

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

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IN THE MATTER OF: :

Office of the Attorney : Case No. 19-14

General Request for : :

Technical Correction to : :

Order No. 19-14(1) : :

Final Action : Case No. 21-15

S Street Village - : :

Map Amendment @ : :

Square 442 : :

Final Action : Case No. 19-29

UM 1348 4th Street NE : :

LLC - : :

Consolidated PUD & : :

Related Map Amendment : :

@ Squares 3587 & 3594 : :

Hearing Action : Case No. 21-21

Midici Road - : :

Map Amendment @ : :

Square 5154 : :

Hearing Action : Case No. 16-02D

NRP Properties, LLC - : :

Consolidated PUD & : :

Related Map Amendment : :

@ Square 772-N : :

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THURSDAY
MARCH 10, 2022

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

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER MAY, Commissioner
- JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF PRESENT:

- BRANDICE ELLIOTT
- STEPHEN MORDFIN
- JENNIFER STEINGASSER

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 March 10, 2022.

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

(4:00 P.M.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen, we are convening and broadcasting this public meeting by video conferencing. My name is Anthony Hood. Joining this are Vice Chair Miller, Commissioner May, and Commissioner Imamura. We're also joined by the officers on the staff, Ms. Sharon Schellin; as well as Mr. Paul Young, who will be handling all of our virtual operations. From our Office of Zoning Legal Division we have Ms. Lovick, Mr. Liu, and Mr. Ritting and they will come if needed. I'll ask all others to introduce themselves at the appropriate time and also we have, I mentioned - okay.

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 WebEx or by phone will be muted during the meeting unless the Commission suggests otherwise.

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

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

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1 speak. If you experience difficulty accessing WebEx or with your
2 phone call-in, then please call our OZ hotline number at 202-
3 727-5471 for WebEx log-in or call-in instructions -- and I think
4 I gave the wrong number. The number is 202-727-0789. Okay, with
5 that does the staff have any preliminary matters?

6 MS. SCHELLIN: No preliminary matters other than if the
7 Commission, to see if the Commission would like to take the
8 correspondence item first.

9 CHAIRPERSON HOOD: Okay, yes, I'm going to take the
10 correspondence item first. I am just updating my, on the spot
11 updating my files with the right number. Yes, so we will do the
12 correspondence item first and then we will take the rest of the
13 agenda, unless I hear opposition we'll take the rest of the agenda
14 in the order. Okay Ms. Schellin, would you call the
15 correspondence item, please?

16 MS. SCHELLIN: Yes, sir. It's case number 19-14. This
17 was the letter from OAG regarding technical corrections to an
18 order, order number 19-14(1). This was a request from the Office
19 of the Attorney to reopen the record. If you'll recall on the
20 February 24th agenda, they had submitted a letter and the
21 Commission asked if the letter was in the record, and I said it
22 was not because the record was closed and you asked that I contact
23 them and ask them to make a request to reopen the record, and
24 they've done that. So that's what's before you.

25 CHAIRPERSON HOOD: Thank you, Ms. Schellin. First, let

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1 me thank everyone who has worked on this, former attorneys, Office
2 of the Attorney General, our staff. What I did was I asked,
3 colleagues, I asked that the staff kind of help revisit and find
4 out what went on. While this predates our legal folks that we
5 have now, actually the letter that we got about this correction,
6 I think it happened under our old - well I know it happened under
7 our old lawyers who advised us. So I just have a statement.

8 The commission has received a request to reopen the
9 record in this matter to permit a February 4, 2022 letter from
10 the Office of the Attorney General to be admitted to the record,
11 our former counsel. OAG also requests that the Commission as a
12 whole, and not just the chairman, consider the request. Under
13 the Commission's procedural rules, the chairman is authorized to
14 decide any procedural motion. The Commission as a whole does not
15 consider procedural motions unless the chairman decides to bring
16 it to them, and I think they know and everyone knows my normal
17 practice has always been to bring a lot of stuff to the
18 Commission. Therefore, I saw no reason in this case to have the
19 Commission as a whole consider the request to reopen the record
20 and proceeded with our normal process and my normal process as
21 chairman making such decisions. I reviewed the request and
22 granted it, which is typically how I normally do 98, 99, 99 ½
23 percent of the time. I reviewed the request and granted it. Now
24 we have the OAG's correspondence from February 4, 2022 to
25 consider.

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1 Before I hear from my colleagues, I would like to say
2 this about it. At the request of OP, the Commission issued
3 corrective orders No. 19-14(1) on January 13, 2022, to remove
4 the phrase "with one principal dwelling unit" from the provisions
5 permitting special exception relief from development standards
6 to construct or enlarge an accessory standard pursuant to
7 subtitle E 5201.2, Relief in the RF zones and subtitle F 5201.2,
8 Relief in the RA zones. OAG has submitted a letter stating that
9 it was improper of the Commission to issue a technical correction,
10 removing those statements from subtitle E and F and instead the
11 Commission was required to provide notice and hold a public
12 hearing notice, making the changes by technical correction to
13 the text Amendment approved in Zoning Commission case number 19-
14 14. Looking at the background in this case, and I want to thank
15 staff and all, OP proposed amendments in case number 19-14 in
16 July of 2019 to clarify, now 2019, to clarify the regulations on
17 nonconforming structures. A hearing was scheduled for November
18 7, 2019. The public hearing notice did not include those phrases
19 to subtitles E and F. They were not discussed at the hearing.
20 However, they appeared in the notice of proposed rulemaking and
21 admit, and I admit, we all missed it because in this society we
22 do copy and paste and sometimes it doesn't work. And this is
23 one of those scenarios which happened in 2019. From there, they
24 were carried over to the order. Again, we missed it. We didn't
25 have a reason to even think about, so we did not even have a

