guess because people, again, fundamentally
18 the same thing I'm hearing here, just got tired of -- sick and
19 tired of talking about it.

20 But I think it's a very important point. While I hear
21 what we're saying, it gets caught up at DCRA -- it gets caught
22 up at DCRA. For me, it should happen even before it gets to us.
23 And I'm not trying to put it on OP or anybody else. That whole
24 process should not even start. The optics of it for me is just
25 like they hold us accountable for our actions or the citizens

1 | accountable -- we need to hold folks who want to do business
2 | with, and I think that's what that whole law was about. I believe
3 | some of those discussions that the council had.

4 | So I'm not ready to necessarily deny it as I think I
5 | heard one of the Commissioner's say, I just think we need to do
6 | some more conversation and this time let's not get tired of having
7 | the conversation. We might need to do a training session, or we
8 | may just need to sit down and have a public -- and I want to make
9 | sure it's public, a public discussion on this only and pick it
10 | and just work through it, like a working conversation. We may
11 | just have to do that. I don't know. I don't know if that's even
12 | the correct procedure, but I think the last time, from my
13 | standpoint, we just gave up.

14 | Because -- and those who work in the government, you
15 | know, when you try to make changes -- you know my job, when trying
16 | to make changes, they teach you not to make those changes and I
17 | think because this might take a little pounding, a little pain
18 | to get to where we need to be, I think it's worthy of this
19 | commission's time and attention to see if we can come up with
20 | some type of resolve because I think the residents expect that
21 | of us. But for me, it should stop before it gets to us.

22 | I'm hoping we're not going to take this off the table.
23 | I know I will not vote for it. Let's continue to have this
24 | discussion. Where we go from here -- maybe we can ask council
25 | to re-look, I think they've done a fabulous job coming back with

1 | what they did. Maybe there's something else, after they hear
2 | these comments, that we can look at and then the process -- I
3 | think all that, to me, is something we can continue to pound the
4 | pavement.

5 | But my issue is -- I keep -- it just came -- the light
6 | just flew on when you said, oh, they'll take it on at the DCRA,
7 | but we went through this whole process. And to me that
8 | entitlement issue, we shouldn't even start working on stuff like
9 | this if we don't have "Clean Hands." I'm not sure what other
10 | jurisdictions do, but I'm not even sure what other jurisdictions
11 | do, maybe we need to look at that as well. Commissioner Shapiro?

12 | COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I mean,
13 | if we were to sit on this, if there's not energy -- I mean, if
14 | there is energy to continue it, then I would want to invite a
15 | representative from DCRA and a representative from OTR, which is
16 | the agency that issues the "Clean Hands" certification and have
17 | a conversation and get educated. I mean, you know, I can look
18 | at the brochure that says here's what you can or can't get; here's
19 | what you have to do to get your certificate of "Clean Hands."
20 | But I think we at least should be educated around that thoroughly
21 | to make sure that we get what we're requiring people to do.

22 | Because it's a pretty -- my experience of it is, it's
23 | a pretty low bar to not get a certificate of "Clean Hands." It's
24 | 100 -- you have to owe \$100 or more to -- and this is what's not
25 | clear to me, to -- in fines, fees -- I think it even includes

1 parking tickets, that stops you from getting it. But I'm not
2 100 percent sure. So if we're going to go down this route, if
3 we could get educated about that by the respective agency, that
4 might help our decision.

5 CHAIRPERSON HOOD: I really like that Commissioner
6 Shapiro. Let's see how we get that option but let me go to
7 Commissioner Turnbull first.

8 COMMISSIONER TURNBULL: Mr. Chair, I would agree with
9 Commissioner Shapiro, that this -- we need to continue this
10 process. We need to continue -- keep looking at it, get some
11 more information on it and I like his idea of getting involved
12 in the other bodies in this -- to come back and comment on it.
13 So, let's not -- this shouldn't die, this needs to go forward,
14 it needs to -- as Commissioner -- and as the Vice Chair said,
15 this is a worthy and significant aspect here that we should do,
16 but I think we need a little bit more information on it. Let's
17 keep going on it.

18 CHAIRPERSON HOOD: Yeah, so I think we have -- the
19 majority of us wants to keep going and I think even Commissioner
20 Shapiro as well.

21 So, for me, going forward, I don't know, do we invite
22 them to a meeting? Do we have to have a roundtable? I guess I
23 would ask Mr. Tondro and Ms. Schellin to guide us or help me
24 figure out -- or us figure out how we proceed, but let me hear
25 from Commissioner Shapiro?

1 COMMISSIONER SHAPIRO: I mean, you know, the "A" step
2 would be to -- I'm not even sure I support this, but we could
3 set it down and ask the agencies to come to hear it. But I'm
4 also -- perhaps it might be healthier to have some kind of
5 discussion before we even set it down.

6 COMMISSIONER MAY: I'd be in favor of more discussion
7 before we set it down. I mean, as I said before, I don't think
8 it's right to be set down now. You know, I could see denying it
9 at this point, but I could also see just tabling it until we have
10 those further discussions, until we all feel, you know, more
11 comfortable with what we're moving on.

12 CHAIRPERSON HOOD: So why don't we just -- I think they
13 can present at one of our meetings and Mr. Tondro and Ms. Schellin
14 -- especially Mr. Tondro, you can tell me if that's incorrect.
15 They can present at one of our meetings through the Office of
16 Planning and a report to this case to kind of like give us a
17 briefing like we've had in the past. I think that would be --
18 and that way we can have an exchange of questions going back and
19 forth. That way we don't set it down, we don't have a hearing,
20 but we can get to the fine-tuning of what their process is, how
21 this works and we would ask them in advance, Ms. Schellin, to
22 read the language for this proposed -- and I don't know if that
23 runs afoul Mr. Tondro. I'm sure you'll show up on the screen if
24 it does, but if it does not, I think that's the procedure and
25 the process. And we could try to do it on a meeting night that

1 we don't have a whole lot, which is, you know, a meeting, which
2 I don't know when that it is, but I'll leave that up to staff.
3 Does anyone have any issues with that path going forward or that
4 idea?

5 Okay. So Ms. Schellin, can we make sure that that's
6 how we proceed?

7 MS. SCHELLIN: Yes, sir.

8 CHAIRPERSON HOOD: That's what I love about the Office
9 of Zoning, the staff, they always say yes. Even though we come
10 up with some stuff that may be just as impossible and when we
11 say it, it may sound impossible, but they always come back with
12 what we ask for, so thank you.

13 All right. Anything else on that? Okay. I think that
14 was a good healthy discussion, and I'm glad it's not going to
15 die this time for 20 years. Okay.

16 Okay. Let's go to our next case, Zoning Commission
17 Case No. 04-08G/02-45, WMATA, on behalf of the Department of
18 General Services. PUD Modification of Significance at Square
19 5868S. Ms. Brown-Roberts.

20 MS. BROWN-ROBERTS: Good afternoon, Mr. Chairman and
21 members of the Zoning Commission. This is Maxine Brown-Roberts
22 from the Office of Planning on the proposed modification of
23 significance to Zoning Commission Case 02-45 -- Zoning Commission
24 is 02-45 and 04-08G, to allow the construction of a new tower at
25 the St. Elizabeth Hospital property.

1 The applicant has requested the Zoning Commission
2 review this special exception relief to allow a 250-foot tower
3 in the MU-4 zone pursuant to Subtitle X 303.13.

4 The application was originally submitted as a
5 modification of consequence; however, at your July 27th, 2020
6 meeting, the Zoning Commission determined that the proposal
7 should be reviewed through the modification of significant
8 process.

