

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR PUBLIC MEETING

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IN THE MATTER OF: :

Office of Planning : Case No. 19-14

Text Amendment to :

Subtitles C, D, E, & X :

(Nonconforming Structures): :

CP VII Cotton Annex, LLC : Case No. 20-34A

Modification of :

Consequence of :

D-8 Zone approval, :

reduction of no. of :

residential units & :

flexibility of LEED, :

300 12th St. SW :

(Square 326, Lot 806) - :

Ward 6 :

Office of Zoning : Case No. 21-16

Text Amendment :

re: changing references :

from OAG to :

OZ Legal Division :

for legal counsel :

and legal sufficiency. :

H&A DCU JV, LLC : Case No. 16-02C

PUD Modification :

of Significance, :

bounded by R St. SW :

& Potomac Ave. :

SW to the north, :

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T St. SW & S St.	:	
SW to the south,	:	
Half St. SW	:	
and unimproved parcel	:	
to the east,	:	
and 2nd St.	:	
SW to the west	:	
(Square 665, Lot 27)	:	
- Ward 6	:	
	:	
H&A DCU JV, LLC	:	Case No. 16-02D
Design Review,	:	
bounded by Half St.	:	
SW to the east,	:	
S Street,	:	
SW to the south,	:	
the private portion	:	
of 1st Street,	:	
SW to the west	:	
and the park	:	
to the north	:	
(Square 665, Lot 27)	:	
- Ward 6	:	
	:	
Office of Planning	:	Case No. 22-01
Text Amendment	:	
to Subtitle G, H & I,	:	
permit matter-of-right	:	
residential use	:	
of non-residential	:	
building built prior	:	
to 01/01/2022	:	
that exceeds development	:	
standards	:	
for residential use	:	
	:	
Office of Planning	:	Case No. 22-02
Map Amendment	:	
from MU-4 to MU-5A,	:	
16th, 19th, 20th,	:	
& 21st Streets, NE;	:	
23rd & 25th Pl, NE;	:	
and Benning Rd., NE	:	
(Squares 4510	:	
through 4513)	:	

and Parcel 149/60) :
 - Wards 6 & 7 :
 :
 Office of the Attorney : Case No. 21-22
 General :
 Text Amendment :
 to Subtitle C, :
 Section 702.4 :
 (remove parking :
 requirements :
 for households :
 earning less :
 than 80% MFI) :
 :
 Office of the Attorney : Case No. 21-23
 General :
 Text Amendment :
 to Subtitle I, :
 Sections 502.3, 516.2, :
 531.4, 539.2, 547.3, :
 555.2, 562.3, 569.2 :
 (apply IZ :
 to non-IZ D Zones) :
 . :
 George Washington : Case No. 06-11/06-12
 University versus :
 Campus Plans :
 :

THURSDAY
 JANUARY 13, 2022

+ + + + +

The Regular Public Meeting by the District of
 Columbia Zoning Commission convened via videoconference at 4:04
 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
 JOSEPH IMAMURA, Commissioner

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OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
RON BARRON, Zoning Data Specialist
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JONATHAN KIRSCHENBAUM
JENNIFER STEINGASSER
KAREN THOMAS

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, ESQUIRE
DENNIS LIU, ESQUIRE
JACOB RITTING, ESQUIRE

The transcript constitutes the minutes from the
Public Hearing held on January 13, 2022.

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

(4:04 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 this evening are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Imamura. We're also joined by the Office of Zoning Staff, Mr. Ron Barron, as well as Ms. Sharon Schellin, who will be operating in the background helping us, and Mr. Paul Young, who will be handling all of our virtual operations; Office of Zoning Legal Division, Ms. Lovick. I think Ms. Lovick may be the only person tonight. I would ask others to introduce themselves at the appropriate time.

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 or 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 report, set down report, and the Officer 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 in our meetings unless the

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

5 With that, Mr. Barron, do we have any preliminary
6 matters?

7 MR. BARRON: Staff has no preliminary matter, sir.

8 CHAIRPERSON HOOD: Okay. Thank you.

9 Okay. Our first case is a modification of technical
10 corrections, Zoning Commission Case No. 19-14. Mr. Barron.

11 MR. BARRON: Yes. This is a request that was submitted
12 by the Office of Planning for a technical correction to Order No.
13 19-14. It was submitted at Exhibit 22. And this is ready for
14 the Commission to consider as a technical correction.

15 CHAIRPERSON HOOD: Okay. Commissioners, as we know,
16 the language in E § 5201.2 and the F § 5201.2 has the effect of
17 eliminating the special exception path for the property owner of
18 a flat within the RF and RA Zones, and the property owner of a
19 flat or apartment building in the RA Zone who wishes to construct
20 a new accessory structure or enlarge an existing accessory
21 structure. I think this is giving clarification and this is --
22 that is not the intent of the provisions, and I think this is to
23 clarify, making more clarity to the issue.

24 Any questions or additional comments?

25 (No audible response.)

1 (Dog barking.)

2 CHAIRPERSON HOOD: Okay. We had one comment.

3 All right. There's never a dull moment in the Zoning
4 Commission.

5 COMMISSIONER MAY: I think we have to give the dog 3
6 minutes maximum, Mr. Chair.

7 MS. SCHELLIN: I apologize. I thought I was on mute,
8 and UPS has shown up. That happens all the time. Sorry.

9 CHAIRPERSON HOOD: All right. No problem. That's what
10 happens when we're working at home. So anyway --

11 COMMISSIONER MAY: It was such perfect timing, when you
12 asked for a comment.

13 CHAIRPERSON HOOD: All right. So I would move approval
14 of the minor technical correction -- well, modification -- minor
15 modification and technical correction on Zoning Commission Case
16 No. 19-14 and ask for a second.

17 COMMISSIONER SHAPIRO: Second.

18 CHAIRPERSON HOOD: Again, this is the Office of
19 Planning, but let me say this. Again, this is the Office of
20 Planning request for a technical correction to Zoning Commission
21 Order No. 19-14 to modify Subtitle E, 501.2 and Subtitle F,
22 5201.2, and it has been seconded by Commissioner Shapiro. I
23 believe you'll accept that friendly amendment with me just
24 reading the caption. Moved and properly seconded.

25 Any further discussion?

1 (No audible response.)

2 CHAIRPERSON HOOD: Not hearing any.

3 Mr. Barron, would you do a roll call vote, please?

4 MR. BARRON: Commissioner Hood?

5 CHAIRPERSON HOOD: Yes.

6 MR. BARRON: Commissioner Shapiro?

7 COMMISSIONER SHAPIRO: Yes.

8 MR. BARRON: Commissioner Miller?

9 VICE CHAIR MILLER: Yes.

10 MR. BARRON: Commissioner Imamura?

11 COMMISSIONER IMAMURA: Not voting, having not
12 participated in the case.

13 MR. BARRON: And Commissioner May?

14 COMMISSIONER MAY: Yes.

15 MR. BARRON: The vote is 4-0-1. Commissioner Imamura
16 not voting; having not participated.

17 CHAIRPERSON HOOD: Okay. Thank you.

18 Next modification of consequences. We're going to do
19 determination in scheduling. Zoning Commission Case No. 20-34A.
20 This is CP VII Cotton Annex, LLC: modification of consequence at
21 D-8 Zones, approval at Square 326. Mr. Barron.

22 MR. BARRON: Yes. As stated, this is an application
23 for modification of consequence for a prior approved Order. Note
24 that ANC 6D has been served but has not yet responded. OP has a
25 report that was submitted at Exhibit 7. And the Commission --

1 | this is ready for the Commission to make a determination and
2 | schedule action.

3 | CHAIRPERSON HOOD: Let me open it up for any questions
4 | or comments.

5 | Does anyone believe that this is not a modification of
6 | consequence?

7 | (No audible response.)

8 | CHAIRPERSON HOOD: And, as we know, that the Office of
9 | Planning has asked for some -- so we will consider this as a
10 | modification of consequence unless I hear something else. We
11 | know there are some things, I think, that the Office of Planning
12 | has asked for. And we also want, as you know, ANC 6D, hopefully,
13 | will give them a chance to opine on this. So Commissioner
14 | Shapiro?

15 | COMMISSIONER SHAPIRO: Mr. Chair, if you want, I can
16 | refer specifically to what the Office of Planning has requested.

17 | CHAIRPERSON HOOD: Yes.

18 | COMMISSIONER SHAPIRO: They are requesting that the
19 | applicant provide an estimate of the number and type of IZ units
20 | that would result from the approval of the modification. Also,
21 | to revise the previous drawings showing the location of the IZ
22 | units. And also, to respond to the DOEE staff comments that are
23 | attached to OP's report that indicate a preference for LEED HMM
24 | over the proposed LEED NC process. And my read on this -- but
25 | we'll get clarification from the applicant and perhaps OP -- my

1 read on this is that DOEE is saying that they'd prefer the LEED
2 HMM process. And they are not inclined to give the applicant
3 the flexibility around that because they prefer the process
4 they've already agreed to. So we're looking for the applicant
5 to respond to that.

6 CHAIRPERSON HOOD: Okay.

7 COMMISSIONER SHAPIRO: (Audio interference), Mr. Chair.

8 CHAIRPERSON HOOD: Thank you very much, Commissioner
9 Shapiro, for running off that list.

10 Any other questions or comments? Commissioner May.

11 COMMISSIONER MAY: Yeah. I appreciate the
12 clarification on the LEED question, and I look forward to hearing
13 more from the applicant on that.

14 For the IZ units, I mean, I appreciate the diligent
15 efforts of the Office of Planning to better understand what's
16 going to happen with the IZ units in this project. But the IZ
17 numbers in placement were, you know, are not really relevant to
18 a design review, so I'm not sure that it's truly necessary. I
19 understand how it could be affected by the change in the number
20 of units, which is a condition of the Order. I don't feel very
21 strongly about this, but I just don't think it's essential, so
22 -- but if the rest of the Commission want to see that, I'm not
23 going to object. I just don't think it's material to the design
24 review.

25 CHAIRPERSON HOOD: Okay. Commissioner Shapiro?

1 COMMISSIONER SHAPIRO: Yeah. Actually, Commissioner
2 May, I appreciate the comment. And I think it is helpful for us
3 to be as diligent in sticking with our rules of procedure as
4 possible. I mean, in this case, with this request, it feels like
5 no harm, no foul to get the additional information. But I think
6 that your point is well taken, that as we move forward, we should
7 be mindful that to -- and remind OP to hold us to keeping things
8 in the right lane, so I'd leave it at that. In this case, I feel
9 like it's fine to go ahead if it's all right with the rest of
10 the Commissioners as well.

11 CHAIRPERSON HOOD: Okay. On that topic, anybody else
12 want to chime in?

13 VICE CHAIR MILLER: Yes. I would like to see that
14 information, whether it's relevant or not to a design review, I
15 want to see that information. I think it's in -- the issue might
16 be that it's a condition of the -- as Commissioner May said --
17 it may have been a condition of the Order, so it gets affected
18 by this modification, so I want to see the information.

19 CHAIRPERSON HOOD: Okay. And Commissioner Imamura, do
20 you have anything to add?

21 COMMISSIONER IMAMURA: No, Mr. Chair. Nothing more to
22 add.

23 CHAIRPERSON HOOD: Okay. And with that, I don't have
24 a problem with the path we're going, but as everyone knows, we
25 have asked that we look at a lot of our design reviews, and we

1 -- that's one of the things I think I'm going to be asking at
2 the end, for the Office of Planning to kind of get an update on
3 where we are with RAs, design review, some of the other steps
4 that we've taken to make sure we increase affordable housing. So
5 we -- the Zoning Commission is well on the track and has been on
6 track to do that. So we will just get an update and see where
7 we are.

8 All right. So Mr. Barron, can you give us some -- this
9 is -- scheduling? Can we do scheduling?

10 MR. BARRON: Yes. We can put this on the January 27th
11 meeting. And if we did that, that would give the applicant --
12 we'd recommend the applicant get documents to us by the 19th,
13 which is a Wednesday. And then the ANC would have until the 26th
14 to respond if they were planning to; both at -- by 3:00 p.m., if
15 that works.

16 CHAIRPERSON HOOD: Okay. Thank you very much for
17 outlining that. If there are no other comments, we will move on
18 in our agenda.

19 I believe next, we have final action, which is Zoning
20 Commission Case No. 21-16. Mr. Barron.

21 MR. BARRON: Yes. This is from the Office of Zoning:
22 a text amendment regarding changing references from OAG to OZ
23 Legal Division for legal counsel and legal sufficiency. There
24 are no new exhibits in this case since the Commission last heard
25 it. We would ask the Commission to consider final action on

1 this.

2 CHAIRPERSON HOOD: I think this was presented to us,
3 as we know, pretty straightforward. I know that the Committee
4 of 100 had questions or comments. We always appreciate them
5 opining in. I think they were well answered by the presenter at
6 that time, Ms. Schellin and the Office of Zoning. So I don't
7 have anything further. I think this is, at least from my
8 standpoint, I believe we're ready to move forward, but let me
9 hear from others.

10 Any questions or comments?

11 (No audible response.)

12 CHAIRPERSON HOOD: Okay. In that case, would somebody
13 like to make a motion?

14 COMMISSIONER SHAPIRO: Mr. Chair, I move that we --

15 CHAIRPERSON HOOD: Yes.

16 COMMISSIONER SHAPIRO: -- take final action on Zoning
17 Commission Case No. 21-16: Office of Zoning, text amendment
18 regarding changing references from OAG to OZ Legal Division for
19 legal counsel and legal sufficiency and look for a second.

