

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

+ + + + +

THURSDAY

October 13, 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:

JENNIFER STEINGASSER, Deputy Director
MAXINE BROWN-ROBERTS, Development Review Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

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

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The transcript constitutes the minutes from the Public Meeting held on October 13, 2022.

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

2 (4:00 p.m.)

3 CHAIRPERSON HOOD: Good afternoon, ladies and
4 gentlemen. We are convening and broadcasting this public meeting
5 by video conferencing. My name is Anthony Hood. Joining me this
6 evening are Vice Chair Miller, Commissioner May, and
7 Commissioner Imamura. We're also joined by the Office of Zoning
8 staff, Ms. Sharon Schellin, and also Mr. Paul Young, who will be
9 handling all of our virtual operations. Also our Office of Zoning
10 Legal Division, Ms. Lovick, Mr. Ritting, and Mr. Liu. I will
11 ask all others to introduce themselves at the appropriate time
12 if needed.

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

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

24 Again, we do not take any public testimony at our
25 meetings unless the Commission requests someone to speak or to

1 | come forward and speak. If you experience difficulty accessing
2 | Webex or with your phone call-in, then please call our OZ hotline
3 | number at 202-727-0789 for Webex login or call-in instructions.

4 | So with that, again, let me say good afternoon. And
5 | let's go straight -- does the staff have any preliminary matters?

6 | MS. SCHELLIN: No, sir.

7 | CHAIRPERSON HOOD: Okay.

8 | Let's go straight to the agenda as printed. Our first
9 | case is on deliberation in Zoning Commission Case No. 17-05D,
10 | Eaternity Hospitality Group at 2100 2nd Street, Southwest, LLC,
11 | Design Review Modification of Consequence at Square 613.

12 | Ms. Schellin?

13 | MS. SCHELLIN: Yes, sir. On this case, the Commission
14 | did determine already that it would be a modification of
15 | consequence. The Applicant submitted additional information at
16 | Exhibits 5 through 5C and 9 and 9A. OP submitted a supplemental
17 | report at Exhibit 6, and ANC 6D submitted their report at Exhibit
18 | 8. And we leave this to the Commission to make its decision, if
19 | it chooses to do so.

20 | CHAIRPERSON HOOD: Okay. In this case, I believe that
21 | we have a submission that's coming in at 4:30. Late breaking
22 | news. You know how they say, "late breaking." So what I think
23 | we'll do, unless I hear some objections, so we can review it,
24 | the plan, I believe, was to -- the plan I was going to present
25 | was that we do this at another hearing. But if we get that, and

1 | it's something we can deal with after the -- I mean, once we
2 | finish going through our agenda, then I think we should at least
3 | take a look at it for a moment and see whether we want to proceed
4 | or not. That way we can get that -- if we can, we may be able
5 | to knock that off of our agenda, unless my colleagues have any
6 | objections.

7 | (No audible response.)

8 | CHAIRPERSON HOOD: Okay. So that's what we'll do.

9 | All right, Ms. Schellin, if you can let us keep an eye
10 | out for that.

11 | MS. SCHELLIN: Yes, sir, I will.

12 | CHAIRPERSON HOOD: Thank you.

13 | Let's go to the next case, which is Zoning Commission
14 | Case No. 12-14D.

15 | Ms. Schellin?

16 | MS. SCHELLIN: Yes, the 3rd and M LLC, 3rd and K, LLC,
17 | and Park Inn Associates, LP. This too is a PUD Modification of
18 | Consequence at Square 542. And on this case, at Exhibit 10, you
19 | have the Applicant's response advising that it does agree to the
20 | conditions in the OP and ANC reports. The record was also left
21 | open to allow the party Copper Carroll's -- or I'm sorry,
22 | Carrollsburg, A Condominium, to provide its response to the
23 | application. We did not receive a response; however, the case
24 | is ready for the Commission to move forward with deliberations,
25 | if it chooses to do so.

1 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin for
2 teeing that up.

3 Let me open it up and see who would like to comment and
4 start us off on this first -- looks like all the agreements have
5 been taken care of. As stated, the Applicant submitted a letter
6 at Exhibit 10 stating they had no objections to conditions
7 stipulated by OP and or the ANC report. And we have not got a
8 -- anything from Carrollsburg Condominium Association --
9 Carrollsburg, A Condominium Association. So let me open it up
10 for any questions or comments.

11 COMMISSIONER MAY: Mr. Chairman, I don't see any issues
12 with this. I've read through the materials. I see some pretty
13 minor changes and no objections, so I think I'm ready to move
14 forward in approving it tonight.

15 CHAIRPERSON HOOD: Okay.

16 Commissioner Imamura?

17 COMMISSIONER IMAMURA: I'm in agreement. And
18 Carrollsburg, A Condominium has had ample opportunity to provide
19 input. I'm prepared to move forward.