9 The proposal is to replace the existing 250-foot-high
10 tower with a split tower supported by equipment shelter and an
11 emergency standby generator. The tower would replace both the
12 existing tower, which has partially deteriorated and is incapable
13 for accommodating new equipment and there's also a temporary
14 Cell-on-Wheels. Once construction is complete, all equipment
15 will be transferred to the new tower and the existing tower and
16 Cell-on-Wheels would be removed.

17 The Office of Planning recommends that the proposal be
18 set down for public hearing. If the application is set down, it
19 would be recommended that the applicant coordinate with a (audio
20 interference) regarding their proposed tree removal and provide
21 information at the public hearing. Thank you, Mr. Chairman, and
22 I'm available for questions.

23 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts. Let's
24 see if we have any questions or comments. Commissioner May?

25 COMMISSIONER MAY: No.

1 CHAIRPERSON HOOD: Commissioner Shapiro? Commissioner
2 Turnbull? Vice Chair Miller?

3 (Negative nod.)

4 Okay. No comments. Great job Ms. Brown-Roberts, no
5 questions.

6 So, since there are no questions, it seems pretty
7 straightforward, I would move that we set down Zoning Commission
8 Case No. 04-08G/02-45, a model on behalf of The Department of
9 General Services. PUD Modification of Significance at Square
10 5868S and ask for a second.

11 VICE CHAIR MILLER: Second.

12 CHAIRPERSON HOOD: It's been moved and properly
13 seconded. Any further discussion? Not hearing any, Ms. Schellin,
14 would you please take a roll call vote?

15 MS. SCHELLIN: Commissioner Hood?

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: Commissioner Miller?

18 VICE CHAIR MILLER: Yes.

19 MS. SCHELLIN: Commissioner May?

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Commissioner Shapiro?

22 COMMISSIONER SHAPIRO: Yes.

23 MS. SCHELLIN: Commissioner Turnbull?

24 COMMISSIONER TURNBULL: Yes.

25 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down

1 Zoning Commission Case No. 04-08G/02-45, and this is being set
2 down as a contested case.

3 CHAIRPERSON HOOD: Okay. Thank you. And thank you Ms.
4 Brown-Roberts.

5 Let's move to our next case, Zoning Commission Case No.
6 20-27, High Street District Development, Inc., consolidating PUD
7 and related map amendment at Square 445. Ms. Fothergill?

8 MS. FOTHERGILL: Good afternoon, Chairman and members
9 of the Commission. I'm Anne Fothergill with the Office of
10 Planning for Zoning Commission Case 20-27. This is an application
11 for a consolidated PUD and related map amendment to the MU-6
12 Zone.

13 At the January 28th, 2021 meeting the Zoning Commission
14 determined this application was not ready to be set down for
15 public hearing and suggested the applicant make revisions and
16 return to the Zoning Commission. Since that meeting, the
17 applicant has made significant revisions and the Office of
18 Planning finds that the proposed PUD would be generally not
19 inconsistent with the maps and written elements of the
20 comprehensive plan and would further a number of important goals
21 of the District, including the provision of housing and
22 affordable housing and request that the Commission set it down
23 for public hearing.

24 The Commission had expressed concern about the future
25 land use map designation at the eastern end of the site and the

1 height of the building along Marion Street. The applicant revised
2 the plans and the building now responds to the moderate
3 designation with a building height and design to transition to
4 the residential road wells in the adjoining RF-1 Zone.

5 The building would step down to four stories along
6 Marion Street with a height of 43 feet 8 inches. The building
7 height would also be lower on Floors 5 to 7, which would reduce
8 visibility from the east as seen in the site line diagram that
9 is provided.

10 The four-story section of the building would reflect a
11 low-rise apartment building, which is consistent with the
12 moderate residential designation (audio interference). Should
13 the Commission find that there's a potential inconsistency at the
14 density designation on the map, the overall project would further
15 many comprehensive plan (audio interference) that would outweigh
16 any potential inconsistency with the FLUM designation, including
17 most significantly, the critical goal of the city at housing and
18 affordable housing, as well as many others that were outlined in
19 Section 7.

20 Since the January meeting, in response to other
21 Commission concerns, the applicant committed to (audio
22 interference) certification additional solar installations and
23 the affordable housing units would not be located in the cellar
24 level.

25 The Commission had also raised some other concerns

1 about the building design, signage and flexibility and the
2 applicant will respond to those and any others that are raised
3 tonight in advance of a public hearing.

4 Overall, OP finds that the application is not
5 inconsistent with the comprehensive plan and recommends that it
6 be set down for public hearing, and I'm happy to take any
7 questions.

8 CHAIRPERSON HOOD: Okay. Thank you, Ms. Fothergill.
9 Commissioner's you've heard the proposal. I know we didn't set
10 it down last time and, obviously, there's been some change, so
11 let's hear what comments we have this time and let me open it
12 up. Commissioner May?

13 COMMISSIONER MAY: Well, I do appreciate the fact that
14 the design has been modified and some of that -- of the mass has
15 been moved away from the east side of the property, away from
16 Marion Street and there's less mass on the portion of the site
17 that's designated moderate density.

18 I think I'm a little bit less concerned about the
19 specifics of kind of where that line is drawn and more concerned
20 about the very specific impacts the property would have on Marion
21 Street itself. And I'm not fully persuaded by the drawings that
22 we've seen that it's not going to have a substantial impact on
23 that. But I do feel like it's good enough to go ahead with a
24 hearing and I would just suggest that there be substantial
25 outreach to the immediate neighbors. You know, maybe going beyond

1 just the standard letter that goes to people within 200 feet. I
2 think that there's -- I know that if I were living directly across
3 the street from this, I would have a lot to say about it, but
4 not everybody pays attention to these issues as they develop. So
5 whatever is necessary to make sure that we're getting feedback
6 on that side.

7 You know, we've had similar cases like this in other
8 parts of the city and sometimes we hear loudly and strongly from
9 the people who are across the street and sometimes we don't.
10 And, you know, it's hard to understand sometimes why that it is
11 and it's -- you know, it's good when we hear from people across
12 the street that say yeah, this is a good thing on balance that
13 we're okay with this height and mass and this very large building
14 on what has been a vacant lot for probably 50 years now.

15 But it's -- you know, it is a very big thing and I
16 think that, you know, the scale of Marion Street is so low and
17 it's a very -- it's a very tight small street and the houses --
18 you know, what they're proposing maybe 43 feet tall, but I bet
19 the houses across the street are no more than 25. And the right
20 of way itself is pretty narrow. I just think that that -- we
21 have to -- this is I think why the future land use map called
22 out that portion of the property as moderate density because it
23 needed to stay in scale with the rest of the block.

24 So it's not just, you know, what's technically on
25 paper, how can we offset what's on the map with other comp plan

1 policies that we're trying to meet? It's also about, you know,
2 understanding the reason why the map is drawn the way it is and
3 understanding the potential impacts.

4 So, like I said, it's better, it's good enough to set
5 down, but I am hoping that we get substantial public outreach to
6 all of the abutting neighbors or the neighbors across the street
7 so that we know for sure that this is a well supported proposal.
8 That's it.

9 CHAIRPERSON HOOD: Thank you, Commissioner May.
10 Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: Yeah, I'm also -- I feel like
12 they're moving in the right direction. I feel like this would
13 be appropriate to set down. I do think that the applicant should,
14 as they come before us -- it's not helpful, the suggestion, but
15 somehow this -- even with their redesigns it's consistent with
16 the FLUM guidance and I think it's, you know, to -- even as we
17 hear from them, to be clear that the inconsistency with the future
18 land use map and to talk about the competing elements as they
19 come to us.

