

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

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THURSDAY

OCTOBER 28, 2021

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The Public Hearing of the District of Columbia Zoning Commission convened via Videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
PETER SHAPIRO, Commissioner
PETER MAY, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

MAXINE BROWN-ROBERTS
STEPHEN COCHRAN

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, Esquire
JACOB RITTING, Esquire

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The transcript constitutes the minutes from the Public Meeting held on October 28, 2021

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(4:00 p.m.)

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

My name is Anthony Hood. Joining me this evening -- well, this afternoon, are Vice Chair Miller, Commissioner Shapiro, and Commissioner May. We are also joined by the Office of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations. Also, from the Office of Zoning Legal Division, we have Ms. Lovick and Mr. Ritting.

Copies of today's meeting agenda 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, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the meeting. Accordingly, all those listening on Webex or by phone will be muted during the meeting, unless the Commission suggests otherwise.

For hearing action items, the only documents before us this evening are the application, the ANC set-down 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 speak. If you experience difficulty accessing Webex or with your phone call-in, then please call our OZ hotline number at

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2 Before I go to Ms. Schellin, I do have a preliminary
3 matter. I just want to state that I watched Vice Chair Miller
4 yesterday evening. I stayed with you all for about four hours.
5 So I want to commend you on what you all did yesterday, because I
6 know this is a lot of work.

7 And I also want to commend our staff, Ms. Schellin and
8 all the people -- Mr. Bern (ph) and Ms. Lovick and Mr. Ritting and
9 all those who work with the Zoning Commission, as well, because
10 without you all making it -- to the point, to help get us
11 prepared, we would have a lot more than what we have. So I wanted
12 to make sure I did that.

13 I noticed that Chairman Hill did that last night, and I
14 thought -- every so often, I believe that everyone should be
15 recognized and how much we appreciate your work. Okay. So at
16 this time -- and I did it at the beginning, because if I do it at
17 the end, the public will have left.

18 So Ms. Schellin, do we have any preliminary matters?

19 MS. SCHELLIN: I have none.

20 CHAIRPERSON HOOD: Okay. Let me get my agenda.

21 Okay. The first case under our consent calendar, which
22 is a modification of consequence determination and scheduling.
23 Ms. Schellin?

24 MS. SCHELLIN: Yes, sir. For this case, the applicant
25 has asked for a modification of consequence to revise their plans

1 to update their signage on the plans. And at Exhibit 5, you have
2 an OP report in support. In Exhibit 6, you have the West End
3 Citizens Association, requesting that a public hearing be held.
4 They believe it is a modification of significance. The last time
5 I checked, the ANC had not submitted a report. But I will double-
6 check that, if you just give me one minute. I meant to check that
7 earlier. But --

8 COMMISSIONER MAY: Yeah, there is one.

9 MS. SCHELLIN: There is one now?

10 COMMISSIONER MAY: Yeah.

11 MS. SCHELLIN: Okay. So they were the only two parties,
12 so that exhibit is in the record at Exhibit 8. And they are
13 8-0-0. They are in -- they believe it is a modification of
14 significance, and they are in support. So the two parties have
15 responded. If the Commission decides that it is a modification of
16 consequence, they could proceed with action, if they choose to do
17 so. That is all I have.

18 CHAIRPERSON HOOD: Okay. Thank you. Thank you, Ms.
19 Schellin.

20 And I also want to -- I don't think I included Mr. Paul
21 Young in my comments, so I want to make sure I -- I don't want to
22 leave anybody out.

23 So anyway, let's open this up. We have a -- does
24 anybody believe that this -- well, I think we've already decided
25 that. But has --

1 MS. SCHELLIN: No, not yet.

2 CHAIRPERSON HOOD: We haven't decided this is a --

3 MS. SCHELLIN: No.

4 CHAIRPERSON HOOD: -- modification of consequence?

5 MS. SCHELLIN: This is the first time.

6 CHAIRPERSON HOOD: Okay. Well, determination,
7 scheduling. Does anybody believe that this needs to come off as a
8 modification of consequence?

9 (No audible response.)

10 CHAIRPERSON HOOD: Any objections -- and as stated,
11 typically, when all the parties have responded, we typically can
12 move forward. But I think in this case, Ms. Schellin, we could do
13 determination and scheduling. Well, we did determination. We can
14 schedule. I mean --

15 VICE CHAIR MILLER: Mr. Chairman?

16 CHAIRPERSON HOOD: Yes?

17 VICE CHAIR MILLER: I agree that -- and when we do
18 determination and scheduling, that gives an opportunity for
19 parties and others to comment. Right?

20 CHAIRPERSON HOOD: Uh-huh.

21 VICE CHAIR MILLER: So we do have the comment in the
22 record from the West End Citizens Association. It isn't directly
23 related to the signage issue that is the modification of
24 consequence application. It is a -- it is related to a condition
25 of the original order, which referenced how this construction

1 project -- this project would proceed, in relation to the adjacent
2 church. And Ms. Kahlow from West End Citizens did raise some
3 issues which I think should be addressed by the applicant, going
4 forward. They've been in dialogue, which Ms. Kahlow shared.

5 I think we need -- it would be helpful, during this
6 period of time where people have to comment, if they would -- if
7 the applicant would comment on replacing that north gate, as
8 promised, which is in our plan, which we approved, apparently.

9 Ms. Schellin wanted to say something. Maybe I've
10 totally misstated the issue.

11 MS. SCHELLIN: No, I misspoke. I just looked. There
12 were two other parties, the St. Mary's, and Foggy Bottom
13 Association. I don't think Foggy Bottom has participated in the
14 last couple cases, but it doesn't matter. They are a party, and
15 they do need to have an opportunity.

16 So I'm sorry, I did misspeak when I said that they were
17 the only parties. So I just -- sorry to interrupt you. I did
18 want to say that.

19 VICE CHAIR MILLER: Okay. And I wasn't disagreeing with
20 the modification of consequence determination and scheduling. I
21 just was encouraging the applicant to respond to one of the
22 parties, West End Citizens Association, so that we have that on
23 the record, because it was a condition of our order.

24 CHAIRPERSON HOOD: Okay. Thank you.

25 Commissioner May?

1 COMMISSIONER MAY: Yeah. So first of all, Vice Chair
2 Miller, I think it actually was Ms. Maddux who signed the letter
3 we got, not Ms. Kahlow.

4 VICE CHAIR MILLER: Right.

5 COMMISSIONER MAY: And I want to make sure that we
6 recognize the right folks. And I, you know, I would have been in
7 favor of moving forward tonight if, in fact, it was only the two
8 parties. But since there were other parties, we need to wait and
9 give them the opportunity to respond before we take any action.

10 The applicant did provide a response to the issues that
11 were raised by the West End Citizens Association, and, you know,
12 one of them having to do with the wall of the church. That is a
13 subject between the university and the church that is apparently
14 -- it was worked out with them as part of the construction
15 management agreement, to which WECA is not a party.

16 And then the second thing was, on the signage -- no, it
17 wasn't the signage. It was the gate. Right? The gate issue,
18 they explained it, and they apparently ran it by the Zoning
19 Administrator and got approval to do what they actually wound up
20 doing.

21 So, I mean, that was satisfactory from my perspective.
22 But certainly, if we need more information on that, I would not
23 object to knowing more about it since we're not going to make a
24 decision today anyway.

25 CHAIRPERSON HOOD: Okay. Thank you.

1 Commissioner Shapiro, any comments?

2 COMMISSIONER SHAPIRO: Nothing further, Mr. Chair.

3 CHAIRPERSON HOOD: Okay. I, too, was thinking, if those
4 were the only two parties, we could move forward. I just threw
5 that net out there. But now that Ms. Schellin has told us the
6 other parties, we do need to do a scheduling.

7 So Ms. Schellin, can we -- but let me just say this
8 first. I would also echo the Vice Chair's comments, and ask that
9 the applicant continue to work with Ms. Kahlow and Ms. Maddux.
10 They've always worked as a team, even though I know who signed the
11 letter. So I'm assuming -- well, I shouldn't do that, but I'm
12 sure that they are working together still, so I would encourage
13 the applicant to continue to work with West End. They have been
14 involved over the years.

15 So let's make sure that -- some of the stuff is not
16 within our domain. I am not going to use the word jurisdiction.
17 But I will still ask that that be done, as the Vice Chair has
18 already done so.

19 So, okay, Ms. Schellin, can we do a scheduling, please?

20 MS. SCHELLIN: Yes. If we could have the parties
21 provide their response -- I am going to look -- and our next
22 meeting is going to be November 18th, so if the parties provide
23 their response by the 5th of November, which is next Friday, the
24 -- actually, I am going to say the 8th of November.