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1 reason to think about where we added it because they were not,
2 they were not in the hearing notice or discussed. I believe the
3 drafter of the notice of proposed rulemaking, and we believe,
4 made a simple copy and paste mistake. To make all three sections
5 in the three subtitles read the same when the intent was to only
6 add the phrase to subtitle D, but it was mistakenly carried over
7 to subtitle E and F, which applies to RF and RA zones. There is
8 no reason for the phrase to be added to these two subtitles based
9 on the hearing testimony or OP's supplemental report addressing
10 the ASC concerns raised at raised at the hearing. There's nothing
11 in the record, and again, there's nothing in the record to
12 indicate that it was added in response to any comment made in
13 the case record. Furthermore, the RF and RA zones permit more
14 than one principal dwelling unit as a matter of right. So with
15 that, I'm going to open this up and find out from our colleagues,
16 what do you think? Hopefully, I tried to capture all of the
17 mishap and there's enough mishap to go around everywhere. So let
18 me just open it up, and I don't think we have procedurally done
19 anything incorrect and I think this is our normal process. And
20 I think it was just a human error. Copy and paste. We all have
21 done it, I'm sure. So let me open it up, our commissioners may
22 have any comments, questions. Anybody else want to speak? You
23 are muted, there you go.

24 COMMISSIONER MAY: So no, I don't have anything to add.
25 I think you summed it up well. I don't think there's any reason

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1 to take the action that the Office of the Attorney General has
2 suggested. So, yeah, I agree with you.

3 CHAIRPERSON HOOD: Commissioner Imamura, I know you
4 weren't around in 2019, but you, and know this might sound kind
5 of convoluted. But did you have anything you want to add to
6 this?

7 COMMISSIONER IMAMURA: No, Mr. Chairman, thank you. I
8 think your summary is good.

9 CHAIRPERSON HOOD: Thank you. And Vice Chair Miller?

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. No, I
11 agree with all of your comments about why this was a technical
12 correction of an inadvertent mistake which as if we let stand
13 without technically correcting, would prevent the, as I
14 understand it, the construction or enlargement of any accessory
15 structure in an RF or RA zone, which doesn't make any sense.
16 That was not the intent of what we were trying to accomplish with
17 the accessory structure regulations, that it was to allow, allow
18 them under certain conditions not to prohibit it all outright,
19 and in two zones, the RF and RA, which without this correction,
20 it would be prohibited. So I agree with you and think it's a
21 technical correction. I appreciate our legal division bringing
22 that correction to our attention and taking the steps to correct
23 it. Thank you.

24 CHAIRPERSON HOOD: Okay, thank you. And I appreciate
25 everyone, OAG, our Office of Zoning Legal Division, and everyone

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1 for making sure that we stay on track because it's always good
2 when you have another pair of eyes to look at it constructively
3 to help us move forward. So I thank everyone. And I really want
4 to thank staff for doing the work and explaining to me and these,
5 all of us realizing exactly what happened. Because we do make,
6 everybody makes mistakes. So thank you. Do we need to make a
7 motion on that or do we just need to leave it as is?

8 MS. SCHELLIN: If you're not changing anything, I don't
9 believe a motion needs to be made because you're not motioning
10 to change anything.

11 CHAIRMAN HOOD: Okay, so all right, so with that, thank
12 you. Let's keep it moving. Let's go, now we can go back in our
13 regular order, colleagues. Let's go to final action. Zoning
14 Commission -- and thank you all for the discussion - final action
15 Zoning Commission case number 21-15, it's the S Street Village,
16 LLC - Map Amendment @ Square 442, Ms. Schellin?

17 MS. SCHELLIN: Yes. NCPC submitted a report at Exhibit
18 32 advising of no impacts or inconsistency with federal interests
19 or comp plan at Exhibit 32. Exhibit 33, the OP submitted a
20 corrected report that was brought up so that it would correct the
21 outline of the property that was noted on the future land use
22 map. And they did that. It's in the record now. So other than
23 that, this case is now ready for the Commission to take proposed
24 action if it chooses to do so this evening.

25 CHAIRPERSON HOOD: Okay, thank you, Ms. Schelling. All

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1 right. Commissioners, any follow up questions or comments?