20 And I also appreciate what Commissioner May said about
21 wanting to hear from the community, and I look forward to
22 hopefully hearing lots of feedback of what the neighbors think
23 about the impact of the case. So, again, I feel -- and I also
24 appreciate the move on the environmental benefits of the project
25 as well. But I feel like this is read to set down.

1 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
2 Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair. I would
4 concur with Commissioner Shapiro and Commissioner May in their
5 comments. I think this has come a long way -- well, not come a
6 long way, but it's come a way from what we first saw and
7 appreciate that they've taken some of our comments to heart.

8 I almost wish though that the building on Marion Street
9 was at three stories rather than four stories. I think that
10 would make it a better context as you're going down that street,
11 as a residential building.

12 My only other concern is that this is a residential
13 building, and it does have some commercial and it has some -- on
14 one of the original drawings, they have a drawing for signage,
15 and you know who I love signage. I love signage when it fits
16 into the context of the building, if the building and the signage
17 go along and it works in the neighborhood where it is. And it
18 should be -- they need to work together. And in this case,
19 there's some signage for some commercial, which is fine, shops
20 and everything. But what bothers me is that on P Street -- if
21 you look at the intersection of Marion and P, on one of their
22 drawings on P there's this huge vertical element, which separates
23 the one end of the building which is primarily glass and then
24 they have one here that's got glass and some piers.

25 But there's this huge vertical pier and that is

1 designated as having signage up the whole thing. It clearly --
2 and I forget -- I could pull out the drawing that shows a big
3 orange stripe for this big vertical -- I have seen so many
4 buildings, apartment buildings and residential buildings where
5 someone puts a big vertical sign up the side of a building and
6 I'm like, there are people on either side. They look out their
7 windows and they see this huge sign of where they're living.

8 And we're reminded of the movies that came out in the '40s
9 where guys look out this window and all you see is this neon
10 lights outside. Obviously, we're better than that now, but I'm
11 just concerned that this is a residential building and there is
12 the quality of the people across the street and how you fit into
13 this neighborhood. This is not a hotel, this is not a big --
14 there is a way of sensitively -- being very sensitive to the
15 needs of the neighborhood and what this building is, which is a
16 residential building.

17 There are opportunities on this building at a lower
18 height, say four stories up, of putting a horizontal sign, very
19 tastefully, that addresses what this building is, rather than
20 having a 60 foot or 80-foot-high sign vertically going up and
21 down the building. I don't think that's going to fit into the
22 context of what you want a residential building to fit in, in
23 this neighborhood. I'm just looking at; this is going to be a
24 residence and it needs to say residence and not a hotel. So
25 I'm a little bit concerned that it's a little overboard for what

1 they want to do.

2 Anyway, but I think that there's enough -- we're at a
3 point where I think we could set this down for a hearing and talk
4 about all the issues that are going to come up. So -- but I am
5 in favor of setting it down.

6 CHAIRPERSON HOOD: Thank you, Commissioner Turnbull.
7 Vice Chair Miller?

8 VICE CHAIR MILLER: Thank you, Mr. Chairman. I concur
9 with the comments of my colleagues and I support setting this
10 project down for a public hearing. I think it's an important
11 housing and affordable housing project at different median income
12 levels and it's a hole in the fabric of that particular community
13 that's existed for too long a period of time. I appreciate the
14 revisions that have been made, the reducing of the mass along
15 Marion Street and that may need further revisions, as my
16 colleagues have alluded to, and I appreciate the revisions. The
17 increased environmental -- LEED Gold, I think, is being proffered
18 now instead versus LEED Silver as well as additional solar panels.
19 I think Commissioner Shapiro may have mentioned that.

20 So, I'm in support of setting this down and looking
21 forward to the community's input on this as we go forward.

22 CHAIRPERSON HOOD: Okay. I appreciate the -- thank
23 you, Vice Chair. I, too, appreciate all the comments of my
24 colleagues. But I'm going to go back to what Commissioner May
25 mentioned and I'm going to impress upon the applicant to make

1 | sure that you talk to the residents on Marion Street as was
2 | mentioned and make sure you do that engagement and make sure you
3 | get them involved, because I think it's very important,
4 | especially when we ask. But also -- I'm going to also associate
5 | myself with Commissioner Turnbull about the height issue.

6 | But, anyway, regardless, I'm ready to set it down. I
7 | think there should be a great depth of dialogue with the
8 | community; I think that's very important in this case, especially
9 | those on Marion Street.

10 | But I will ask (audio interference), if it's doable,
11 | if you can come to the hearing with a perspective -- somebody's
12 | mad because I asked for a perspective. If you can come to the
13 | hearing with the perspective of a live something -- a perspective
14 | of the actual density of what's being proposed versus a live
15 | picture of the neighborhood -- how the neighborhood would
16 | actually exist. I think that would be very helpful for me, if
17 | that's doable.

18 | I'm requesting that and at the hearing, if I can have
19 | it at the hearing that would be great, if you could show that,
20 | that would be very helpful for me. Commissioner May?

21 | COMMISSIONER MAY: Yeah, Mr. Chairman, I just want to
22 | mention a couple of interesting historical aspects of this site.
23 | One is that it's across the street from another development that
24 | we spent a lot of time talking about at the set down stage. Maybe
25 | you remember that that was the one where we insisted that the

1 overall height of the building be reduced and didn't set it down
2 for a couple of times and it caused some controversy as a result.
3 But it did eventually get set down and it did get built. So,
4 I'm wondering -- you remember that one, right? Mr. Chairman?

5 CHAIRPERSON HOOD: That's the famous Anthony Hood and
6 Greg Jeffries (phonetic) resign case.

7 COMMISSIONER MAY: Yes, exactly.

8 CHAIRPERSON HOOD: I thought about that.

9 COMMISSIONER MAY: The other thing I would mention
10 about this, this is my full disclosure moment, which is that this
11 site is one of several that I studied in my graduate thesis for
12 architecture, so I designed a building for this site as part of
13 that thesis, almost 30 years ago now. So it was -- it was quite
14 an experience and I got to know -- well, I won't say I got to
15 know, but I met some of the Marion Street neighbors in that
16 process, simply because I was out there taking pictures and they
17 approached me because they wanted to know what the heck I was
18 doing. So maybe some of those folks are still around, I hope
19 they are, and they come out to our meeting.

20 CHAIRPERSON HOOD: And I appreciate the additional
21 information, Commissioner May, especially the thesis. So as we
22 go on through the hearing and the public deliberations, if we get
23 to that point, if I have any questions about the property or the
24 land area, I can just always just depend on you, so I think that's
25 very helpful to the process because you got your doctoral thesis

1 I think said, you wrote your doctorate?

2 COMMISSIONER MAY: No, my graduate thesis.

3 CHAIRPERSON HOOD: Oh, I thought you got your doctorate
4 degree. I'm saying, that's the best way to go into a case.

5 COMMISSIONER MAY: If I had my doctorate, I'd be making
6 you call me doctor instead of commissioner.

7 CHAIRPERSON HOOD: All right. Is there anything else
8 on this? Commissioner Shapiro?

9 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Maybe
10 this is a question for Commissioner Tondro, but is it some kind
11 of -- would it be inappropriate to see Commissioner May's drawings
12 on the site? Or is that a form of ex parte -- oh, there they
13 are, okay. Okay. There we go.