25 And then the applicant, if they have any responses to

1 | those submissions, they could file a response by 3:00 p.m. on the
2 | 15th. And we can put it on for November 18th. Let the applicant
3 | notify those additional parties.

4 | CHAIRPERSON HOOD: Okay. Anything else, Ms. Schellin,
5 | on that one?

6 | MS. SCHELLIN: That is it.

7 | CHAIRPERSON HOOD: Okay. All right, let's go right on
8 | to final action. Yeah, final action, Zoning Commission Case
9 | Number 20-22, CQ Metro Land, LLC, map amendment at Square 5860.
10 | Ms. Schellin?

11 | MS. SCHELLIN: Yes. No new documents in this one. It
12 | is ready for the Commission to consider final action.

13 | CHAIRPERSON HOOD: Okay. Thank you. This is the North
14 | Howard Road zone. I think that there is a lot of groundswell of
15 | support. They are working with this. I think, as the ANCs
16 | mentioned in their letters about some of the things, it is going
17 | to be more vibrant for the neighborhood, they talked about jobs,
18 | housing, neighborhood-serving retailer opportunities, and I know
19 | ANC 8A and 8C both supported it. And I am sure other community --
20 | I believe other community organizations, as well.

21 | The map amendment, we believe, would not be
22 | inconsistent, as a whole. There are other policies in a lot of
23 | these cases, and especially in this case, that support the high-
24 | density, because it's a walkable development, it is near a transit
25 | -- it's near transit stations, and adds a lot of transit. And

1 more than that, it provides housing, and affordable housing,
2 specifically.

3 So I will open that up, if any others want to add. But
4 I think this is flavored right, and it looks like has been
5 supported widely. So let me open it up.

6 Vice Chair Miller?

7 VICE CHAIR MILLER: Thank you, Mr. Chairman. I concur
8 with everything you've said, and would just add that the Anacostia
9 Business Improvement District also filed a letter in strong
10 support, as you have referenced other organizations have filed,
11 ANCs and others. So --

12 CHAIRPERSON HOOD: Okay.

13 Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Nothing more. A long time
15 coming. Looking forward to us taking action.

16 CHAIRPERSON HOOD: Okay.

17 And Commissioner May?

18 COMMISSIONER MAY: You know, Mr. Chairman, I just want
19 to clarify. Did you say that this was flavored right?

20 CHAIRPERSON HOOD: Did I say flavored? I think I did
21 say that. Yeah.

22 COMMISSIONER MAY: That is what it sounded like.

23 CHAIRPERSON HOOD: Yeah, I did say flavored. Yeah.

24 COMMISSIONER MAY: Yeah.

25 CHAIRPERSON HOOD: I think it is a good flavor.

1 COMMISSIONER MAY: I agree. It has got the right
2 flavor. Yeah, it is good to go. I am very happy to be able to
3 vote in favor tonight.

4 CHAIRPERSON HOOD: Okay. Thank you.

5 Would somebody like to make a motion, please?

6 Commissioner May?

7 COMMISSIONER MAY: Yeah. I would be happy to make a
8 motion to take final action to approve Zoning Commission Case
9 Number 20-22, CQ Metro Land, LLC, map amendment at Square 5860.

10 COMMISSIONER SHAPIRO: Second.

11 CHAIRPERSON HOOD: Okay. It has been moved and properly
12 seconded. Any further discussion?

13 (No audible response.)

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

16 MS. SCHELLIN: Commissioner May?

17 COMMISSIONER MAY: Yes.

18 MS. SCHELLIN: Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Yes.

20 MS. SCHELLIN: Commissioner Hood?

21 CHAIRPERSON HOOD: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 VICE CHAIR MILLER: Yes.

24 MS. SCHELLIN: The vote is 4-0-1 to approve final action
25 in Zoning Commission Case Number 20-22, the AOC rep not present,

1 not voting.

2 CHAIRPERSON HOOD: Okay. Next, we have a time
3 extension, Zoning Commission Case Number 13-08B, Standard Real
4 Estate Partners, LP, and Trammell Crow Company, two-year PUD time
5 extension at Square 5914, Lots 6 and 7, and Parcels 229/161,
6 229/160, 229/153, 229/151, and 229/103. And I need to make this
7 larger. I can't see it.

8 Ms. Schellin?

9 MS. SCHELLIN: Yes. As you stated, it is a two-year
10 time extension request. This is their second time extension. So
11 they've filed a waiver asking -- since the second request is
12 supposed to be for one year, they have filed a waiver asking for a
13 two-year extension.

14 At Exhibit 4 is an OP report, stating that they approve
15 this request. As of today, there was no ANC report. But the
16 30-day time period has run, so this is before you this evening for
17 your consideration.

18 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.

19 Again, as Ms. Schellin has said, under Z 705.5, it
20 limits us to a second time extension to one year. And I
21 appreciate our legal counsel for referencing a lot of this for us.
22 Therefore, the applicant will need a waiver from Z 705.5 for the
23 Commission -- for us to approve a two-year time extension.

24 So I think, if I don't have this incorrect, I think we
25 have to do the time extension first, and then if we decide to do

1 the extension -- well, we have to do the waiver of our rule, and
2 then we have to do the time extension. Did I capture that right,
3 colleagues?

4 COMMISSIONER MAY: Can't we do it in one vote?

5 CHAIRPERSON HOOD: Probably could. Yeah, I think we
6 can. Yeah. Yeah. So anyway, it is before us, and we do have
7 CHSETA, and I can't remember off the top of my head if it is
8 Congress Heights -- I can't remember what CHSETA was. I just call
9 them CHSETA, unless somebody can give me the correct name.

10 VICE CHAIR MILLER: Congress Heights Southeast Tenants
11 Association.

12 CHAIRPERSON HOOD: Okay. I knew it was -- okay. Thank
13 you. I know they have originally opposed the original file, but I
14 think they're working together. It looks like very positive
15 actions, moving forward, the way I read the record.

16 So let me open it up for others. Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Yeah, Mr. Chairman, I think there
18 is good cause to waive our rules, regs, and grant the time
19 extension. I have no problem taking that action. I appreciate
20 the work they're doing with the community. It is a worthy
21 project.

22 CHAIRPERSON HOOD: Okay.

23 Anybody else? Commissioner May?

24 COMMISSIONER MAY: Well, you know, we can't grant the
25 waiver without whining a little bit about the fact that they are

1 requesting a waiver to the time extension, because, you know,
2 these things just tend to go on and on sometimes. In this case, I
3 think there is reason for it, because the project has changed
4 hands a couple of times.

5 But I really hope that this is, like, the last one, and
6 it all falls into place. Last time around, we only gave them one
7 year when they asked for two, and now we gave them the one year,
8 and they got the COVID extension, and now they're coming back for
9 two more. And it is a project that was filed in 2013. I mean,
10 we're eight years in from when it was filed. So yeah, I mean, I
11 really hope it moves forward here.

12 It doesn't seem like it is one of those ones that is
13 just being -- you know, that is on life support. There is
14 actually hope for it to be realized. So that is why I would vote
15 in favor of it. But can't do it without whining a bit.

16 CHAIRPERSON HOOD: Yeah, I know when we put the Herb
17 Franklin rule in place, that was one of the reasons, because years
18 ago, they used to go on forever.

19 So I do agree with all my colleagues. I think that,
20 especially as Commissioner Shapiro has already mentioned, it looks
21 like there is positive movement, which I mentioned. So I would be
22 inclined -- and am still encouraging everyone to continue to move
23 that positive movement, because it hasn't always been agreed to
24 earlier, and estate has changed hands. So I think it warrants us
25 to grant the two-year extension.

1 So somebody can make a motion for the waiver and -- Vice
2 Chair? I'm sorry.

3 VICE CHAIR MILLER: Yeah, I just wanted to concur with
4 all of my colleagues' comments and just say that there has been a
5 lot of positive progress since our last one-year time extension.
6 This project has a history of -- has a history, including
7 litigation by the D.C. Office of the Attorney General, and a
8 change of ownership.

9 And the Congress Heights Southeast Tenants Association,
10 who were the original tenants, now support it. They were opposed.
11 I just wanted to read the paragraph from their attorney's letter.
12 That is just so the public understands what the project is about
13 now.