2 MS. LOVICK: Sorry, I just want to correct, it's final
3 actions.

4 CHAIRPERSON HOOD: What did I say?

5 MS. LOVICK: Proposed. It's final action.

6 CHAIRPERSON HOOD: Did I say proposed? Okay, final
7 action. Thank you, Ms. Lovick. Final action. I will say that
8 the, as we've noted that the Office of Planning had recommended
9 that IZ plus indicated that it agrees. I mean, the IZ plus will
10 apply and OP has recommended the same. However, the Commission,
11 we can indicate publicly that we also agree with the
12 recommendation of IZ Plus being involved. So. So everyone's
13 acknowledged it. Does anybody have any objections about IZ Plus
14 being added? Okay, all right. I think that's pretty
15 straightforward. Everybody agrees, and I think that's what we're
16 pushing. Anything else on this? All right, so I'm not hearing
17 anything. I think it's pretty straightforward unless I hear from
18 my colleague noted about the IZ Plus. So with that, I would
19 make, I would move that we approve final action on Zoning
20 Commission case number 21-15, S Street Village, LLC - Map
21 Amendment at Square 442 and ask for a second.

22 COMMISSIONER MAY: Second.

23 CHAIRPERSON HOOD: It's been made and properly seconded.
24 Any further discussion? Not hearing any, Ms. Schellin, would you
25 please record the vote? I mean, do a roll call vote?

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1 MS. SCHELLIN: Mr. Hood?

2 CHAIRPERSON HOOD: Yes.

3 MS. SCHELLIN: Commissioner May?

4 COMMISSIONER MAY: Yes.

5 MS. SCHELLIN: Commissioner Miller?

6 COMMISSIONER MILLER: Yes.

7 MS. SCHELLIN: Commissioner Imamura?

8 COMMISSIONER IMAMURA: Yes.

9 MS. SCHELLIN: The vote is four to zero to one to approve
10 the final action in case number 21-15. Commissioner Hood moving,
11 Commissioner May seconding, Commissioners Miller and Imamura in
12 favor, the third mayoral appointee position vacant, not voting.

13 CHAIRPERSON HOOD: And let's move right along. Let's
14 go to Zoning Commission case number 19-29 man. And this is the
15 UM 1348 4th Street NE, LLC - Consolidated PUD and Related Map
16 Amendment at Squares 3587 & 3594. Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. At exhibits 46 through 48,
18 you have the applicant's post-hearing submissions. Exhibit 49
19 is an NCPC letter advising they determined that this property was
20 exempt from NCPC's review. Again, this case is ready for the
21 commission to consider final action if it chooses to do so this
22 afternoon.

23 CHAIRPERSON HOOD: Let me open up any questions or
24 comments. Commissioner May, do you have anything you want to
25 add? Okay. Commissioner Imamura? Okay. And Vice Chair Miller?

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1 Okay. All right. Let us make a motion in this case. I think
2 this is --

3 COMMISSIONER MAY: Mr. Chairman?

4 CHAIRPERSON HOOD: Yes, Commissioner May?

5 COMMISSIONER MAY: Yes, Zoning Commission, I move that
6 we give, that we take final action to approve Zoning Commission
7 Case 19-29, UM 1348 4th Street NE, LLC - Consolidated PUD and Map
8 Amendment @ Squares 3587 & 3594.

9 CHAIRPERSON HOOD: Can I get a second?

10 VICE CHAIR IMAMURA: Second.

11 CHAIRPERSON HOOD: Okay, it has been moved and properly
12 seconded. Any further discussion? Not hearing any, Ms. Schellin,
13 would you roll call vote, please?

14 MS. SCHELLIN: Commissioner May?

15 COMMISSIONER MAY: Yes.

16 MS. SCHELLIN: Commissioner Imamura?

17 COMMISSIONER IMAMURA: Yes.

18 MS. SCHELLIN: Commissioner Hood?

19 CHAIRPERSON HOOD: Yes.

20 MS. SCHELLIN: Commissioner Miller?

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: The vote is four to zero to one to approve
23 final action in Zoning Commission case number 19-29.
24 Commissioner May moving, Commissioner Imamura seconding,
25 Commissioners Hood and Miller in support. Third mayoral

1 appointee position vacant not voting.

2 CHAIRPERSON HOOD: You know, I need Mr. Turnbull.
3 Yesterday when I kept hitting the spacebar, sometimes I have to
4 use the mouse and sometimes I don't have to use the mouse. So I
5 don't know, maybe I'll ask my grandkids how to do this because
6 it's always a problem, sometimes it is, sometimes it isn't.
7 Anyway, I'm just thinking out loud. So let's go to Hearing
8 Action, Zoning Commission case number 21-21, Midici Road - Map
9 Amendment @ Square 5154. Let's go to - oh, Ms. Elliott. I was
10 looking at -

11 MS. ELLIOTT: Good evening, Mr. Chairman and members
12 of the Commission. I think I have a PowerPoint coming up. My
13 name is Brandice Elliott representing the Office of Planning
14 tonight for Zoning Commission Case 21-21. Next slide, please.

15 Before we get too heavy into the analysis, I just wanted
16 to make sure that everyone is aware of the vicinity of the
17 project. This, the map amendment request is located on a property
18 that is on Sheriff Road between 46th and 48th streets in the
19 Deanwood neighborhood. It is, as you can see on the map, a short
20 walk to the Deanwood Metro station to the North. Next, please.

