

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

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THURSDAY

MAY 12, 2022

+ + + + +

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

MATTHEW JESICK, Project Manager
BRANDICE ELLIOTT, Project Manager
JOEL LAWSON, Project Manager

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE
Dennis LIU, ESQUIRE

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The transcript constitutes the minutes from the
Public Meeting held on May 12, 2022

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

OPENING STATEMENT:
 Anthony Hood 5

CONSENT CALENDAR:
 Case Number 07-13H, JV MPDC, LLC Modification of
 Consequence to PUD @ Square 643S 6

COMMENTS AND QUESTIONS:
 Commissioners 7

VOTE:
 Commissioners 8

HEARING ACTION:
 Case Number 22-09, MCF Heritage 1700, LLC
 Consolidated PUD and Related Map Amendment
 @ Square 419 8

COMMENTS AND QUESTIONS:
 Commissioners 11

VOTE:
 Commissioners 15

HEARING ACTION:
 Case Number 22-11, MCRT Investments, LLC
 Consolidated PUD and Related Map Amendment
 @ Square 439S. 15

COMMENTS AND QUESTIONS:
 Commissioners 18

VOTE:
 Commissioners 26

CORRESPONDENCE:
 Case Number 20-31, American University Campus Plan,
 Request to reopen the record. 26

COMMENTS AND QUESTIONS:
 Commissioners 29

VOTE:
 Commissioners 35

OFFICE OF PLANNING STATUS REPORT
 Mr. Lawson 36

COMMENTS AND QUESTIONS:
 Commissioners 39

CLOSING REMARKS:
 Anthony Hood 41

ADJOURN:
 Anthony Hood 41

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 videoconferencing. My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner May, and Commissioner Imamura. We're also joined by Office of Zoning staff, Ms. Sharon Schellin, and Mr. Paul Young who will be handling all of our virtual operations. Also, we're joined by the Office of Zoning's Legal Division, Ms. Ritting and Mr. Liu.

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

For hearing action items, the only documents before us this evening are the application, the ANC setdown report, and the Office of Planning Report. And 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 Commission requests someone to come forward to speak.

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1 at 202-727-0789 for Webex login or call-in instructions.

2 At this point, we'll take any preliminary matters.
3 Does the staff have any preliminary matters?

4 MS. SCHELLIN: No preliminary matters.

5 CHAIRPERSON HOOD: No preliminary matters. Okay.
6 Let's go right into our first case on the meeting agenda is under
7 Consent Calendar. It's a modification of consequence. We will
8 do determination of schedule in Zoning Commission Case Number
9 07-13H, JV MPDC, LLC Modification of Consequence to PUD at Square
10 643S.

11 Ms. Schellin?

12 MS. SCHELLIN: Yes, sir. The applicant has requested
13 a modification to install additional signage on the ground floor
14 for the residential component of the PUD. At Exhibit 3, there's
15 an OP report that agrees this does meet the test for a
16 modification of consequence, and therefore, recommends approval.
17 At Exhibit 5, we have an ANC 6D report in support. And if the
18 Commission so inclines, they could proceed with final action on
19 this case this evening since the ANC was the only party to the
20 original case.

21 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin.
22 Again, colleagues, does anyone believe that this should come off
23 as a modification of consequence? That's the first thing.

24 (No audible response.)

25 CHAIRPERSON HOOD: Okay. Not seeing any -- Ms.

1 Schellin, the only party in this case was the ANC, and they have
2 weighed in. But I think this is ready for us to go ahead and
3 move forward, unless someone objects.

4 But let's go ahead and open it up. Any questions or
5 comments?

6 Commissioner May?

7 COMMISSIONER MAY: Yeah, I'd just say, you know, the
8 original proposal included changes to uses within the building,
9 the allowed uses, and that would ordinarily kick it into a
10 modification of significance, which would have required a
11 hearing. And frankly, I'm glad that that portion of this has
12 been removed at the request of the ANC, because if they were
13 intent on pursuing those changes of uses, I think I would have
14 been in favor of considering it a modification of significance,
15 so. But for the signage changes, it's a modification of
16 consequence. I'm absolutely okay with that.

17 CHAIRPERSON HOOD: Okay. Any other questions or
18 comments.

19 (No audible response.)

20 CHAIRPERSON HOOD: Okay. So I think this is ready to
21 move forward unless there are any objections. Okay. And with
22 that, I would move approval of the modification of consequence
23 in Zoning Commission Case Number 07-13H, knowing that the ANC has
24 responded. And that's my motion. Can I get a second?

25 VICE CHAIR MILLER: Second.

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

3 (No audible response.)

4 Not hearing any, Ms. Schellin, would you do a roll call
5 vote, please?

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

7 CHAIRPERSON HOOD: Yes.

8 MS. SCHELLIN: Commissioner Miller?

9 VICE CHAIR MILLER: Yes.

10 MS. SCHELLIN: Commissioner May?

11 COMMISSIONER MAY: Yes.

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: The vote is for 4 to 0 to 1 to approve
15 final action in Zoning Commission Case Number 07-13H. The minus
16 one being the third mayoral appointee position, which is vacant.

17 CHAIRPERSON HOOD: Thank you.

18 Let's go to hearing action Zoning Commission Case
19 Number 22-09, MCF Heritage 1700, LLC, Consolidated PUD and
20 related map amendment at Square 419. Let's go to Mr. Jesick.

21 MR. JESICK: Thank you, Mr. Chairman and members of the
22 Commission. The Office of Planning recommends set down of this
23 consolidated PUD and related map amendment located at the Shaw
24 Metro. The applicant requests a zoning change from RA-4 to MU-
25 8A and proposes a 90-foot tall 7.2 FAR apartment building. The

1 request is not inconsistent with the Comprehensive Plan,
2 including a review of the Comprehensive Plan through a racial
3 equity lens.