14 MS. SCHELLIN: Mr. Tondro lost his WiFi connection so
15 he --

16 CHAIRPERSON HOOD: Yeah, he's gone.

17 COMMISSIONER SHAPIRO: We'll need to get a legal
18 opinion if those are allowed to be entered into the record.

19 COMMISSIONER MAY: You're making me want to go back and
20 read it again.

21 COMMISSIONER SHAPIRO: I'm certainly curious what
22 heights you put on Marion Street. Well, now it's in the record.
23 Thank you.

24 COMMISSIONER MAY: Probably like 40 feet.

25 CHAIRPERSON HOOD: That actually looks like what we had

1 before us, Commissioner May, but anyway.

2 COMMISSIONER MAY: Yeah, about half the height.

3 CHAIRPERSON HOOD: It's going to be very interesting,
4 so good. So, to the public, we do have a little fun sometimes.
5 I think we deserve that, so, thank you.

6 So I think this is ready. My colleagues, I'm looking
7 forward to a good conversation. Hopefully the applicant has
8 heard all of our comments. So would somebody like to make a
9 motion to set this down?

10 VICE CHAIR MILLER: Mr. Chairman, I would move that the
11 Zoning Commission set down Case No. 20-27 High Street
12 Development, Inc., consolidated PUD and related map amendments
13 at Square 445 and ask for a second.

14 CHAIRMAN HOOD: Commissioner May, could you second that
15 since you are the doctor on site?

16 COMMISSIONER MAY: Yes. Second.

17 CHAIRMAN HOOD: Okay. It's been moved and properly
18 second. Any further discussion? Not hearing any, Ms. Schellin,
19 could you please do a roll call vote, please?

20 MS. SCHELLIN: Commissioner Miller?

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: Commissioner May?

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: Commissioner Hood?

25 CHAIRPERSON HOOD: Yes.

1 MS. SCHELLIN: Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: Yes.

3 MS. SCHELLIN: Commissioner Turnbull?

4 COMMISSIONER TURNBULL: Yes.

5 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down
6 Zoning Commission Case No. 20-27 as a contested case.

7 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. Let
8 me go to the -- and could you -- when we do this case, Ms.
9 Schellin, could you remind me of the comments -- I'm sure I'll
10 remember, but could you remind me of Commissioner May's comments
11 about his thesis when we get to this hearing so I can have a
12 little fun that night.

13 Let me get my agenda back up. Just bear with me a
14 minute, please, for my files to open up.

15 Okay. The next case is Zoning Commission Case No. 15-
16 24B, JBG/6th Street Associates, LLC and Gallaudet University -
17 2nd Stage PUD, Consolidated PUD and Related Map Amendment and
18 Modification of Significance to the 1st Stage PUD at Square 3591
19 and Parcels 129/70, 129/103 and a portion of Parcel 141/69. I
20 believe it's going to be Ms. Elliott.

21 MS. ELLIOTT: It is me. Hello, Mr. Chairman and members
22 of the Commission, I'm Brandice Elliott representing the Office
23 of Planning. And you're very fortunate, we have a presentation
24 for you tonight, so all right.

25 OP does not object to setting down Zoning Case 15-24B,

1 | which proposes development along 6th Street in the Florida Avenue
2 | Market area, but we do recommend a recalibration of the benefits
3 | and amenities to increase affordable housing.

4 | So this application consists of three parts, first;
5 | it's a consolidated PUD, a zoning map amendment to expand Parcel
6 | 2 to include land from the University's campus and rezone it from
7 | RF-1 to C3A.

8 | Second, it's a modification of significance to the
9 | first-stage PUD for Parcels 1, 2 and 3; and third, it's a second-
10 | stage PUD for Parcels 2 and 3.

11 | So, what I would like to do is go through a few slides
12 | and explain the project a little more in detail so that we can
13 | all be on the same page. And you're welcome to stop and ask
14 | questions at any time.

15 | So, if we may have the next slide, Paul, please? The
16 | first-stage PUD for this development was approved in 2017 under
17 | the 1958 Zoning Regulations. It consists of four separate
18 | parcels, but only three of them are the subject of this
19 | application. Parcel 1 is located at the northeast corner of
20 | Florida Avenue and 6th Street, right adjacent to Gallaudet
21 | University. Parcel 2 is just north of that, and then Parcel 3
22 | is on the west side of 6th Street just south of the building that
23 | we know as Union Market. May I have the next slide, please,
24 | Paul?

25 | So the request for Parcel 1 consists of modification

1 of significance. The first-stage PUD approved a visitor's center
2 and an office building with university uses on this parcel. And
3 the parcel also featured open space known as Gateway Plaza, which
4 was a significant benefit of the PUD. The applicant proposes to
5 modify the PUD by changing the building program so that it
6 includes only university uses. And they would change the building
7 footprint and increase the building size by about 13,000 square
8 feet. The lot size would be reduced by 27,000 square feet of
9 land area and it would be transferred to Parcel 2. These changes
10 increase the lot occupancy and building height. Gateway Plaza
11 would be replaced with Creativity Way, which is located offsite.
12 And OP does have some additional concerns regarding Creativity
13 Way that we've detailed in our report. May I have the next slide,
14 please, Paul?

15 So the request for Parcel 2 consists of a consolidated
16 PUD and zoning map amendment, a second-stage PUD and a
17 modification of significance. So this one captures all of it.
18 Parcel 2 was approved for university retail and residential uses
19 and that use mix would remain the same with this proposal. The
20 applicant proposes to increase the size of the parcel by adding
21 about 6,000 square feet of land area from the university. So
22 that land area is coming from the north -- it's to the north of
23 the northernmost building, so that's 6,000 square feet, combined
24 with the 27,000 square feet from Parcel 1. So -- yeah, my math
25 is terrible, but I think you get it.

1 This change requires a consolidated PUD and map
2 amendment from RF-1 to C3A for that 6,000 square feet. A
3 modification of significance has also been requested to modify
4 the building footprints, increase the floor area of all the
5 buildings, increase the height from 10 to 20 feet depending on
6 the building and increase the number of parking spaces. Tapscott
7 Street would also be realigned between the two northern
8 buildings, but that would consequently remove a promenade that
9 was proffered as open space. The order did require that the
10 applicant work further with DDOT regarding the alignment of
11 Tapscott, so that was anticipated -- at least the realignment
12 itself was anticipated. So, we'll go ahead and go to the next
13 slide, please, Paul.

14 And so Parcel 3, the request for Parcel 3 consists of
15 a modification of significance and the second-stage PUD. Parcel
16 3 was approved for residential, and retail uses and, again, that
17 use mix would remain the same. The applicant has requested a
18 modification of significance to modify the building footprint and
19 to reduce the gross floor area.

20 Now, those changes to the gross floor area are due to
21 some design changes to the building, so as you can see on the
22 6th Street side of the building the east portion, there is a
23 connection that has been removed from the proposal and then that
24 connection that would have matched it on 5th Street has been
25 reduced. So they're losing some square footage there and they've

1 also lost a little bit of square footage because of a land swap
2 that happened with a PUD to the south in order to provide shared
3 loading, that was anticipated in the order as well. May I have
4 the next slide, please, Paul?

5 So as we've gone through this PUD, we can see that
6 there would be a substantial number of changes to the buildings
7 in terms of their building footprint, their size, their height,
8 their uses and then the resulting open space. So the purpose of
9 this table is to summarize how those uses would be modified from
10 that first-stage approval.

11 So what we see is that the university uses are being
12 increased, the office is, you know, is no longer there, but what
13 is most concerning to the Office of Planning is that the
14 residential has been reduced by almost 100,000 square feet.