21 The Office of Planning recommends set down of this
22 application for a map amendment for the property that is
23 specifically located at 4726 Sheriff Road NE. This is on Lot
24 905 in Square 5154. The applicant proposes to rezone
25 approximately 10,200 square feet of land area from MU 3A to MU

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1 4. This slide shows the proposed boundary of the map amendment.
2 The proposal would not be inconsistent with the comprehensive
3 plan, and it would also be appropriate for IZ plus. Next slide,
4 please.

5 The future land use map indicates that the property is
6 generally appropriate for moderate density residential and low
7 density commercial. The proposed map amendment would not be
8 inconsistent with these designations. The proposed map amendment
9 was reviewed through a racial equity lens as part of the
10 Comprehensive Plan Consistency Analysis and the prevailing low
11 density residential zoning in the planning area limits a
12 significant portion of land to only single-family housing, so the
13 property offers opportunities to increase housing, to increase
14 housing and affordable housing and to offer different types of
15 housing near a Metro station. The comprehensive plan includes
16 additional policies that support more affordable housing and
17 market rate housing.

18 A significant element of this map amendment is the
19 potential to create additional affordable housing through the IZ
20 Plus set aside requirement, as it is likely that the MU 4 zone
21 could require a 20 percent set aside. The potential affordable
22 housing units that could be created under the requested MU 4 zone
23 is higher than if the property was not rezoned. Allowing for
24 this affordable housing has the potential to benefit nonwhite
25 populations who on average have lower incomes than white

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1 residents.

2 The proposed map amendment would also address equity
3 by potentially increasing access to retail and commercial
4 offerings in the neighborhood. This would add and create jobs
5 for District residents and establish retail and service uses that
6 support the surrounding residential community. The comprehensive
7 plan also includes policies that support neighborhood serving
8 commercial uses. Next slide, please.

9 The generalized policy map indicates that the property
10 is designated as a neighborhood enhancement area. The proposed
11 map amendment would not be inconsistent with this designation as
12 it would support compatible infill development, including mixed
13 use buildings. Next slide, please.

14 And finally, IZ Plus would be appropriate to apply to
15 this map amendment. The District's 2019 housing equity report
16 states that this planning area had 18.6 percent of the District's
17 total number of affordable housing units in 2018, and the planning
18 area needs to produce 490 affordable units by 2025 to meet the
19 affordable housing goals for the area. Since map amendment
20 applications only consider consistency with the comprehensive
21 plan and not a specific development proposal, OP provided a couple
22 of examples in its report to demonstrate what IZ Plus may require.
23 The example on the slide shows a number of IZ dwelling units that
24 would be provided when bonus density is used to calculate the IZ
25 requirements.

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1 This concludes OP's presentation, and as always, I'm
2 happy to answer any questions that you have.

3 CHAIRPERSON HOOD: Thank you, Miss Elliott. We
4 appreciate your presentation. Let's see if we have any questions
5 or comments. Commissioner May?

6 COMMISSIONER MAY: None.

7 CHAIRPERSON HOOD: Okay. Commissioner Imamura?

8 COMMISSIONER IMAMURA: No comments. Thank you, Ms.
9 Elliott, for your report.

10 CHAIRPERSON HOOD: Vice Chair Miller.

11 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
12 you, Miss Elliott, for your report. I note that your written
13 report on pages eight, nine and ten include an equity analysis
14 in terms of this application of this map amendment in terms of
15 looking at the Comprehensive Plan map amendment as proposed
16 through an equity lens and specifically a racial equity lens as
17 required by the new Comprehensive Plan language. And you have
18 some analysis there and you -- which is similar. It's evolving
19 because this is a new requirement that we all are implementing.
20 And so it will get better, I think, as we refine these tools and
21 processes. But I wonder if you just can comment generally, since
22 I've seen general comments not on this case specifically, but in
23 the public atmosphere about the Office of Planning and the Zoning
24 Commission specifically not implementing any or doing any kind
25 of racial equity analysis at this time. And I happened to be

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1 one of those who believes that we were doing, we were looking at
2 these kinds of issues, as you were, as the city was, in all of
3 our cases, even when there wasn't a statutory prescriptive
4 language to look through this kind of equity lens. But I wonder
5 if you could just respond briefly, generally, to the general
6 criticism that's out there that we shouldn't be doing any zoning
7 at all until we develop the data, the tool, the analysis, the
8 metrics that would, I guess, tell us in every case, whether it's
9 appropriate to go forward based on looking at, looking at through
10 it, looking at it, the case, through a racial equity lens. I
11 think we have been looking at, I think you have been providing
12 important analysis. I think we have too, and I think it'll get
13 better as we go forward and we develop more specific tools. But
14 if you could just generally comment in reaction to that, what's
15 out there in the public atmosphere?

16 MS. ELLIOTT: Sure, I'm happy to, Vice Chair Miller.
17 The equity analysis, as you've indicated, is sort of evolving and
18 as you do, we hope it also gets better. And certainly if you
19 have some suggestions or something specific that you want to see
20 addressed, you know, that's something that you should let us
21 know.