20 CHAIRPERSON HOOD: Vice Chair Miller?

21 VICE CHAIR MILLER: I don't know if it was me or others,
22 but I was having trouble hearing Commissioner Imamura, but I
23 could read lips. I agree with my colleagues, and I appreciate
24 the Applicant agreeing to the conditions stipulated by the Office
25 of Planning and the ANC. And we did give that opportunity to

1 Carrollsburg -- additional opportunity to weigh in, so I'm ready
2 to move forward.

3 CHAIRPERSON HOOD: Yeah, I thought this was pretty
4 straightforward. Again, as requested, I too had problems hearing
5 Commissioner Imamura. I don't know if you might need to lean up
6 a little closer. But anyway, we'll figure it out as we go along.

7 So again, this is Zoning Commission Case No. 12-14D,
8 3rd and M, LLC, 3rd and K, LLC, and Park and Associates, LP, PUD
9 Modification of Consequence. And the Squares are 542, Lots 816,
10 817, 821, 883 and 2124 through 2251. I think we've covered
11 everything in the submission for this. Everything seems to be
12 all agreed upon for the parties entered and those who have
13 responded. And with that, I make a motion that we approve and
14 ask for a second.

15 VICE CHAIR MILLER: Second.

16 CHAIRPERSON HOOD: Moved and properly second. Any
17 further discussion.

18 (No audible response.)

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

21 MS. SCHELLIN: Commissioner Hood?

22 CHAIRPERSON HOOD: Yes.

23 MS. SCHELLIN: Commissioner Miller?

24 VICE CHAIR MILLER: Yes.

25 MS. SCHELLIN: Commissioner May?

1 COMMISSIONER MAY: Yes.

2 MS. SCHELLIN: Commissioner Imamura?

3 COMMISSIONER IMAMURA: Yes.

4 MS. SCHELLIN: The vote is four to zero to one to
5 approve final action in Zoning Commission Case No. 12-14D, the
6 minus one being the third mayoral appointee position, which is
7 vacant.

8 CHAIRPERSON HOOD: Okay. Next, let's go up on the
9 final action in Zoning Commission Case No. 22-04. This is the
10 Hanover R.S. Limited Partnership Consolidated PUD/Map Amendment.

11 Ms. Schellin?

12 MS. SCHELLIN: Yes. The Applicant's post-hearing
13 submissions can be found at Exhibit 61 through 62A and at 64
14 through 65A. NCPC provided a letter at Exhibit 63 advising that
15 the project falls under one of the exemptions from review. So
16 this case is ready for the Commission to consider final action.

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

18 As noted, the Applicant submitted 64, 64-A1, 64-A2, and
19 64-A3 in response to some of the things we mentioned. The
20 Commission requested the Applicant consider additional landscape
21 and streetscape. It also had some design comments regarding
22 design and maintenance. The Applicant has responded with an
23 explanation why it was sticking with the facade design; I'm not
24 sure. And also an explanation of why it was sticking with the
25 color of the brick. So -- and I think that's pretty much it,

1 unless we have some other things we want to talk about.

2 Let's -- let me open it up. Any discussions? Anybody
3 want to elaborate? Is it enough? Not enough? Want to see more?
4 Let me just open it up.

5 Commissioner May?

6 COMMISSIONER MAY: Yeah. I wish I could say I
7 appreciate what the Applicant submitted, but I don't really
8 appreciate it. I mean it was not really very responsive. But
9 I'm also -- these are not issues that I think were compelling
10 enough that I really strongly felt we needed to see changes to
11 the facade design or changes to the material. Nonetheless, you
12 know, the response was less than satisfying. They just -- it
13 was a whole lot of words explaining why they think they had it
14 right from the first go-round, and I don't think they really do.
15 But it's not so bad that I would want to vote against it at this
16 point, so I'm okay with going forward.

17 I will note that, you know, the circumstances that they
18 describe for how they plan to detail things so that the
19 brick -- the light-colored brick is not going to become discolored
20 over time, that is exactly the kind of circumstance where
21 buildings do get dirty by, you know, pretending that -- that rain
22 is going to wash this facade clean is -- it's a fantasy. And
23 that's exactly how buildings get dirty and wind up not showing
24 well.

25 But they did say that they're going to have a regular

1 program of, you know, cleaning the building, so I guess we have
2 to rely on that. But next time, maybe I need to be a little bit
3 more direct and forceful when it comes to some of these comments,
4 because I just -- I found this response to be, as I said before,
5 unsatisfying. The -- on the landscape side, you know, I tend to
6 agree with Commissioner Imamura's concerns about that, and I will
7 let him speak to how he thinks of this. But I imagine maybe it's
8 similar. We'll see.

9 CHIARPERSON HOOD: Okay.

10 Commissioner Imamura?

11 COMMISSIONER IMAMURA: All right. Thank you,
12 Mr. Chairman.

13 Thank you, Commissioner May.

14 Hopefully, you can hear me better. I think my earbuds
15 got tired.

16 I feel similarly -- to Commissioner May. I just want
17 to address sort of the architectural concerns that he expressed
18 and the response we received back. I think I saw it as more of
19 an academic exercise and thought it rather sophomoric to justify
20 the materiality that they used. It just, you know -- and I was
21 wildly underwhelmed by the additional streetscape and landscape
22 plans that they provided.