4 Next slide, please, Mr. Young.

5 The site is shown on the Future Land Use Map as
6 appropriate for mixed-use, medium density commercial and medium
7 density residential uses. And the Comprehensive Plan states that
8 MU-8A zone is compatible with that designation.

9 Regarding racial equity, the project would provide
10 housing options, including a significant amount of affordable
11 housing and family-sized units, and provide the housing with
12 transit access and the ability to reach neighboring home areas
13 either by transit or by biking or walking. The new building
14 could enhance the streetscape and the Metro Plaza and provide
15 additional residents to support nearby businesses.

16 Also, according to the application, leasing of the
17 existing apartment building ceased a number of years ago and are
18 now vacant, so the new construction would not be involved in the
19 displacement of any residents. The proposed benefits are
20 sufficient for setdown, with the major benefit being 15 percent
21 IZ. Applicant has stated that there will be continued
22 conversations with the ANC regarding benefits. OP supports those
23 conversations, and we will also with the applicant reexamine ways
24 to strengthen the overall benefits package.

25 Next slide, please.

1 OP is generally supportive of the architecture but
2 recommends further examination of the design, including more
3 balconies on the southern portion of the building and a commitment
4 to solar energy. OP will work with the applicant to address
5 these items and other items noted in our report.

6 That concludes my testimony, and I'd be happy to take
7 any questions. Thank you.

8 CHAIRPERSON HOOD: Thank you, Mr. Jesick. And we do
9 have, for the setdown, that the ANC, I believe, has submitted a
10 letter in support for the setdown. I will say, and it's been
11 noted by Counsel and others that this applicant in their
12 submission, and we would like all other applicants to do the same
13 thing is tell us what the impacts are. And I think Counsel, a
14 while back, maybe a year or two ago, Mr. Ritting had mentioned
15 that was a good way of doing it. And we had -- the Commission
16 adopted that, and we thought it's great to acknowledge the
17 impacts. But make sure you acknowledge the impacts. And we
18 appreciate doing it.

19 So I would like to really see, and I don't know if we
20 need to codify this or what, but I would like to see applicants
21 when they do present cases to us, colleagues, that they
22 acknowledge the impacts. So tell us what the impacts are, how
23 they're being mitigated, and I think we will have a better
24 hearing. Now, we might not agree with how they are mitigated or
25 might have something to add to them and make them better. But

1 that's something we can continue to refine. And I want to thank
2 our Counsel for actually bringing that up two or three years ago.
3 So I'll leave it at that.

4 Let's open it up. Any questions or comments?

5 Commissioner May?

6 COMMISSIONER MAY: Yeah, I agree that there's some
7 refinement that is needed on the design of the building. And
8 there -- I mean, there's something odd about the balcony design,
9 in the areas where there are balconies to begin with. But it's --
10 I'm not sure how to describe it. There are some very deep
11 balconies that are projecting quite a lot, and it doesn't feel
12 like -- and then there are some of them, I think on that alley
13 side, that are just projecting off it. It doesn't feel like the
14 balconies are well-integrated with the rest of the design. And
15 so, I mean, I think I would, hope that they can pay some attention
16 to that. Certainly some good attention to the detailing.

17 I would like to see, you know, closer up what all --
18 how the different components will come together. I will say that
19 I appreciate the fact that they're not trying to make it look
20 too much like it's several different buildings. I mean, this is
21 always a challenge when you have a large building on a -- with a
22 long facade like that, that folks try to make it seem like it's
23 three or four different buildings. Here it sort of looks like
24 two different buildings, but there is a relationship between them
25 that, I think, makes sense. I would actually encourage more of

1 a relationship between the northern portion and the southern
2 portion.

3 As far as additional balconies, I know that's very
4 important to the Commission, generally, and certainly to some of
5 my colleagues. I'm not as devoted to as many balconies as
6 possible on residential buildings, because I do believe there are
7 a lot of people who don't really care for the balconies and are
8 perfectly fine without it. And you can get outside on the rooftop
9 or on the -- into the city streets, into the neighborhood parks,
10 things like that, so I'm not as driven by that.

11 But certainly if the attempt to knit the north portion
12 of the building better with the south portion of the building
13 leads to more balconies on the south, I mean I certainly wouldn't
14 have an objection to that. It's really about making it all feel
15 like a coherent design, even if there is a significant difference
16 in the facades on the south side versus the north side.

17 I know those are all pretty general. I don't have a
18 whole lot of specific comments, but I'm glad to see this project
19 moving forward, and I'm prepared to vote in favor of setdown and
20 encourage the Office of Planning to continue to work with the
21 applicant on the design.

22 CHAIRPERSON HOOD: Okay. Thank you.

23 Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Just
25 to build on Commissioner May's comments, I think what we're

1 looking for is just a consistent architectural vocabulary at the
2 north and south, and so both -- and architectural expression in
3 geometry. So that's all I have to add.

4 CHAIRPERSON HOOD: Okay. And Vice Chair Miller.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I
6 support setdown of this case and appreciate the Office of
7 Planning's report and agree with all the comments that OP makes
8 on page 3 of their report regarding providing all units with
9 balconies or terraces, especially on the southern portion of the
10 building, continue to study the massing and design of the southern
11 portion of the building, as Commissioner May and Imamura have
12 pointed out as well in terms of integrating the two -- both wings
13 of the building and more details on the material selections and
14 the minimum commitment to solar.

15 I saw -- I think I saw will include at some point and
16 then I saw could include solar at another point. So I think
17 we're looking for a minimum commitment or OP or DOE was looking
18 for a minimum commitment to solar and further refinement of that
19 benefits and amenities package, which there's a lot of, but it's
20 a big building. It's -- and it was a lot of housing, 317
21 residential units, 15 percent of which are, I think, inclusionary
22 zoning. But it's a lot -- it's a big building, so it needs a
23 lot of benefits. And there are three-bedroom units as well, I
24 think, 16 units, so that's commendable.