22 In terms of this particular project, it would provide
23 a mixed use, a potential -- it would allow for the potential to
24 be mixed use building, providing ground floor retail and a few
25 stories of residential. One of the things that we do know about

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1 housing and affordable housing is that we need more of it in
2 order to bring the cost of housing down. And in our analysis,
3 we've actually provided some statistics for the far northeast and
4 southeast planning areas, indicating, identifying some of the
5 demographics. And in this area, the Black population is at 92.8
6 percent of the residents and the Hispanic or Latin population is
7 at 3.2 percent of the population. And these are groups that are
8 most impacted by, that tend to have lower incomes than the white
9 population. And so we see that there is a need to provide more
10 housing in this area in order to bring the cost down for the
11 people who currently live there.

12 Let's see what else I can touch on here. We also have
13 the housing equity report, which has identified the need for
14 additional affordable housing by planning area. And in this
15 case, we need 490 additional units in the northeast and southeast
16 planning areas. And so this goes towards meeting that goal as
17 well. And so we are in line with, in reviewing the demographics
18 for the area and evaluating the existing policies that we have,
19 we find that this does further our goals for equity as noted in
20 the comprehensive plan. I'm going to end that there. But if
21 you have any other specific questions, I'm happy to, or if there's
22 something that you wanted me to mention specifically and I'm
23 happy to do that.

24 VICE CHAIR MILLER: No, I thank you, Miss Elliott. I
25 wanted you to emphasize what already was in your written report,

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1 which has been in your written, the Office of Planning's written
2 reports for the last almost nine months or so since the Council
3 passed that racial equity lens statutory requirement. And I, we
4 are, it is an evolving process with additional tools that we are
5 working with both the Mayor and Council's Office of Racial Equity
6 to develop our own tools. But I think it was important to counter
7 what I personally believe is a false narrative that has been put
8 out there that the Office of Planning and the Zoning Commission
9 are not looking at cases through a racial equity lens or trying
10 to evaluate them. We are. We can always do better. We will
11 work to do better. We are doing training to do better and we
12 will get there together as one city. So thank you.

13 MS. ELLIOTT: Thank you.

14 CHAIRPERSON HOOD: Thank you, Vice Chair, for bringing
15 that up. We have been involved, the Zoning Commission has been
16 involved with this even before the Council passed it, because I
17 know myself and others have worked with Councilman McDuffie and
18 others as this has been crafted. So we appreciate people thinking
19 we're not doing something, but the proof is in the pudding. You
20 just watch what we've been doing. We're doing our best to
21 improve, as you've already stated. But one thing I did notice
22 was that you asked for a suggestion, and I'm not really saying
23 this to you, Ms. Elliott, in this case. But I want applicants
24 to know that they're going to have to do more on the racial equity
25 lens and come down and explain and show us than just, say, in

1 the Office of Planning's report. Because I have noticed that.
2 I didn't say nothing, but I have noticed that when I pushed it a
3 little bit more. I want you to come down with your own analysis
4 and if it mirrors what the Office of Planning has done or has
5 some similarities, that's great. But other than telling me it's
6 on page three of the Office of Planning's report, no, I need
7 applicants to do the same thing. And I think that's how we
8 achieve to getting things better along with all your input. And
9 I will say that me personally, and I'm sure others have, I've
10 been going to Rappaport online and learning for myself. I've
11 been talking to Prince George's County. So Vice Chair, people
12 are always going, they are going to always comment and always
13 going to say what we're not doing. But the problem is, they don't
14 know what we do, when we're not on camera when we do zoning
15 hearings. Because a lot of us put a lot of our own individual
16 time in trying to perfect this and make it better. So again,
17 let's keep doing what we're doing for the best interests of the
18 residents of the city so thank you, Ms. Elliott.

19 Any other questions or comments? Thank you, Ms.
20 Elliott, for your report. We appreciate it.

21 MS. ELLIOTT: Thank you.

22 CHAIRPERSON HOOD: Okay. We have a motion in front of
23 us to set down for a hearing Zoning Commission case number 21-
24 21. Can someone else, somebody make the motion? Whoever wants
25 to make it. I do enough talking.

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1 COMMISSIONER MAY: Mr. Chairman?

2 CHAIRPERSON HOOD: Commissioner May?

3 COMMISSIONER MAY: I would move that the Zoning
4 Commission set down case number 21-21, Midici Road - Map Amendment
5 @ Square 5154.

6 CHAIRPERSON HOOD: I'll second it. It has been moved
7 and properly seconded. Any further discussion? Not hearing any,
8 Ms. Schellin, would you do a roll call vote, please?

9 MS. SCHELLIN: Commissioner May?

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLING: Commissioner Miller?

14 VICE CHAIR MILLER: Yes.

15 MS. SCHELLIN: Commissioner Imamura?

16 COMMISSIONER IMAMURA: Yes.

17 MS. SCHELLIN: The vote is four to zero to one to set
18 down Zoning Commission case number 21-21 as a contested case.
19 Commissioner May moving, Commissioner Hood seconding,
20 Commissioners may and Imamura in favor, the third mayoral
21 appointee position vacant.