23 No doubt this project has a number of public benefits.
24 The landscape and public streetscape, the public realm is not one
25 of them. It's disappointing on a project of this size and scale.

1 That's no reflection on the actual landscape architect or the
2 design behind it. It just reflects that the project team, as a
3 whole, didn't prioritize public space like they probably should
4 have, so. But again, the project has a number of public benefits.
5 While the landscape plan and streetscape missed the mark, it's
6 not enough to, in my view, not enough to hold up the project. So
7 I'm prepared to support it with a little bit of heartburn.

8 CHAIRPERSON HOOD: Okay.

9 Vice Chair Miller.

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. I am
11 supportive of this project, as I was at proposed action. I
12 understand what Commissioners May and Imamura are saying about
13 their underwhelmed reaction to the Applicant's response to their
14 architectural criticisms and landscape criticisms at proposed
15 action. But I wanted just to reiterate what we said at proposed
16 action, that there was a lot of responsiveness actually between
17 the hearing and the proposed action in response to what the Zoning
18 Commissioner said and the Office of Planning said regarding
19 clarifying the inclusionary zoning, that there's an absolute
20 floor minimum of 15 percent, or I think there's actually a number
21 and square footage, that 15 percent of that 683, whatever that
22 comes out to -- 683 residential units. That's a lot of
23 residential units, and fifteen percent is more than what's
24 required.

25 And I think they added three-bedroom units between the

1 hearing and the proposed action. The added live-work spaces, I
2 think three live-work spaces, which address a PDR concern or a
3 concern that they'd be respectful of the PDR -- partial PDR
4 designation of the site. There was additional outdoor space and
5 balconies provided between the hearing and proposed action. So
6 there are a lot of public benefits and Comp Plan policies that
7 this project will be consistent with. And I'm ready to move
8 forward.

9 CHAIRPERSON HOOD: So I have a few questions, and I'm
10 trying to -- I have no problems. I think if we -- and I'm going
11 to ask Mr. Ritting to maybe listen on this part of the
12 conversation, and make sure we -- from all the legal standpoint
13 -- we have -- have we resolved that issue about, I think, there
14 was a disagreement between the Office of Planning and the
15 Applicant about whether the IZ flexibility is needed? And I
16 think that was at Exhibit 45. And I think it's already been --
17 we've been counseled that this is exactly what that regulation,
18 11C, 1000.9 was intended for situations as this one. So have we
19 fully discussed that? Are you satisfied with -- if we move
20 forward?

21 MR. RITTING: Yes, it was resolved at the hearing. The
22 Applicant --

23 CHAIRPERSON HOOD: Okay.

24 MR. RITTING: -- conceded to the Office of Planning's
25 position. So it's --

1 CHAIRPERSON HOOD: The IZ. Okay.

2 MR. RITTING: -- no longer a question that needs to be
3 resolved by you.

4 CHAIRPERSON HOOD: Okay. What about the IZ 60 percent
5 MFI minimum for IZ, that whole scenario that was outlined?

6 MR. RITTING: That's what I was referring to.

7 CHAIRPERSON HOOD: Okay. That and -- okay. I thought
8 it was two different issues. Okay. So that was all one. That
9 was a big issue. That was all one issue. Okay. So that's been
10 resolved. As a -- so we know the -- I didn't see any opposition.
11 I wanted to look out for any opposition in this case. I saw
12 concerns. We know that the project is a significant increase as
13 stated. It's significantly taller and denser and -- than what a
14 matter-of-right would be. I think we've covered everything,
15 unless I'm leaving something out. I'm going to lean --

16 Mr. Ritting, have we left anything out that needs to
17 be discussed? I think we've covered everything.

18 MR. RITTING: I believe you've covered everything.

19 CHAIRPERSON HOOD: Okay.

20 All right. And again, it had -- looks like overwhelming
21 support, even though we did not have a full ANC report. We did
22 have ANC members who opined on this who have -- who've testified
23 that they had met with the community for the most part.

24 Commissioner May?

25 COMMISSIONER MAY: Yeah, Mr. Chairman, I want to

1 underscore, you said that, you know, we were expecting, or we
2 were keeping an eye out for opposition. And I fully expected
3 that there would be some opposition. But I think, as I recall,
4 the Applicant did a good job of making sure that there was good
5 outreach to the community. It is a little weird that the result
6 of that was no ANC report, but there's something going on within
7 the ANC, I think, that complicated things.

8 I would also say that -- and I agree with the Vice
9 Chair that the Applicant was responsive from the earliest stages
10 to when we actually had the hearing. But the decision happened
11 -- for a proposed action happened on the hearing night was between
12 the set down and between that I think that they did most of their
13 work. And they did a lot of good work there. So I mean, I will
14 compliment them for that, even if I'm unhappy and grumpy about
15 the design issues.