20 COMMISSIONER MAY: Second.

21 CHAIRPERSON HOOD: I second that. Commissioner May
22 second that. It's been moved and properly second.

23 Any further discussion?

24 (No audible response.)

25 CHAIRPERSON HOOD: Not seeing any.

1 Mr. Barron, could you do a roll call vote, please.

2 MR. BARRON: Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: Yes.

4 MR. BARRON: Commissioner May?

5 COMMISSIONER MAY: Yes.

6 MR. BARRON: Commissioner Hood?

7 CHAIRPERSON HOOD: Yes.

8 MR. BARRON: Commissioner Miller?

9 VICE CHAIR MILLER: Yes.

10 MR. BARRON: Commissioner Imamura?

11 COMMISSIONER IMAMURA: Yes.

12 MR. BARRON: The vote is 5-0-0 to approve final action.

13 CHAIRPERSON HOOD: Okay. Thank you.

14 I'll just call these separately, because I was
15 wondering if we could do these together, but let me do -- let's
16 do them separately like they are listed.

17 Zoning Commission Case No. 16-02C, H&A DCU JV, LLC, PUD
18 Modification of Significance at Square 665, Lot 27; Audi Field
19 100 Potomac Avenue, Southwest. Mr. Barron.

20 MR. BARRON: So for Case No. 16-02C, there are no new
21 exhibits since this was heard. This is ready for the Commission
22 to consider final action.

23 CHAIRPERSON HOOD: Okay. Commissioners, did anybody
24 have any additional comments or questions?

25 (No audible response.)

1 CHAIRPERSON HOOD: Okay. I think this is pretty
2 straightforward, unless I hear some.

3 (No audible response.)

4 CHAIRPERSON HOOD: Not hearing anyone, I would move
5 that we approve Zoning Commission Case No. 16-02C with the caption
6 I read previously and ask for a second.

7 COMMISSIONER IMAMURA: Second.

8 CHAIRPERSON HOOD: It's been moved and properly second.
9 Any further discussion?

10 (No audible response.)

11 CHAIRPERSON HOOD: Not hearing any, Mr. Barron, could
12 you do a roll call vote, please?

13 MR. BARRON: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MR. BARRON: Commissioner Imamura?

16 COMMISSIONER IMAMURA: Yes.

17 MR. BARRON: Commissioner Miller?

18 COMMISSIONER MILLER: Yes.

19 MR. BARRON: Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: Yes.

21 MR. BARRON: Commissioner May?

22 COMMISSIONER MAY: Yes.

23 MR. BARRON: The vote is 5-0-0 to approve final action
24 on Case No. 16-02C.

25 CHAIRPERSON HOOD: Next, Zoning Commission Case No.

1 16-02D: H&A DCU JV, LLC, Design Review at Square 665, Lot 27,
2 Parcel B, at Audi Field, 100 Potomac Avenue, Southwest. Mr.
3 Barron.

4 MR. BARRON: On this case, which was a Design Review
5 case, there have been -- excuse me, I'm trying to find my notes
6 here. The applicant has submitted post-hearing submissions at
7 Exhibit 16-A1 and 16-A2. And we would ask the Commission to
8 consider final action on this case.

9 CHAIRPERSON HOOD: Okay. Commissioners, any questions
10 or comments? There may be a few things, I think in this case,
11 some people may have asked for. Were you satisfied, whether
12 they, do you want to opine on it now?

13 COMMISSIONER SHAPIRO: Mr. Chair, I am more than
14 satisfied with the response from the applicant and I'm ready to
15 move forward with this.

16 CHAIRPERSON HOOD: Okay. Any other questions or
17 comments?

18 (No audible response.)

19 CHAIRPERSON HOOD: Okay. Would somebody like to make
20 a motion, please?

21 COMMISSIONER SHAPIRO: Mr. Chair, I move that we take
22 final action, right?

23 CHAIRPERSON HOOD: (No audible response.)

24 COMMISSIONER SHAPIRO: Yes.

25 CHAIRPERSON HOOD: That's right.

1 COMMISSIONER SHAPIRO: Zoning Commission Case No.
2 16-02D as read and captioned previously by you and look for a
3 second.

4 COMMISSIONER MAY: Second.

5 CHAIRPERSON HOOD: Commissioner May. I'll let
6 Commissioner May second it. I do enough talking. It's been
7 moved and properly seconded. Any further discussion?

8 (No audible response.)

9 CHAIRPERSON HOOD: Not hearing any, Mr. Barron, again,
10 could you do a roll call vote, please?

11 MR. BARRON: Commissioner Shapiro?

12 COMMISSIONER SHAPIRO: Yes.

13 MR. BARRON: COMMISSIONER MAY?

14 COMMISSIONER MAY: Yes.

15 MR. BARRON: Commissioner Hood?

16 CHAIRPERSON HOOD: Yes.

17 MR. BARRON: Commissioner Miller?

18 VICE CHAIR MILLER: Yes.

19 MR. BARRON: Commissioner Imamura?

20 COMMISSIONER IMAMURA: Yes.

21 MR. BARRON: The vote is 5-0-0 to approve final action
22 on Case No. 16-02D.

23 CHAIRPERSON HOOD: I'm not sure what Ms. Schellin's
24 dog's name is. I guess the dog is not going to vote because I
25 haven't heard the dog vote since early in the first case. So we

1 must have run the dog away, anyway. All right.

2 Let's go to hearing action in Zoning Commission Case
3 No. 22-01. Let me -- before I do that, let me acknowledge that
4 we have Mr. Liu and Mr. Redding, who also have joined us. They
5 weren't on -- well, I guess they were still coming on when I
6 announced this earlier. They are with the Office of Zoning Legal
7 Division as well. So forgive me for that oversight.

8 Zoning Commission Case No. 22-01: Office of Planning
9 text amendment to Subtitles G, H and I, matter-of-right
10 residential uses of non-residential buildings built prior to
11 January 1st, 2022. I believe Mr. Kirschen -- I saw Mr.
12 Kirschenbaum. Oh, there he is. Mr. Kirschenbaum. We're ready
13 to hear.

14 MR. KIRSCHENBAUM: Thank you. Good evening, Chair
15 Hood, and members of the Zoning Commission. I'm Jonathan
16 Kirschenbaum with the Office of Planning.

17 The Office of Planning recommends set down of this text
18 amendment, which would codify an existing interpretation from the
19 Zoning Administrator. This zoning -- this interpretation allows
20 a legally built non-residential building to convert residential
21 -- to convert to residential use even if the building does not
22 comply with some or all of the residential development standards
23 of the zoning regulations. And the text amendment would change
24 the existing vesting date of this interpretation from November
25 17th, 1978, to January 1st, 2022.

1 The text amendments would be applicable to the MU, NC
2 and D Zones. The proposal would not be inconsistent with the
3 Comprehensive Plan, which contains policies that support new ways
4 to provide additional housing and to distribute additional mixed
5 income housing more equitably across the entire District. Many
6 buildings with the potential to be converted from non-residential
7 to residential use are located in high-cost areas and these text
8 amendments will help increase the supply of housing in these
9 areas without the need for additional zoning relief at the Board
10 of Zoning Adjustment.

11 When evaluated through a racial equity lens, the
12 proposed text amendments will reduce barriers to converting
13 existing non-residential buildings to residential use when they
14 do not comply with all or some of the residential development
15 standards. Such conversions could increase the total supply of
16 housing units in the District which could help alleviate the
17 pressure and housing costs overall. Making room for additional
18 housing, including affordable housing, has the potential to
19 benefit non-white populations who have on average lower incomes
20 than white residents.

21 This concludes my presentation. Please let me know if
22 you have any questions. Thank you.

23 CHAIRPERSON HOOD: Mr. Kirschenbaum, I really
24 appreciate hearing your report. And I'm glad that -- even though
25 we can expand this more if we set this down -- but I'm glad to

1 | hear you mention about the racial equity lens because I want to
2 | start having a dialogue, because I'm always looking at zero to
3 | 30 percent is the new -- where I'm trying to get to, but I know
4 | incrementally we can get there, we just have to figure it out.
5 | And zoning is not -- as we know, zoning is not the cure-all, but
6 | at least we can do our part as the Vice Chair has said many times.

7 | Let me open up it for questions or comments. And thank
8 | you, Mr. Kirschenbaum, for the report. Commissioner May?

9 | COMMISSIONER MAY: I don't have any questions. Thank
10 | you.

11 | CHAIRPERSON HOOD: Okay. Commissioner Shapiro?

12 | COMMISSIONER SHAPIRO: (No audible response.)

13 | CHAIRPERSON HOOD: Commissioner Imamura?

14 | COMMISSIONER IMAMURA: No questions.

15 | CHAIRPERSON HOOD: Do you know I have not made one
16 | mistake and called you Commissioner Turnbull yet?

17 | COMMISSIONER IMAMURA: That's true.

18 | CHAIRPERSON HOOD: I probably will do it now that I
19 | said it. Vice Chair Miller?

20 | VICE CHAIR MILLER: And that would not be an insult if
21 | you did, as I think Commissioner Imamura would realize that as
22 | well.

23 | COMMISSIONER IMAMURA: Not at all.

24 | VICE CHAIR MILLER: Yeah. I concur with your comments,
25 | Mr. Chairman. And I appreciate the Office -- and appreciate the

1 Office of Planning bringing this case forward for a set down.
2 Looking -- I know you're -- the Office of Planning is consistent
3 with the Mayor's Order and the Council's Comprehensive Plan
4 priorities is looking for all ways to increase opportunities
5 through the limited zoning mechanism that we have here for
6 affordable housing, so this is just one more.

7 And also, I appreciate you looking at the zoning
8 administrator interpretation decisions to see which need to be
9 codified, so that there's the clarity going forward in our
10 regulations, so I appreciate that as well. And I know you're
11 looking at other interpretation decisions to see where we need
12 to codify or not codify those interpretations, so thank you.

13 CHAIRPERSON HOOD: Okay. Unless there are any other
14 questions or comments, I think this is ready for set down. It's
15 like we're ready to do that unless I hear any objections.

16 Would somebody like to make a motion to set it down?
17 Thank you, Mr. Kirschenbaum.

18 COMMISSIONER IMAMURA: I'll do that, Mr. Chair.

19 CHAIRPERSON HOOD: Thank you.

20 COMMISSIONER IMAMURA: Out of deference to Mr.
21 Turnbull, and I will -- as Vice Chair Miller said, I will take
22 that as recognition of a job well done. So Mr. Chair, I move
23 that the Zoning Commission set down Case No. 22-01: Office of
24 Planning text amendment to Subtitles G, H and I, matter-of-right
25 residential use of non-residential buildings built prior to

1 January 1st, 2022, and ask for second.

2 COMMISSIONER MAY: Second.

3 CHAIRPERSON HOOD: Okay. It's been moved and properly
4 seconded. Any further discussion?

5 (No audible response.)

6 CHAIRPERSON HOOD: Thank you, both.

7 Mr. Barron, could you do a roll call vote, please.

8 MR. BARRON: Commissioner Imamura?

9 COMMISSIONER IMAMURA: Yes.

10 MR. BARRON: Commissioner May?

11 COMMISSIONER MAY: Yes.

12 MR. BARRON: Commissioner Hood?

13 CHAIRPERSON HOOD: Yes.

14 MR. BARRON: Commissioner Miller?

15 VICE CHAIR MILLER: Yes.

16 MR. BARRON: Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Yes.

18 MR. BARRON: Did I miss anyone?

19 COMMISSIONER SHAPIRO: I think Sharon's dog.

20 MR. BARRON: Okay. Sharon's dog?

21 Then, in that case, the vote is 5-0-0 to set down Case
22 No. 22-01 as a Rulemaking case.

23 MS. SCHELLIN: Daisy and Duke have been muted. They're
24 bad enough, so they will not be participating in the rest of the
25 hearing -- maybe.

1 CHAIRPERSON HOOD: Thank you, Ms. Schellin, for letting
2 us know that -- but sometimes, we got to have a little fun.

3 Anyway, let's go to Zoning Commission Case No. 22-02.
4 This is the Office of Planning map amendment at Squares 4510,
5 4513 through 4517, and Parcel 149/60, and Ms. Thomas.

6 MS. THOMAS: Yes. Good afternoon, Mr. Chair, and
7 members of the Commission. Karen Thomas with the Office of
8 Planning for Case 22-02.

9 The Office of Planning is recommending set down of OP's
10 petition for an area wide map amendment to rezone approximately
11 8.6 acres along the Benning Road Corridor, including squares
12 without properties fronting the south side of Benning Road
13 Northeast between 16th Street and Oklahoma Avenue from RA-2 and
14 MU-4 Zones to the MU-5A subject to the IZ Plus requirements as
15 discussed in our report.

16 OP is collaborating with the Ward 7 Economic
17 Development Advisory Council to initiate a series of amendments
18 in furtherance of the Ward's desired plans. And this is probably
19 one of eight identified areas throughout Ward 7 that we would be
20 bringing forward. Some time ago, the Ward 7 EDAC worked with
21 the community, including the business community, with a goal of
22 contributing to the long-term planning of the Ward and to
23 facilitate redevelopment of underutilized properties and blighted
24 sites along the Ward's primary corridors.