15 OP's report provides a summary of the mayor's order on
16 housing and the housing equity report, which details the need for
17 more housing and affordable housing in the District. In addition,
18 Council adopted a new comprehensive plan framework element that
19 identifies affordable housing as high priority public benefits
20 in the evaluation of residential PUDs. The proposed modification
21 would result in significantly less housing than was approved in
22 the first-stage PUD, which is contrary to the needs detailed in
23 the report and the comprehensive plan. May we have the next
24 slide, please, Paul?

25 So because the first-stage PUD included more housing,

1 | it had the potential to provide over 77,000 square feet of
2 | affordable housing. The current proposal would result in 68,700
3 | square feet of affordable housing. So due to the significant
4 | changes to this PUD and the loss of potential housing, which was
5 | a benefit of the PUD, OP suggests that the benefits and amenities
6 | be recalibrated to address these housing concerns.

7 | OP is recommending that the original proffer of
8 | approximately 77,000 square feet of IZ be maintained. That means
9 | that the applicant would need to provide about 8,300 square feet
10 | more of affordable housing in this PUD. Just to understand where
11 | these percentages align, with what was approved versus what's
12 | proposed, the approved PUD required an IZ commitment of 10 percent
13 | and that's where the 77,000 square feet comes from. In the
14 | revised plan, because we have less housing at 10 percent, they're
15 | providing 68,700, but OP is proposing that we stay closer to that
16 | original number of 77,098 square feet, which is about 11.2.

17 | Someone did point out to me that that last column with
18 | OP requests might be a little confusing because it's, you know,
19 | extra decimals and the number doesn't quite match, just so you
20 | know, our -- what we're really trying to do is get after that
21 | original IZ affordable housing number of 77,098 square feet. So,
22 | you know, 77,107 is close -- we had to add a bunch more decimals
23 | in order to get closer to the original, but that's really what
24 | our intent is.

25 | So overall, the proposal continues to meet the

1 requirements of the C3C and C3A PUD Zones and it's not
2 inconsistent with the future land use map, the generalized policy
3 map and small area plans and studies, as was demonstrated during
4 the first-stage PUD.

5 However, OP does recommend that additional affordable
6 housing be provided in the order to address the significant
7 modifications that have been proposed to the original approval.
8 In addition, OP has noted some other concerns in our report
9 including some clarity regarding the replacement of open space
10 with Creativity Way, as well as the overall open space plan for
11 this PUD.

12 So that concludes OP's presentation. Thank you for
13 your time. I'm happy to answer any questions that you have.

14 CHAIRPERSON HOOD: Thank you, Ms. Elliott. Let's see
15 if we have any questions or comments. So I'll open it up,
16 Commissioner May? Or should I say, Dr. May?

17 COMMISSIONER MAY: No. No, thank you, not Dr. May.
18 Anyway, so thank you very much for that PowerPoint. I thought
19 that was extremely helpful because this is a very confusing case.

20 MS. ELLIOTT: Yes.

21 COMMISSIONER MAY: So it's great to have that recap and
22 I assume that will go in the record and we will be able to look
23 at that. I think -- and I would say that, you know, the biggest
24 issue of this is the affordable housing component, I believe,
25 although the open space issue, I think, is vitally important as

1 well, because this is an area that's rapidly becoming very built
2 up and having spaces like that is critically important.

3 I guess the question I have is, you know, it's always
4 a little weird when we get a report from the Office of Planning
5 where they are not really recommending set down, they're just
6 saying they don't object, right? And so, you know, that sends a
7 signal that, yeah, you know, this is not quite ready, but you
8 want us to make the call. So, you know, I would really like to
9 know that the applicant has agreed to the -- to maintaining the
10 77,000 square feet of inclusionary zoning, frankly, before we set
11 it down.

12 And I'm saying this to you, but this is really just a
13 -- it's a commentary on the whole thing, it's more for my
14 colleagues than anything else. So I don't really have questions
15 for the Office of Planning, but I just, you know, I'm noting that
16 in the report.

17 As far as the rest of it, you know, I agree with all
18 of the comments that were in the Office of Planning in areas
19 where -- that needs work. I think the one that I really
20 appreciate, but I'm not sure how it can come about is, the
21 argument for balconies, just given the architecture of these
22 buildings. But I'm certainly happy to have the Office of Planning
23 pursue that between now and whenever we have a hearing, because
24 we will eventually have a hearing even if we don't set it down
25 tonight. So, that's it.

1 MS. ELLIOTT: Thank you.

2 CHAIRPERSON HOOD: Okay. Thank you. Let's go to
3 Commissioner Shapiro.

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. And I
5 would agree this is a pretty complicated case and I also
6 appreciate the clarity that you brought, Ms. Elliott, with the
7 presentation.

8 One of the pieces that got lost and I'm completely with
9 you on the affordable housing piece, and I like Commissioner's
10 May strategy about getting clarity from them around that, but it
11 wasn't clear to me and looking through this, around the other
12 proffered benefits from the original PUD and I was especially
13 confused about -- or wasn't clear about what I heard from you
14 around the loss of open space, which was another benefit from the
15 original PUD that now is not there, or is it in another place
16 or? And I didn't quite hear you weigh in with clarity around
17 whether you also feel they need to make that up in some other
18 way.

19 MS. ELLIOTT: Well, the applicant is shifting their
20 open space around. The order requires that about 23,000 square
21 feet of open space be provided for Gateway Plaza, which is that
22 open space right along Florida Avenue. There was additional open
23 space that was proffered -- referred to as the "Green Fingers"
24 and the Promenade. The Promenade, which is now being interrupted
25 by Tapscott Road -- Tapscott Street and so there is a bit of a

1 loss there. I think that was supposed to be about "13,000 square
2 feet. And up to this point the applicant is willing to commit
3 20,000 square feet to Creativity Way, which would be sort of a
4 linear path intended to, you know, connect the campus to Parcels
5 1 and 2.

6 We -- the reason why we didn't have a lot of analysis
7 is because we are sort of lacking clarity on that. We have
8 requested additional information about Creativity Way, how it
9 functions as open space and how it's more of a public benefit
10 rather than an amenity for students.

11 So I mean, certainly the value in having Gateway Plaza
12 is that it would attract a broader public and we're not sure --
13 we need more information about Creativity Way to sort of make
14 sure that it would have the same objective.

15 COMMISSIONER SHAPIRO: Thanks for that. And I -- so I
16 have questions about the other public benefits, Mr. Chair, that
17 I can ask Ms. Elliott, but I think overall the issue is that if
18 we really are thinking of this as a -- with the extensive changes
19 that we're seeing, if we're really thinking of this as part of a
20 new PUD, then we need a new balancing test and I feel like we'll
21 need clarity around exactly what public benefits they're
22 proposing. I'm not sure that I'm there with that at this point.
23 I'm not sure I have the information that I need to determine
24 whether even that threshold issue is met to set this down. I'm
25 curious to see where my colleagues are on that.

1 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
2 Shapiro. Commissioner Turnbull?

3 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Thank
4 you for your wonderful report, Ms. Elliott. And I think it's
5 been said, this is a complicated project and it's complex and
6 it's hard to get your hands all the way around this and maybe
7 that's why we're a little reluctant to come out right ahead and
8 say yeah, we're totally in favor of setting it down.

9 How is this going to be presented to us? How will this
10 be broken down? They're not going to present the whole thing,
11 obviously, it's quite a shock to us. Are we getting -- do you
12 know how they plan to develop it? Are we going to be getting
13 pieces? Is it stage 1 first and then the long -- I'll let you
14 talk, I'm sorry.