22 CHAIRPERSON HOOD: Okay. Next, let's go to NRP
23 Properties LLC, this is case number 21-26. This is the
24 Consolidated PUD & Related Map Amendment @ Square 772-N. Mr.
25 Mordfin.

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1 MR. MORDFIN: Good evening, members of the Commission.
2 I'm Stephen Mordfin with the Office of Planning. And I also do
3 have a smaller PowerPoint. And what first one shows is it's
4 the zoning map. It shows you where the site is located. You can
5 see that it takes up practically the entire square.

6 The applicant is requesting as a consolidated PUD with
7 a PUD related map amendment from PDR 1 to the MU 30 zone to
8 construct a 12-story mixed use building at 301 Florida Avenue NE.
9 And this building, if you could go to the next slide, please,
10 would include 115 apartments, half of which would be affordable
11 at 50 percent MFI and the other half at 30 percent MFI. Twenty-
12 four of the units would be three bedroom or family size units
13 and 30 percent would be two bedroom units and approximately 3,000
14 square feet of new modern retail space would be provided on the
15 ground floor. Just for comparison, the whole lot is only about
16 8,000 square feet of land area. And amenities that would be
17 provided to the residents, because this is an all affordable
18 building to make it so that they could access these amenities
19 without having to go out on the market and actually pay for them,
20 include a toddler room, a lab and library, a conference room and
21 a gym.

22 The subject properties currently serve as parking lot
23 and has an approved PUD, that's Zoning Commission case number 15-
24 22 and 15-22(a), which is in effect till November 22, 2022. And
25 that is for a 56 units mixed use building with only four IZ units

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1 that the applicant no longer intends to construct. So five
2 areas of flexibility are requested for this project, and they
3 include an PUD & Related Map Amendment from PDR 1 to MU 30,
4 reduction in the minimum lot area for a PUD, and also to provide
5 no off-street parking and also no loading. And those are due to
6 the size of the lot, there is no additional land that can be
7 added on to this, and also design flexibility, which we will,
8 assuming this application is set down, we will review more
9 carefully.

10 As a deeply affordable building with family size units
11 designed to achieve enterprise green community certification,
12 including the use of solar panels and a green roof. This
13 development would not result in the displacement of any
14 residents. The 2019 Housing Equity Report identified this
15 planning area as having an estimated shortage at 290 housing
16 units by 2025. And should this building be approved, it would
17 reduce that gap by 115 or 40 percent significantly and possibly
18 impacting the number of affordable housing units within this
19 planning area. The proposed PUD map amendment to the MU 30 zone
20 would also permit the creation of new residential units within a
21 multifamily building as the PDR 1 zone does not permit any housing
22 units, with the exception of those directly related to PDR uses.
23 So that would simply increase the housing supply in the planning
24 area, which will also then help alleviate the shortage of housing
25 and then the cost of housing. And making room for affordable

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1 housing has the potential to benefit nonwhite populations who on
2 average have a lower income than their white counterparts. Can
3 you go to the next slide, please.

4 So this proposal is generally consistent with the
5 generalized policy map and the future land use map, although the
6 future land use map includes three stripes for the site, including
7 high density residential, high density commercial, and PDR, or
8 production, distribution and repair. No industrial uses are
9 proposed for this site. However, because of the proposed emphasis
10 on affordable housing, in this case it's 100 percent affordable,
11 including family size units, OP finds that this application can
12 be found to be consistent with the generalized policy map. Many
13 of the Citywide elements of the comprehensive plan would also be
14 met, including land use, transportation, housing, environmental
15 protection, economic development, and urban design, and also the
16 Central Washington Area Element and the NOMA Vision Plan and
17 Development Strategy with a uniquely designed building that takes
18 advantage of the corner of N Street and Florida Avenue NE.

19 So should the commission set this application down, OP
20 recommends the applicant ensure the building's bay windows
21 provide a minimum 15-foot projection from the Florida Avenue curb
22 or obtain relief from VCR and the Public Space Committee as
23 required by the public RA manual. And these are design items
24 that the applicant will work with DDOT to correct. And OP
25 recommends the Commission set this application down for a public

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1 hearing and is available for questions. And thank you.

2 CHAIRPERSON HOOD: Thank you, Mr. Mordfin, for your
3 report. Let's see if we have any follow up questions or comments.
4 Commissioner May?

5 COMMISSIONER MAY: Yes, so this, of course, conjures
6 up memories of the previous PUD that was approved for this site,
7 which I guess is still in force but isn't going to happen. And
8 I mean, that's really interesting and this is a very interesting
9 development in terms of replacing that building with this
10 proposal with, you know, an all affordable building. I mean, I
11 think it's a very interesting change of course.

12 There is some weird language in the applicant's
13 statement about the relationship to the prior approved PUD and
14 how this would be, you know, they're sort of looking at it as a
15 sort of a transition from that one to this one. But that didn't
16 seem to make any sense. I mean, don't we, aren't we just
17 reviewing this on its merits as a replacement PUD? Isn't that
18 the way you would look at it?