25 Next slide. The mapped area including the portion of

1 the Square with frontage on Benning Road including Squares 4510,
2 4511, 4513 through 4518, again, between Benning, between 16th
3 Street Northeast to the West and Oklahoma Avenue to the East, and
4 related lots are tabled as Appendix A in our report. The proposed
5 MU-5A map amendment area is a wide mixed-use corridor with a
6 variety of uses including residential row buildings, mixed-use
7 buildings and standalone retail uses well served by mass transit
8 including the streetcar and multiple bus lines.

9 Next slide. The area is within the Capitol Hill area
10 elements south of the Upper Northeast area element with Benning
11 Road as the boundary between the areas. The targeted area of
12 the map amendment is part of the H Street/Benning policy focus
13 area of the area element.

14 Next slide. The proposed map amendment to MU-5A would
15 not -- would be not inconsistent with the future land use map,
16 which designated this area for medium density residential and
17 moderate density commercial as prescribed by the recently
18 approved Comp Plan amendments of 2021. As highlighted in our
19 report, the proposal would increase development density from the
20 existing 1.08 and 3.0 FAR to 4.2 FAR, with most likely up to 18
21 percent of residential floor area devoted to affordable units
22 under IZ Plus. According to OP's Housing Equity Report, the
23 Capitol Hill planning area has 3 percent of the District's total
24 number of affordable housing units as of 2018. And it is actually
25 short of 1,100 units with a total production goal of 3,300 units

1 by 2025.

2 Next slide. The policy map shows the outline area in
3 blue to be within the Main Street mixed-use corridor, which is
4 typically a traditional commercial business corridor with a
5 concentration of all the storefronts along the street. The
6 Benning Road Corridor small area plan, the mixed-use designation
7 of the FLUM and the Capitol Hill area elements policies all
8 support a determination that the proposed amendment is not
9 inconsistent with the Generalized Policy Map. When viewed under
10 the equity lens, potential of the amendment to increase the total
11 supply of both commercial and housing units in the planning area
12 could help alleviate the pressure on housing costs for lower
13 income households.

14 Through the application of IZ Plus, as outlined in our
15 report, that could amount to as much as 224 units of affordable
16 units rather, particularly for households earning no more than
17 60 percent MFI for rental housing or 80 percent at the top end
18 for ownership housing. The Ward 7 Economic Development Council
19 and OP believes that increasing the density would more likely
20 trigger inclusionary zoning and increase the supply of affordable
21 housing for lower income households.

22 Next slide. A snapshot of the existing character of
23 storefronts along the corridor shows underutilized sites with
24 auto-oriented uses, which are incompatible with the desired
25 future development pattern along the transit accessible corridor

1 designated as a great street. In summary, the proposed amendment
2 would further policies of the Comp Plan elements including its
3 land use, housing, transportation elements, as well as objectives
4 of the Capitol Hill area element and the approved small area
5 plan.

6 Next slide. So I thank you for listening, and I'd be
7 happy to take any questions. Thank you.

8 CHAIRPERSON HOOD: Thank you, Ms. Thomas. I'm just
9 glad to see this. From what I believe, the collaboration in Ward
10 7, Ward 7 is very exciting. It's ready to start jumping in and
11 they're doing some big things over there. I know the residents
12 are really excited, and I'm sure I'm hoping that we'll hear that
13 if this is set down. So I'm really excited for Ward 7, and I
14 appreciate the direction in which they're moving. And hopefully,
15 this will help continue that excitement.

16 So let me open it up for questions and comments.
17 Commissioner May?

18 COMMISSIONER MAY: Yes. So you showed a slide of the
19 FLUM, yeah, and it's in your report as well. And those subject
20 properties outlined in blue, but then there's the -- there are
21 areas outside of that that are part of the same, you know, mixed-
22 use, you know, residential, medium density, commercial density,
23 commercial moderate density uses. So they have the same FLUM
24 designations, but they're not included in this action. And I
25 know that we rezoned some of the properties on the north side of

1 Benning Road; I don't know if that covers all of those areas that
2 are in that mixed-use designation. But there's also -- there are
3 also properties further to the west on the south side that are
4 not explicitly included in the location of the subject property.
5 So I'm just wondering if you could clarify what's going on with
6 those properties that are -- same FLUM designation, but not
7 included in this action.

8 MS. THOMAS: Yes. Well, we, you know, a couple of
9 things. We first -- we looked at that as well, but we decided
10 the Ward 7 -- we decided to use the boundaries requested by the
11 Ward 7 council in the first instance. The -- what we noticed,
12 just when we were about to file this, is that the actual
13 boundaries of Ward 7 shifted, and it's now included in Ward 6
14 and 7 within this report and the area they identified. Also,
15 that parcel -- if you noticed, it has different designations,
16 moderate density below. It has about three designations going
17 in, and we thought it would be too much confusion at this time
18 to include that. And that parcel is such a large parcel. It
19 could come in as a PUD eventually. It is a huge parcel. It is
20 to the top, at the -- actually, at the Starburst itself, if that's
21 the one you're talking about.

22 COMMISSIONER MAY: Oh. Yeah. No, no, no. I'm not
23 even talking about the Starburst. I'm just talking about the
24 property that's east of -- what is it? 16th -- sorry, west of
25 16th Street.

1 MS. THOMAS: West of 16th Street.

2 COMMISSIONER MAY: Yeah.

3 MS. THOMAS: Yeah. It's all one parcel. That whole
4 thing is all one parcel, Lot 157. And it's amongst the three
5 designations. Are you not seeing that?

6 COMMISSIONER MAY: I'm not seeing -- I'm seeing three
7 -- well, I'm seeing two different -- I'm seeing different
8 designations or -- the same designation that's on the north side
9 of Benning Road, where the old Hechinger Mall is, right?

10 MS. THOMAS: Yes. And that it has the current
11 designation pulling across to a portion of the parcel. And then
12 to the south of it, it's MU -- it's just moderate density. We
13 don't believe that MU-5 would be consistent with that portion of
14 the parcel that is just moderate density.

15 COMMISSIONER MAY: So in the long run --

16 MS. THOMAS: Lower density.

17 COMMISSIONER MAY: -- you see everything between 15th
18 and 16th on Benning Road on the south side as potentially a PUD
19 with a higher density?

20 MS. THOMAS: Potentially, where they can -- where we
21 have -- if we have a PUD there, it will be more considerate --
22 because the moderate density part will be more considerate of the
23 lower density --

24 COMMISSIONER MAY: Got it.

25 MS. THOMAS: -- behind it, so --

1 COMMISSIONER MAY: So the whole thing, it might happen,
2 but it would happen as a part of the PUD, and so therefore --

3 MS. THOMAS: In a different way, yes.

4 COMMISSIONER MAY: In a different way. Okay. Yeah.
5 I do actually remember that we discussed setting down a PUD for
6 that parcel closest to 16th. And I'm not sure whatever happened
7 with that, but I think it went away a long time ago, several
8 years ago.

9 Ms. Steingasser, you appeared on screen. Did you want
10 to talk about this at all?

11 If you do, you need to be mute -- unmuted.

12 MS. STEINGASSER: Yes. The -- we did look at that
13 parcel and it is in one ownership with a bunch of multifamily
14 buildings on there, but it has the -- it has three different
15 designations. And so there was no natural boundary to pull in
16 to keep that that zoning line consistent. The PUD that you were
17 asking about is actually just to the east of this parcel, the
18 parcel you're talking about.

19 COMMISSIONER MAY: Oh. Okay. All right. I thought
20 -- so that is -- the one that I was talking about, the PUD had
21 -- that was east. Oh. You're right. It was at -- was it 17th,
22 right?

23 MS. STEINGASSER: Right. Yes.

24 COMMISSIONER MAY: But now, you are going to go ahead
25 and zone that, so that that PUD is dead and --

1 MS. STEINGASSER: Of the Comp Plan --

2 COMMISSIONER MAY: Yeah.

3 MS. STEINGASSER: -- has been amended. That's correct.

4 COMMISSIONER MAY: Yeah. Okay. And then -- so what
5 about the parcel -- the properties that are north of Benning?

6 MS. STEINGASSER: On the north side of the street,
7 those will be coming in as a separate case.

8 COMMISSIONER MAY: I'm sorry, what?

9 MS. STEINGASSER: They'll be coming forward as a
10 separate case.

11 COMMISSIONER MAY: Okay. All right. I just couldn't
12 remember how far we had gone. And I know we have rezoned the
13 properties on the north side of Benning Road, but I don't remember
14 the boundaries of what we've rezoned.

15 MS. STEINGASSER: It did not include these -- those two
16 that are marked with the new numbers.

17 COMMISSIONER MAY: Yeah, it seemed -- okay. Thank you.
18 That's it for my questions.

19 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
20 Shapiro, any questions or comments?

21 COMMISSIONER SHAPIRO: No, sir. No further questions.

22 CHAIRPERSON HOOD: Commissioner Imamura, do you have
23 any questions comments?

24 COMMISSIONER IMAMURA: (No audible response.)

25 CHAIRPERSON HOOD: Vice Chair Miller, any questions or

1 | comments?

2 | VICE CHAIR MILLER: Only to thank Ms. Thomas and Ms.
3 | Steingasser for your comments and report. And to -- and
4 | appreciate OP looking again for additional opportunities to
5 | increase housing opportunities consistent with the Comprehensive
6 | Plan and your continued collaboration with the communities; the
7 | Wards and communities and the council member affected by this.
8 | Thank you.

9 | CHAIRPERSON HOOD: Okay. I don't have anything to add.
10 | Thank you, Ms. Thomas and Ms. Steingasser for reporting on that.

11 | Commissioners, we have a request before us. It is
12 | pretty straightforward for us to set down and hear. So with
13 | that, I would move that we set down Zoning Commission Case No.
14 | 22-02: the Office of Planning map amendment at Square 4510, 4513
15 | through 4517 and the parcel -- and parcel 149/60 and ask for a
16 | second.

17 | VICE CHAIR MILLER: Second.

18 | CHAIRPERSON HOOD: It's been moved and properly
19 | seconded. Any further discussion?

20 | (No audible response.)

21 | CHAIRPERSON HOOD: Not hearing.

22 | Mr. Barron, would you do -- would you please do a roll
23 | call vote?

24 | MR. BARRON: Before I do that, Mr. Chair, I just wanted
25 | to clarify, is the intent of the motion to set this down as a

1 Rulemaking case?

2 CHAIRPERSON HOOD: Yes. Thank you very much. You on
3 the ball, you on it. Yes, we want this to be a Rulemaking.

4 MR. BARRON: Okay. All right. Commissioner Hood?

5 CHAIRPERSON HOOD: Yes.

6 MR. BARRON: Commissioner Miller?

7 VICE CHAIR MILLER: Yes.

8 MR. BARRON: Commissioner Imamura?

9 COMMISSIONER IMAMURA: Yes.

10 MR. BARRON: Commissioner Shapiro?

11 COMMISSIONER SHAPIRO: Yes.

12 MR. BARRON: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MR. BARRON: The vote is 5-0-0 to set Case No. 22-02
15 down as a Rulemaking case.

16 CHAIRPERSON HOOD: All right. Thank you.

17 Let's move to the next hearing action. Zoning
18 Commission Case No. 21-22. This is the Office of Attorney General
19 text amendment to Subtitle C 702.4, remove parking requirements
20 for households earning less than 80 percent of the MFI. Mr.
21 Kirschenbaum.

22 MR. KIRSCHENBAUM: So good afternoon again, Chair Hood
23 and members of the Zoning Commission. I'm Jonathan Kirschenbaum
24 with the Office of Planning.

25 The Office of Planning recommends set down of this

1 zoning text amendment that would eliminate parking requirements
2 for affordable housing units that are reserved for households
3 earning equal to zero or less than 80 percent of the median family
4 income. These proposed text amendments were brought forward by
5 the Office of the Attorney General.

6 The following types of affordable housing units would
7 be eliminated from the center parking requirement calculation:
8 IZ -- Inclusionary Zoning units; a dwelling unit required by a
9 Land Disposition Agreement with the District; or, a dwelling
10 unit, funded in whole or in part, by government subsidies. And
11 as I stated, for the parking exemption to apply, the units must
12 be offered at 80 percent MFI or below. A couple different
13 examples of this for buildings that only contain affordable units
14 at 80 percent MFI or below, that would mean no parking would be
15 provided. For buildings that contain a mix of market rate and
16 affordable units, there would still be a parking requirement.
17 The parking requirement though would only be based on -- or the
18 calculation for the parking requirement would only be based on
19 the number of market rate units. The affordable units would no
20 longer be part of the calculation.

21 The proposal would not be inconsistent with the
22 Comprehensive Plan, which contains policies that support
23 discouraging reliance on personal vehicles and support production
24 incentives through zoning to create more housing overall,
25 including affordable housing. When evaluated through a racial

1 equity lens, the proposed text amendments will reduce barriers
2 to providing more housing, particularly for all affordable
3 housing developments, which may be limited to the number of
4 dwelling units that can be provided due to the existing parking
5 requirements in the zoning regulations. Making room for
6 additional housing, including affordable housing, has the
7 potential to benefit non-white populations, who on average have
8 lower incomes than white residents.