25 So I'm supportive of a setdown and look forward to the

1 refinements that we see at the time of public hearing in response
2 to my fellow Commissioners' comments and OP's comments. Thank
3 you.

4 CHAIRPERSON HOOD: Okay. I would agree. I would just
5 ask that the applicant continue to work with the community. I
6 know the ANC did write a letter of setdown, but - the ANC as well
7 as the community. So looking forward to it. I know in this area
8 once before we got to the hearing, and we had some problems with
9 another case, the ANC supported it, but other neighbors had
10 problems. So I'm hoping that all that's full-fledged in
11 discussions as we move along, so it'll make for a cleaner hearing.

12 All right. So anyway, any other questions or comments?

13 So with that, I would move that we set down with the
14 support of the ANC and others and my colleagues' comments, that
15 we set down Zoning Commission Case Number 22-09 and ask for a
16 second.

17 COMMISSIONER MAY: Second.

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

20 (No audible response.)

21 Not hearing any, Ms. Schellin, would you do a roll call
22 vote, please.

23 MS. SCHELLIN: Commissioner Hood?

24 CHAIRPERSON HOOD: Yes.

25 MS. SCHELLIN: Commissioner May?

1 COMMISSIONER MAY: Yes.

2 MS. SCHELLIN: Commissioner Miller?

3 VICE CHAIR MILLER: Yes.

4 MS. SCHELLIN: Commissioner Imamura?

5 COMMISSIONER IMAMURA: Yes.

6 MS. SCHELLIN: The vote is 4 to 0 to 1 to set down
7 Zoning Commission Case Number 22-09 as a contested case. The
8 minus one being the third mayoral appointee position, which is
9 vacant.

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

11 Nex, we have Zoning Commissioner Case Number 22-11.
12 This is the MCRT Investments, LLC, Consolidated PUD and Related
13 Map Amendment at Square 439S.

14 Ms. Elliott? Ms. Elliott, I haven't gotten your name
15 wrong in a long time.

16 MS. ELLIOTT: I know. You're doing fantastic.

17 Good afternoon, Chair Hood, members of the Commission.
18 I'm Brandice Elliott, representing the Office of Planning for
19 Zoning Commission Case 22-11. OP recommends that the
20 Consolidated PUD and related map amendment request for the
21 property located at 807 Maine Avenue, Southwest to construct a
22 mixed-use building, be set down for a public hearing. On balance,
23 the project is not inconsistent with the relevant, Comprehensive
24 Plan elements that are outlined in OP's report.

25 The site at the corner of 7th Street and Maine Avenue

1 is proposed to be redeveloped with an 11-storey mixed-use
2 building consisting of ground floor retail and about 207
3 residential units. Fifteen percent of the residential gross
4 floor area would be dedicated to affordable units for households
5 earning 60 percent MFI. Flexibility has been requested to include
6 a PUD-related map amendment from MU-12 to MU-10 lot occupancy,
7 rear and side yard and design. And just for reference, we have
8 included the location of a separate pending Zoning Commission
9 case that was approved by the Zoning -- I'm sorry, that was set
10 down by the Zoning Commission a couple of weeks ago, and that's
11 Case 22-06.

12 Next slide, please.

13 The Future Land Use Map indicates that the property is
14 generally appropriate for medium density residential, medium
15 density commercial. According to the Framework Element, the
16 MU-10 zone is consistent with this category.

17 Next slide, please.

18 The Generalized Policy Map indicates that the property
19 is designated as a neighborhood conservation area. OP's report
20 does inaccurately provide the definition of a neighborhood
21 enhancement area in its analysis, but I would point out that page
22 7 of our report provides the map and analysis of the correct
23 designation, which is the neighborhood conservation area. And I
24 hope that didn't cause much confusion.

25 The proposed PUD would address housing needs and would

1 be compatible with the existing scale, natural features, and
2 character of the area, which is consistent with this designation.

3 The property is also located in a resilience-focused
4 area, and the applicant is encouraged to implement strategies
5 provided in the Climate-Ready D.C. Resilient Design Guidelines
6 into the project. Kind of a mouthful.

7 Next slide, please.

8 The Comprehensive Plan Consistency Analysis requires
9 the project to be evaluated through the racial equity lens and
10 has been provided by the applicant in this record, so thank you
11 for that. As discussed on pages 8 through 11 of OP's report,
12 the proposed MU-10 zone has the potential to provide up to three
13 times more affordable housing than a Matter of Right project.
14 The Comprehensive Plan recognizes that without increased housing,
15 the imbalance between supply and demand drives up housing prices.

16 Redevelopment of the site would not result in
17 displacement, but it would create housing and affordable housing
18 in a transit-rich area near to metro stations and along a priority
19 bus corridor. The project would create jobs and would be in
20 close proximity to other employment opportunities. It would be
21 located near many neighborhood amenities, including schools, a
22 library, the waterfront, and other recreational opportunities.

23 Finally, the project would be certified LEED Gold,
24 although, as we mentioned, the applicant is strongly encouraged
25 to include additional resilience design strategies into this

1 project. The proposed proffers are noted in OP's report on pages
2 18 and 19 and will continue to be refined through this process.

3 OP recommends the Commission set this application down
4 for a public hearing, as it is not inconsistent with the
5 Comprehensive Plan's land use, housing, transportation, urban
6 design, and environmental elements.

7 That concludes OP's presentation. I'm happy to answer
8 any questions.

9 CHAIRPERSON HOOD: Okay, thank you, Ms. Elliott.

10 Let's see if we have any questions.

11 Commissioner May, comments?

12 COMMISSIONER MAY: Yeah. So first of all, Ms. Elliott,
13 that location is currently the site of the headquarters of the
14 Disabled American Veterans. Can you tell me where they're going
15 to go? I mean, I've been in that building before for various
16 events, so I'm wondering where they're going to go.