14 "The now-proposed residential building will be all
15 affordable housing, with approximately 175 apartments at a range
16 of incomes, from 30 to 80 percent of area median income -- with
17 the majority at the 50 percent AMI level, which is approximately
18 the actual neighborhood median. The unit sizing will include more
19 two- and three-bedroom units, providing more options for larger
20 families. And further, the new building will have a range of
21 rents at levels that will be attainable for a much broader range
22 of the current community, as well as the rest of D.C."

23 And there is still -- there is ongoing negotiations and
24 agreements, but I think it really -- there has been evidence of a
25 lot of progress, and it looks like they're about there, at a

1 global settlement where this can become real. And the original
2 tenants who are still around will be able to come back. So that
3 is important.

4 CHAIRPERSON HOOD: Thank you, Vice Chair. It sounds
5 like there is a lot of positive energy going on there, so we want
6 to make sure we keep the momentum.

7 Where were we at? A motion? Where were we at?
8 Somebody was going to make a motion? I think we have to do the
9 waiver -- in that motion, I think we have to do the waiver first.
10 We can do it combined, but the waiver first, and then the two-year
11 extension. I think that is how we word it. I think it is how we
12 word it, I believe. Okay. Well, I'll take my legal hat off.

13 All right. Would somebody like to make a motion?

14 VICE CHAIR MILLER: I'll take a stab -- can I make a
15 combined motion, Mr. Chairman?

16 CHAIRPERSON HOOD: Yes.

17 VICE CHAIR MILLER: Okay.

18 CHAIRPERSON HOOD: Yes, you can make a combined motion.

19 VICE CHAIR MILLER: So I would move that the Zoning
20 Commission waive -- do a waiver from -- I guess it is Subtitle Z
21 705.5, for the Commission to approve a two-year time extension for
22 Zoning Commission Case Number 13-08B, Standard Real Estate
23 Partners, LP, and Trammell Crow Company, two-year PUD time
24 extension, at Square 5914 -- I'm not going to read all the lots
25 and parcels -- and ask for a second.

1 COMMISSIONER MAY: Second.

2 CHAIRPERSON HOOD: Okay, it has been moved and properly
3 seconded. Any further discussion?

4 (No audible response.)

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

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: Commissioner May?

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Yes.

15 MS. SCHELLIN: The vote is 4-0-1 to approve Zoning
16 Commission Case Number 13-08B, for final action. That is also
17 approving the waiver request. The one being the AOC rep, not
18 present, not voting.

19 CHAIRPERSON HOOD: Okay. Thank you.

20 Let's see. Where am I? Okay, let's go to proposed
21 action. Zoning Commission Case Number 20-12, Westminster
22 Presbyterian Church, et al., consolidated PUD and related map
23 amendment at Square 499.

24 Ms. Schellin?

25 MS. SCHELLIN: Yes, sir. On this case, we have Exhibits

1 52 through 52C, the applicant's post-hearing submissions. Exhibit
2 53 is a conditional support letter from ANC 6D. This case is
3 ready for the Commission to consider proposed action.

4 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

5 Again, for the public, the description is a proposed --
6 the applicant is proposing to raze the existing church and
7 redevelop the site with mixed-use projects, consisting of a new
8 church with related functions, and two towers of housing. The
9 senior tower, affordable senior housing, and the residential
10 tower, which is going to be market-rate housing. And the relief
11 sought is a consolidated PUD and related map amendment from R-3 to
12 MU-2, and so on.

13 Let me open it up. I do remember -- and this is just to
14 get it started -- one of the things that we did -- well, one of
15 the things I know a lot of us, we wanted to see was the applicant
16 continue to work with the ANC, and had the concern -- it appears
17 that some progress has been made, but the ANC still has some
18 issues.

19 There are a lot of positive actions in this project, and
20 I think the community -- I think nobody doubts that. When we talk
21 about Comprehensive Planning consistencies, and some of those
22 issues -- but let me open it up, and let's talk about some of the
23 things. Let's just have a discussion about the Comprehensive
24 Plan. What do we see in it?

25 I will say this. And I want to make this point. And I

1 noticed, at the hearing, and even in the submission, the applicant
2 mentioned, the Comprehensive Plan describes the MU-2 zone as
3 appropriate for medium density. It is consistent with the
4 Comprehensive Plan.

5 Even though the project far exceeds what is called in
6 the FLUM, as we know, the case law, in two cases -- I'm not going
7 to name those cases -- the courts have disapproved that rationale
8 of thinking. I'm going to encourage the applicants and those who
9 use that argument not to use it anymore. We heard it twice. We
10 see it now, and we'll see it again. But I think that is the bad
11 part about the consistency part that I see.

12 But the good part, as far as I'm concerned -- and I
13 think in a lot of cases -- is the potential inconsistency is
14 outweighed by the other policies in the project, in this PUD. It
15 contains a substantial amount of inclusionary zoning, advances of
16 several other policies related to housing, affordable housing, and
17 density, in proximity, again, to Metrorail stations.

18 So I would encourage applicants not to use that
19 argument, because we have two cases that have been thrown back at
20 us about the project, when it far exceeds, and the MU-2 zone is
21 appropriate for medium density zones. That argument does not fly.
22 It is going to stop flying here, and it is not going to fly -- it
23 already didn't fly in the courts, twice. So that is all I have to
24 say on that. And I'm not going to call the two cases out. I will
25 just leave it at that.

1 Let me open it up for any questions or comments.

2 Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: No, Chairman, but I may have
4 missed the other part of what you were saying, because I think,
5 first of all, I completely agree with how you stated that, and I
6 hope the applicant and the attorneys hear that loud and clear.

7 And then, you know, there is the flip side of this,
8 which is, when I look at this case, Mr. Chair, you know, that it
9 is pretty clear that the potential inconsistency is outweighed by
10 the policies. You know, the project contains a substantial amount
11 of inclusionary zoning, you know, other policies related to
12 housing, affordable housing, density, proximity to Metro. I mean,
13 these are all reasons why it makes sense to move forward with a
14 project like this. And I think that is what we heard.

15 And I imagine -- I don't want to speak for my
16 colleagues, but I imagine that is where you are, too. And so it
17 is good to see, and I'm looking forward to -- for us to take
18 action on it, based on that good argument.

19 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
20 Shapiro.

21 Vice Chair Miller?

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. And I
23 concur with your comments, and those of Commissioner Shapiro.

24 This case was filed a year and a half ago. It is a very
25 worthwhile, worthy project, by a church, that has benefited the

1 neighborhood and the city at large, Westminster, for decades. And
2 this is an all-affordable wing, senior, I think, and housing, and
3 then another wing of market-rate housing, all addressing important
4 Comprehensive Plan civic priority needs for more housing,
5 generally, and affordable housing, particularly in senior housing.

6 So we postponed this twice. Did I mention that?
7 Because of Comprehensive Plan -- we knew the Comprehensive Plan
8 amendments were being proposed, and they were adopted by the
9 Council, both a year ago and then -- enacted over a year ago, and
10 then recently, a couple months ago.

11 And more recent amendments affected the -- some of this,
12 I repeated. I said, at our last -- at the end of the hearing a
13 few weeks ago, so I'm repeating myself. But just for the record
14 here, so, the change was, in the Future Land Use Map, from
15 moderate-density residential, this -- clearly, two 90-foot
16 residential wings is more than moderate-density residential. It
17 changed from moderate-density residential on the Future Land Use
18 Map to mixed-use medium-density residential/low-density
19 commercial, if I've got that right.

20 And we asked for a supplemental Comprehensive Plan
21 analysis at the conclusion of the hearing a few weeks ago, from
22 the applicant, just to call out exactly the potential
23 inconsistency, which you referenced, Mr. Chairman, and which we
24 discussed at the end of our hearing a few weeks ago, that the
25 Future Land Use Map still has on it, for whatever reason. Or

1 maybe it is the Framework Element that says medium-density
2 residential, even though this is a mixed-use designation for this
3 project, for the site.

4 But the medium-density residential is being called out
5 as being 1.8 to 4.0 FAR, and this project is at 7.06 FAR. And so
6 we just ask the applicant to provide -- to acknowledge that
7 individual inconsistency, and explain, provide us with more
8 information, as to how all of the other policies and Comprehensive
9 Plan, including policy that calls out -- that describes it as 4.0
10 FAR, because it says it can be greater, if it is a PUD and has
11 inclusionary zoning. This is a PUD and has more than inclusionary
12 zoning. It has all affordable senior, at least for 40 years. And
13 so that gets them up to, I think, 5.7. But there is still the
14 delta, which the applicant's representative acknowledged at the
15 hearing.