9 This concludes my presentation. Please let me know if
10 you have any questions. Thank you.

11 CHAIRPERSON HOOD: Thank you very much.

12 Let me see if we have any follow up questions or
13 comments. Commissioner May?

14 COMMISSIONER MAY: Yeah. So my first question is when
15 it comes to buildings that are all affordable, those are typically
16 going to be financed in the way that they already qualify for a
17 reduction in parking; are they not? Is this really going to have
18 an effect when something is LIHTC financed, for example?

19 MR. KIRSCHENBAUM: Well, right now, those buildings do
20 have a parking requirement under the zoning regulations, so this
21 would eliminate the parking requirement.

22 COMMISSIONER MAY: It would eliminate it. I thought
23 they had -- I thought it was eliminated if it's -- if it was
24 LIHTC financed. There are some -- maybe I misread that in the
25 report, and I forgot.

1 MR. KIRSCHENBAUM: No. The proposal would be to
2 eliminate that --

3 COMMISSIONER MAY: Right.

4 MR. KIRSCHENBAUM: -- parking requirement.

5 COMMISSIONER MAY: But they got a discount now, don't
6 they?

7 MR. KIRSCHENBAUM: The only discount for parking that
8 exists right now is for senior housing that is publicly assisted.

9 COMMISSIONER MAY: Got it. Okay. All right. I miss
10 -- my understanding got a little bit garbled by all the cases
11 that we are reading.

12 So then the one area where I really have a question is
13 whether, you know, discounting the parking requirement for a
14 building that is just doing regular IZ, right? They're doing
15 their 8 percent or their 10 percent. And so they can reduce
16 their parking requirement by a smidge, and that's a technical
17 zoning term by the way. So they get to reduce that by a smidge.
18 And my question is, is that really going to make it that much
19 more affordable? Is it -- you know, in a big building and they've
20 got this requirement, is it really going to wind up reducing the
21 cost and make it easier to build such a thing, or is it just
22 going to be, you know, essentially, a greater profit margin for
23 the developer? And maybe that's just a rhetorical question.

24 MR. KIRSCHENBAUM: I would say that "a smidge" is a
25 good way to describe it.

1 COMMISSIONER MAY: Well, okay. So I mean, maybe you
2 want -- if you want to say more about that, go ahead, but I do
3 have a follow up.

4 MR. KIRSCHENBAUM: Only that, you know, it -- there are
5 studies that, you know, one study that we provided in the report
6 that -- providing two parking spaces, it can increase costs of
7 up to 25 percent for, you know, creating one dwelling unit, so
8 it is expensive to provide the parking.

9 COMMISSIONER MAY: So it might have an effect on smaller
10 developments. It's not -- I don't think it's like -- I mean,
11 you have a big, you know, concrete frame structure with a lot of
12 units and it doesn't seem like it's really going to make much of
13 a difference.

14 So my question then would be, what if we were more
15 aggressive about this. And I'm hoping this is something that the
16 Office of Planning can look at. So if a -- for a building like
17 that, if you went from, you know, just your standard 8 percent
18 matter of right type development, 8 percent IZ. What if we were
19 to write something into the regs that basically said that, okay,
20 if you increase your 8 percent to 10 percent, then you could cut
21 your parking requirement in half.

22 Would that actually incentivize more IZ and have the
23 extra benefit of reducing the amount of parking that would be
24 built? And I mean, I'm just sort of theorizing, because it just
25 felt like that smidge was not enough and that maybe there's an

1 opportunity to do more. And I see Ms. Steingasser has appeared.

2 MS. STEINGASSER: I want to jump in and say we'll take
3 it.

4 COMMISSIONER MAY: Good. I just think -- go ahead.

5 MS. STEINGASSER: I think if you're suggesting we add
6 that as part of the set down and advertise it for -- we'd
7 absolutely be interested in pursuing that.

8 COMMISSIONER MAY: Yeah. I mean, I don't know if those
9 are the right numbers, right. I mean, maybe it's more than 2
10 percent, maybe it's less than 50 percent. I don't know. But
11 incentivizing -- using the incentive of reducing parking and
12 parking costs in order to get more IZ units.

13 MS. STEINGASSER: Right. And I think we can do some
14 numerical calculations to figure out at what point does that
15 bottom level not have to be constructed.

16 COMMISSIONER MAY: Right. Right.

17 MS. STEINGASSER: Yeah.

18 COMMISSIONER MAY: Because cutting out three or four
19 spaces isn't a big deal, but cutting out a hundred spaces, you
20 know.

21 MS. STEINGASSER: Yeah.

22 COMMISSIONER MAY: And then people buy more bikes and
23 get another added benefit. That's it for me, Mr. Chairman.

24 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
25 Shapiro?

1 COMMISSIONER SHAPIRO: I actually was going down the
2 same route as Commissioner May. It feels like this is just --
3 it's just too little, but it isn't -- it feels like a really
4 interesting strategy to pursue more deeply. I mean, am I having
5 a senior moment, but we have -- there are some developments,
6 depending on the location, that have no parking minimums, right?

7 MR. KIRSCHENBAUM: The Downtown zones currently do not
8 require -- most of the Downtown zones do not require parking.

9 COMMISSIONER SHAPIRO: Right. So I would say, you
10 know, why not provide enough incentive where you have that flex
11 scale where you provide enough. It's a tradeoff. It's a
12 neighborhood impact trade off, which I -- those are tradeoffs
13 that make, but we really want to incentivize affordable housing.
14 We know that parking is one of the biggest sub costs that there's
15 just no way around. It becomes incredibly expensive. So yeah,
16 I mean, for me, take Commissioner May's idea. What's the
17 percentage of affordable that would allow for no parking
18 minimums?

19 COMMISSIONER MAY: Yeah.

20 COMMISSIONER SHAPIRO: And I don't know how much work
21 is involved on the research side, but that's what I would love
22 to see before us, is that kind of sliding scale that takes it
23 all the way to the max.

24 COMMISSIONER MAY: I think Ms. Steingasser calculator
25 is already spinning.

1 MS. STEINGASSER: Well, I'm saying -- just to get it
2 started, that's how we would advertise it. It's like this is
3 our, you know, kind of a call for assistance what people think,
4 and we'll start talking with the builders. Not necessarily
5 developers, but builders, what does that equate to. Because
6 they're still -- even though we don't require parking in many
7 zones, people still provide it. And that's a market decision we
8 want to --

9 COMMISSIONER SHAPIRO: But that's where I'd say talk
10 to the builders and the developers because we want to know what
11 -- not just the cost associated with it is, but the market
12 implications as well.

13 MS. STEINGASSER: Right. Okay. That's great. Thank
14 you.

15 CHAIRPERSON HOOD: Okay. Commissioner Imamura, any
16 questions or comments?

17 COMMISSIONER IMAMURA: No questions or comments, not
18 even a smidge.

19 CHAIRPERSON HOOD: And Vice Chair Miller.

20 VICE CHAIR MILLER: Thank you, Mr. Chairman. And I
21 appreciate the aggressiveness of Commissioner May. I don't
22 always appreciate his aggression. I do on this issue, and I
23 agree with all the comments that have been made on this issue.
24 And I have been here long enough to remember the parking debate
25 in the ZRR, which didn't quite go as far as what was originally

1 proposed. Others might remember that. We were going to
2 eliminate, I think, the Office of Planning recommended originally
3 eliminating parking minimums and establishing maybe parking
4 maximums. But I think that the suggestion that has been made
5 here is a good one and worth exploring.

6 COMMISSIONER MAY: Chairman -- Vice Chair Miller, I
7 would also mention that we didn't -- we did not approve concepts
8 as aggressive as what the Office of Planning originally proposed,
9 but we were more aggressive than what the Office of Planning
10 ultimately proposed. And we introduced -- we, you know, we
11 insisted on the high -- with the transit quarter reduction and
12 things like that, which ultimately, the Office of Planning did
13 not recommend because there was such a public outcry about it.
14 But I think we went -- is that right, Ms. Steingasser? Didn't
15 we push you a little further than what you had finally
16 recommended?

17 MS. STEINGASSER: You know, there was so much parking
18 whiplash during those hearings that I can't really remember who
19 pushed which direction.

20 COMMISSIONER MAY: Yeah. I think we -- I mean, you're
21 absolutely right. We were not as aggressive as the Office of
22 Planning originally wanted us to be, but I thought we were pretty
23 aggressive in the end.

24 VICE CHAIR MILLER: Yeah. And you're right,
25 Commissioner May. I appreciate you reminding me of that history.

1 CHAIRPERSON HOOD: So I guess I'm going to spoil the
2 conversation because, you know, I always like to go even more.
3 I heard Commissioner May, and I think he said, the sliding scale,
4 he said, from 8 to 10 percent. You know, I like to even do more,
5 and I heard 50 percent. But the other side to that is and this
6 is -- depending upon where we do this at, some neighborhoods are
7 going to require parking. So, you know, it's the unintended
8 consequences. I appreciate the first step. I want us to get
9 even further, as much as we can do within the zoning envelope.

10 I heard Commissioner May. I think that was a good
11 thing, going from 8, what's being proposed by the Office of
12 Attorney General, I think whatever their -- 80 percent MFI. I'm
13 trying to -- I know we don't want to go lower to 60 percent. I
14 know I want to. I would like to go at hundred whatever, whatever
15 we can do to get a more affordable housing to eventually get us
16 to zero to 30 percent of the MFI.

17 And I know -- remember, you -- this is the same guy who
18 asked for the affordable unit in the Watergate, and people looked
19 at me like I was crazy, but they came back with something. So
20 whatever we can do, I think this is a good step. But also, I'm
21 sure, we may hear some counter to it, but at the end of the day,
22 we're trying to get affordable housing. So that's where I am.
23 I'm looking forward to having that discussion because I want to
24 go even further to make sure that we reach folks who really need
25 it the most. And most of them, I believe are down to zero to 30

1 percent and 40 percent.

2 And sometimes, we don't even touch those surfaces,
3 talking about 60 and 80. So that's -- those are my comments. I
4 know some -- I know, again, I'm putting it out there for
5 conversation. It might not be doable at this point, but as we
6 have always said, we're incrementally getting there, and I think
7 this is a good start.

8 COMMISSIONER MAY: Mr. Chairman, I thought you were
9 going to speak up in favor of more parking.

10 CHAIRPERSON HOOD: Oh, no. No. I'm in favor of --
11 you know, it's a balance. I'm not going to say more parking,
12 because I'm in favor of affordable housing to the zero to 30
13 percent MFI. That's where I am now.

14 COMMISSIONER MAY: All right.

15 CHAIRPERSON HOOD: Actually, if you look at my record,
16 maybe -- St. Martin's I think was the first case we got to 30
17 percent. I don't know if you all remember that. That was some
18 years ago. And I was happy, but it had other (indiscernible) to
19 go along with it.

20 COMMISSIONER MAY: Yeah.

21 CHAIRPERSON HOOD: So, no. I'm not going to sit here
22 as much -- scoot around. I'm scared to get on the scooter right
23 now because when I got on a bike, I fell off of it. I have to
24 admit, I'm a little rusty. But I can still -- I can eventually
25 learn to get back on the bike. So anyway.

1 COMMISSIONER MAY: Maybe you'll -- you know, by the
2 time you're a senior citizen, maybe you'll be ready to, you know,
3 jump on your bike and go to the supermarket.

4 CHAIRPERSON HOOD: No, I'll be -- oh, you try. I'm not
5 going to bring that up to 10 bags of groceries. I'm not going
6 to mention that.

7 All right. So I think that was a good discussion.
8 Looking forward to it. And I appreciate what's being put out
9 there, but I want us to go even further. And this is something
10 that this Commission has been trying to do for a while and working
11 in collaboration. But we want to make sure that we don't hit
12 those unintended consequences. So I think the Commission's
13 definitely for it and lets it get going. Let's get it moved.

14 Any further questions or comments?

15 (No audible response.)

16 CHAIRPERSON HOOD: Commissioner May, since you had the
17 smidge, you want to make the motion?

18 COMMISSIONER MAY: Sure. So I would move that the
19 Zoning Commission set down Zoning Commission Case 21-22: Office
20 of the Attorney General text amendment to Subtitle C, Section
21 702.4, remove parking requirements for households earning less
22 than 80 percent MFI, noting the comments of the Commission to
23 explore some additional options. Would ask for a second.

24 CHAIRPERSON HOOD: I'll second it. It's been moved and
25 properly seconded.

1 Any further discussion?

2 (No audible response.)

3 CHAIRPERSON HOOD: Not hearing any.

4 Mr. Barron, would you please do a roll call vote?

5 MR. BARRON: Thank you. Commissioner May?

6 COMMISSIONER MAY: Yes.

7 MR. BARRON: Commissioner Hood?

8 CHAIRPERSON HOOD: Yes.

9 MR. BARRON: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MR. BARRON: Commissioner Imamura?

12 COMMISSIONER IMAMURA: Yes, and way more than a smidge.

13 MR. BARRON: Commissioner Shapiro?

14 COMMISSIONER SHAPIRO: Yes.

15 MR. BARRON: The vote is 5-0-0 to set down Case No.

16 21-22 as a Rulemaking case.

17 CHAIRPERSON HOOD: Okay. Our next case is Zoning
18 Commission Case No. 21-23. Again, this is from the Office of
19 Attorney General, request for emergency action on a text
20 amendment to Subtitle I to apply IZ to non-IZ D Zones.