17 MS. ELLIOTT: I do not know. That information wasn't
18 provided in the application, but I'll follow up with the
19 applicant.

20 COMMISSIONER MAY: I mean it's just a matter of
21 curiosity. It's always been interesting that they -- I mean it's
22 sort of -- the building now is sort of a period piece and fits
23 in with the architecture of Southwest. And slowly but surely,
24 we are losing these kind of low-density buildings that were
25 constructed in the Southwest, where we have that combination of

1 big buildings and small buildings and, you know, and all the
2 churches are going away and being combined into larger-scale
3 apartment buildings, including one that was directly across the
4 street from this. So it's -- I mean, I sort of mourn the loss,
5 but I also know it's -- at a certain point, it's time to move
6 on. And frankly, I'm more sad about the loss of churches than I
7 am about this particular building, because it's an interesting
8 piece, but not necessarily the most beautiful building in
9 Southwest.

10 The other question I have. Your report raises the
11 issue that you'd like to see a more robust benefits and amenities
12 package in this circumstance. And I definitely can see that, and
13 I note that in your report that if this were a map amendment, it
14 would be subject to IZ Plus and would have driven it up to more
15 like 20 percent affordable housing component. And frankly, I
16 mean, this is -- I'm not really looking for the answer on this,
17 but this is more of a question for my colleagues. It sort of
18 raises the question of whether we should set this down at this
19 time, because there's no faster way to get an applicant serious
20 about negotiating with the Office of Planning than to not set
21 something down.

22 So I am seriously entertaining not supporting its
23 setdown right now, but I'm interested in hearing what my
24 colleagues have to say. So that's it, Mr. Chairman. I don't --
25 I mean I don't really have any comments on the design. I think

1 at some point it's going to move forward, but the real threshold
2 question is the benefits and amenities.

3 CHAIRPERSON HOOD: Okay. All right. Let's see what
4 others have to say on the question then, Commissioner May and any
5 other comments or questions you may have.

6 Commissioner Imamura?

7 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
8 think Commissioner May certainly raises some points, and I'd be
9 curious to hear what Vice Chair Miller has to say.

10 VICE CHAIR MILLER: I guess that was my cue. Sorry.

11 CHAIRPERSON HOOD: Yes.

12 VICE CHAIR MILLER: Thank you, Commissioner Imamura.
13 Yeah, I associate myself with most of the remarks of my colleague.
14 I think there's a lot of -- there's a lot being gained through
15 the PUD and map amendment, 65 feet of additional height, and --
16 then what would be -- Matter of Right under the existing zoning
17 and the FAR is going up from a very low amount to 8.64, the
18 maximum allowed in this zone. So I do appreciate the amount of
19 affordable housing that's being proffered at 15 percent, but I
20 do acknowledge what Commissioner May said, that if it was just a
21 map amendment, IZ Plus would trigger a 20 percent set aside.

22 And I remember having the conversation with the Office
23 of Planning when we were doing IZ Plus discussions and hearings
24 as to why not do the 20 -- why not do the same set aside when
25 the map amendment is in conjunction with the PUD. And I think

1 the answer at that time, Ms. Elliott, was that the one -- we
2 weren't seeing a lot of PUDs for court challenge reasons and
3 other reasons. And we didn't want to discourage any new
4 developments from coming forward, where the Commission has an
5 opportunity to have a discussion with the applicant about the
6 correct -- the appropriate balancing of benefits and amenities.
7 And it was thought that this would be a better approach, just to
8 not apply the higher IZ Plus set aside in cases where there's a
9 PUD. I guess I -- I guess is that still the Office of Planning's
10 position, Ms. Elliott, or?

11 MS. ELLIOTT: Correct. I have not been informed
12 otherwise. But for what it's worth, I did provide some
13 calculations. There are calculations in OP's Report, page 9 and
14 10, which shows what the IZ contribution would be if this were
15 an IZ Plus project. And the square footage that would result
16 from this project, from an IZ Plus towards affordable housing is
17 still less than what is being currently proposed at 15 percent.
18 And I believe that that's because of the additional density that's
19 gained through a PUD.

20 VICE CHAIR MILLER: Say that again then. You're saying
21 that the --

22 MS. ELLIOTT: I stuttered.

23 VICE CHAIR MILLER: -- proposal before us actually is
24 a higher percentage of set aside of affordable housing than it
25 would be if this were a straight map amendment? Is that what

1 you just said?

2 MS. ELLIOTT: Correct. And that is because the FAR is
3 higher, because of the bonus density that's gained through the
4 PUD. Does that make sense?

5 VICE CHAIR MILLER: I'm absorbing it. I think it does.
6 Anyway, I am supportive of setdown. I'm pleased that we have
7 PUDs coming forward again where we can, and the community can
8 have discussions with the applicant about the appropriate
9 balancing of sufficient benefits and amenities. And I think we
10 can have that in this case going forward. Thank you for your
11 report.

12 MS. ELLIOTT: Thanks.

13 CHAIRPERSON HOOD: Okay. So I'm trying to think of
14 all -- I lost where the vice chair was on the -- I lost him is
15 all.

16 COMMISSIONER MAY: Mr. Chair, would you like me to take
17 up the conversation back again before you went on?

18 CHAIRPERSON HOOD: Sure. Sure.

19 COMMISSIONER MAY: I appreciate the Vice Chair's
20 questions and Ms. Elliott's responses on this. And I'm certainly
21 mindful of the fact that we can gain things from PUDs that we
22 don't get from map amendments, even when an map amendment has IZ
23 Plus. And I understand what you're talking about. We're going
24 to wind up with more IZ units here because of the PUD bonus, the
25 PUD density that's allowed. That makes sense. However, I do

1 feel like the scale that was developed for IZ Plus, where you
2 just look at the percentage of affordable -- sorry, the
3 additional density that's gained and how that translates into
4 increased inclusionary units is a helpful scale for applicants
5 to understand just how much benefit should be coming from their
6 project. And so, if it would otherwise have been at a 20 percent
7 scale at an IZ -- I'm sorry, 20 percent IZ with a map amendment,
8 that's sort of where their mark should be. That's what they
9 should be thinking about.