16 But there are other policies that -- where you
17 balance -- it is all about balancing. And there are other
18 policies, mostly the housing policies, that can overcome that
19 individual inconsistency. So I think the applicant has provided
20 us with enough good arguments, including some arguments that we
21 might disregard, because they were kind of (audio interference) by
22 previous Court of Appeals in other cases. But they provided us
23 enough good arguments of how those other policies outweigh a
24 potential inconsistency on the FAR.

25 The other supplemental Comp Plan -- so I think that is -

1 - I think we have enough information there to go forward. The
2 other supplemental Comprehensive Plan analysis that we wanted,
3 which the Office of Planning and the applicant had provided prior
4 to the, and at the hearing, but supplemented -- the applicant
5 supplemented -- with the racial equity lens, the new racial equity
6 lens analysis, which we, the Zoning Commission, and the Office of
7 Planning, are required to evaluate Comprehensive Plan consistency
8 cases -- and we have a lot of good information from the Office of
9 Planning, previously, and we had supplemental information from the
10 applicant, agreeing with all of the good arguments that OP made in
11 its prehearing -- its most recent prehearing report.

12 But also, we have, from Westminster D.C. itself, a very
13 passionate and strong statement about their mission and vision on
14 racial equity and inclusion and diversity, and how this project
15 fits into that whole mission and vision of racial equity,
16 inclusion, diversity, and justice. And so that is at Exhibit 52B.
17 So I think that is sufficient.

18 I appreciate -- we appreciate -- I think I can speak for
19 my other colleagues -- the applicant and ANC, at the Chairman's
20 direction, working together since the hearing, because there
21 obviously have been some communication issues previously. But
22 working together, I think they've met at least twice to try to
23 work out whatever remaining issues there might be.

24 And we have a letter from the ANC, which is now, instead
25 of being opposed, is providing conditional approval, at Exhibit

1 53, October 18th letter from ANC 6D. So we appreciate getting
2 that letter. And I think that that came after the applicant's
3 letter of October, I think, the 15th. I don't have it in front of
4 me right now.

5 But it raises three or four issues, in particular, which
6 I think we need to hear a response from the applicant -- which I
7 think we can get between -- if we take -- I think we can take
8 proposed action tonight. This is such a worthwhile project, and
9 it has made such progress, and I think that the ANC is asking for
10 three or four things.

11 They're asking that, prior to the final order -- so
12 they're almost acknowledging that we're going to proceed with
13 proposed action tonight -- the application will be required to
14 produce a complete analysis of options for maintaining
15 affordability after the expiration of the low-income housing tax
16 credits. That is for the all-affordable senior housing, which is
17 only going to be for 40 years, and thereafter, the applicant only
18 was committing that eight percent of the whole project would
19 comply with inclusionary zoning.

20 So they're just asking for analysis of options, and they
21 obviously would like a commitment to do more than just what IZ
22 would require, which I think we would like to see, too. So I
23 think we can ask for that, a response to that, before final
24 action, if we took proposed action tonight.

25 They're asking for -- that the final order would require

1 | the completion of a curbside management plan, prior to issuance of
2 | a building permit. That is all in DDOT's area of jurisdiction,
3 | but as long as they're tying it to "prior to issuance of a
4 | building permit", that is when DDOT would be reviewing it with
5 | their Public Space Committee processes, before a building permit.

6 | So I think that there isn't a problem with that, but we
7 | can hear the applicant's response -- the curbside management
8 | issues, with the bike lane and other -- is something that was
9 | addressed at the hearing, and the applicant has responded to
10 | previously. And I think it all can be handled. So -- but we can
11 | see if we can get a formal response from the applicant to that
12 | request from the ANC in their most recent submission.

13 | And then they oppose the current design of the light
14 | tower, which, quote, they say, is "non-functional, solely a
15 | decorative embellishment." And they go on to say, quote, "to
16 | embrace this 90-foot light tower would create a terrible
17 | precedent," unquote, particularly in their Southwest neighborhood
18 | and maybe in their Southeast neighborhood, as well, on the other
19 | side of South Capitol.

20 | We can talk about that. I mean, I think the applicant
21 | did provide, in response to Commissioner May's request at the
22 | hearing, more information as to why they are proposing the
23 | lighting, the light tower, which is the church. That is the
24 | church, as I understand it. And you really might not know that it
25 | is a church, but for something iconic as a symbol between these

1 two residential 90-foot buildings. And that is what that light
2 tower is.

3 They explain how it is only a five-candle light,
4 whatever that measurement is, which is, they say, is equivalent to
5 indoor lighting of residential -- and they would turn it off at
6 certain times.

7 And I think Commissioner May had asked for an actual
8 rendering of what it would look like at night. I'm not sure we
9 got that. I think we still have the rendering -- Commissioner May
10 can speak to that -- of the dusk view of it. So it might shine up
11 a little higher -- might be a little -- show a little brighter, if
12 that sky was darker than just sunset.

13 But I think it is an important symbol. I don't think it
14 would -- I don't think that it would be, and we should state that
15 it would not be, a precedent for other neon-lit other bad lighting
16 that we've actually seen in matter-of-right projects in this
17 neighborhood and all other neighborhoods along the important
18 corridor between the Capitol -- to the Capitol -- and so from the
19 White House up 16th Street. I mean, we've seen bad lighting
20 problems.

21 But I think this is subtle enough, although we may need
22 to want to see a better rendering at night. But that is just my
23 take on it. There may not be a majority viewpoint on that, on the
24 Commission. But I think it is iconic for the church, important
25 for the church, for this project, not a precedent for, and we

1 wouldn't want it to be a precedent for, other projects going
2 forward.

3 That is very long-winded. I'm sorry to take so much
4 time, Mr. Chairman. I guess I'll leave it at that. Thank you.

5 CHAIRPERSON HOOD: Thank you, Vice Chair. I think you
6 laid out the issues. And I do know that the applicant did respond
7 in Exhibit 52, but I still think it still needs further responses,
8 a sound bite. I think it goes back to what we said about the
9 argument, about what the courts have already told us to do, in
10 Exhibit 52.

11 So let me, before I continue, let me go to Commissioner
12 May.

13 COMMISSIONER MAY: Thank you very much, Mr. Chairman.
14 So -- and thank you, Vice Chair Miller. That was a really good
15 recap of all the reasons why we are close to being able to approve
16 this, and possibly take proposed action tonight.

17 I do agree with you. We didn't really get the night
18 rendering that I was hoping for, that what we see is really, you
19 know, the dusk rendering. And it would be good to see it at
20 night.

21 And I will also note that the example of a backlit glass
22 at night, that they showed on Page A-11.3, I think that is exactly
23 the sort of thing we want to avoid. You know, granted, that is at
24 15 foot-candles instead of five. But if that is the only thing we
25 have to think about, like, you know, can't we get a better view of

1 | this, to get some level of comfort with it, or provide greater
2 | comfort to the neighbors who are concerned about it?

3 | I'm concerned about it, too. Again, I think there
4 | already are bad precedents for lit things on buildings in
5 | Southwest and Near Southeast. So I think there is reason to be
6 | concerned about it.

7 | And I will say that I, early in this project, I had
8 | argued that this particular display of a cross is not very
9 | effective, and that it would not be visible. People would not be
10 | able to understand that cross from a distance, because it is so
11 | high, and there are, you know, there is pretty dense tree cover in
12 | Southwest now, in this area. And so I just don't think it is
13 | going to be a very effective sign. They would be better off with
14 | something that was lower.

15 | But I'm not going to, you know, keep beating that, or
16 | try to redesign their project for them. But I do think we need
17 | that rendering.

18 | Ma'am? Yes, Ms. Schellin?

19 | MS. SCHELLIN: I was just advised by the applicant that
20 | they did make a submission on October 22nd. I do not know why our
21 | staff did not put it in the record, but I just checked, and they
22 | did make a submission. I was able to find it. I do not know why
23 | it did not get uploaded to --

24 | COMMISSIONER MAY: So was that in ZDOCS? Or is it --

25 | MS. SCHELLIN: It wasn't put into IZIS, so therefore it

1 | did not make it to ZDOCS, to you guys. So I just switched over
2 | and checked, and they did make a submission.

3 | COMMISSIONER MAY: So are we going to be able to see
4 | that?

5 | MS. SCHELLIN: I can get it to you, if you guys want to
6 | move on to another case or something. I can --

7 | COMMISSIONER MAY: All right. Yes, I think before we
8 | take a vote, we'll take a look at that.

9 | MS. SCHELLIN: Could you do that?

10 | CHAIRPERSON HOOD: Well, yeah. Why don't we do this?
11 | Let's take a five-minute break. Let's take a five-minute break.