21 Ms. Steingasser. Okay. Ms. Steingasser.

22 MS. STEINGASSER: Yes, sir.

23 And I want to be clear, this recommendation is only
24 focused on the request for emergency action. And the Office of
25 Planning is not recommending that this case be set down as an

1 emergency. We feel that the case is cited in the justification
2 for the emergency have already been approved. One was approved
3 prior to the request being filed by the applicant, and the other
4 was approved within two or three days of the filing. So there
5 is no emergency (indiscernible) justification that that we would
6 recommend. We will be bringing back additional set down reports
7 for each of the three other remaining cases that the Office of
8 Attorney General has filed.

9 And within those, I know there was some questions
10 raised by the applicant this afternoon about -- or yesterday --
11 about the why OP is asking for time to do some economic modeling
12 and data. And quite simply, it's the fact that in the other
13 cases cited and in the other parts of the IZ-XL, where we expanded
14 IZ into previously exempt zones, there was a capacity for that
15 extra 20 percent bonus density, and that's the fundamental basis
16 for maintaining land value in the IZ program. And we don't have
17 that opportunity in the D zones in the downtown that are being
18 cited in this particular -- these cases.

19 And in addition, the combination of the cases, there
20 is the application of IZ to the D zones. There's a lower MFI.
21 There's a higher percentage required set aside. That combination
22 of factors has to be carefully analyzed. And I went back to the
23 December meeting where the Commission acknowledged receipt of
24 these applications and responded a bit to the press release. And
25 at that point, the Zoning Commission was quite clear, and Vice

1 Chairman Miller specifically said, "We do not need -- we do need
2 more economic analysis from the petitioner, OAG in this case,
3 that we would normally get from an outside petitioner on these
4 issues."

5 Then he went on to say, "I want the Office of Planning
6 analysis. I want economic analysis from OAG because the IZ is a
7 very delicately balanced program." And we agree with that, and
8 we are proceeding to work through that. You know, we've started
9 looking at those numbers and the combination of those numbers and
10 applying this -- that lens that have heretofore not had the IZ
11 applied to it. So that's why we're recommending that there be
12 no emergency action and then we will be bringing forward those
13 other cases shortly in terms of the standard set down that the
14 Commission is used to seeing.

15 CHAIRPERSON HOOD: Thank you, Ms. Steingasser.

16 I first want to thank the -- everyone, and I want to
17 thank OAG as well as Office of Planning and the Office of Zoning,
18 and everyone for bringing this to us. We have been working on
19 this. This is nothing new. OAG has not provided anything new
20 to us. We have been trying to -- even when they advise us, we
21 have been incrementally trying to get there. So I appreciate
22 their bringing it to us and making sure it's on our radar. But
23 I too want an analysis, Ms. Steingasser. And I think I mentioned
24 this previously. I want it also from the petitioners, because I
25 like to have their analysis and I like to have your analysis, so

1 we can see just how far we can go.

2 Again, I don't think it's an emergency because I know
3 anytime we rush and do stuff, we have to take our time; there
4 are some unintended consequences. Everybody wants to get there.
5 I think we've been talking about doing this for at least two --
6 well at least for D Zones, first we started -- we started dealing
7 with D zones. I think we mentioned it maybe our first or second
8 hearing. I can't remember. But this is nothing new. This is
9 something that we've been talking about for a while. So what I
10 would like to do, and I'm glad the discussion is starting back
11 again, even though I know we have a long laundry list, Ms.
12 Steingasser, things that we've asked Office of Planning to do,
13 and I know that those things have to be done with care because
14 there are other implications, other unintended consequences that
15 come into play that sometime that we don't see. So I'm about
16 how moving forward. I don't think -- I, personally,
17 Commissioners, I'm not moving an emergency action, but I do as
18 the Vice Chair, and I think mentioned previously, I mentioned
19 previously that I would like to see the document from the Office
20 of Attorney General and their analysis as well as the Office of
21 Planning and then I would like to have them side by side. So
22 that's kind of where I am.

23 Let me open it up. Commissioner May?

24 COMMISSIONER MAY: Yeah. First, I have a couple of
25 questions. I mean, the way this has been proposed, it seems to

1 me that it would have a very -- if we took emergency action, it
2 would have a very sudden and disturbing impact on projects already
3 in the pipeline; is that correct or am I just --

4 MS. STEINGASSER: No, sir. You are correct. And it
5 would be very -- it would be contrary to all the precedent, the
6 actions that the Zoning Commission has taken to date, where you
7 have always acknowledged some way to vest projects that are in
8 the process, and that have already invested, you know, tremendous
9 amounts of time and money into either the sub costs or just that
10 pre-filing work. So yeah.

11 COMMISSIONER MAY: Yeah.

12 MS. STEINGASSER: Absolutely.

13 COMMISSIONER MAY: And so, you know, we have been
14 talking about the, you know, what more can be done with the
15 Downtown zones --

16 MS. STEINGASSER: Uh-huh.

17 COMMISSIONER MAY: -- for some time, and we know that
18 there is some analysis that's ongoing. And we know you're going
19 to be coming back to us with more. The question is, how soon,
20 because it feels like it's been going on for a very long time?

21 MS. STEINGASSER: Well, I think there might -- we
22 thought we had come back to the Zoning Commission in July. When
23 we came back and gave a presentation with then Director Trueblood
24 and Art Rogers, where we went through the history of the downtown
25 and why there were some zones that just did not have the capacity

1 for IZ because they were the receiving zones from the bonus
2 density that was established when the -- then DD Overlay required
3 housing downtown, because there was no housing downtown.

4 COMMISSIONER MAY: Right.

5 MS. STEINGASSER: And in the early 90s, the Living
6 Downtown plan was adopted, and the Zoning Commission implemented
7 that through the D Overlay and that put an absolute requirement
8 in certain areas. And those areas that have that requirement
9 also then got certain bonus density, which they could use in what
10 we were then calling receiving zones.

11 COMMISSIONER MAY: Right.

12 MS. STEINGASSER: And those receiving zones are what
13 we're now discussing. They have been converted into regular
14 standard zoning lingo, but those are the receiving zones from the
15 90. And so at that time, we'd gone through that PowerPoint in
16 July and there was kind of a recognition that there was no real
17 capacity to put an IZ requirement and standardize the requirement
18 on these zones and still maintain the land value. And that --
19 maintaining that land value was really important to the
20 fundamental program of IZ. So we thought we'd kind of come to
21 that.

22 COMMISSIONER MAY: Got it. Okay. So I remember the
23 discussion, but for some reason, I thought it was not fully --
24 that we were not completely done in discussing the Downtown zones.
25 I see Vice Chair Miller nodding his head. So, I mean, I think I

1 will stop on this topic and leave it to Vice Chair to continue
2 that when he gets a chance to speak. That's it for me.

3 MS. STEINGASSER: Okay.

4 CHAIRPERSON HOOD: Commissioner May, you finished?

5 COMMISSIONER MAY: I'm done. Yeah.

6 CHAIRPERSON HOOD: What's the occasion? No, I just had
7 to say that. All right. Commissioner Shapiro. I'm getting you
8 back for the other night, actually.

9 Commissioner Shapiro.

10 COMMISSIONER SHAPIRO: So the question -- and this goes
11 back to this issue around our precedent in vesting. And maybe
12 I'm just not reading the -- what's being proposed for set down
13 with enough detail. But it's not just the emergency request, but
14 is there any vesting provision in what's in front of us being
15 considered for set down, setting aside the emergency request?

16 MS. STEINGASSER: As submitted by the applicant, no.

17 COMMISSIONER SHAPIRO: Okay.

18 MS. STEINGASSER: That doesn't mean that OP won't be
19 bringing back -- when we bring back our set down report or
20 standard set down report, which you will have, we will probably
21 address that issue.

22 COMMISSIONER SHAPIRO: Thank you. I appreciate that.
23 I think that'll be very important.

24 And, Mr. Chair, I agree with you. I'm not in favor of
25 taking emergency action, but I think this is important and merit

1 set down with that provision or vesting is a key piece of it.
2 But I also agree with you, Mr. Chair, that the economic analysis
3 by both OP and the office Attorney General will be very helpful
4 as we consider this, and I'll leave my comments there.

5 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
6 Shapiro. Commissioner Imamura?

7 COMMISSIONER IMAMURA: Thank you, Mr. Chair.

8 I certainly agree with everything that's been said. I
9 too agree that the economic modeling is going to be important to
10 lay out sort of a methodical and deliberate approach here and
11 help us make a more informed decision. So with that, I yield
12 back.

13 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

14 VICE CHAIR MILLER: Thank you, Mr. Chairman.

15 I concur with all the comments that have been made by
16 my colleagues and by the Office of Planning. I don't -- I do
17 not support -- I've never supported emergency action on this type
18 of a case because of the uncertainty and what -- I do not support
19 that. So I appreciate the recommendation. I'm surprised to hear
20 my sentences that are grammatically correct being quoted back to
21 me. I didn't know that I could -- anyway, thank you for quoting
22 me.

23 But I also agree with the comments made by Chairman
24 that OAG has brought this forward. And Commissioner May's comment
25 that it wasn't -- that in July, I did not consider the case

1 settled, that the Downtown zones that were exempt -- that are
2 still exempt from IZ would still -- would always be exempt. I
3 don't think the Zoning Commission, or I reached any determination
4 of that.

5 I think we were waiting for more economic analysis from
6 your premier team. And now, we need to hear it from the
7 petitioner in this case, OAG, who was very aware that we were
8 asking for that kind of analysis for the last couple years. So
9 we need that analysis. You know, when we -- when the -- you
10 referred Ms. Steingasser to the Downtown, Living Downtown
11 rezoning in the early 90s; were you there, Chairman Hood?

12 CHAIRPERSON HOOD: (No audible response.)

13 VICE CHAIR MILLER: Chairman (audio interference). I
14 think --

15 CHAIRPERSON HOOD: I was in elementary school.

16 VICE CHAIR MILLER: -- when the Chair -- were you on
17 the Commission at that point?

18 CHAIRPERSON HOOD: I was in elementary school, so I
19 didn't get until '98.

20 VICE CHAIR MILLER: You must have been watching though
21 because you -- so that was the big downzoning of downtown, the
22 economic engine of the city. Anyway, there's value -- the --
23 only to say that there's value, I real -- and I do realize that
24 IZ is a very delicately balanced program. And it's not designed
25 to get to the deeply -- the most deeply affordable housing, which

1 requires subsidies. And IZ, as I said in December at our meeting
2 when we acknowledged the receipt of these OAG amendments, IZ is
3 one of the only programs -- affordable housing programs in the
4 city that doesn't require a subsidy. So it's the market that
5 determines it. There are legal issues all around it.

6 Thankfully, even though we've been challenged on many
7 of our decisions, it has not been really successfully challenged,
8 and I'm not inviting any challenges by saying this, but it's been
9 a very successful program at getting incrementally, as you've
10 said, Mr. Chairman, more affordable housing in each project as
11 it comes forward. So I'm aware of that delicate balance, but I
12 think the downtown should be -- the Downtown zones that aren't
13 participating in it, even though there isn't the density
14 available to compensate, I think there's value. Certainly, the
15 Comprehensive Plan recognizes the value of the diversity of a
16 mixed income city that meets all needs of affordable housing
17 throughout all eight Wards.

18 And that 90's downtown housing requirement, I think
19 kind of proved that it didn't decrease the value of downtown
20 housing. Those assessments, thankfully, for us, for the city
21 have gone -- continued to go up with the housing and the mixture
22 of uses that's there. So I encourage the Office of Planning to
23 continue to look at how we can apply IZ to downtown and bring
24 forward a recommendation one way or the other, and we'll then
25 determine one way or the other whether we should proceed with any

1 application of IZ to the Downtown zones that are exempt. I know
2 that's very controversial, but I want you to bring something
3 forward that I don't think was definitively decided in July. So
4 I look forward to that analysis. And the petitioner, OAG, should
5 also provide additional analysis.

6 CHAIRPERSON HOOD: Okay. Thank you.

7 Any other questions or comments?

8 (No audible response.)

9 CHAIRPERSON HOOD: So I guess the path going forward
10 -- I don't think I heard any of my colleagues say anything about
11 being in support of the emergency action -- I, too, would like
12 to see the Office of Attorney General's analysis. And I would
13 like to see the Office of Planning's analysis before I even said
14 anything now. I'm not sure where others are. I probably could
15 go both ways. But I think it'd be better for me to have what
16 -- and here's what I still hear in my head. I hear a resident
17 in the city saying to the Board of Zoning Adjustment, "Well, the
18 Zoning Commission approved it," and I was on the case sitting
19 there like I don't remember doing that. So I want to make sure
20 that what I'm setting down, I understand what I'm setting down
21 what I'm doing. That's why I need the petitioner and the Office
22 of Planning to bring forward a report before I set it down. So
23 those are my comments. Let me hear from others. Commissioner
24 May?

25 COMMISSIONER MAY: No. I agree. I'm not going to

1 support any emergency action and want to hear more real set down.