10 And if they want to propose less than that, in terms
11 of IZ, then there has to be something more that goes with this
12 that brings benefits to the neighborhood and to the city. It's
13 not just the fact that there's more raw square footage of units.
14 So I think I am -- I was very much on the fence about this. And
15 since the Vice Chair is, I think, in favor of setdown at this
16 point and leaving it to the Office of Planning to negotiate
17 further, I can certainly get behind that.

18 But I think it's important for the applicant to know
19 that we expect some serious negotiation on this, and we'll see
20 where it lands, whether it's in increased IZ percentage or in
21 other benefits and amenities that would be part of this project.
22 So I don't know if that helps you, Mr. Chairman, but I'm ready
23 to go with the Vice Chair.

24 CHAIRPERSON HOOD: Okay. Well, I actually -- I was
25 with him.

1 VICE CHAIR: And I concur with all of Commissioner
2 May's comments.

3 CHAIRPERSON HOOD: Well, I'm glad that both of you all
4 are concurring, but let me just say, so let me have a chance to
5 weigh in, I will say that I was probably going to go along with
6 Commissioner May, and I don't know, that would have probably
7 ended us, I don't know whether it would be 2 or 3 to 1 as far as
8 setdown, not setting down. But I think that the signal has been
9 sent. I think what we're asking for is to come back, if not with
10 more IZ, but come back with something. You know what the wishes
11 of the Commission are or that, like I always like to say, 'the
12 ask.' So since Commissioner May is going to go along with the
13 Vice Chair, I will too.

14 But we'll be looking to see how this will be dealt with
15 when we get to the hearing. So I think 'the ask' is out there.
16 I think our position is out there. I think what we want to see
17 is out there. We're going to leave it up to the applicant to
18 come back with it. And we've always worked either way. Sometimes
19 we don't set it down and then sometimes we do. But I think 'the
20 ask' is out there and the push is out there, so let's see what
21 happens.

22 All right. Any further questions or comments?

23 COMMISSIONER IMAMURA: Yes, Mr. Chairman. I just
24 wanted to thank Ms. Elliott. I took another pass at your
25 examples, one, two and three and just want to thank you for the

1 analysis there. And reading a little deeper, it looks like it's
2 a 20-unit to 30-unit to 10-unit delta or difference there between
3 the IZ Plus and the PUD that you describe. So certainly a
4 hierarchy. And so thank you very much for identifying that.

5 MS. ELLIOTT: Thank you.

6 CHAIRPERSON HOOD: Okay. And I see Mr. Lawson.
7 Mr. Lawson, did you want to opine on this.

8 MR. LAWSON: No, sir. I think Brandice covered
9 everything really well.

10 CHAIRPERSON HOOD: Okay.

11 MR. LAWSON: But thank you for the support and the
12 direction to continue working with the applicant on this case.
13 We'll take that to heart, and I'm sure they're listening as well.

14 CHAIRPERSON HOOD: Okay, great.

15 MS. ELLIOTT: Yeah.

16 MR. LAWSON: Yeah.

17 CHAIRPERSON HOOD: All right. So, Vice Chair, I since
18 you got us going there, you might as well make the motion.

19 VICE CHAIR MILLER: Okay. Then I would move that the
20 Zoning Commission set down for a public hearing Case Number 22-11.
21 That's the one we're on, right? 22-11, MCRT Investments, LLC,
22 Consolidated PUD and related map amendment at Square 439S and ask
23 for a second.

24 COMMISSIONER MAY: Second.

25 CHAIRPERSON HOOD: It has been moved and properly

1 second. I'm not sure who's second it, but I guess you -- some
2 people just people just --

3 VICE CHAIR MILLER: My dog seconded it.

4 CHAIRPERSON HOOD: Yeah.

5 COMMISSIONER IMAMURA: I'll defer to Commissioner May.

6 CHAIRPERSON HOOD: Okay.

7 COMMISSIONER IMAMURA: Seniority.

8 CHAIRPERSON HOOD: Amendment properly second. Any
9 further discussion?

10 (No audible response.)

11 CHAIRPERSON HOOD: Not hearing any, Ms. Schellin, would
12 you record the vote, please? Roll call vote.

13 MS. SCHELLIN: Commissioner Miller?

14 VICE CHAIR MILLER: Yes.

15 MS. SCHELLIN: Commissioner May?

16 COMMISSIONER MAY: Yes.

17 MS. SCHELLIN: Commissioner Hood?

18 CHAIRPERSON HOOD: Yes.

19 MS. SCHELLIN: Commissioner Imamura?

20 COMMISSIONER IMAMURA: Yes.

21 MS. SCHELLIN: The vote is 4 to 0 to 1 to set down
22 Zoning Commission Case number 22-11 as a contested case. Minus
23 one being the third mayoral appointee position, which is vacant.

24 CHAIRPERSON HOOD: Okay.

25 Next, moving right along. Let's go to Correspondence.

1 Zoning Commission Case Number 20-31. This American University
2 Campus Plan. And remember we put this off last time to give
3 folks time to respond. And let me turn it over to Ms. Schellin,
4 and see it out.

5 MS. SCHELLIN: Yes, sir. As you said, this was deferred
6 from the April 28th agenda to allow parties to respond to the
7 request to reopen the record for some supplemental information
8 that was filed by Neighbors for a Livable Community and Spring
9 Valley-Wesley Heights Citizens Association. No additional
10 responses were received, but the seven days have passed, and so
11 now we're at the stage for the Commission to consider the entire
12 thing, which was a request from NLC and the Spring Valley Group
13 for reconsideration, rehearing, reopening of the record relating
14 to the recently-issued order in this case.