16 CHAIRPERSON HOOD: Okay. And I also think this is a
17 good project. And I guess, you know, I'm not going to keep
18 looking for anything wrong if I don't -- if I can't find anything,
19 so. And with that, would somebody like to make a motion to
20 approve? And this is under final action. Final action, I
21 believe, right?

22 VICE CHAIR MILLER: Well, I guess I could make it if
23 you're not going to make it, Mr. Chairman.

24 CHAIRPERSON HOOD: Yeah.

25 VICE CAHIR MILLER: That the Zoning Commission --

1 correct me if I got the wrong case here -- should take no action
2 on Zoning Commission Case 20-04, consolidated PUD and related
3 zoning map amendment from PDR-2 to MU-6A and MU-4 and ask for a
4 second.

5 COMMISSIONER MAY: Second.

6 CHAIRPERSON HOOD: I'll second that. And I think you
7 said -- Commissioner May second it. I think you said 22-04,
8 correct?

9 VICE CHAIR MILLER: That is correct.

10 CHAIRPERSON HOOD: Okay. All right.

11 All right. So moved and properly second to approve
12 22-04 in light of discussion and also what's being presented.
13 Any further discussion?

14 (No audible response.)

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

17 MS. SCHELLIN: Commissioner Miller?

18 VICE CHIAR MILLER: Yes.

19 MS. SCHELLIN: Commissioner May?

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Commissioner Hood?

22 CHAIRPERSON HOOD: Yes.

23 MS. SCHELLIN: Commissioner Imamura?

24 COMISSIONER IMAMURA: Just going to let there be a long
25 pause for my disdain for the landscape, but yes.

1 MS. SCHELLIN: Okay.

2 The vote is four to zero to one to approve final action
3 in Zoning Commission Case No. 22-04, the minus one being the
4 third mayoral appointee position.

5 CHAIRPERSON HOOD: You know, Commissioner Imamura, I've
6 done that before, and I thought I was the only one that did those
7 kind of things. But it's good to know that somebody else does
8 this.

9 All right. Okay. Let's go to Zoning Commission Case
10 No. 22-13, Wesley Theological Seminary of the United Methodist
11 Church, 2022 through 2032, Campus Plan at Square 600.

12 Ms. Schellin?

13 MS. SCHELLIN: Yes. So since the deliberations that
14 the Commission did at the July 14th meeting, the Applicant
15 submitted some post hearing submissions at Exhibits 52 through
16 52B. At Exhibit 53, there's an OP second supplemental report.
17 Exhibit 54, ANC 3D submitted a report. Exhibit 55, you have a
18 joint response from NLC and SW -- I'm sorry, SVW, HCA, two parties
19 in opposition. And at Exhibit 56 the Applicant did submit or
20 request to submit a -- requested to submit a reply to the
21 opposition's response, which is not allowed per the regs, and
22 that was denied by the Chairman. So I just wanted to let everyone
23 else know that. So it is ready for the Commission to deliberate
24 on final action.

25 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

1 Now what was the last one? I did not -- I want to make
2 sure I did it right. I want to --

3 MS. SCHELLIN: It was the Applicant requested to reply
4 to the opposition's response, and that's not allowed. It's a
5 reply to a response.

6 CHAIRPERSON HOOD: Oh.

7 MS. SCHELLIN: Yeah.

8 CHAIRPERSON HOOD: We'll be going on forever. Okay.
9 Thank you.

10 Okay. So before I start off where I am, I can tell
11 you, I've been going back and forth with this issue. But anyway,
12 let's talk about this first issue. I think the first issue we
13 need to determine is the proposed new dormitory use is a
14 commercial use or an educational use. And I think that was the
15 biggest piece that the opposition pushed to us. And I know there
16 was some -- but anyway, let me open it up to my colleagues first.

17 Commissioner May, any questions or comments?

18 COMMISSIONER MAY: Yeah, sure. So I don't really love
19 the -- that particular dichotomy between commercial use versus
20 educational use. I -- you know, I prefer to think of it in terms
21 of educational use versus uses that are related to the purpose
22 of the -- the educational purposes of the institution. I forget
23 what the exact wording is, but it's something more like that.
24 And you know, I think that the Applicant in their subsequent
25 submissions did provide a more fulsome explanation of why they

1 | thought that this new luxury apartment building would be
2 | supportive of the educational mission of the Wesley Theological
3 | Seminary.

4 | And so I think they did make a, I think, a more full
5 | argument. And I think that, you know, the response from Spring
6 | Valley Wesley Heights Association and Neighborhoods for a Livable
7 | Community was also informative in that regard. And I have to
8 | say that I'm still where I am -- where I was before when we
9 | started considering this, that I think that the only really
10 | substantive way in which this apartment building is supporting
11 | the educational purpose of the seminary is by providing financial
12 | support.