12 | MS. SCHELLIN: Okay. Let me email it to you.

13 | CHAIRPERSON HOOD: And then we'll come -- you think five
14 | minutes is enough time?

15 | MS. SCHELLIN: Yeah, I'll email it to you guys right
16 | now.

17 | CHAIRPERSON HOOD: Okay.

18 | MS. SCHELLIN: Sorry about that.

19 | VICE CHAIR MILLER: Is there any way to put it -- there
20 | is not going to be a way to put it up on this screen, for the
21 | public to see? Or no?

22 | CHAIRPERSON HOOD: Email it to Paul.

23 | MS. SCHELLIN: Yes. I will do that, but in the
24 | meantime, I'm going to email it to you guys.

25 | VICE CHAIR MILLER: Okay.

1 MS. SCHELLIN: The parties were served on October 22nd.
2 Right now, the important thing is for you guys to get it.

3 CHAIRPERSON HOOD: Right. So let's take a five-minute
4 break, because I'd rather not go to another case, then come back.

5 MS. SCHELLIN: Yeah.

6 CHAIRPERSON HOOD: Let's just take a five-minute break.

7 MS. SCHELLIN: Okay. Thank you.

8 (Whereupon, the above-entitled matter went off the
9 record and then resumed at 4:48 p.m.)

10 CHAIRPERSON HOOD: Everybody, I thought this was one or
11 two pages. It may take us another few minutes to review this.

12 (Whereupon, the above-entitled matter went off the
13 record and then resumed at 4:51 p.m.)

14 CHAIRPERSON HOOD: Okay. Let's go back on. If
15 everybody can show their face? Okay. All right. We're going to
16 call it back to order.

17 So we do have the submission. Now, Ms. Schellin, you
18 stated that this was served on the parties, as well?

19 MS. SCHELLIN: Yes.

20 CHAIRPERSON HOOD: And the date was -- what was the
21 date?

22 MS. SCHELLIN: October 22nd.

23 CHAIRPERSON HOOD: October 22nd. Okay. So in fact,
24 this is the -- this is their response to what we were asking for.
25 I know we briefly perused it.

1 Let me hear what my colleagues' thoughts -- well, I
2 think we were actually with you, Commissioner May. Did you
3 finish?

4 COMMISSIONER MAY: No, I was still talking about the
5 light tower.

6 CHAIRPERSON HOOD: Okay, let's go back to that.

7 COMMISSIONER MAY: Yeah. So I was hoping that there
8 might be another rendering in that submission, because -- there
9 isn't. So that is unfortunate. Yeah, I mean, I do think we want
10 to see that.

11 The other thing that was mentioned about the light tower
12 is that there is reference in the previous applicant's -- I mean,
13 the applicant's previous submission, to the fact that there will
14 be controls on it, so it won't be lit all the time. And I
15 appreciate that, but what I don't understand is, when is it going
16 to be lit? And when is it not going to be lit? And I think,
17 actually, that would be helpful to know.

18 And I would recommend that the applicant propose a
19 schedule for when it is going to be lit. So is it going to go on
20 at, you know, at dusk, and then stay lit until 4:00 in the
21 morning? Or is it going to go on at, you know, when it gets dark,
22 and go until, I don't know, 10:00 or 11:00? I mean, I don't know
23 how many people need to see the tower, you know, past 10:00, and
24 certainly neighbors don't necessarily want to have it lit super-
25 late.

1 So maybe they could -- maybe the applicant could have
2 some discussion with the ANC about what hours it might be lit, and
3 that could be incorporated into the order. That is not uncommon,
4 to have that kind of restriction in a PUD, about when things are
5 going to be active and when they're not. So I would suggest that
6 as a way to try to resolve the issue.

7 I'm not going to push to eliminate it entirely. If I
8 had my druthers, I would, but, you know, I don't think that the
9 majority of the Commission feels that way. I just think that it
10 has to be -- there might be a way to get the ANC to agree to its
11 inclusion, or support the inclusion of this feature, with some,
12 you know, with a condition having to do with the hours that it is
13 lit. Yeah.

14 I think I mentioned the other thing. I thought 11.3 was
15 a very bad example of a backlit glass. Yeah, and the other ANC
16 concerns -- I think it was helpful getting a submission, even
17 though we didn't have a whole lot -- enough time to read the
18 entire draft order. The first three pages, or the letter portion
19 of it, does summarize the applicant's response to the ANC's
20 letter.

21 And the areas of disagreement are the light feature, and
22 then the continued affordability after Year 40, where there is
23 some disagreement. And I don't know that we want to say more
24 about that. I don't have -- I don't have a particular concern
25 about it, because I think that the level of affordability that is

1 | already built into it is pretty extensive.

2 | And I think that, you know, when you come to Year 40,
3 | and it has been affordable all that time, it is not like it is all
4 | of a sudden going to revert to market rate. That is just not
5 | practical. I think there are other controls on that kind of
6 | behavior that would stop it. So I'm not too terribly concerned
7 | about the applicant's position on it.

8 | So anyway, but I think there are -- others will have to
9 | weigh in on that particular issue, or, of course, anything else.
10 | So that is it for me. Thank you.

11 | CHAIRPERSON HOOD: Okay. Thank you, Commissioner May.

12 | Does anybody want to -- now that we have found out that
13 | the applicant has responded, as Commissioner May has mentioned,
14 | about the lighting, I will tell you, my position on that is, I
15 | don't necessarily want -- would like to see it go all the way out.
16 | If not, they can move over to my neighborhood. I'm sure we would
17 | love something like that, as opposed to what we have.

18 | But I will say that -- I'm just saying that. I would
19 | think that, Commissioner May, if they lightened it up, not
20 | necessarily cut it off after 10:00 -- what if they reduced the
21 | illumination, or cut back on it, so it just -- you know, that is
22 | just where I am. I'm not saying, do away with it all the way. So
23 | --

24 | COMMISSIONER MAY: Well, I would say, I think since they
25 | have the controls over it, they should tell us what they're going

1 to do to control it. And they should use that ability to come to
2 some agreement with the ANC. And I do think it is appropriate to
3 shut it off after a certain time. I mean, maybe it is not 10:00.
4 Maybe it is midnight.

5 But, you know, it is -- they were already arguing that
6 it is so light that you're not really going to, you know, it is
7 not going to be that jarring, and things like that. But we don't
8 know that for sure, because what they -- the only example they
9 have shown us is a 15-foot-candle lit thing that glows like it is
10 coming in from outer space. It is not a good example.

11 CHAIRPERSON HOOD: Right. Okay. Also, I'm not -- I see
12 the rooms. I don't know if anyone still has concerns about the
13 senior rooms, on the inside. I think we did have an example of
14 some previous developments.

15 I think they are going to -- again, as I stated at the
16 hearing, if they don't do those right, the seniors are not coming.
17 You know, if they don't have -- if it is not right and livable
18 conditions for seniors to be able to -- with the bars and the grab
19 -- they are not coming. They are going to find somewhere else
20 that will accommodate them. So I don't know if I have a whole lot
21 of heartburn on that.

22 And even the lighting, I would go along. If we can get
23 closer together, as Commissioner May has mentioned, then I'm fine
24 with that. But I don't have a lot of heartburn about the inside
25 of the units. I think, as the -- I mean, as the ANC Commission

1 has.

2 So let me open it up. Any further questions or
3 comments?

4 Now, let me ask my colleagues this. As a result of
5 this, that was submitted, as mentioned, we don't know, really --
6 they should tell us. We don't really know what the ANC's comments
7 are on this. They didn't comment, and I think they got it, as we
8 stated, they received this on the 22nd. Let me see what the date
9 is. Okay, the 22nd. And we did not -- well, today is only the
10 28th. And we didn't respond.

11 So from my standpoint, I don't even know what the
12 responses are. And I do know the applicant gets the last word.
13 But my question is, has the ANC had a chance to review this? And
14 if they could -- if they would want to respond -- I don't know if
15 others feel that way. If they wanted to respond to some
16 additional -- and they can keep it small, and sound bites, to
17 these four issues, or four or five issues that are on here. And
18 then the applicant can finally say -- I don't want to keep going
19 back and forth, because the applicant does have the right to
20 respond last.

21 But the other thing is, we can do all -- I think, for
22 me, I'm ready to move forward. But we can do some of that during
23 -- after we do proposed, we can do some of that before final.
24 That is kind of just where I am. But let me throw that out for a
25 discussion piece.