15 With respect to issues relating to student enrollment
16 and housing issues, the only party to respond to the request has
17 been the applicant. So you have this before you. We'd ask the
18 Commission to consider this request and the response this
19 afternoon. Thank you.

20 CHAIRPERSON HOOD: So Ms. Schellin, let me make sure I
21 misunderstand. Did we -- we've already reopened the record,
22 correct?

23 MS. SCHELLIN: You reopened the record for the
24 supplemental submission, but their initial request was to reopen
25 the record to accept some new information also.

1 CHAIRPERSON HOOD: And I thought we did that.

2 MS. SCHELLIN: You have not ruled on it.

3 CHAIRPERSON HOOD: Okay. We did not rule on it.

4 MS. SCHELLIN: It's there.

5 CHAIRPERSON HOOD: Yeah, the last --

6 MS. SCHELLIN: It's in the record already, so.

7 CHAIRPERSON HOOD: I will get it.

8 MS. SCHELLIN: Yeah.

9 CHAIRPERSON HOOD: So let's do that first. Any
10 objections to reopening the record?

11 COMMISSIONER MAY: To let in those specific things, no.

12 CHAIRPERSON HOOD: Okay. So, okay. That's what have
13 me confused. Okay. So we will reopen the record.

14 Now, I will start off, and I want to hear from others.
15 I looked at some of the conversation the way it was going back
16 and forth about the enrollment and what the advice that was -- I
17 mean, the numbers that were given us versus the numbers that was
18 given to Department of Education and how all that went, and
19 whether people -- everybody's using COVID. There were so many
20 different accusations were out there. So many different
21 dynamics. We were being misled. It was COVID-19.

22 So when I looked at all of them, for me, I went with
23 COVID-19. And I started thinking how I had to adapt and change
24 my own life. And then plus, some of that information might not
25 have been available at the time. And I know people are not going

1 to like it, but the reality of it is even the people who made
2 the suggestion changed their lives during COVID-19. So I will
3 say that I believe that the requests, while I'm hoping -- I would
4 hope that people don't come out and mislead us. I would hope
5 that people would come out and tell us and give us the best
6 available information at the time. And I also would hope that
7 people would not try to use COVID-19 as a crutch, because many
8 people lost their lives. So I looked at all of that, and where
9 I come down at is I would not be in favor of we having another
10 hearing, but, you know, I -- let me just hear from others. It's
11 just so many different moving pieces and all the other stuff
12 that's going on, and people dying from COVID and come up with
13 this. I'm sorry. I just don't -- it's not -- for me, I
14 understand the impacts.

15 I would hope the university will continue to work with
16 the community, which I believe they said they would. But I think
17 we can do other things besides just going back and forth. And I
18 think they need to come into compliance. And there are some
19 other issues, I believe, with narrowing the scope of colleges as
20 well, which some great points have been made. So let me open it
21 up for questions or comments.

22 Commissioner May?

23 COMMISSIONER MAY: Thank you, Mr. Chairman.

24 Yeah. I don't see any reason to relitigate any portion
25 of this case. I mean, certainly what they described, the

1 university was facing some highly-unusual circumstances. And,
2 yeah, the enrollment at one point kind of went above the line.
3 But I'm not sure what tools they have to navigate that to begin
4 with. I mean, the whole science of how you -- how many people
5 do you accept in order to get the enrollment that you want. And
6 the -- there have been so many factors that have changed people's
7 perception about coming to school, not coming to school, or
8 needing to come back to school because they want to be back in
9 person because they've been at home for a year and a half or
10 whatever. There's so many factors in here that make it just such
11 a guessing game. And I think the university did what they could,
12 and it didn't work out exactly right. But they've already made
13 enough adjustments so that they're back in compliance.

14 I don't see any reason to, as I said, to relitigate
15 this over this particular issue at this time. If we were to find
16 out the university were regularly misreporting information to us
17 or that they were exceeding their enrollment caps on a regular
18 basis, then maybe we'd have something substantive to talk about.
19 But I don't think that there's anything substantive to this, and
20 I'm frankly not even pleased that it came to us.

21 I will also note, I think you alluded to this a little
22 bit, Mr. Chairman, but I think one of the things that we have
23 not historically looked at when it comes to campus plans is
24 looking at their -- those approvals through the racial equity
25 lens. And, you know, there's been reporting on this recently

1 where the exclusivity of certain private institutions helps sort
2 of drive up the demand for seats at those universities, and often
3 the universities are constrained in how much they can grow because
4 of enrollment caps due to local zoning regulations and things of
5 the sort.

6 And of course, town and government relations all play
7 into that as well. And I think that there is -- I'm certain that
8 as we move forward, and we start to embrace our examination of
9 each case and through a racial equity lens, that we start to
10 examine this question. And because certainly we do not want to
11 be contributing to inequities by holding back universities when
12 they -- when there's a way for them to expand and increase the
13 opportunities that come with the educational opportunities and
14 with the imprimatur of these more exclusive universities. So, I
15 mean, I think we have to be looking very carefully at that.

16 I'm not saying that we should just throw open the doors
17 and let everybody have every, you know, as many students as they
18 want, but I think the universities would do well for the general
19 public if they were to look closely at these questions and try
20 to understand what they can do to advance equity in their
21 institution and ask us what we can do to help.

22 CHAIRPERSON HOOD: Thank you, Commissioner May. Now I
23 have heard you say a lot of stuff over the years, but that's one
24 that I agree with you 100 percent. I -- well said. I couldn't
25 have said it any better. I'm hoping that we can remember to

1 bring some of that up during the roundtable and throw that out
2 there, because I think that what you just said is so important
3 to us coming into compliance with what the mandate is from the
4 Council and the residents of the city. So thank you for how you
5 articulated that, because I think that is very important, and I
6 know it's very dear to this Commission.