13 | And I just -- my inclination is that that kind of use
14 | -- and call it commercial use if that's easier -- is just not
15 | supportable within a campus, particularly a campus of this size,
16 | where it's, you know, it's this -- it's going to become this huge
17 | component within that very small campus, and it's just there to
18 | provide income. And it's sort of a workaround to not only --
19 | well, it's an "end around" -- I think was a term that somebody
20 | used at one point, to get around the regulations and the
21 | limitations within the Zoning Regulations when it comes to campus
22 | plans. But it's also a way around the Zoning Regulations that
23 | would normally apply for an apartment building of that size.

24 | And so I -- I'm just not convinced that there is --
25 | that there's sufficient connection between this particular

1 building, how it is conceived, how it will operate, and the
2 educational purpose of the seminary. And so I don't see how I
3 can support this campus plan.

4 CHAIRPERSON HOOD: Okay. Okay. And that's the only
5 issue I want to deal with right now.

6 Commissioner Imamura?

7 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
8 think Commissioner May brings up some very important points. I
9 think from the very beginning, I've been really conflicted about
10 this, though I've been open to hearing discussions and arguments
11 to persuade me otherwise. And certainly, there's a voluminous
12 record -- documents in the record that I think have articulated
13 the school's position. But I think I am interested in hearing
14 what Vice Chair Miller and your position, Mr. Chair, as I remain
15 on the fence.

16 CHAIRPERSON HOOD: Okay. We got one decision. We got
17 a "fence stayer" for now. And Vice Chair Miller -- let me get
18 on the fence, too, but let me hear what Vice Chair Miller has to
19 stay.

20 (No audible response.)

21 CHAIRPERSON HOOD: Okay. We'll take a moment.

22 VICE CHAIR MILLER: All right, Mr. Chairman.

23 CHAIRPERSON HOOD: No problem.

24 VICE CHAIR MILLER: An unsolicited audio coming out of
25 my phone, which I couldn't figure out how to stop. Just didn't

1 want to share that with the world. So I had to get my phone out
2 of the room, which I did.

3 I don't think I have much more to say in the public
4 record except what I said at the hearing. I think, you know, I
5 would have preferred if this were done in a different way as part
6 of an AU Campus Plan, since this is really all about AU, not
7 Wesley. But -- and there were the alternative disposition modes
8 and others that the opposition or -- threw out as ways to get
9 the financial resources they need to thrive in place -- Wesley
10 to thrive in place adjacent to a sister institution -- sister,
11 cousin, whatever you want to call it. It's part of the same
12 family from that community -- religious community, in terms of
13 their founding.

14 There is shared educational mission between the two.
15 I don't like the dichotomy between commercial and educational
16 use, which Commissioner May said. It really is more about
17 financial resources. And these are -- this is a way to provide
18 financial resources so they can thrive in place to have -- to
19 stay where they have been for, I think, is it a century or more
20 next to AU? Which is a real challenge for a lot of religious
21 institutions in the City, because of the price of land and just
22 the cost of maintaining operations and what have you.

23 So I -- although I would have preferred a different
24 route, I think the Applicant has made a reasonable case as to
25 why it does support, and the president of the of the university,

1 | who testified before us, made a good case why the -- they won't
2 | be able to thrive in place, period, if this isn't approved. So
3 | -- and Mr. May referred to this as luxury housing. I think we
4 | have something in the record that it's going to be subject to
5 | Inclusionary Zoning. Correct me if I'm wrong, Commissioner May
6 | or somebody else. It's not going to be subject to it.

7 | COMMISSIONER MAY: No, I think that there have been
8 | statements that it will be subject to Inclusionary Zoning.

9 | VICE CHAIR MILLER: I'm not sure we got a confirmation
10 | of that from DHCD. I wanted to get a definite confirmation of
11 | that. But Office of Planning, I think, represented that. The
12 | Applicant certainly represented that.

13 | COMMISSIONER MAY: Yeah.

14 | VICE CHAIR MILLER: So some -- and obviously, some
15 | students of American University will qualify under that
16 | Inclusionary Zoning program with or without their parents'
17 | support. So anyway, so I'm -- I do not want that issue to be a
18 | bar for this going forward, which I think has a lot of positive
19 | aspects. I think they were -- the Applicant was responsive to a
20 | lot of concerns I had about the -- well, we can get into that
21 | later. We're only on this threshold issue. We'll get into that
22 | later. Thank you, Mr. Chairman.

23 | CHAIRPERSON HOOD: I -- my thought on that is the --
24 | and I'm very sympathetic to the university and to Wesley Seminary,
25 | especially seminary -- religious institutions. And I did not

1 | hear -- and I think I may have mentioned this before -- I did
2 | not hear another way, another avenue to get this -- something
3 | like this achieved. I don't know if it is or not. I would be
4 | willing to -- because I think our Subtitle X is very clear. And
5 | I think NLC pointed it out, Chapter 1 -- Subtitle X, Chapter 1,
6 | Section 101.4. Now I can make it -- it's -- you know, in my
7 | mind, when I play it over, I think, okay, that is a use, a
8 | university use. And then I said, no, it's a commercial use. So
9 | I've been back and forth.