15 MS. ELLIOTT: Well, I mean, in terms of construction
16 scheduling, no, I'm not sure how it's coming forward yet. I know
17 that for the purposes of this application, the Stage 2 PUD portion
18 applies to Parcels 2 and 3, so I would assume that they would be
19 delivered first and then at some point Parcel 1 would need a
20 Stage 2 PUD and also Parcel 4, which is not part of this
21 application.

22 But we could certainly work with the applicant to
23 clarify how they intend to deliver these sites, you know, how
24 they are going to be developed.

25 COMMISSIONER TURNBULL: Just curious, there's so much

1 here to review and look at.

2 MS. ELLIOTT: Yes.

3 COMMISSIONER TURNBULL: You said Parcel 2 would be
4 developed first or am I wrong?

5 MS. ELLIOTT: So this is all -- I don't know the order
6 of development. I know for the purposes of this application there
7 is a Stage 2 PUD for Parcels 2 and 3. Parcel 1 is just being
8 modified, so it would still need a separate Stage 2 PUD, which
9 would be forthcoming.

10 COMMISSIONER TURNBULL: Okay.

11 MS. ELLIOTT: But all of this, I mean, this is all one
12 application. It's -- all of the components that I described in
13 the presentation are moving forward in this application. I'm not
14 sure if that clarifies.

15 COMMISSIONER TURNBULL: I'm trying to see how this body
16 is going to look at this thing at one time and that if we're
17 going to be getting all of this to review. There's a lot of
18 little minutia to look at and see if this thing really works. So
19 without -- I'm almost ready to say that this may not be quite
20 ready to be set down. That we need -- you've brought up --
21 especially all the comments you made about the affordable housing
22 and the housing in general. I think that I would like to see
23 them actually come back and meet your goals. And so I'm a little
24 bit troubled by the fact that we're losing a lot on this as to
25 what we're seeing.

1 And I'm just a little bit uncomfortable as to the loss
2 of a lot of different things, like the public, the benefits. And
3 I think that they may need to come back and revisit that before
4 -- and come back and -- before we can actually go ahead.

5 Right now, I've got a very funny feeling about how we
6 review this thing right now.

7 MS. ELLIOTT: There are a lot of pieces to it. Yeah,
8 we're -- that's why we tried to break it down so that it would
9 be easier to understand.

10 COMMISSIONER MAY: Commissioner Turnbull, can I ask you
11 a question? I mean, is part of your question just the amount of
12 information that we will have to digest in order to hear this
13 when we actually do get to the point of hearing it? Because I
14 totally agree with that, I feel like this is -- I mean, this is
15 already a really big thing to have considered and maybe this is
16 something we need to take up on -- in more than one hearing.

17 COMMISSIONER TURNBULL: Well, that was -- I was hoping
18 that maybe Ms. Elliott would have known the -- and I think -- as
19 she said, she really doesn't know what the construction phasing
20 is. But I think you're right, I think it would be nice to know
21 that we're going to have something like a rational piece of this
22 project to look at at any one time. I think otherwise, it's just
23 -- it's very big and I think we need to have a defined limit of
24 what we're really looking at at any one time.

25 CHAIRPERSON HOOD: Okay. So, let's go -- Vice Chair,

1 | you haven't had a chance.

2 | VICE CHAIR MILLER: Thank you, Mr. Chairman and thank
3 | you, Ms. Elliott, for -- as everyone else has said, for your
4 | presentation, which did help break it down into component parts
5 | in a way that was much more understandable than just reading the
6 | record and the application.

7 | I support the Office of Planning's call for a
8 | recalibration of the public benefits and amenities to be
9 | commensurate with the PUD. In light of all the significant
10 | changes that are being made, I agree that it should be considered
11 | as a new PUD and that the affordable housing component should be
12 | strengthened and --

13 | Did -- you might have mentioned this, Ms. Elliott
14 | (audio interference) until we get that -- put it off or set it
15 | down and either case we'd want to do that recalibration of those
16 | public benefits and amenities and strengthen the affordable
17 | housing. But is this case -- this is the case that also needs a
18 | campus land amendment because part of the land from Gallaudet is
19 | going into the PUD or vice versa, I forget now.

20 | But in any event, we need a campus plan amendment; has
21 | that been filed yet? And the applicant, I think, mentions having
22 | a hearing on the same day of the PUD as the campus plan. If we
23 | don't have a campus plan application maybe at least we should
24 | wait for that, until we at least have everything before us, in
25 | addition to the recalibration of the PUD amenities and benefits.

1 Did you want to comment on this plan aspect of this, Ms. Elliott?

2 MS. ELLIOTT: Well, the applicant has indicated that
3 they're going to file their application to amend the campus plan
4 at the same time that they file their pre-hearing statement for
5 the public hearing. So they expect to move forward with both at
6 the same time. But, certainly, I mean, if the Commission is
7 uncomfortable and wants to send them -- you know, to send them
8 along with different directions, I know they're listening.

9 VICE CHAIR MILLER: If they were going to file it at
10 the time of their pre-hearing, I guess there would be time to
11 schedule a hearing on the same day, if not in the same hearing
12 on both the campus plan and on this, even if we set it down
13 tonight.

14 I guess I'm favoring more time to get this -- get
15 everything -- get more of the ducks in order here. Let me ask
16 you this about the new -- if we're considering this a new PUD,
17 shouldn't the -- did the different inclusionary zoning MFI rules
18 apply as opposed to whatever the MFI rules were when this PUD
19 was originally approved, which I think I saw a reference to the
20 80 percent -- 80 and 50 MFI, which seems to be the pre-existing
21 IZ MFI language (audio interference) -- which we now have all 60
22 percent MFI for rental and 80 percent for owners, as opposed to
23 splitting it up. Do you have an opinion about whether the new
24 IZ should apply since we're considering this a new PUD for all
25 intents and purposes?

1 MS. ELLIOTT: I mean, we weren't taking that approach.
2 I mean, we do end up with a deeper level of affordability with
3 the approach that they've taken, so we weren't going in that
4 direction, but, you know, we're -- certainly if there are some
5 other opinions, we're willing to take that back to the applicant.

6 VICE CHAIR MILLER: Yeah, we do get a deeper for the 7
7 percent of the 10 percent, I guess that's 70 percent of the --
8 but then for the 3 percent, which is 30 percent -- we're at the
9 80 level as opposed to 60 if it was rental, so -- that's the
10 tradeoff we made when we made that decision in that IZ case.
11 Those are just some of my thoughts, Mr. Chairman, I'm comfortable
12 waiting for (audio interference) or I'm ready to set it down with
13 the hope that by the time we get closer to a hearing all that
14 will be taken care of.

15 CHAIRPERSON HOOD: Thank you, Vice Chair. I agree with
16 all of my colleagues, I'm not ready to set this down. What I
17 would ask is that we focus more on organization for me, and I
18 think that's probably a great project to try and have to review
19 this. My colleagues have said, and I don't mean to re-elaborate
20 or keep mentioning it over and over again, but for me when I was
21 reading through this and trying to figure out who was -- who was
22 that Ms. Elliott? Tell him to say hi to us. Come, we can take
23 a moment -- say hi to us. What's your name? Just tell us your
24 first name.