1 COMMISSIONER SHAPIRO: Mr. Chair?

2 CHAIRPERSON HOOD: Yes, Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Yeah, I think, to your point, it
4 is a little bit of a -- I mean, I'm curious to see where the ANC
5 is, as well, but I think we -- I kind of see it the other way
6 around. The ANC brought forth these conditions. The applicant
7 responded to the conditions. They agreed to sort of one and a
8 half of them, it sounds like, and didn't agree to two and a half
9 of them. And we're certainly, through this process, giving that
10 great weight.

11 And you know, if we were to take proposed action, I
12 agree, around the light tower, I would like to see if they can get
13 a little closer to where we are, and where the ANC is. I'm not
14 sure it is a deal-stopper for me. But, you know, I'd like to see
15 them move a bit on that, or at least, to Commissioner May's point,
16 put some clarity around what they're planning to do, and what they
17 can do.

18 I think you mentioned it, but the -- what was the one
19 that they did? Oh, the curbside management plan, the refinement.
20 So yeah, I mean, I'm okay. I'm personally not looking for more
21 feedback from the ANC, because they've been really helpful and
22 clear with where they are. So this does feel like the applicant's
23 last word, but a little bit more clarity from them, specifically
24 around the light tower, is what I'm looking for.

25 CHAIRPERSON HOOD: Okay. Thank you.

1 Vice Chair, you have anything you want to add or take
2 away?

3 VICE CHAIR MILLER: Just that I would agree with all of
4 my colleagues' comments. I think we should leave the record open,
5 if anyone wants -- I think we should take proposed action tonight.
6 This case has been around for a long time. I think there has been
7 a lot of progress and improvements and dialogue that has occurred,
8 partly as a result of our involvement. A lot, because we weren't
9 -- because this ANC is very actively engaged, and the applicant
10 and the church certainly are engaged.

11 So I think we should leave the record open for any
12 additional submissions, but take proposed action tonight. This
13 additional submission that Commissioner May and others have
14 requested, in terms of an actual nighttime rendering and the
15 scheduled times of when it would be on and off, probably would be
16 useful, since it was previously requested.

17 I think the applicant's most recent response to the
18 ANC's concerns, both at the hearing and in their October 15th
19 letter, are reasonable responses. Even on the laundry, they
20 wanted an additional laundry room, they said how it'll take away
21 from additional units, and how one communal laundry room has
22 worked in other senior buildings. I'm willing to accept that. I
23 mean, I would have rather seen two, like the ANC was requesting,
24 but I think it is a reasonable response.

25 I would rather to have seen a better commitment to

1 affordable housing beyond the 40 years, other than the IZ
2 requirement, than what the applicant has stated. But this is such
3 a worthwhile project, I'm not willing -- if the applicant wants to
4 provide, as the ANC has requested, options for how it might
5 continue with affordable housing, I agree with Commissioner May's
6 or somebody's -- or maybe the applicant's statement that, if their
7 current residents in there, who are -- I don't see how that can
8 possibly -- you can raise rents to market rate one day, after
9 you've been there at an affordable rate all those years. But it
10 may be the applicant can provide more information on that.

11 I think one other thing that Commissioner May had
12 requested at the last hearing, which we haven't discussed tonight
13 -- but I did go back and watch the last hearing today, even after
14 12 hours of BZA hearing yesterday. I watched the three-hour
15 hearing today, our October 4th hearing. And Commissioner May had
16 asked for, as the ANC had requested, the feasibility of two-
17 bedroom units.

18 COMMISSIONER MAY: Yeah.

19 COMMISSIONER MILLER: And I think the answer was the
20 same as the laundry thing, and the balcony thing that I asked
21 about, that it was going to -- it was going to result in less
22 units. But if they could just provide, for the record, why they
23 can't do a few more two-bedroom units for those noisy-sleeping
24 elders who may need two rooms, or might have their grandkids over
25 or whatever -- I don't even know if the low-income tax credits

1 allow you to have your grandkids live in with you, except on a
2 visiting basis. That is something to look into.

3 But anyway, so I'm ready to go forward with proposed
4 action. I agree with my colleagues' comments, and I think this is
5 a great project, and I appreciate all the progress and work that
6 has been done, by the applicant, the ANC, the church, everybody.
7 Thank you.

8 CHAIRPERSON HOOD: I will say, though, I think that the
9 ANC and the applicant both did exactly what we asked for. And I
10 think we've got it. We asked for these responses, and I think
11 we've got it. I would agree, we can go ahead and -- I'm ready to
12 move forward.

13 I don't have a whole -- honestly, I don't have a whole
14 lot of heartburn about anything. I think this church has done a
15 lot for this neighborhood, and now it is time for the tradeoff and
16 for the trade-in. They need some help. They're ready to get a
17 new church, ready to do some things so they can continue to do the
18 great work that they're doing in the community. To me, that says
19 a lot.

20 They need a little help now, and I think this city and
21 those residents of this city who have enjoyed those jazz festivals
22 and everything, going over there, doing all that -- I haven't been
23 to one -- and enjoyed all that. I think now they're asking for
24 something.

25 And I think, to me, that is what they call Human -- they

1 used to have a thing in this city called Human Kindness Day. I
2 know it was here. It maybe was nationwide. But anyway, I just
3 think that, for me, I don't necessarily have a heartburn.

4 I want to hear more about the lighting, but I would not
5 necessarily want it to be turned off, but if the Commission has
6 the majority for that, that is fine. And I understand about
7 working with the community. I think that is what they've been
8 doing, and they've been doing that. The applicant and the
9 community have worked along through this whole process. That is
10 how we are -- we're here now. And I think we have a better
11 project because of that.

12 So I think all of us are -- Commissioner May?

13 COMMISSIONER MAY: Sorry. There were a couple other
14 points that I had raised during the hearing that I should just
15 talk to the applicant's submitted material on. That was -- one
16 was the concrete masonry unit, which they explained well. It is
17 the Arriscraft. I've used that before. I know what it is like.
18 That looks more like stone than like a CMU.

19 And then the color issue, I mean, they sort of addressed
20 that. I am still very skeptical about it. You know, just today,
21 I can't remember where I was, but I was looking at some -- oh, I
22 know what it was. It was a building on -- one of the Architect of
23 the Capitol's buildings that is not looking very good. One of the
24 newer buildings. And it just does not look very good, because of
25 the staining that occurs over the white precast of the -- precast

1 | stone of the facade. So I'm, you know, I'm going to stop going on
2 | about that. But I am very concerned about what it is going to
3 | look like, you know, in ten years.

4 | So anyway, I'm okay with taking proposed action, and I'm
5 | mostly interested in seeing the night rendering and some feedback
6 | on the idea of having, you know, a specific schedule for when the
7 | light tower is lit.

8 | CHAIRPERSON HOOD: Okay. Commissioner May, who decided
9 | on that -- the one that you said, the Architect -- the building
10 | that has the light color. Who -- was it the NCPC, or -- did you
11 | have anything to do with that? Or --

12 | COMMISSIONER MAY: NCPC does not approve anything done
13 | by the Architect of the Capitol.

14 | CHAIRPERSON HOOD: Oh.

15 | COMMISSIONER MAY: The building was built shortly before
16 | I joined the Architect, so I had nothing to do with it.

17 | CHAIRPERSON HOOD: Okay. So that gives you a pass out
18 | of that one. Okay.

19 | COMMISSIONER MAY: Yes.

20 | CHAIRPERSON HOOD: All right. So we have before us -- I
21 | think we've discussed this, and I'm not sure what all we -- I know
22 | we asked for a rendering, and I'm not sure what else. One or two
23 | other things, I think we've asked for. So we'll do that after we
24 | do proposed action, make sure we get everything we need.

25 | Would somebody like to make a motion for proposed

1 action? Or should I just go ahead and do it?

2 Go ahead, Vice Chair.

3 VICE CHAIR MILLER: You can go ahead and do it.

4 CHAIRPERSON HOOD: Okay. I'll do it. I'd actually like
5 for -- I do all the talking, but I will do this one, as soon as I
6 find it.

7 So, okay. I would move proposed action on Zoning
8 Commission Case Number 20-12, Westminster Presbyterian Church,
9 Westminster Community Partners, Bozzuto Development Company, and
10 Bozzuto Homes, Inc., consolidated PUD and related map amendment at
11 Square 499, Lot 52, and incorporate our comments. And after the
12 motion, if it carries, I would like to see what we've asked for
13 before final action. That is my motion, and I ask for a second.

14 VICE CHAIR MILLER: Second.

15 CHAIRPERSON HOOD: It has been moved and properly
16 seconded. Any further discussion?

17 (No audible response.)