10 | But for me, I found a way we still, within our
11 | regulations and not be away with what they call -- I think it
12 | was NLC or it might have been Spring Valley, the guardrails that
13 | we have put in place for campus plans. But I also, on the other
14 | side of it, understand that the religious institutions need to
15 | have a way to sustain them, and that's where they could use some
16 | help. So whether it's a university or not, to me there is a
17 | connect. It may be a far-reaching connect, but there's a connect.
18 | But I think for me, it's about trying to figure out the proper
19 | procedure. I think for me, it's all about procedure. I don't
20 | know if this meets with our regulations.

21 | And then if we go to -- even though the Applicant -- you
22 | can make an argument sound good either way. And then if we go
23 | against Subtitle X, which are regulations we put in place, then
24 | the floodgates open. So I don't -- you know, I would really be
25 | interested in proceeding with a more processed way and figuring

1 out another way that we can do this, where it wouldn't cost them
2 a whole lot of money. And I know I -- even if had to waive
3 something or work with staff to try to see if we can work to help
4 this religious institution. So I'll just -- those are my
5 comments. That doesn't help on this issue.

6 I don't know what the vote is, but right now I just
7 don't feel comfortable -- I really don't feel comfortable going
8 either way with what I have in front of me, so. I don't know if
9 that adds anymore discussion or if everybody's still in the same
10 point or -- let me go back to Commissioner Imamura. He's on the
11 fence, and I guess I'm on the fence with him.

12 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
13 think there are a couple of issues here, more than a couple
14 issues, there are several issues here. I think Vice Chair Miller
15 pointed out some very positive aspects of this project. I think,
16 as you stated, Mr. Chairman, that there are some very -- there
17 are some connections back to AU, but at the heart of this, as
18 Commissioner May had mentioned, this is really a financial issue.
19 And I haven't forgotten, because I know it's in the record, that
20 I described this as a creative solution workaround.

21 My concern is, you know, what precedent this sets.
22 While this is a unique site and unique situation that is probably
23 not easily replicated anywhere else in the District, regardless,
24 on principle, it is what it is. So you know, I don't know if I
25 have anything more to add, Mr. Chairman. Why this --

1 VICE CHAIR MILLER: I could ask something, if you want.

2 COMMISSIONER IMAMURA: I just don't know what -- other
3 universities need --

4 COMMISSIONER MAY: I think I'm ready to go again too.

5 CHIARPERSON HOOD: Okay. Commissioner May?

6 COMMISSINOER MAY: Yeah. So you, Mr. Chairman, you
7 said that you hadn't heard anything about another way that this
8 could be done. And Commissioner Imamura and the Vice Chair talked
9 about the benefits of this project, too. And I think the, you
10 know, the broader benefits that can go beyond that. I think you
11 talked about this, too, Mr. Chairman. And I mean, something that
12 occurred to me, and I think I mentioned it in the previous
13 deliberation, was that the way that I could conceivably consider
14 approving this would be if it actually were a Planned Unit
15 Development. Because that is more similar to what has happened
16 in the past with religious institutions redeveloping their
17 properties and creating, you know, they'd get a new church, and
18 there'd be an apartment building, and that would support the
19 operation of the church, the church would stay intact, and it
20 would provide other benefits by having that housing.

21 And having this housing provides some benefits, but it
22 also -- I mean I think that we've heard clearly from the ANC that
23 there are benefits simply by having this institution in this
24 place. And certainly, we've talked about the benefits of having
25 this institution survive within the District of Columbia. I

1 mean, that's about the only way I could see something like this
2 happening. And I just -- I mean, it just -- the -- marry, you
3 know, trying to shove this into the campus plan mold is just not
4 working, because of the inherent conflict between essentially a
5 moneymaking operation that keeps the school afloat as a -- as the
6 only -- I mean, that's the -- really the only reason why this
7 thing would be built in this fashion.

8 I would also -- I do want to visit the IZ issue just
9 briefly, and I pointed this out earlier as well. I don't
10 understand how, from a practical perspective, IZ can apply in
11 this circumstance. I mean, certainly, you know, it's a large
12 building. And if it's -- if IZ is going to apply and a certain
13 percentage of the units are going to have to be affordable, a
14 certain group -- I mean to certain income levels, how can DHCD
15 or anyone else limit the population who would be able to apply
16 for those units only to university students or seminary students?
17 That's the thing I don't understand. So I think that just from
18 a practical perspective, there's something that has to be figured
19 out there.

20 And I fear that even if this -- even if we did approve
21 this today, and we came back with further processing where this
22 is all supposed to be worked out, that they won't be able to work
23 it out. So and that's not a reason -- that's not my reason for
24 saying, no, we shouldn't do this. I'm -- my reason for saying
25 it is that I just -- I don't buy that commercial use within the

1 campus, so. And I don't know -- and back to my original point,
2 I don't know if a PUD would actually work here or not. But that
3 was, you know, that seemed to me to be a better fit. Maybe it's
4 something worth considering, maybe it's not.