2 CHAIRPERSON HOOD: Okay. Commissioner Shapiro?

3 COMMISSIONER SHAPIRO: No objection with that strategy,
4 Mr. Chair.

5 CHAIRPERSON HOOD: Okay. And Commissioner Imamura?

6 COMMISSIONER IMAMURA: I'm in agreement with you, Mr.
7 Chair.

8 CHAIRPERSON HOOD: And Vice Chair Miller?

9 VICE CHAIR MILLER: I concur.

10 CHAIRPERSON HOOD: Okay. So now, I don't want this to
11 be a three-year project, because it's very important. And I know
12 that -- and I don't want to be hard on OP or anybody. But I'm
13 still waiting on RA zones, and which I know that they are
14 incrementally working on, and I know it takes time. So I want
15 to be considerate of those -- because here's the issue, Anthony
16 Hood is not doing any work on that. Anthony Hood is looking at
17 it. And I do attend some of those classes at Harvard when they
18 talk about racial equity and I'm trying to learn this. But I'm
19 not the one doing all the detail work and I don't think any of
20 my Commissioners. We may do our individual stuff and trying to
21 make sure we stay up on what's going on. But I want to be
22 considerate of both Office of Attorney General and the Office of
23 Planning and whomever else. Well, just those two for now, as
24 far as doing the case. So I don't really know when they can
25 provide that to us and I'm not really sure how you're --

1 Ms. Steingasser, when do you think, realistically, we
2 could get some type of report?

3 MS. STEINGASSER: Well, if the Commission, you know,
4 OP has started to work on this already. So we began our --
5 building our model and looking at the combination of how all the
6 data will fit in there. I would say, we'd need at least two
7 months to get it -- you know, to get something back to you. You
8 know --

9 CHAIRPERSON HOOD: Okay.

10 MS. STEINGASSER: -- we tried to set things out in a
11 predictable format. And since we were not expecting this, you
12 know, we do -- we need to fit it into our work and we're happy
13 to do that because we do have some, you know, history with getting
14 this done. But I think for the sake of the downtown property
15 owners and the developers, the sooner we can get something
16 resolved, the better. I think it's better for the Commission,
17 housing providers and property owners so we -- I would -- where
18 are we now. Probably in April, we could get something back to
19 you.

20 CHAIRPERSON HOOD: Okay. Okay.

21 Let me just ask this, Commissioner Shapiro. Mr. Barron
22 and Ms. Schellin, I would like for you all to reach out to the
23 Office of Attorney General and tell them that we would like their
24 report in April. No, we want their report -- I think we want
25 their report sooner so we can do an analysis. And I want their

1 report. I want to decide -- I want their report as well. So
2 let me do that, Commissioner Shapiro, and then I'll open it up.

3 COMMISSIONER SHAPIRO: Yeah. I was just triggered by
4 something that Ms. Steingasser said, which I think is, you know,
5 we really want to be mindful of that, which is this conversation
6 is introducing a whole lot of uncertainty into the market, into
7 a subsection of the market. So, you know, this conversation can
8 sort of stop a bunch of people from doing some planning right
9 now until they get more certainty. So that's an argument, I
10 think, for what Ms. Steingasser says, which is to get this set
11 down as soon as possible so we can move the process forward.
12 And, you know, maybe to -- if, you know, so I appreciate you,
13 Ms. Steingasser, saying you can pull this off in two months and
14 readjusting your work plan. And Mr. Chair, keeping OAG on task
15 for that as well, I think is going to be very helpful.

16 CHAIRPERSON HOOD: So meanwhile -- and I hate to be
17 greedy, but meanwhile, my RA, is that going to get pushed further
18 back?

19 MS. STEINGASSER: No, sir.

20 CHAIRPERSON HOOD: Okay. Thank you. Because I was
21 going to push this back because we got to the RA. Okay.

22 COMMISSIONER MAY: If I may (audio interference), Mr.
23 Chair?

24 MS. STEINGASSER: Absolutely.

25 COMMISSIONER MAY: Good answer, Ms. Steingasser.

1 MS. STEINGASSER: It is still our number one on our
2 list.

3 CHAIRPERSON HOOD: Okay.

4 All right. Ms. Schellin, you want to add something?

5 MS. SCHELLIN: I just want to ask the Commission, since
6 you do want to have the petitioner file an analysis too, typically
7 that would come in, so that OP would have it before they do their
8 set down report. Since they want to come back with set down, it
9 sounds like in April, if we could ask the petitioner, we can
10 reach out to them to file their analysis by March 28th. That
11 way, OP will have it prior to their bringing a set down report.

12 Ms. Steingasser, would that work and give you guys
13 enough time to have it?

14 MS. STEINGASSER: I'm sorry, what was the date you
15 said?

16 MS. SCHELLIN: March 28th, or would you need it before
17 then, March 15th?

18 MS. STEINGASSER: March 15th would be better.

19 MS. SCHELLIN: Okay.

20 MS. STEINGASSER: We need time to again, think it
21 through and then process it and get it into (audio interference).

22 MS. SCHELLIN: Okay. And is the Commissioners okay
23 with that with -- to ask --

24 CHAIRPERSON HOOD: That's fine.

25 MS. SCHELLIN: -- the petitioners to do that?

1 CHAIRPERSON HOOD: Yes, that's fine.

2 MS. SCHELLIN: Okay.

3 CHAIRPERSON HOOD: But I will tell you that, when that
4 comes in, I, too, I'm very interested in seeing the proposal.
5 Again, I appreciate the conversation, but I'm very interested
6 myself in seeing it. And I know we usually get it a few days
7 before. This is one that I would like before so I can start
8 digesting their path of thinking. So I'm not sure we can get
9 it, but that would be very helpful if I get it a little earlier,
10 so then I will be familiar with what OAG is saying and then when
11 I get OP's, then I can kind of go back and forth between the two
12 and dissect it. So I don't know how others feel, but I think
13 that would be very helpful for me.

14 MS. SCHELLIN: And if I could just say one more thing,
15 since OP mentioned other cases in their report. I know they're
16 not before you this evening, but were they also -- were you also
17 OP looking for an analysis in those cases, so OAG will know ahead
18 of time whether they need to be doing that in those cases too
19 before you bring them for set down, so they know or not?

20 CHAIRPERSON HOOD: Normally, we always get analysis
21 from the petitioners to help us. I'm wondering -- when we get
22 there, I'm sure I will, unless something changes with this one,
23 I'm sure, I will ask for that -- for those cases as well. Going
24 to ask them for all cases.

25 MS. STEINGASSER: Okay. All right. Thank you.

1 CHAIRPERSON HOOD: I actually think that would be very
2 helpful; advantageous for us to make an informed decision, so
3 that's kind of where I am. I don't know what others feel. Others
4 want to opine on that?

5 (No audible response.)

6 CHAIRPERSON HOOD: Okay. So nobody disagreed with it?
7 Okay. Good.

8 All right. So what are we doing now? So we are just
9 waiting for everybody to come back. Ms. Schellin and Mr. Barron
10 are going to contact everybody, and then we will revisit this at
11 some point in April.

12 MS. SCHELLIN: And take a vote on the emergency action.

13 COMMISSIONER MAY: Yeah.

14 CHAIRPERSON HOOD: Take a vote on the emergency action.

15 MS. SCHELLIN: Either to approve or deny emergency
16 action.

17 VICE CHAIR MILLER: Right.

18 CHAIRPERSON HOOD: Okay. I move that we deny the
19 request -- due to discussion, I move that we deny the request on
20 emergency action of Zoning Commission Case No. 21-23 and ask for
21 a second.

22 COMMISSIONER MAY: Second.

23 VICE CHAIR MILLER: I would second that, Mr. Chairman.
24 But I wanted to -- I'm sorry, I meant to ask this previously. I
25 think --

1 CHAIRPERSON HOOD: So Vice Chair, let's do it this way.
2 It's been moved and properly second. Any further discussion?

3 VICE CHAIR MILLER: I vote on behalf -- okay.

4 CHAIRPERSON HOOD: Vice Chair?

5 VICE CHAIR MILLER: I wanted to ask the Office of
6 Planning, Ms. Steingasser, to just briefly summarize the two
7 recent -- if you're able to -- amendments that the Zoning
8 Commission made to inclusionary zoning expanding inclusionary
9 zoning that have the potential to increase affordable housing in
10 furtherance of the Mayor's Order and the Comprehensive Plan
11 policies adopted by the Mayor and the council recently.

12 MS. STEINGASSER: Okay. And I have -- I actually
13 anticipated this question.

14 Mr. Young, could you put the slides up, please?

15 CHAIRPERSON HOOD: Let me ask this.

16 VICE CHAIR MILLER: (Audio interference). We just
17 anticipated it and I just thought of it, so.

18 CHAIRPERSON HOOD: Let me say this. We have a motion
19 on the table. Vice Chair, will that affect this motion? So if
20 not --

21 VICE CHAIR MILLER: It will not. So we can do it
22 afterwards.

23 CHAIRPERSON HOOD: Yeah. Let's carry the motion and
24 that way, we can do that.

25 VICE CHAIR MILLER: I guess.

1 CHAIRPERSON HOOD: So we move --

2 VICE CHAIR MILLER: I thought it was important to have
3 that on the record.

4 CHAIRPERSON HOOD: Okay. Because Commissioner Shapiro
5 want to keep me on my parliamentary procedures, so I want to make
6 sure I do this right. It's been moved and properly second.

7 Any further discussion?

8 (No audible response.)

9 CHAIRPERSON HOOD: Not hearing any.

10 Mr. Barron, would you do -- record the vote, I mean,
11 do a roll call vote, please?

12 MR. BARRON: Commissioner Hood?

13 CHAIRPERSON HOOD: Yes.

14 MR. BARRON: Commissioner Miller?

15 VICE CHAIR MILLER: Yes, to deny the motion for the
16 emergency request.

17 MR. BARRON: Yes. Commissioner Imamura?

18 COMMISSIONER IMAMURA: Yes.

19 MR. BARRON: Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: Yes, to deny.

21 MR. BARRON: And Commissioner May?

22 COMMISSIONER MAY: Yes.

23 MR. BARRON: The vote is 5-0-0 to deny the request for
24 emergency action in Case No. 21-23.

25 CHAIRPERSON HOOD: Thank you. I'll turn it back over

1 to Vice Chair Miller and Ms. Steingasser.

2 VICE CHAIR MILLER: Proceed Ms. Steingasser. Thank
3 you.

4 MS. STEINGASSER: Okay. Mr. Young, could you -- there
5 we go. Thank you.

6 Next slide, please.

7 So this kind of highlights the summary of the work that
8 we've been doing in our drive towards housing and affordable
9 housing. And the amendments to the inclusionary zoning program
10 are the -- on the top. In 2016, the Zoning Commission, as you
11 remember, had a set of public hearings where we went into great
12 detail about the appropriate MFI and we adjusted it for 10 years,
13 so that it went it went from a combination of 50 and 80 to 60
14 percent for rental and 80 percent for homeownership.

15 We also, that year, expanded the program to allow
16 people to opt in, what we called "the opt in provision," where
17 properties that were not subject to IZ could voluntarily come in.
18 And that was -- that has proved to be very successful. It also
19 relieves a lot of the burden that we were faced with when
20 applicants wanted to provide extra units. They could do so by
21 opting into this program and not have to go through a variance
22 because of the bonus that was created. So that's been very, very
23 successful.

24 Then last year, or I guess 2020, we did the IZ Plus and
25 that, as you know, is the (indiscernible) scale that is based on

1 changes to the zoning in response to changes on the FLUM in the
2 future land-use map. That has really started to produce some
3 results this year as -- after the future land-use map got adopted
4 with the Comprehensive Plan, there was -- I don't want to say a
5 log jam, but there was a lot of pent-up cases that were waiting
6 for that Comprehensive Plan to be adopted.

7 Once it was adopted, we've had several different IZ
8 Plus cases filed or that the Office of Zoning has initiated --
9 and the Office of Planning has initiated and you're seeing one
10 of those tonight that Ms. Thomas set down in Ward 7. So any of
11 those that we are bringing forward will most likely now have IZ
12 Plus or it'll be an analysis as we've seen in some of the cases
13 over the last couple months where we determined IZ Plus was not
14 appropriate. And that is also a real advantage of the IZ Plus,
15 is it can fluctuate and accommodate the surroundings.

16 The IZ-XL Phase I and II, this is one where we took the
17 geographic boundaries that had been previously exempt, mostly
18 historic districts, and we did another analysis to see whether
19 there was indeed an opportunity to absorb some of the bonus
20 density. We found that there was. And so the Commission has
21 expanded that IZ program into several of those areas. And then
22 IZ II, we looked at conversions. And that was applying IZ because
23 conversions had been previously exempt from IZ -- if you were an
24 office building and you were converting to residential or any
25 kind of non-residential -- it was not subject to IZ. Now, it

1 will also be subject to inclusionary zoning.

2 And we also raised the -- what we call the high trigger.
3 So where there's a distinction between type one and non-type one
4 construction, things stick built versus what we think of the
5 steel and concrete, that had previously been set at 50 feet. The
6 building code adjusted that to 85 feet, and we followed suit in
7 IZ-XL, and the Commission adopted that change as well. That's
8 going to have a significant amount of yield because there were a
9 lot of projects that were being built to 85 feet being stick
10 built. but the 50-foot trigger and zoning regulations exempted
11 that. We kept it at the lower standard of 8 percent versus the
12 10 percent, so that also will be yielding a fair amount of
13 numbers.

14 And then finally, the new zoning that focused on the
15 MU zones, we just created -- I think there were three new zones
16 that have adjusted the residential and the non-residential
17 distribution within the FARs. That feeds into the IZ Plus and
18 guarantees that properties zoned under that, that move through
19 the IZ Plus, will indeed have the IZ plus standard as opposed to
20 the non-IZ Plus standard. So the Commission has done a great
21 deal of work in the last couple of years going through that and
22 pulling in all the pieces and re-examining them as codes change
23 and as the opportunities for development have changed.