19 MR. MORDFIN: Yeah. This building has to stand on its
20 own merits regardless of whatever was approved before. It does
21 have some of the same requirements as the other ones, such as
22 land area, because you cannot make it any larger and you know,
23 for the same reasons that they couldn't provide on-site loading
24 and on-site parking, this one can't also. So there's some
25 similarities because of the site, but it's a completely separate

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1 building. And yes, it will be reviewed on its own merits.

2 COMMISSIONER MAY: And they also, they also have a
3 similar strategy with in terms of bay projections, and I remember
4 that being a complicated issue sort of through the first time
5 around. This might be a little bit simpler in some ways, but it
6 still raises some of the same concerns having to do with Florida
7 Avenue because it's, you know, it's a tight site and it's right
8 on Florida Avenue. Florida Avenue is like, like, I mean, there's
9 just so much asphalt. And it's a little tiny sidewalk lots of
10 cars moving very fast. So I hope that when we actually get to
11 the hearing we will hear a lot more about what the plans are for
12 improving the safety of Florida Avenue. I mean, again, that was
13 an issue the last time around and we had questions about it. And
14 I don't remember what any of the answers were, and I'm not looking
15 for any answers right now, but I think it's important for us to
16 understand what the future holds for Florida Avenue and that
17 particular intersection.

18 There was also in the last one, I recall they had a
19 novel approach to N Street and making that into sort of a little
20 kind of like a park in the street right-of-way. And I don't see
21 that in this one. Maybe I missed something, but that's not part
22 of any proposal anymore, right?

23 MR. MORDFIN: I think what they're doing is on the 3rd
24 Street side, which will be the main entrance for the residential
25 building, they're also going to be doing planting there in the

1 public space. And the N Street side will be the, will be an
2 entrance into the retail right up space that's proposed for the
3 building.

4 COMMISSIONER MAY: Right. But they're not, they're not
5 doing, they were going to take up on the street right away with
6 kind of a park-like thing. And then I guess the last thing I
7 would mention is that there is a National Park Service reservation
8 at the eastern tip of it, and I know last time around I asked
9 about it and the answer was that they tried to make contact with
10 the Park Superintendent. And I'm not sure in the end whether in
11 fact there ever was any. But I would just ask that there be that
12 outreach to the Park Superintendent. That's Tara Morrison,
13 superintendent of the National Parks East. And if you have any
14 difficulty getting hold of her, you can contact my staff.
15 (Indiscernible) to follow up on something like that, so.

16 MR. MORDFIN: Okay.

17 COMMISSIONER MAY: Yeah, and I mean, there won't be
18 that much to say. It's a very tiny parcel. It's just, you know,
19 a grass triangle at the eastern tip. But I think it's good for
20 the Park Superintendent to know what's going on. So that's it
21 for my questions and comments.

22 MR. MORDFIN: OK, thank you.

23 CHAIRPERSON HOOD: Thank you. Commissioner Imamura?

24 COMMISSIONER IMAMURA: I have nothing further to add.

25 Mr. Chairman, thank you.

1 CHAIRPERSON HOOD: Okay, and Vice Chair Miller?

2 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
3 you, Mr. Mordfin, for your report. I am supportive of a set
4 down. This is a great project, 115 all affordable units at 50
5 percent median family income or below, including 30 two-bedroom
6 units and 24 three-bedroom units. It's obviously way beyond what
7 inclusionary zoning would require. So obviously there are other
8 programs in play here, I assume, although I don't know. It might
9 be in the record, Housing Production Trust Fund or low income tax
10 credit financing. But this is a very commendable project which
11 I am supportive of setting down and I am appreciative of OP's
12 report. Again, racial equity analysis that you included
13 beginning on page six of your Office of Planning report. So
14 thank you, Mr. Chairman.

15 CHAIRPERSON HOOD: Thank you, and Mr. Mordfin thank you
16 for your report. I just have one question on one of your slides
17 and I have asked this question before. I'm just having an issue
18 comprehending, well, not necessarily an issue, I'm just making
19 sure to see if I understand it. It says 50 percent of the MFI,
20 I think it said 50 percent, at least 50 percent of the MFI or
21 below. So can you help me understand what does that mean? 50
22 percent of the MFI or below? I'm more interested in the below
23 part.

24 MR. MORDFIN: Well, that means the applicant, you know,
25 it'll be no more than 50 percent, but it could be less. The

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1 other half will be at 30 percent. So it might be a 50 percent
2 half of it or might be somewhere less than that. And the
3 applicant will have to provide us with more information as to
4 just how that's going to shake out with their proposal.

5 CHAIRPERSON HOOD: Okay. And I'm sure that they'll be
6 talking about the racial equity part of it as well. But I would
7 ask the applicant to come prepared at the hearing to let's talk
8 about it because I get the gist, but it's just the statement
9 and below. Are we talking about doing some at 20 or is this
10 going to be all be at 50 or 40? You know, that's kind of where
11 I am. I'm just trying to understand what that statement actually
12 means.

13 MR. MORDFIN: Okay.

14 CHAIRPERSON HOOD: Thank you. Any other questions or
15 comments? All right, Mr. Mordfin, thank you so much for your
16 presentation and your report. All right, so with that,
17 colleagues, would somebody like to make a motion to set this
18 down? I think this is ready for us.