18 CHAIRPERSON HOOD: Not hearing any, Ms. Schellin, would
19 you do a roll call vote, please?

20 MS. SCHELLIN: Commissioner Hood?

21 CHAIRPERSON HOOD: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 VICE CHAIR MILLER: Yes.

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: Commissioner Shapiro?

2 COMMISSIONER SHAPIRO: Yes.

3 MS. SCHELLIN: The vote is 4-0-1 to approve proposed
4 action in Zoning Commission Case Number 20-12. The AOC rep not
5 present, not voting.

6 CHAIRPERSON HOOD: Ms. Schellin, do we need to go down
7 the list of the two or three things that we asked for?

8 MS. SCHELLIN: I did not keep a list, because I got
9 confused about whether it was provided or not, after the
10 submission came. However, I know that Mr. Freeman was listening,
11 and I'm sure he knows what he is supposed to do, and he'll
12 coordinate with the ANC.

13 CHAIRPERSON HOOD: Okay. I see Mr. Ritting has showed
14 up.

15 Mr. Ritting?

16 (No audible response.)

17 CHAIRPERSON HOOD: You're on mute.

18 COMMISSIONER MAY: You're muted.

19 MR. RITTING: I just popped up to make sure you set a
20 date for the submissions of those documents.

21 MS. SCHELLIN: Yes. It has to be referred to NCPC for a
22 30-day comment period, so -- today is the 28th. So this is not
23 going to come back up for final action until December 16th, so if
24 we could have those submissions, I'm going to say, within three
25 weeks, just to give them a little extra time, which would be the

1 18th of November, by 3:00 p.m.

2 And are you looking for the parties to -- each of them
3 to respond to the submissions made? Or is this not something that
4 you're looking for submissions, responses back to? Because you
5 said you don't want this continued back-and-forth, back-and-forth.

6 CHAIRPERSON HOOD: Let me see if I'm on good legal
7 footing.

8 Mr. Ritting?

9 MR. RITTING: Yeah, it is required by your rules that
10 the other parties have a chance to respond.

11 CHAIRPERSON HOOD: Okay.

12 MS. SCHELLIN: Okay.

13 MR. RITTING: So even though you might not give it a lot
14 of weight, but you have to give them a chance to say something.

15 CHAIRPERSON HOOD: Okay.

16 MS. SCHELLIN: Okay. So they would have until 11/26 at
17 3:00 p.m. to respond. And we'll put this on the December 16th
18 public meeting agenda for final action. Okay?

19 MS. LOVICK: Can I just --

20 CHAIRPERSON HOOD: Okay. I see Ms. Lovick.

21 MS. LOVICK: Sorry. I just wanted to ask one thing. So
22 you asked for a rendering, a night rendering, for the light. You
23 asked for an explanation about two-bedroom units. And then you
24 asked for an explanation about the color palette. Is that right?
25 I just want to make sure you have everything you asked for.

1 COMMISSIONER MAY: Not the color palette.

2 MS. LOVICK: Okay. You didn't want a further
3 explanation about the color palette?

4 COMMISSIONER MAY: No.

5 MS. LOVICK: Okay.

6 COMMISSIONER MAY: No, I think they've done a poor job,
7 but I'm going to stop beating them up.

8 MS. LOVICK: Okay. Okay.

9 COMMISSIONER MAY: No, the other thing is some feedback
10 on timing, a schedule for the lighting.

11 MS. LOVICK: Right. Right, specifically. Okay.

12 COMMISSIONER MAY: And even -- I'm agreeing with the ANC
13 about that.

14 CHAIRPERSON HOOD: So that actually -- we'll see what
15 comes back, but again, I just want to make sure that that actually
16 is going to be in the discussion. I'm not sure if I'm all the way
17 with -- personally, I'm all the way with Commissioner May, but
18 we'll see what happens, what comes back. Okay?

19 All right. Anything else from --

20 COMMISSIONER MAY: We can reject it --

21 CHAIRPERSON HOOD: What did you say?

22 COMMISSIONER MAY: We can always reject it when we get
23 it. They come to agreement with the ANC, and then you can reject
24 it.

25 CHAIRPERSON HOOD: No, if that happens, I won't. But I

1 just think it is very -- well, we'll see. And it'll be a good
2 discussion. Interesting.

3 COMMISSIONER MAY: Yeah.

4 CHAIRPERSON HOOD: This is one -- well, anyway, we
5 already took the motion, we know -- so we're ready to move on.

6 COMMISSIONER SHAPIRO: Yeah.

7 CHAIRPERSON HOOD: Okay. Let's go to hearing action.
8 I'm sure if I'm not right, Ms. Schellin will let me know. Hearing
9 action, Zoning Commission Case Number 19-31, Office of Planning
10 text amendment to Subtitles B, H, K, and U, community-based
11 residential uses, Ms. Brown-Roberts.

12 COMMISSIONER MAY: Mr. Chairman?

13 CHAIRPERSON HOOD: Yes?

14 COMMISSIONER MAY: I was just going to suggest -- I
15 don't know what Ms. Brown-Roberts wanted to do in the way of a
16 report, but I think this is pretty straightforward, and, you know,
17 we did consider this a while back. I think that the Office of
18 Planning has made some further refinements, based on the
19 discussion from almost two years ago. And I wouldn't mind if they
20 just stood on the record, and we can move straight to setting it
21 down. That is just a suggestion.

22 CHAIRPERSON HOOD: Okay. I don't have a problem with
23 that. But, you know, Ms. Brown-Roberts probably rehearsed it all
24 day, and I want to give her an opportunity to speak if she wants
25 to.

1 So Ms. Brown-Roberts, you've heard the request. I think
2 my other colleagues -- I don't see them shaking their head, that
3 they need an exhaustive report.

4 MS. BROWN-ROBERTS: Yes.

5 CHAIRPERSON HOOD: And I think the report speaks for
6 itself. So Ms. Brown-Roberts, I want to give you the opportunity,
7 because I know you rehearsed for us all day today, so --

8 MS. BROWN-ROBERTS: I will be -- I will be quick. Okay?
9 Are you hearing me?

10 CHAIRPERSON HOOD: Yes.

11 COMMISSIONER MAY: Yes.

12 MS. BROWN-ROBERTS: Okay, great. So good evening, Mr.
13 Chairman and Members of the Commission. For the record, I'm
14 Maxine Brown-Roberts of the Office of Planning, on Zoning
15 Commission Case Number 19-31.

16 As Mr. May said, this case has been before you before.
17 At the time, you had some concerns, and I want to assure you that
18 this proposal is to address discrepancies on conflicts in the
19 zoning regulations that occurred in transitioning from the '58
20 regulations to ZR-16.

21 In ZR-16, the new categories for community-based
22 institutional facilities were created, and did not include all of
23 the use categories that were outlined in the '58 regulations.
24 Some of these inconsistencies have resulted in delays in granting
25 permits at a time when there is great need for some of these

1 facilities in the District. The amendment would also provide for
2 technical corrections to update facilities.

3 The Office of Planning therefore recommends that a
4 proposal be set down for public hearing, and we request to
5 continue working with DCRA and the Office of Zoning Legal Division
6 to make sure that all the appropriate changes for clarity and
7 legal sufficiency are done prior to the public hearing.

8 Thank you, Mr. Chairman.

9 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts. I
10 appreciate you being right to the point.

11 Any questions or comments, Commissioners?

12 (No audible response.)

13 CHAIRPERSON HOOD: Okay. Commissioner May, you want to
14 make a motion to set it down?

15 COMMISSIONER MAY: Yes, I would move that we set down
16 Zoning Commission Case Number 19-31, Office of Planning text
17 amendment to Subtitles B, H, K and U, regarding community-based
18 residential uses.

19 CHAIRPERSON HOOD: I'll second it. It has been moved
20 and properly seconded. Any further discussion?

21 (No audible response.)

22 CHAIRPERSON HOOD: Not hearing any, Ms. Schellin, would
23 you please do a roll call vote?

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: Commissioner Hood?

2 CHAIRPERSON HOOD: Yes.

3 MS. SCHELLIN: Commissioner Miller?

4 VICE CHAIR MILLER: Yes.

5 MS. SCHELLIN: Commissioner Shapiro?

6 COMMISSIONER SHAPIRO: Yes.

7 MS. SCHELLIN: The vote is 4-0-1, to set down Zoning
8 Commission Case Number 19-31 as a rulemaking case. The minus one
9 is the AOC rep, not present, not voting.