24 And then the lists in blue are what we're working on
25 this year. And as you can see, there's the consistency map

1 | amendments coming from the Comprehensive Plan. We've also got,
2 | just as an aside, we're currently talking with nine -- about nine
3 | separate PUDs that we have not seen PUDs in a long time, so those
4 | are beginning to come back. People are interested in how to have
5 | those projects come forward. We've got six that are real
6 | projects; three that are in the early stages, so we'll be bringing
7 | those forwards.

8 | And then the text amendment to ease housing, right on
9 | top; number one, RA-1 Zone amendments. So that's, Mr. Hood,
10 | we're not going to forget those. We're also looking at alley
11 | lots and how we can work through the alley lot and the difference
12 | between tax lots and regular lots in the alleys. And also, we're
13 | examining the accessory apartment regulations again. And then
14 | of course, the faith-based zoning. We're working with the faith-
15 | based community, and that's going to also produce a lot of
16 | opportunities in land in how to bring that forward.

17 | So that's what we're doing this year. And we're happy
18 | to re-examine the D zones as part of this and bring -- and get
19 | that settled.

20 | VICE CHAIR MILLER: Well, I thank you for that report.

21 | MS. STEINGASSER: Did I anticipate more than you were
22 | actually going to ask?

23 | VICE CHAIR MILLER: That was good.

24 | CHAIRPERSON HOOD: I thank you too for that report
25 | because after we finished this, I was going to ask for an update,

1 | but you've already done that, so thank you. And we're probably,
2 | Ms. Steingasser, we have -- every meeting, we -- not every
3 | meeting, but I think we have one -- every one meeting a month,
4 | let's kind of keep an update going so to stay fresh, fresh with
5 | us as well, so. All right.

6 | MS. STEINGASSER: Absolutely. I'd like to --

7 | CHAIRPERSON HOOD: Okay. Thank you.

8 | Any other questions or comments for Ms. Steingasser?

9 | (No audible response.)

10 | CHAIRPERSON HOOD: So I think we have dissolved that
11 | case. So we -- anybody need to take a break?

12 | (No audible response.)

13 | CHAIRPERSON HOOD: We have one more agenda item. Okay.

14 | Let me call the next agenda item. And thanks again to
15 | the Office of Planning and the Office of Attorney General and
16 | everybody on this one.

17 | Under correspondence -- and this was the way I work
18 | with staff to try to figure out a way to proceed with this,
19 | because this is not the norm. So anyway, let's do this.

20 | This is a request for emergency public hearing on
21 | George Washington University's proposal to use hotel rooms off-
22 | campus for student quarantines. GW, George Washington University
23 | Campus Plan, Zoning Commission Case No. 06-11/06-12. We have a
24 | request from the West End Citizens Association and Foggy Bottom,
25 | requesting for an emergency hearing. So I thought to expedite

1 | it, because I noted that the hearings take a few days and, you
2 | know, we got to go through all the legal requirements. And even
3 | if we waive some things, we still -- it still will take some
4 | time, so I thought it'd be good to bring it, and I think Ms.
5 | Kahlow is representing both groups. And then we have Mr. Charles
6 | Barber, who is representing GW. So I thought it'd be quick, and
7 | I hope my colleagues, your mind -- I thought it would be quick
8 | for us to try to hash this out right quick. And I would ask Ms.
9 | Kahlow and the representative from GW, I believe, it's Mr. Barber.

10 | But let me do this. Mr. Barron, did you want to tee
11 | that up or did I tee it up or no?

12 | MR. BARRON: You covered all of my notes that I'd put
13 | in to tee up, Mr. Chair.

14 | CHAIRPERSON HOOD: Okay. All right.

15 | Ms. Kahlow, let's bring Ms. Kahlow up and Mr. Barber.

16 | Good evening. So I think staff has already worked out
17 | with you. If you can explain to us what's going on for three
18 | -- both of you will have three minutes. Ms. Kahlow, you -- let's
19 | start with you, Ms. Kahlow.

20 | MS. KAHLOW: Okay. I don't see my picture. Do you
21 | hear me?

22 | CHAIRPERSON HOOD: Yeah, I can hear you, but we would
23 | love to see you. I haven't seen you in a while.

24 | MS. KAHLOW: Thank you. I don't know how to do that.

25 | CHAIRPERSON HOOD: If you hover over -- there you go.

1 MS. KAHLOW: Thank you. I'm sorry.

2 CHAIRPERSON HOOD: Good to see you.

3 MS. KAHLOW: Thank you for letting us today.

4 The Foggy Bottom Association and the West End Citizens
5 Association are the two major citizens associations in Foggy
6 Bottom West End. And we decided to file a joint letter last
7 Sunday, January 9th, requesting an emergency public hearing since
8 our community is worried about the off-campus location for GW
9 contagious students. The GW campus plan governs what's allowed
10 on and off campus.

11 In October 2020, I testified in front of the Zoning
12 Commission in a proposed text amendment case to Subtitle D, and
13 I requested the Commission to require universities to quarantine
14 all students on campus in university facilities. In addition,
15 the WECA asked the universities to be required to take
16 responsibility for minimizing COVID risk in the neighborhoods.

17 In another case, the 06-11Q, 06-12Q, which is a campus
18 plan case, the Commission conditionally approved GW's campus plan
19 modification to temporary house off campus due to a major
20 renovation for its large Thurston dormitory, and this is similar.

21 On January 4th, the two civic associations received an
22 e-notification that GW planned to house 250 quarantined students
23 in a hotel off campus -- outside of the campus plan boundaries
24 in a mixed-use MU-10 Zone abutting several residential zones and
25 surrounded by high-rise apartment buildings. So I sent an email

1 back quote, "Will GW be filing an emergency amendment to the GW
2 Foggy Bottom Campus Plan Order?" unquote, and the answer was no.

3 However, since our filing, our joint filing, the
4 Executive Vice President of the University contacted me to
5 discuss the campus plan process, the community concerns and to
6 tell me that this is only a last resort contingency plan unlikely
7 probably to happen. But in any case, we hope that GW will rethink
8 its plan or file a campus plan modification case if in fact, they
9 are going to move ahead with any off-campus location for GW
10 contagious students.

11 Thank you for giving us an opportunity to object to the
12 off-campus quarantine.

13 CHAIRPERSON HOOD: Okay. Thank you, Ms. Kahlow.

14 We have Mr. Avitabile. I don't know if you're going
15 to start, Mr. Avitabile, or Mr. Barber, but I'll turn it over to
16 GW.

17 MR. BARBER: Thank you. I'll start and then Mr.
18 Avitabile can join me. My name is Charles Barber. I'm Interim
19 Vice President and General Counsel at George Washington
20 University. Good to see you all again.

21 Look, I appreciate, and George Washington University
22 appreciates Ms. Kahlow's concerns and those of WECA and the Foggy
23 Bottom Association. We will not be seeking any kind of relief
24 in the campus plan; we do not think any is warranted. This use
25 of this facility is a contingency plan, a temporary contingency

1 plan as a response to recent significant increases of spikes in
2 COVID positive cases due to the Omicron variant. We isolate our
3 students on campus and that is our first priority. We did that
4 all through the fall. We use the vacant rooms we have for that
5 purpose. We have increased the number of rooms on campus, the
6 number of vacant rooms for the spring semester.

7 We also utilize, where students are housed in single
8 rooms, we require them, if they test positive, to house in place
9 in the single rooms. In those cases where there are roommates,
10 if both roommates test positive, we require them to house and
11 stay in their housing on campus. But due to the unprecedented
12 spike in COVID cases that began in December and we're still seeing
13 it, we have -- we are beyond the capacity that we have on campus.

14 So as a prudent matter, we reserved a block of rooms
15 in a residence -- in a hotel north of campus. It is not located
16 in a residential zone and that's significant, because our campus
17 plan talks about not master leasing property in residential
18 zones, that that condition is not implicated, but this is a
19 temporary measure in response to an emergency. What we did, as
20 soon as we realized we needed this, we notified the local ANC.
21 We notified the FBA, WECA. We notified the zoning administrator,
22 and we had a conversation with the Office of Planning.

23 I'm pleased to report that the local ANC, ANC 2A has
24 submitted for the record a letter of support. They realized that
25 this is a hyper local response to a possible COVID surge and it's

1 a careful plan based upon the advice from GW Health. And I want
2 to emphasize, this is just part of our COVID response. We have
3 a full panoply of actions we've taken; mandatory vaccinations for
4 all of our population, mandatory booster shots -- booster shots,
5 N95 masks that they'll now be wearing, regular testing every two
6 weeks. Testing as soon as they come back to campus.

7 So this use of this one off-campus facility for a
8 temporary period of time; it started January 8th because we needed
9 it on an emergency basis, and we envision that it will go to
10 February 26th. It is a temporary relocation. And we think it's
11 a prudent move in the face of an unprecedented healthcare
12 emergency. We've taken great pains working with the operator to
13 segregate these students in this hotel. They will have separate
14 facilities to check in, separate elevator, and they will be
15 entirely segregated.

16 These students will spend -- our first choice is to
17 house them on campus, but where we don't have the capacity, we
18 move them off-campus for 10 days. After 10 days, they return
19 back to campus. So this is not a campus plan violation. The
20 only condition that could be at issue, that is at issue, is
21 Section C7 of the campus plan, the Foggy Bottom 2007 Campus Plan,
22 which requires the University to require Foggy Bottom freshmen
23 and sophomores to reside in housing located within -- on campus
24 housing within the campus plan boundary.

25 The key phrase -- the key word is to reside. And Ms.

1 Kahlow is right. And with Thurston, and the last case we had
2 before the Zoning Commission, when we are renovating our major
3 dormitory, we knew we had to reside students off campus for some
4 two years, certainly longer than a semester. We reached out to
5 the community, we entered into a voluntary neighborhood
6 agreement, we came to the Zoning Commission asked and got approval
7 to amend our -- this condition to allow that off-campus housing.
8 That's not the issue here.

9 This is a temporary relocation in the face of an
10 emergency. It should not require an amendment to the campus
11 plan. We had to push to get it in place quickly, and we hope we
12 won't need it for very long. We're seeing some early signs of
13 some decreases in positive cases. Still high, still too early
14 to tell, but we will not use this off-campus facility for any
15 longer than absolutely necessary. We are doing this at some
16 great deal of expense, but more importantly, it is disruptive to
17 our students, and so we will only put it in place so long as it
18 is medically necessary.

19 CHAIRPERSON HOOD: Okay.

20 MR. BARBER: My final point is that this is not simply
21 a GW matter. My information is that other universities have also
22 made arrangements because it is a prudent thing to do in the face
23 of emergency when you are exceeding your capacity on campus.

24 The last point I would make is, as I said, we reached
25 out to the neighborhood groups, reached out to the zoning

1 administrator, who also said he understood this was an emergency,
2 keep him informed at the conclusion of the emergency, which we
3 will do for all the groups we have notified.

4 So we think this is a prudent measure in response to
5 the emergency that we will keep in place no longer than absolutely
6 necessary. Thank you.

7 CHAIRPERSON HOOD: Let me just say this, Ms. Kahlow and
8 Mr. Barber and Mr. Avitabile. I allowed this. I didn't want to
9 have a lot of back and forth. I asked for three minutes. My
10 colleagues, I don't even think they know I even did this, so
11 anyway. What I want -- what I would like to do since -- Mr.
12 Barber, it's good seeing you too as well -- but I would like to
13 give Ms. Kahlow a little more time, because I think you took a
14 little more than three minutes.

15 MR. BARBER: Fine.

16 CHAIRPERSON HOOD: And I want to -- one thing I try to
17 do is be fair.

18 MR. BARBER: Fair is good.

19 CHAIRPERSON HOOD: Okay. So Ms. Kahlow.

20 MS. KAHLOW: Thank you.

21 I was concerned about two things that he said that I
22 didn't know. The ANC has not met since November. The ANC can't
23 submit a letter without having a public meeting, so the ANC has
24 taken no public position whatsoever. Meanwhile, we have so many
25 people in our community that raised so many questions, that's why

1 we wanted a hearing. People are very, very concerned and worried.
2 Number one.

3 Number two, you said other universities. Other
4 universities are doing off campus, that's completely news to us
5 in D.C. Which other universities are off campus?

6 MR. BARBER: We've had a conversation with some of our
7 colleagues who have made arrangements with similar off-campus
8 facilities.

9 MS. KAHLOW: Anybody in D.C., which one?

10 MR. BARBER: Yes. Oh, no. I'm only talking about the
11 District of Columbia. That's all that's relevant to this.

12 MS. KAHLOW: Which schools?

13 MR. BARBER: Well, I --

14 CHAIRPERSON HOOD: Ms. Kahlow, I think, out of respect
15 --

16 MS. KAHLOW: (Audio interference).

17 CHAIRPERSON HOOD: Out of respect to the other
18 universities, I think if he had that conversation, not to stir
19 anything up, we'll get people upset, I think he might need not
20 to disclose that unless he chooses to.

21 MR. BARBER: No. I'd rather not.

22 CHAIRPERSON HOOD: Ms. Kahlow, I know as good as you
23 are, you will find out anyway.

24 MS. KAHLOW: I will. I'll ask -- I will and then I'll
25 probably --

1 CHAIRPERSON HOOD: I did not want to wait and to go
2 through all of the logistics of a hearing. That's why we're
3 doing this today, and I hope we can try to figure this out.