19 VICE CHAIR MILLER: Sure. Mr. Chairman, I would move
20 that the Zoning Commission set down for a public hearing case
21 number -- I hope I have the right one here - 21-26, NRP Properties
22 LLC - Consolidated PUD & Related Map Amendment @ Square 772-N,
23 301 Florida Avenue NE and ask for a second.

24 CHAIRPERSON HOOD: I'll second, and Mr. Mordfin, I'm
25 going to add one quick question I forgot. It has been moved and

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1 properly seconded. Any further discussion? Not hearing any, Ms.
2 Schellin, would you do a roll call vote please?

3 MS. SCHELLIN: Commissioner Miller?

4 VICE CHAIR MILLER: Yes.

5 MS. SCHELLIN: Commissioner Hood?

6 CHAIRPERSON HOOD: Yes.

7 MS. SCHELLIN: Commissioner May?

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner Imamura?

10 COMMISSIONER IMAMURA: Yes.

11 MS. SCHELLIN: The vote is four to zero to one to set
12 down Zoning Commission case number 21-26 as a contested case.
13 Commissioner Miller moving, Commissioner Hood seconding,
14 Commissioners May and Imamura in support, third mayoral appointee
15 position vacant, not voting.

16 CHAIRPERSON HOOD: Okay, Mr. Mordfin, I should have
17 asked you this earlier, but was this a BZA case before?

18 MR. MORDFIN: I don't think it was a BZA case. It was
19 a Zoning Commission case for a different PUD. If it was a BZA
20 case, I don't know. I don't --

21 CHAIRPERSON HOOD: I just remember -- Maybe it's
22 another building on the street. Because I remember the issue
23 about the loading dock being on N Street. But I thought it was
24 right there on the corner. But maybe I'm wrong.

25 MR. MORDFIN: I can look that up. It's been a surface

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1 parking lot and a gas station. I looked it up since, it has been
2 a gas station since the 1930s, and I think they were selling
3 liquor in what was left of the gas station until recently.

4 CHAIRPERSON HOOD: Oh, maybe I should have went down
5 there. But no, I was really just trying to see. I remember
6 having a conversation about that and I don't remember being on
7 the Zoning Commission. I remember it being a BZA but I may be,
8 maybe my areas are wrong. But anyway, it's not a big deal.

9 COMMISSIONER MAY: We definitely discussed this
10 property at the Zoning Commission.

11 CHAIRPERSON HOOD: Did we talk about the loading dock
12 on N Street?

13 COMMISSIONER MAY: No, there's no loading dock because
14 --

15 CHAIRPERSON HOOD: But that was the issue, I think.
16 Well, anyway, whatever the case I was, I know it was this corner.
17 I know it was somewhere right in there. But anyway.

18 COMMISSIONER MAY: Yeah.

19 CHAIRPERSON HOOD: All right.

20 COMMISSIONER MAY: That does remind me, on the parking
21 question, Mr. Mordfin, I think the status of residential parking
22 permit availability for this site, I'm guessing it's not
23 available because it looks like it's all commercial streets. But
24 I think that's an issue we're going to want to know about.

25 MR. MORDFIN: OK.

1 CHAIRPERSON HOOD: All right. Any other questions or
2 comments? Thank you, Mr. Mordfin. We appreciate your report.
3 All right. Ms. Schellin, does Ms. Steingasser and Mr. Lawson
4 have a report tonight?

5 MS. SCHELLIN: I don't think they do. I was not advised
6 that they did.

7 MS. STEINGASSER: No, sir, we do not.

8 CHAIRPERSON HOOD: OK, that's fine. I just saw you all
9 there. I didn't want to pass you by. So thank you. Thank you.
10 Thank you and Mr. Lawson. All right. I want to thank everyone
11 for the participation tonight in the Zoning Commission. At least
12 for right now, we're continuing virtual. We will be in virtual
13 status for a while continuing, and I know things are opening back
14 up but I believe that we have that we have discussed and we're
15 going to stay virtual for a while and we want to continue to make
16 sure the residents and all those who come in front of us are
17 still are protected and safe. And I know things are opening back
18 up but we are going to stay in this pattern for a while. So
19 we'll leave it at that unless somebody else wants to add. Okay,
20 so I want to thank everyone. Ms. Schellin, do we have anything
21 else?

22 MS. SCHELLIN: Nothing else.

23 CHAIRPERSON HOOD: Okay. I've probably asked that
24 question three or four times and you get accustomed and it comes
25 in your brain to keep asking that. So with that, I want to thank

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1 everyone for their participation. Our Zoning Commission will be
2 meeting again and I think I can get it right this time, we are
3 meeting again March 17. Okay. All right, and it's Zoning
4 Commission case 21-11, the Abraham & Laura Lisner Home for Aged
5 Women. And I think - yes, that's the only case we have for that
6 night. Again, March 17th, on these same platforms at the same
7 time, 4:00 p.m. So with that, I want to thank everyone for their
8 participation tonight and this meeting is adjourned.

9 (The meeting adjourned at 4:52 p.m.)
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