7 Commissioner Imamura, I know you have not opined on
8 this, so let me just go to Vice Chair Miller.

9 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'll be
10 brief. I concur with your comments and those of Commissioner May
11 entirely, so I'm not in favor of reconsidering the final order
12 at this time. Thank you.

13 CHAIRPERSON HOOD: I will just add this, and I'll be
14 done with. I would just encourage the university to continue to
15 work with the community. Give them the best available information
16 you have. You know, a lot of us have been dormant for COVID. I
17 know on my particular job and others, I'm sure, we're trying to
18 get back up the staff and get back up to stuff that we're supposed
19 be doing, and everything seems to be running, (indiscernible) and
20 awry, but it will come to compliance and come back into form.
21 But I will say that please continue to work with the community.
22 I'll just leave it at that.

23 All right. Do we need to make a motion on this --

24 MS. SCHELLIN: Yes.

25 CHAIRPERSON HOOD: -- if we're ready? Okay.

1 So we are denying the request for -- we already opened
2 the record, so we will deny the request for -- to reopen the
3 record and have a -- no. We will deny the request for a
4 rehearing, because we've already reopened the record in Zoning
5 Commission Case Number 20-31 for the comments and the -- as
6 mentioned in our discussion.

7 Is there a second?

8 COMMISSIONER MAY: Second.

9 CHAIRPERSON HOOD: It's moved and properly second.

10 I believe -- I don't see -- Mr. Ritting turned his
11 camera on. Mr. Liu, so I guess that motion is --

12 MR. LIU: Actually, Mr. Chair, if I could interject.
13 I just wanted to clarify something. There were two requests to
14 reopen the record. The second one was to enter the specific
15 newspaper article into the record, so that was granted.

16 CHAIRPERSON HOOD: Right.

17 MR. LIU: Right, Ms. Schellin?

18 And so, the first request to reopen the record, which
19 was to facilitate a potential rehearing. I believe that should
20 be -- also be rejected as part of rejecting the rehearing.

21 CHAIRPERSON HOOD: Okay. So I would move that we deny
22 the request to reopen the record for a rehearing.

23 Is that legally sufficient?

24 MR. LIU: Yes. So there were three requests with the
25 initial order. All three of those requests.

1 CHAIRPERSON HOOD: All three of the requests.

2 MR. LIU: Yes.

3 CHAIRPERSON HOOD: With respect to the reopening for
4 the material, I move that we deny.

5 Is that sufficient?

6 MR. LIU: Yes.

7 CHAIRPERSON HOOD: No, I'm just asking. I want to make
8 sure I'm right.

9 MR. LIU: Yes. Yes, it is.

10 Unless Ms. Schellin, did you have anything?

11 MS. SCHELLIN: I think you should say, excuse me. I
12 know Mr. Liu is still trying to get -- so I think you should --
13 the motion should say to deny reopen the record, deny
14 reconsideration, deny rehearing. Deny those three things.

15 MR. LIU: Yes.

16 CHAIRPERSON HOOD: Okay. Ms. -- what Ms. Schellin
17 said, because I'm so confused now, because I know we reopened --
18 okay. I will move that we deny reopening the record for a
19 hearing. We deny rehearing. And what's the other one?

20 MS. SCHELLIN: Reconsideration.

21 MR. LIU: Reconsideration.

22 CHAIRPERSON HOOD: And we deny reconsideration. I --
23 okay. I see we're getting a thumbs up, so thank you.

24 We deny all three of those.

25 MS. SCHELLIN: Who will second that?

1 COMMISSIONER MAY: I'll second that as bonafide.

2 MS. SCHELLIN: Okay.

3 CHAIRPERSON HOOD: All right. It's been moved and
4 probably second. Any further discussion?

5 (No audible response.)

6 CHAIRPERSON HOOD: All in favor?

7 (No audible response.)

8 Ms. Schellin, would you do a roll call vote, please?

9 MS. SCHELLIN: Yes. Commissioner Hood.

10 CHAIRPERSON HOOD: Yes.

11 MS. SCHELLIN: Commissioner May.

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner Miller.

14 VICE CHAIR MILLER: Yes.

15 MS. SCHELLIN: Commissioner Imamura.

16 COMMISSIONER IMAMURA: Abstain.

17 MS. SCHELLIN: Okay. So the vote is 3 to 2 -- 3 to 0
18 to 2 to deny reconsideration, reopening the record, and rehearing
19 in Zoning Commission Case Number 20-31. Commissioner Imamura not
20 voting having not heard the case and the third mayoral appointee
21 position being vacant.

22 CHAIRPERSON HOOD: Thank you all for helping me with
23 the motion.

24 MS. SCHELLIN: Staff has nothing further, but OP has,
25 I believe, a very short presentation.

1 CHAIRPERSON HOOD: So we -- I would remind we do have
2 another hearing after this, so let's go to OP and then we'll
3 switch right over.

4 CHAIRPERSON HOOD: Mr. Lawson?

5 MR. LAWSON: Hi. Thanks, Mr. Chair, and members of the
6 Commission. I realize we have a hearing, so I'll keep this really
7 short. I'm here just to provide a short, brief update regarding
8 OP's initial review of two cases filed by OAG for text amendments
9 to the Inclusionary Zoning or IZ regulations.

10 The first of the two, Case 21-23, would require IZ for
11 residential developments in all 11 downtown zones, rather than
12 the three where it currently applies. Case Number 21-24 would
13 lower the minimum household income eligibility for rental and
14 ownership IZ, removing some income levels currently served by IZ.
15 The petition would also require the reservation of one IZ unit
16 at 30 percent MFI in every IZ rental development and incentivize
17 the provision of additional units at that level.