4 When I look at the -- this is me, and my colleagues can
5 opine. When I looked at this, when I heard about this, I remember
6 when we had to deal with some issues with Universities across
7 -- as a whole across the city with this pandemic. Nobody really
8 knows, nobody could see it, nobody knows -- so it's a scary
9 situation. People have died, a lot of people. A lot of people
10 we know, our loved ones and friends. So I understand the
11 community's concern. But I think out of all of this, and I think
12 I've said this before, and I'll stand to be corrected, is that
13 when the Mayor has a declaration, a public emergency, a health
14 emergency, I just think that that supersedes everything else. So
15 -- but let me let me back up. Ms. Kahlow, is it -- is February
16 the 20 -- Mr. Barber, February 28, or whatever the date is, is
17 that the last date --

18 MS. KAHLOW: 26.

19 CHAIRPERSON HOOD: 26, is that the last date they're
20 going to be there?

21 MR. BARBER: That is the last date that we are
22 projecting. I will have to be candid with you, we're going to
23 assess medical conditions and what's happening with the COVID at
24 that time and see what it is doing with our capacity. It's
25 looking like it's on a downward trend. Quite frankly, we don't

1 have to use the last campus, 31 rooms of the maximum of 250. So
2 we hope by February 26 to bring this to an end. It is intended
3 to be temporary. And February 26 looks like the right date. We
4 just reserved the need -- the right to actually address the
5 healthcare need at that time and see if we can -- it is prudent
6 to bring it to an end. We're being guided by medical data when
7 we put this in place, and we'll be guided by medical data when
8 we remove it.

9 CHAIRPERSON HOOD: So Ms. Kahlow, out of respect to the
10 community and you and others in the organization, I'm trying to
11 ascertain, is there a fix -- because here's the thing. I'm being
12 honest. You know, I'm afraid of this virus as everyone else is,
13 and people are doing everything they need to do to try to stay
14 free of it or try to take care of the ones who need assistance
15 and help. So I don't know what else to do. I don't think it
16 was incumbent upon the Zoning Commission. I'm not sure what we
17 are asked to do. But I don't think it's incumbent upon us to
18 say that somebody is in violation in a public health emergency.
19 I just don't -- I'm trying to figure out what it is Ms. Kahlow,
20 I have a lot of respect, but what it is that you want us to try
21 to do?

22 MS. KAHLOW: Well, we think there's plenty of capacity
23 in -- on the University campus, especially since students are not
24 coming home. We suggest they use a small university dorm, and I
25 discussed this with the Executive Vice President. There are many

1 options on campus instead of contaminating our neighborhood. Our
2 neighborhood, because we're mostly seniors, people are terrified,
3 and this is not fair. They're terrified to go anywhere outside,
4 even to a grocery store. Now, they're being more terrified.

5 CHAIRPERSON HOOD: So Mr. Barber, and I'm trying to
6 -- I'm probably not going to win this either way, but Mr. Barber,
7 is there somewhere on campus. Because -- but to Ms. Kahlow's
8 point, a lot of them are seniors and the younger people could
9 probably fight this off. I don't know. You know, and I'm not
10 sitting here being a medical doctor, I'm not a scientist, I'm
11 just going by what I've been hearing. I watch the news like
12 everybody else. And I understand our seniors are very vulnerable
13 and they're very frightened. So is there any place on the campus
14 that we can ascertain to get the same -- work to keep them on
15 campus? Even though I know -- let me ask you, do they circulate
16 now? Do they go out and do things even in the hotel?

17 MR. BARBER: In the hotel, oh, no. So let me address
18 this. I understand the fear, and we all have a certain degree
19 of fear. But we also need to look at the facts. And the facts
20 are, we have maximized our use of on-campus space for isolation.
21 And we managed this throughout the fall and in previous times.
22 It is only because of this unprecedented surge, unprecedented surge
23 in positive cases that we exceeded our capacity. But we are
24 making use, as much as we can, of the vacant rooms we have,
25 keeping people in their rooms. There's not simply another

1 residence hall that's sitting and available that we can use. So
2 we don't have capacity. That's one.

3 Two, these students who are being isolated are not
4 moving around in the community. They're being transported to the
5 hotel. They're being escorted to their rooms through a special
6 check-in facility through a special elevator. They are remaining
7 in their rooms; meals to be delivered to them for their 10-day
8 of isolation, and then they are being returned to the campus.
9 There's no moving around in the neighborhood. The neighborhood
10 is not at risk. And the ANC letter, at least, you know, whether
11 it was a meeting or not, there was -- the letter talks about the
12 conversation they've had with businesses in that particular area
13 who understood this and have no concern because they understood
14 how isolated this was. That's the whole point. You are isolated
15 from everybody. There is no contact with anybody else other than
16 University administrators, who get them there and take them back.

17 MR. KAHLOW: I don't -- I can't understand that.

18 CHAIRPERSON HOOD: Okay. Let me do this. Let me do
19 this.

20 MR. KAHLOW: Okay. Yeah.

21 CHAIRPERSON HOOD: Ms. Kahlow, I'm going to let you
22 have the last word because I don't want this to turn into a
23 hearing, because I probably shouldn't have done this to begin
24 with, but I run the risk of trying to -- I like to resolve stuff.
25 I don't like stuff just sitting out there. And then I need to

1 | hear from my colleagues and then we'll go from there.

2 | So Commissioner May. Ms. Kahlow, I'll give you --

3 | MR. KAHLOW: Okay. I'll just make one comment about
4 | -- the hotel itself has an air system that goes all the way
5 | through the hotel. So it's not a separate air system. The
6 | occupants of the hotel, at the same time as the students, are at
7 | risk. And I can't imagine why the University would pick a hotel
8 | that is going to have only park them and park other -- park
9 | outgoing neighborhood, I mean, it puts everybody at risk. I am
10 | very upset about that.

11 | CHAIRPERSON HOOD: Okay. I understand both sides. I
12 | understand the concern. That's not going to help anybody.

13 | Commissioner May, I saw your hand up. And I'll go
14 | through all my Commissioners, give your thought and then we'll
15 | figure it out from there.

16 | COMMISSIONER MAY: Right. Mr. Chairman, I appreciate
17 | the concerns of the neighbors. I especially appreciate the
18 | actions of the University to manage their role in this public
19 | health emergency. But essentially, what this boils down to from
20 | a zoning perspective, is that the zoning administrator has
21 | determined that this is a matter of right use. And I do not
22 | believe that we have any cause to hold a hearing, any reason to
23 | object. And I think that the University is acting responsible,
24 | I mean, just beside that, the University is acting responsibly,
25 | and we don't need to discuss this matter any further. That's my

1 opinion.

2 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
3 Shapiro?

4 COMMISSIONER SHAPIRO: Yeah. Similar, Mr. Chair.
5 First of all, I appreciate you providing the forum -- these are
6 unusual times and I appreciate you providing the forum and
7 allowing for, you know, for the concerns to be aired. But this
8 is not in our purview. And the zoning administrator has already
9 stated where he is on this, so I agree with Commissioner May.

10 CHAIRPERSON HOOD: Okay. Commissioner Imamura?

11 COMMISSIONER IMAMURA: I agree with my colleagues,
12 Commissioner May and Commissioner Shapiro that this lies with the
13 zoning administrator. I think everybody's point is well taken,
14 and I think the University has made a good faith effort to manage
15 this and it is unprecedented times and temporary use.

16 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

17 VICE CHAIR MILLER: I thank you, Mr. Chairman.

18 I concur with everything that's been said. I
19 appreciate Ms. Kahlow bringing the issue to us. I appreciate Mr.
20 Barber's response. And we have the University, which I think has
21 been a responsible response. And I appreciate you, Mr. Chairman.
22 These are unprecedented times, and you (indiscernible) out a --
23 basically, a public hearing on a correspondence item that came
24 in. I don't recall that ever happening. But I think it was
25 important to do that. This is a public -- we're in a public

1 health emergency as recently reaffirmed by the Mayor. That's
2 clearly, as Commissioner Shapiro said, it's outside of our
3 purview. I do have a curiosity. Mr. Barber, though, how many
4 students, just out of curiosity, it has nothing to do with what
5 we're doing, how many students are being quarantined at the hotel
6 and what percentage of that is of your on-campus current student
7 population? I'm just wondering if you know that -- if you happen
8 to know that, just for the public record since we're talking
9 about all of this.

10 MR. BARBER: Well, I can give you a hard number of how
11 many students are at yours truly. As of yesterday morning, the
12 last data point I have was 31. We have -- in terms of the total
13 number of students we have on campus, I'd really have to
14 guesstimate. It's in the neighborhood of 5,000. They've been
15 in the process of moving in, and I think that ballpark figure is
16 correct.

17 Approximately 10 percent of our population has been
18 testing positive. And that's, you know, total population, and
19 they are being isolated in other locations where and, you know,
20 for our staff, they are isolating at home. For students in the
21 residence halls, there are many people -- students -- the number
22 of students that are isolating on campus far exceed the number
23 isolating in yours truly.

24 Because again, yours truly is a kind of backup measure.
25 We look first to isolate those students on campus. At any given

1 | time, I think there may be in excess of a couple hundred who are
2 | isolating on campuses of our students. So the 31 is a fraction
3 | of that number. I hope that gives you some context.

4 | VICE CHAIR MILLER: Okay. Thank you for providing me
5 | that information.

6 | CHAIRPERSON HOOD: Okay. First of all, let me thank
7 | my colleagues for allowing us to be able to do this and
8 | participate in this. And I want to thank Ms. Kahlow and Mr.
9 | Barber and Mr. Avitabile for doing this. I think it's much
10 | quicker than doing a hearing, even though some people may allude
11 | to this as being the hearing. Also, I'll probably be in trouble,
12 | but I want to make this point. This is not the normal process.
13 | This is not the normal proceeding.

14 | Again, as one of my colleagues mentioned, this is
15 | unprecedented times. This virus has all of us doing things
16 | differently. We would normally be in the hearing room. We are
17 | here on our laptops, computers doing this virtually. So again,
18 | what I'm going to ask Mr. Barber, and this is just me because
19 | you've heard from my colleagues, Ms. Kahlow and (audio
20 | interference), I'm going to ask you all to continue to work
21 | together. I've heard the plan that you're putting in.

22 | I'm looking for -- I know Ms. Kahlow and her
23 | organizations are looking for the good neighbor policy, and they
24 | are seniors. So I'm going to ask you to do everything we can to
25 | help protect our seniors and our students.

1 MR. BARBER: Yes.

2 CHAIRPERSON HOOD: So it sounds like from your plan,
3 it sounded like you're doing it, but I would -- it would be great
4 if Ms. Kahlow and the community would have a comfort level, and
5 more collaboration and more conversation. That's all I can do.
6 I have no power. I'm trying to stay protected myself. I'm trying
7 to keep my family, like all of us are doing. And I'm trying to
8 look out for my neighbors and the people I come around.

9 MR. BARBER: I appreciate that.

10 CHAIRPERSON HOOD: When I see my neighbors, I walk
11 further away from them. And, I mean, that literally because I'm
12 trying to protect them and I'm hoping they are trying to protect
13 me, so I'm asking you all to do the same thing.

14 MR. BARBER: Sir, we could (audio interference).

15 CHAIRPERSON HOOD: I'm sorry.

16 MR. BARBER: Can we do the dialogue? Go ahead.

17 CHAIRPERSON HOOD: Ms. Kahlow, this may not have been
18 the outcome that you were looking for. Mr. Barber, this may not
19 be the outcome you were looking for. But I ask you all -- this
20 is only my ask and the Commissioner's ask -- you all continue to
21 work together. And for the public, this is not precedent setting.
22 We don't normally do this, but this is a different time.

23 Anything else on this, Ms. Kahlow, Mr. Barber?

24 MS. KAHLOW: Thank you so much for giving us this
25 opportunity to be heard.

1 CHAIRPERSON HOOD: You're welcome.

2 MR. BARBER: Thank you for hearing from us.

3 CHAIRPERSON HOOD: Okay. Thank you. Thank you, all.

4 MR. AVITABILE: Thank you.

5 CHAIRPERSON HOOD: All right.

6 Mr. Barron, do we have any anything else before us?

7 MR. BARRON: It does not appear that we do, Mr.

8 Chairman.

9 CHAIRPERSON HOOD: Okay. Good.

10 All right. I want to thank everyone for their
11 participation in this meeting. The Zoning Commission will be
12 meeting again. Give me one second. The next meeting is January
13 the 24th?

14 MS. SCHELLIN: Uh-huh. We got a whole week. Monday
15 is a holiday.

16 CHAIRPERSON HOOD: Okay. Oh, that's right. Okay.
17 Yeah. Oh, I definitely don't want to forget the holiday. Okay.

18 So we have Steuart Investment Company, Zoning
19 Commission Case 21-20 on January 24th, 2022. We'll be hearing
20 from the Steuart Investment Company, and we will be on these same
21 platforms. So I want to thank everyone. Continue to be safe
22 and take care and good night.

23 (Whereupon, the above-entitled matter went off the
24 record at 5:56 p.m.)

25

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Regular Public Meeting

Before: DCZC

Date: 01-13-2022

Place: Teleconference

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

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