10 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. And
11 thank you, Ms. Brown-Roberts, for your report. Let's go to our --
12 I think this is our last --

13 MS. SCHELLIN: Yes.

14 CHAIRPERSON HOOD: -- hearing action. Okay. Zoning
15 Commission Case Number 06-10G, the Morris and Gwendolyn Cafritz
16 Foundation, PUD modification of significance at Squares 3765 and
17 3767. We have a waiver to set down less than 35 days after filing
18 application, we have the set-down, and then we have a waiver for
19 the shortening of the notice period, 30 days versus the 40 days.

20 And I think I read what Ms. Schellin probably would.
21 But let me turn it over to Ms. Schellin.

22 MS. SCHELLIN: This is actually going to go to Mr.
23 Cochran for hearing action.

24 CHAIRPERSON HOOD: Oh, that is right. I'm sorry.

25 Mr. Cochran?

1 COMMISSIONER MAY: Mr. Chairman?

2 CHAIRPERSON HOOD: Yes.

3 COMMISSIONER MAY: Can I make the same suggestion as I
4 did on the last one?

5 CHAIRPERSON HOOD: I might not -- I might not do the
6 same thing with Mr. Cochran, because he is always brief.

7 COMMISSIONER MAY: Well, that is true, because -- but we
8 did hash out a lot about this case at the last meeting, so I'm not
9 sure how much more we need.

10 CHAIRPERSON HOOD: Well, I want to give Mr. Cochran an
11 opportunity, since he is always brief, always brief.

12 And Mr. Cochran, you have the floor.

13 MR. COCHRAN: Thank you. Thank you, Mr. Chair. I am
14 Steve Cochran, representing the Office of Planning in Case 06-10G.
15 And yes, I have spent hours and hours and hours rehearsing this
16 testimony.

17 Okay. OP has no objection to the applicant's request to
18 set down the application less than 35 days after it was filed, and
19 to waive the 40-day notice requirement for a public hearing. OP
20 is recommending that the Commission set down the application for a
21 modification of significance, to a second-stage PUD, known as
22 Block B in the Arts at Fort Totten PUD.

23 The approved project would put retail, entertainment,
24 cultural and residential uses in two wings. They're connected by
25 a bridge across what is now the closed 4th Street Northeast. The

1 changes requested in the application would decrease the square
2 footage devoted to entertainment, and reduce the height of the
3 enclosure for the entertainment uses in the east wing.

4 The west wing would be expanded to the north, to
5 accommodate 23 market-rate residential units. This would bring
6 the residential total in that building to between 285 and 305
7 market-rate units. The puts and takes and the uses and the square
8 footages would result in a minor increase in lot occupancy, but a
9 small decrease in FAR. With the change in the principal
10 entertainment venue, parking could be and would be significantly
11 reduced.

12 Our report also describes some proposed architectural
13 changes, notes that the information and clarifications are needed
14 by the hearing, and encourages the applicant to include
15 permanently affordable housing in the building. And that
16 concludes our testimony.

17 CHAIRPERSON HOOD: Thank you, Mr. Cochran. Thank you
18 very much. Let's see if we have any questions of Mr. Cochran.
19 Any questions or comments?

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. We know what all is being
22 asked of us. Would somebody like to make a motion and --

23 COMMISSIONER MAY: Mr. Chairman, I would make the --

24 CHAIRPERSON HOOD: Yes.

25 COMMISSIONER MAY: -- make the motion that we set down

1 Zoning Commission Case 06-10G, the Morris and Gwendolyn Cafritz
2 Foundation, PUD modification of significance at Squares 3765 and
3 3767.

4 COMMISSIONER SHAPIRO: Mr. Chair, do we need the waivers
5 as part of the motion?

6 COMMISSIONER MAY: Oh.

7 CHAIRPERSON HOOD: Yeah, we need the waivers and the
8 set-down, all that in there.

9 COMMISSIONER MAY: I'm sorry. For some reason I thought
10 we had done that already. Okay. Then including a waiver --

11 MS. SCHELLIN: For the shortened notice period.

12 COMMISSIONER MAY: The shortened notice period. Thank
13 you.

14 MS. SCHELLIN: And to consider set-down before 35 days.

15 COMMISSIONER MAY: As you say.

16 CHAIRPERSON HOOD: Okay. So everything that was asked
17 for has been put into the motion. Is there --

18 COMMISSIONER MAY: Worked right into the motion. Yeah.

19 CHAIRPERSON HOOD: Is there a second?

20 COMMISSIONER SHAPIRO: Second.

21 CHAIRPERSON HOOD: Okay. It has been moved and properly
22 seconded. Any further discussion?

23 (No audible response.)

24 CHAIRPERSON HOOD: Ms. Schellin, would you do a roll
25 call vote, please?

1 MS. SCHELLIN: Commissioner May?

2 COMMISSIONER MAY: Yes.

3 MS. SCHELLIN: Commissioner Shapiro?

4 COMMISSIONER SHAPIRO: Yes.

5 MS. SCHELLIN: Commissioner Hood?

6 CHAIRPERSON HOOD: Yes.

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: The vote is 4-0-1, to set down Zoning
10 Commission Case Number 06-10G as a contested case, along with the
11 motion -- with the waiver request, and the AOC rep, not present,
12 not voting.

13 And Chairman Hood, do you want to announce the situation
14 with the AOC rep? Or do you want me?

15 CHAIRPERSON HOOD: I'm going to announce it, because I'm
16 actually going to --

17 MS. SCHELLIN: Yes.

18 CHAIRPERSON HOOD: -- I'm going to actually practice his
19 name. But let me ask, do we have anything -- and I know he is
20 probably watching, so --

21 MS. SCHELLIN: Nothing else.

22 CHAIRPERSON HOOD: Can you straighten me out if I get it
23 wrong, which, I will tell you, I have to be honest -- let me just
24 do this first.

25 Our new AOC rep will be joining us on November the 1st,

1 | which is Zoning Commission Case Number 21-13. This is The
2 | Douglass, LLC. We'll be on these same platforms at 4:00 p.m.

3 | Mr. Imamura. It is Commissioner Imamura. Ms. Schellin,
4 | did I get that correct?

5 | MS. SCHELLIN: Well, I'm going to say yes, but I know he
6 | is listening, so if the pronunciation is incorrect, it is my
7 | fault.

8 | CHAIRPERSON HOOD: Well, yes, because she wrote it out
9 | for me, and I want to make sure I pronounce his name. But I'm
10 | sure if -- we're looking forward to seeing him on Monday, and if I
11 | mispronounce his name, I'm sure he'll let me know on Monday.

12 | COMMISSIONER MAY: Would it be appropriate to actually
13 | bring him into the meeting, so he can --

14 | MS. SCHELLIN: I don't know if he is -- let me see if he
15 | is actually on through -- let's see if I see him. He may be
16 | watching through --

17 | COMMISSIONER MAY: Oh, yeah.

18 | MS. SCHELLIN: -- YouTube.

19 | COMMISSIONER MAY: Or streaming, yeah.

20 | MS. SCHELLIN: Yeah. Yeah.

21 | CHAIRPERSON HOOD: Well, I have to say this. I had the
22 | chance to use the online yesterday, when I was watching the BZA,
23 | and the Zoning --

24 | MS. SCHELLIN: Yeah, he is watching through YouTube, I
25 | believe.

1 CHAIRPERSON HOOD: The Zoning Office has a spectacular
2 setup. I just want you all to know that. I was very impressed.
3 I had never done it that way. But I was -- it was spectacular.

4 CHAIRPERSON HOOD: So kudos. All right. So I --

5 MS. SCHELLIN: Yes. But he could be on --

6 VICE CHAIR MILLER: I would agree that our tech people
7 and -- I had to go onto YouTube while I was at the hearing,
8 virtually, because I was having internet connection issues, and so
9 I was watching on YouTube on my phone, and -- but just -- we had a
10 lot of witnesses yesterday, and Paul Young just makes that such a
11 seamless process. And Office of Zoning staff, everybody, has made
12 this whole pandemic period virtual experience so good that I want
13 to continue it forever.

14 CHAIRPERSON HOOD: Me, too. So we'll see.

15 MS. SCHELLIN: Me, too.

16 CHAIRPERSON HOOD: All right.

17 MS. SCHELLIN: Me, three.

18 CHAIRPERSON HOOD: Does anybody have anything else?

19 MS. SCHELLIN: That is it.

20 CHAIRPERSON HOOD: All right. I want to thank everyone
21 for their participation tonight, and this meeting is adjourned.
22 Good night. Have a great weekend.

23 (Whereupon, the above-entitled matter went off the
24 record at 5:24 p.m.)

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 10-28-21

Place: Teleconference

was duly recorded and accurately transcribed under my
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