5 CHAIRPERSON HOOD: Okay. I just -- and let me just
6 say, Commissioner May, I didn't recall if anybody spoke up and
7 say there was another way we could do this, but I would be
8 interested in that. But I also, you know -- and I also saw what
9 it said about racial equity. I disagree with NLC on the racial
10 equity. I'm sorry.

11 COMMISSIONER MAY: I agree with that. I disagree with
12 them on that, too.

13 CHAIRPERSON HOOD: I disagree with them totally on
14 that, and I'm sorry. But I don't want to rush on this, because
15 I want to make sure it's right. I -- maybe I just need more
16 time. It sounds to me like we -- are we split or where are we?
17 Because I can approve it.

18 COMMISSIONER MAY: No, I think the fence-sitters win.
19 You have one opposed, one in favor, and then you got two fence-
20 sitters.

21 VICE CHAIR MILLER: Mr. Chairman?

22 CHAIRPERSON HOOD: Yes, Vice Chair Miller?

23 VICE CHAIR MILLER: I'd like to just respond to a couple
24 points. I don't know if it will be persuasive at all, but -- to
25 move forward. But to go through another process -- to make Wesley

1 go through another process, PUD, disposition of the property,
2 make AU come in and make it part of its campus plan, which is
3 really what it is, it's a -- that -- you know, that's a -- that
4 would be a delay. I don't know if they'll be there in a year.
5 I don't know. I don't want to -- I don't -- I'm not in a position
6 to evaluate what -- whether they can survive, let alone thrive
7 for another year.

8 But to make them go through another process, just
9 because it fits better our view of what the process should be,
10 to me, I view that as the -- in the category of making "the
11 perfect, the enemy of the good." Is that -- did I say that right?
12 Did I get that right? "Making the perfect the enemy of the good."
13 I really -- it is a dorm. It is going to be a dorm. That's what
14 educational institutions have. They don't -- they also do have
15 sports arenas. And yes, if this was going to be a sports arena
16 for the Washington Capitals or The Wizards renting it out to that
17 effect. But if it was going to be for students and -- we would
18 -- we'll be the ones to evaluate, Commissioner Imamura, whether
19 we want this precedent, this unique arrangement that's existed
20 between these two institutions side-by-side for 100 years, around
21 100 years, whether we want it to apply to another situation.

22 I don't think -- we are the ones who can decide whether
23 it's going to be a precedent for the future. It's certainly not,
24 in my mind, a precedent for the future. It's a way for them to
25 stay there.

1 In terms of the Inclusionary Zoning enforceability.
2 That's true for all of Inclusionary Zoning, and that's really not
3 our -- we don't know. That's not what we do. It's not even with
4 the zoning administrator does. We could put it in the order that
5 they have to be. I think the Applicant had said there are only
6 going to be Wesley or AU students. That would be in the Order
7 that it can only be Wesley or AU students and that a certain
8 percentage have to be qualified. And somebody has to monitor
9 that. I don't know if that's zoning enforceable or it's DHCD
10 enforceable. We have Inclusionary Zoning as part of our
11 regulations, and somebody is supposed to be enforcing that.

12 So I don't want this to be -- to drag on for a year -
13 - another year through another process that might work better and
14 might not work out better? And maybe it's our regulations that
15 don't have the right dichotomy, as you said, Commissioner May,
16 giving commercial and educational strictly categories, and
17 commercial being prohibited, except where it's supporting the
18 educational mission. I see it as supporting the educational
19 mission in this case and would like to go forward. I -- but I
20 don't -- it doesn't appear that we have three votes at this point
21 without further information to go forward, but -- and maybe we
22 do. But that's -- I think I tried to cover the points I wanted
23 to respond to, Mr. Chairman. I don't want to make the -- I don't
24 want "perfect to be the enemy over the good."

25 CHAIRPERSON HOOD: Okay. I appreciate everybody's

1 | comments. But I just -- I'm struggling with our regulations,
2 | which I try to hold tight to, but I also -- yeah, I could approve
3 | it. Yeah, I wouldn't have a problem approving it, because I know
4 | one thing is racial equity, because when people are going to be
5 | left out, people like me, I don't care what NLC say. I'm just
6 | telling you what's been happening. That's why we have the
7 | regulation. That's why Kenyan McDuffie put it out there. It's
8 | been going on for years, even before my parents and my
9 | grandparents, so I can get into all that.