25 CHILD WITH MS. ELLIOTT: Hi.

1 CHAIRPERSON HOOD: Hi. How old are you?

2 MS. ELLIOTT: We don't talk to strangers, Commissioner.
3 Chairman Hood, I'm sorry.

4 CHAIRPERSON HOOD: I want you watch the tape on those
5 nights you can't sleep, I want you to watch it. So he's gone.
6 Now, I forgot what I was saying. Anyway. Yeah, I think we need
7 to bring some of this together so -- for me for review. It looks
8 like it will be a great project. I know there's still some
9 outstanding issues with the affordable housing and with the
10 benefits. I would like for us to bring some organization to this
11 -- and I don't want to call it chaos, because that's being very
12 demeaning, but I think there's a lot that's being asked for and
13 for us to review this and have to try to put it together, makes
14 it harder on us.

15 So what I would ask the applicant to do is to come back
16 -- look at some of the issues that have already been brought to
17 you by OP and others and what my colleagues have said and bring
18 it back in a format, as Mr. Turnbull said, in which we can review
19 and make our jobs a lot easier.

20 We're up to the task, but please put some organization
21 into what you're bringing to us, because I think it's -- I think
22 it's a good deal, but it's just all over the place for us. And
23 I agree with Commissioner Shapiro as well about this being a new
24 PUD, so we can reconcile all the balances. And whatever else
25 needs to be organized, I would ask the applicant to do it and

1 that way we can see, and it will be easier. It will be easier on
2 you all, it will be easier on us and our review process.
3 Commissioner Shapiro.

4 CHAIRPERSON HOOD: Thank you, Mr. Chair. Yes, thinking
5 of additional things to ask as we take steps forward is to ask
6 the applicant to provide an analysis of why the new map amendment
7 that speaks to the property is adding to the application (audio
8 interference) is not inconsistent with the comprehensive plan.
9 So if they could factor that in as well.

10 CHAIRPERSON HOOD: So again, let's just come back with
11 a process -- an organized process of how we can review this. And
12 then I understand the campus planning member is coming as well,
13 so we need to figure out we can do this.

14 I see Ms. Steingasser has come to the floor. So Ms.
15 Steingasser?

16 MS. STEINGASSER: Yes, Chairman Hood, Commissioners.
17 Is it fair to say that the Commission is not interested in having
18 one large public hearing on all of these pieces, but rather you
19 would have -- prefer to have a series public hearings? Maybe
20 one on the amendment to the Phase 1 and the proffers and then
21 the next week a Phase 2 and the campus plan? Because I think
22 the thinking was that all of these projects would be before you
23 simultaneously with the campus plan, which I think we all agree
24 is overwhelming.

25 CHAIRPERSON HOOD: I have an idea but let me go to

1 Commissioner May first. Commissioner May, you're on -- while I
2 love for you to be on mute, I need you to unmute.

3 COMMISSIONER MAY: I clicked the wrong button. Instead
4 of unmuting, I turned off my camera. So I just want to say I -
5 - it makes sense to me that the basics, the modification of the
6 1st stage, you know, the proffered benefits, all that, be handled
7 before we get to the Stage 2. But we also -- it would make sense
8 to me to do the campus plan modification at that same time.
9 That's just sort of the -- laying the groundwork. And then the
10 next time around we're talking about, you know the architecture
11 and the form and the nature of the public spaces and those sorts
12 of things.

13 I mean, even that I'm kind of tempted to break into two
14 pieces because we have so many -- so much building -- so many
15 buildings to be dealing with there for the Stage 2. But I'm less
16 -- I feel less strongly about that than I do about at least
17 breaking it up into Stage 1, the benefits discussion and the
18 campus plan as a separate (audio interference).

19 COMMISSIONER SHAPIRO: And can we throw the map
20 amendment in to that first piece too?

21 COMMISSIONER MAY: Yeah, no, I think that's part of it,
22 right.

23 MS. STEINGASSER: Thank you.

24 CHAIRPERSON HOOD: And I think the applicant and others
25 have heard our discussion. I would really like to leave it up

1 to them in how to present it, but I think it should be in organized
2 format. Kind of in line with what Commissioner May mentioned.
3 The campus plan first and map amendment or whatever comes next.
4 But it needs to be in a format -- and I would like for you --
5 while I think we've already sent the signal to the applicant; I
6 think they can work on that and get us in some kind of
7 chronological order as we proceed.

8 And some of it may be too nice, Ms. Steingasser, it
9 depends. We'll leave that up to the applicant and if you all
10 could help work that out for us. Commissioner May?

11 COMMISSIONER MAY: No, I was just going to ask, I mean,
12 are we -- we're all more or less in the same state of mind that
13 until we get some clarity on this and until we get some commitment
14 from the applicant to address the major issues in OP's report,
15 that we're not prepared to set down tonight? Because that's
16 certainly where I am now, I'd rather not set down until we have
17 an answer on that -- on the IZ component and probably the public
18 space questions.

19 CHAIRPERSON HOOD: Yeah, I had already thought that we
20 were all on the same page --

21 COMMISSIONER MAY: I just wanted to confirm. Yeah.

22 CHAIRPERSON HOOD: Okay. Anything else on this case?
23 Okay. Ms. Steingasser, Ms. Elliott, I thank you all very much.
24 Appreciate it. So we will wait until they come back with the
25 thoughts and the patterns and the organization that we asked for.

1 Okay. Anything else on that one Ms. Schellin? Anybody
2 else have any additional comments? Okay.

3 MS. SCHELLIN: No, sir.

4 CHAIRPERSON HOOD: Let's go to the next case, I think
5 this is our last case, Zoning Commission Case No. 21-04, Office
6 of Planning Text Amendment to allow special exception relief to
7 certain vehicle parking dimensional requirements.

8 In this case we're asking for a set down to ask them
9 to take emergency and approval with shorter notice. Mr. Jesick?

10 MR. JESICK: Thank you, Mr. Chairman and members of the
11 Commission. The Office of Planning, after consultation with the
12 Office of the Attorney General is proposing a text amendment to
13 the vehicle parking regulations to permit special exception
14 relief to size requirements for parking spaces contained in
15 Subtitle C Section 712.

16 The amendment would also allow higher percentages of
17 compact spaces for developments with very low parking
18 requirements and clarify when curb stops, or other barriers would
19 be required at the property line.

20 While this is a very targeted text amendment OP, DDOT,
21 OAG and the Zoning Administrator are in the process of identifying
22 other areas of vehicle parking, bicycle parking and loading
23 regulations that need refinement and will likely bring forward a
24 more comprehensive text amendment in coming months.

25 For this evening, OP recommends that the Zoning

1 Commission set down the proposed text amendment for a public
2 hearing, take emergency action to adopt the text amendment and
3 authorize immediate publication of the notice of proposed
4 rulemaking, approve a shorter notice period and allow flexibility
5 for OP to continue to work with OAG to make any necessary
6 refinements. Thank you.

7 CHAIRPERSON HOOD: Okay. Thank you, Mr. Jesick. And
8 Commissioners, you've heard the request. I'm going to see if we
9 have any questions or comments for the Office of Planning, also
10 if you can comment on the request that Mr. Jesick has asked us.
11 Let's start differently this time. Vice Chair Miller?

12 VICE CHAIR MILLER: I don't have any questions, Mr.
13 Chairman.

14 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

15 COMMISSIONER TURNBULL: I'm good, Mr. Chair, thank you.

16 CHAIRPERSON HOOD: Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Just one question, which is, Mr.
18 Jesick, if you could articulate again the rationale for the
19 emergency?

20 MR. JESICK: Sure. And we've discussed this with OAG,
21 and we feel that the emergency -- the emergency action would be
22 appropriate to address potential unforeseen consequences of the
23 current provisions that require an applicant that seeks to
24 provide parking, but not in compliance with the size and layout
25 requirements, to seek complete relief in providing any parking.