18 The overall intent of these petitions is, of course,
19 really commendable. Since IZ was first adopted, you've actually
20 approved a number of amendments to make the program more efficient
21 and more effective, always within the parameters of the original
22 intent of the IZ program itself. However, OP's initial analysis
23 of these two petitions raise concerns that these new requirements
24 could actually result in fewer IZ units overall. This is because
25 of their potential impact on the market rate housing to which IZ

1 units are tied.

2 IZ is designed as a program to incentivize the
3 provision of affordable housing and housing development without
4 District subsidy. These additional requirements, as proposed,
5 could impact the feasibility of new housing developments, which,
6 in turn, could mean fewer IZ units. So our preliminary review
7 also indicated that there are potential Comprehensive Plan
8 policies with which these cases appear to be inconsistent.

9 For example, the proposed MFI changes would exclude
10 from IZ some income groups that the Comprehensive Plan targets
11 to be better served by affordable housing. The proposals also
12 may not adequately address the balance of the -- that the
13 Comprehensive Plan envisions between new requirements for greater
14 affordability and the incentives or regulatory relief for the
15 provision of those more affordable units. So OP is concerned
16 that an economic impact analysis is not being provided for these;
17 one that documents the potential impact of these proposals on the
18 feasibility of market rate housing development. The petitions
19 also do not consider the administrative complexity that could be
20 created by the intersection of multiple new and proposed
21 amendments.

22 Given these concerns, in particular, the potential
23 impact of these proposals on housing development, and therefore,
24 the provision of new IZ units, OP is recommending that the
25 Commission not set down these two cases for the time being.

1 Rather, over the next few months, OP will conduct stakeholder
2 engagement discussions with members of the public, government
3 entities, and interested groups. The intent is to discuss
4 concepts for providing additional affordable housing and deeper
5 levels of affordability, including in the downtown.

6 Following this, we are recommending that the Zoning
7 Commission hold a public roundtable, which would allow an open
8 discussion of these concepts and alternatives. Our experience
9 with past cases shows that an open discussion like this of
10 concepts among a broad range of individuals and groups, results
11 in a better hearing of the concerns, the identification of a
12 broader range of issues, and the development of alternative
13 concepts for consideration that would be the case with a more
14 formal public hearing process.

15 These discussions would also help OP to undertake and
16 submit a meaningful analysis of concepts that are developed.
17 This would include, of course, economic impact analysis,
18 administrative feasibility, and racial equity analysis,
19 particularly the impact on lower-income, black or people of color
20 households. We would then bring forward recommendations for
21 possible amendments to the regulations in a setdown report to the
22 Commission likely later in this fall.

23 That concludes my report. Thanks for listening to me,
24 and I'm happy to address any questions that you may have.

25 CHAIRPERSON HOOD: Let me first start off, Mr. Lawson,

1 by thanking you and the Office of Planning for coming to us with
2 this, because this is exactly some of the things I've heard were
3 frightening, because we don't want to do the opposite. We're not
4 trying to do the opposite. When you say less affordable housing,
5 we're definitely trying to create it? We're not trying to do
6 less. So thank you for this report. I do like the roundtable.
7 And I was thinking, and we have to talk about this, I was
8 wondering, we already have a roundtable that we're planning to
9 do. We probably shouldn't mix it all together, so just toss that
10 out. But thank you for the report. Let's see what others have
11 to say.

12 Commissioner May.

13 COMMISSIONER MAY: I don't have any comments. I
14 appreciate the -- I mean, I agree with the approach, and I
15 appreciate getting the update from the Office of Planning. Thank
16 you.

17 CHAIRPERSON HOOD: Commissioner Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Yeah,
19 no comments. I think what Mr. Lawson is proposing makes a lot
20 of sense.

21 CHAIRPERSON HOOD: And Vice Chair Miller.

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

23 And thank you, Mr. Lawson, for that update and report.
24 I think it -- a public roundtable where the concepts are discussed
25 does make -- will be useful, I think, for both us and the public

1 stakeholders involved. But the last thing on your report,
2 Mr. Lawson, is a table, which has a timeline for the stakeholder
3 engagement, a roundtable table and public hearing, and it has May
4 to September stakeholder engagement, October 2022 is what the
5 proposed timeline is for the public roundtable, and November of
6 2022 is where you say OP submits setdown report, and in January
7 of 2023, the Commission would conduct a public hearing.

8 I'm glad those last two points are there, because I
9 don't think I could have just supported just having a public
10 roundtable without knowing that we aren't going to get a setdown
11 report on these applications -- petitions one way or the other
12 from the Office of Planning. And certainly we can deal with it
13 and have a public hearing. I think that's important to have.
14 And so, I'm pleased that you included that within your schedule.
15 It is six months off, but -- and obviously, there will be missed
16 opportunities, I guess, for inclusionary zoning in some downtown
17 zones during this period of time.

18 But as you've pointed out, the concerns about
19 disincentivizing any development is also a major concern. And
20 that's always been the concern with -- in all of our discussions
21 about inclusionary zoning going back to the beginning. So we
22 recognize that, and I look forward to the roundtable and your
23 setdown report later in the fall, so thank you.

24 MR. LAWSON: Thank you.

25 CHAIRPERSON HOOD: So I don't think we have anything

1 else.

2 Again thank you, Mr. Lawson, for you and the Office of
3 Planning all the work you all have put into what you've gotten
4 us and the schedule as well, so thank you.

5 All right. Ms. Schellin, do we have anything else?

6 She may be over (indiscernible). Okay.

7 MS. SCHELLIN: Nothing else.

8 CHAIRPERSON HOOD: All right. So with that, I want
9 to thank everyone.

10 Anything else colleagues?

11 (No audible response.)

12 Thank everyone for their participation tonight in this.
13 Our meeting agenda for -- our meeting is adjourned, and I'll see
14 everyone over on the other link. Thank you. Goodnight.

15 (Whereupon, the above-entitled matter went off the
16 record at 4:53 p.m.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 05-12-2022

Place: Teleconference

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