1 We think that this would qualify under the Administrative
2 Procedure Act as being necessary for the "immediate preservation
3 of the public welfare" as it's stated in that Act.

4 We do have one current BZA case that is -- would be
5 affected by this. We understand that there are more forthcoming,
6 and we believe we've seen a few in the past as well. So that's
7 why we feel that an emergency would be appropriate.

8 COMMISSIONER SHAPIRO: Thank you for that Mr. Jesick.
9 That's all I have Mr. Chair.

10 CHAIRPERSON HOOD: Okay. Thank you. Commissioner May?

11 COMMISSIONER MAY: Yes, so I'm all for setting this
12 down. This makes a whole lot of sense from my perspective and
13 I'm okay with taking this up as an emergency. The question I
14 really have is whether, Mr. Jesick, the more complete examination
15 of these dimensional requirements is -- I mean, you know, it
16 sounds like you're suggesting that would come up -- that would
17 come back as a separate case further down the road. I mean, is
18 -- did I understand that correctly?

19 MR. JESICK: Well, maybe I wasn't clear enough. The
20 dimensions wouldn't change in the future, but there are other
21 cleanup items throughout the parking, loading and bicycle parking
22 regulations that DDOT has taken note of and OP has seen in other
23 BZA cases. I know OAG has some -- you know, keeping a list as
24 well.

25 COMMISSIONER MAY: Right.

1 MR. JESICK: So, it's not necessarily the dimensional
2 requirements but other items in the regulations.

3 COMMISSIONER MAY: Okay. Yeah, so sorry I
4 misunderstood that. I mean, you know, one of the things about
5 this, what it brings up for me is, you know, kind of how in some
6 ways heavy-handed the regulations are when it comes to the
7 requirements for parking, the specific requirements, dimensional
8 requirements for parking and how many -- you know, what the
9 allocation has to be and, you know, compact spaces versus regular
10 spaces.

11 And what I'm wondering is, whether this is a moment -
12 - I mean, I'm okay with setting this down as it is and I'm okay
13 with, you know, doing whatever cleanup you want to do at some
14 other point if it really is just cleanup, but is it possible that
15 when we get to the hearing on this matter if we could actually
16 have a little bit deeper dive into whether we are actually
17 requiring the right things or whether we should be thinking about
18 loosening up even more and making some of this stuff not even a
19 special exception. Because I -- you know, I think that we could
20 be a little bit more lenient when it comes to dimensional
21 requirements for parking spaces. I think we're eating up a lot
22 of space, we're requiring a lot of building and a lot of area
23 for larger vehicles and maybe that's not what we need to be doing.

24 MR. JESICK: We'd be happy to take a look at that.
25 You're looking for informational feedback at that time, not a

1 change in this particular text?

2 COMMISSIONER MAY: No, I'm thinking about whether we
3 would want to -- you know, we're setting it down and we're taking
4 emergency action, but we still have to go through the hearing
5 process and take a future proposed action and a future final
6 action. So when we get to the point of having the hearing and I
7 know that would be relatively quick, could we actually take up
8 some revised text to address this more aggressively? Maybe we
9 can't, maybe there isn't enough time, maybe there isn't enough -
10 - maybe I have my image of how restricted we are is over blown,
11 but I just -- I'd like to know, you know, know a little bit more
12 about that and if possible, you know, be considering making those
13 changes when we have the hearing on this case.

14 MR. JESICK: Okay. Well, yeah, I think we'd be happy
15 to take a look at that.

16 COMMISSIONER MAY: Okay. Thank you.

17 CHAIRPERSON HOOD: Okay. Thank you. Mr. Jesick, I
18 would agree with everything that you're asking for this evening,
19 but I don't have a problem in reversing anything, so I want to
20 make sure that that's understood, that I will push to reverse
21 anything, which would not necessarily be beneficial.

22 So I understand about the conservation of space and
23 what we're trying to do here, but I just want to also make sure
24 that we're not causing additional problems. And one of the things
25 I -- the reason why I want real textbook examples when we set

1 | this down and in discussion is, I want to walk through it and
2 | make sure that I understand exactly the rules. I've learned now.
3 | When I go to the BZA, I always hear what the Zoning Commission
4 | did, so now I want to make sure I fine-tune and nail down what
5 | we're doing. I'm going to be on critical that, because some
6 | pretty sophisticated lawyers will come out here and say, "well,
7 | the Zoning Commission" and then I have to second-guess myself and
8 | I don't want to have to second-guess myself, so.

9 | I'm looking forward to the hearing, I don't have a
10 | problem with proceeding with the action that is requested this
11 | evening. But again, I don't have a problem turning them back
12 | around.

13 | So with that, I thank you Mr. Jesick for your report.
14 | And unless I hear other questions, would somebody like to make a
15 | motion to set this down and also with shorter notice and also
16 | the emergency, in that order, or whatever order you choose to
17 | state in the motion. Vice Chair Miller?

18 | VICE CHAIR MILLER: Okay, Mr. Chairman, thank you. I
19 | would move that the Zoning Commission set down for a public
20 | hearing Zoning Commission Case No. 21-04, Office of Planning's
21 | text amendment to allow special exception relief to certain
22 | vehicles parking dimensional requirements and also take an
23 | emergency action and authorize immediate publication of a notice
24 | of proposed rulemaking and also approve a shorter notice period
25 | less than 30 days for public hearing for the public hearing notice

1 and ask for a second.

2 COMMISSIONER TURNBULL: I second.

3 CHAIRPERSON HOOD: Okay. It's been moved and properly
4 seconded. Any further discussion? Not hearing any, Ms. Schellin,
5 would you please record the vote -- I mean, a roll call vote?

6 MS. SCHELLIN: Commissioner Miller?

7 VICE CHAIR MILLER: Yes.

8 MS. SCHELLIN: Commissioner Turnbull?

9 COMMISSIONER TURNBULL: Yes.

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRPERSON HOOD: Yes.

12 MS. SCHELLIN: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: Commissioner Shapiro?

15 COMMISSIONER SHAPIRO: Yes.

16 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down
17 Zoning Commission Case No. 21-04 as a rulemaking case, and also
18 to approve emergency action, to authorize the immediate
19 publication of a notice of proposed rulemaking and to authorize
20 a 30-day notice period for the public hearing notice.

21 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we have
22 anything else before us?

23 MS. SCHELLIN: Just again, on behalf of the Office of
24 Zoning, I want to wish you a Happy Birthday and hope you enjoy
25 the rest of your evening.

1 CHAIRPERSON HOOD: Thank you very much. I really have
2 enjoyed this hearing on my birthday, like others, and I know
3 we've put a lot of time in, and I think it's noteworthy that we
4 note that the Commissioners and myself and others, the staff and
5 all, we do -- I'm saying this for the public, we do come and do
6 this kind of work on our birthdays, but we celebrate either before
7 or after.

8 So anyway, thank you all very much for the well wishes.
9 I have two more meetings after this and then I think I'll be
10 good. So anyway, with that, I want to thank everyone for their
11 participation tonight, and with that this meeting is adjourned.
12 Good night and stay safe.

13 (Whereupon, the above-entitled matter went off the
14 record at 5:55 p.m.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript:

In the matter of: Public Meeting

Before: DCZC

Date: 02-25-21

Place: Teleconference

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

A handwritten signature in cursive script that reads "Gary Euell". The signature is written in black ink and is positioned above a horizontal line.

GARY EUELL

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