10 | But here is a case where a school needs help. And I
11 | agree with you, Vice Chair. I don't want it to go on for a year
12 | either. And I know Ms. Schellin is probably going to cringe when
13 | I say I would even be in favor of waiving, but I don't know if
14 | we can even do that. Because I do know that Wesley Theological
15 | Seminary, obviously, the way it's being presented, does not have
16 | a lot of income. And I do know American might be able to help
17 | it stay. I don't know what the relationships -- I don't want to
18 | get into that. But from a financial standpoint, you're right,
19 | Vice Chair, I believe that it is what it is. It's a venture.
20 | This is the issue the way I look at it. But I'm just trying to
21 | figure out how we do the right process. That's just me. I'm
22 | always process oriented. It's been pointed out.

23 | And you know, I could go the stretch and say, yeah,
24 | because I -- because at the end of the day, and I think you said
25 | it in your comments. And you know, what we're trying to achieve

1 here. So I, you know -- and here's my other -- my last point.
2 Why put the onus on us? I put the onus back on them, unless
3 there's something else. Did we look at anything we could do?
4 And I agree, we don't want it to last another year. We can
5 expedite it. We can cut some time shorter. But is that -- is
6 the PUD the right way? I don't know. But why do we have to take
7 the onus.

8 They send it to us and say you all deal with it and
9 figure out. So what if it goes against Subtitle X? So what if
10 it's not a university use? So what if it's a commercial use?
11 Your regulations say this, but you all go ahead, and you figure
12 it out. No. I want to put -- give it back to them. You all
13 figure it out. That's where I am. I got -- all right. Any
14 other comments or questions? Because I -- I'm not prepared to
15 vote. I want them to figure it out. And if they can't figure
16 it out, let me know that, and then I will figure it out.

17 COMMISSIONER IMAMURA: Sure. Mr. Chairman, I'm not
18 sure I have anything more substantial to add, but I guess I --
19 initially like Commissioner May's idea of, you know, perhaps this
20 goes to a PUD, but then in the same breath, I guess that achieves
21 the same end.

22 And to your question about have they exhausted all
23 options? Probably it's not safe for us to assume. But I do
24 know -- we know that there's really not a large endowment for
25 that school for a number of reasons. My guess is you don't

1 endeavor or embark on this kind of endeavor without having
2 exhausted all your options. So you know, I know that they
3 mentioned a little bit about that. That was a question I think
4 we raised at the hearing. They did touch, I think, a little bit
5 on the endowment, but, you know, I was hoping too that they would
6 have another creative solution or have looked at it, or at least
7 juxtapose it with this, that we did look at this, and tried this
8 way, and this is why it doesn't work. This is (indiscernible)
9 and done. So I remain conflicted here on principle, and I'll
10 turn it back to you, Mr. Chairman.

11 CHAIRPERSON HOOD: Okay. So what I would like to do
12 is put it back on them. And I know the Vice Chair doesn't want
13 to. I want to make an informed decision, because I will make
14 the decision. And I can tell you which way I'm really -- if I
15 had to do something today, I want to make sure that we've
16 exhausted all our resources. And I hear what you're saying,
17 Commissioner Imamura, but sometimes people don't. Sometimes
18 applicants and folks just sit and "Oh, let them figure it out.
19 Let's see if we can get it done this way." And I'm not trying
20 to put no more burden -- no more financial burden on anybody.
21 All I want to know is can we figure out another way to do it.

22 Now how to do that, I don't know. I'm going to leave
23 that up to them. It's not our job. I want them to bring me
24 something that will satisfy Subtitle X and also be able to achieve
25 what they're trying to achieve. And I know that sounds easier

1 | said than done, but I believe it can be done, because some of
2 | the people who represented them are pretty sophisticated and
3 | savvy. They've been doing this stuff a long time. So I would
4 | give them two more weeks. So I -- until our next meeting, and
5 | then I will take it up. And please try to figure something out,
6 | unless my colleagues disagree, because we don't have the votes.
7 | I just want to make sure we've exhausted everything.

8 | And I don't want to assume, Commissioner Imamura, that
9 | they have done that. I don't recall them saying that. I think
10 | that did come up, but I don't recall us hearing that. But yeah,
11 | it's easy enough to just take the road that we have in front of
12 | us, as opposed to trying to go back and maybe come up with a PUD.
13 | If PUD is not right, I don't know what all we have in the toolbox.
14 | But look and see, and see how you can better do this, so it
15 | addresses and stay within compliance of Subtitle X. So that's
16 | where I am. All right. So can we maybe put this off until our
17 | next meeting and give them a chance to respond?

18 | We don't need a book. We need sound bites, because we
19 | got enough books. We just need a sound bite to just talk about
20 | this subject. And then, I think, Commissioners, we will go on
21 | to other conditions and issues, depending upon how we move. I
22 | think that's where we got to -- we got to dispose of that first,
23 | I believe. Anybody disagree with that?

24 | Can we have that opportunity, Commissioner May?

25 | COMMISSIONER MAY: Yeah, that's fine. I mean, I'm

1 happy to listen to other potential solutions. And I do think
2 most of the other issues have more or less been resolved. Should
3 this -- should those, you know, we find a way to approve this.
4 So I'm not so concerned about any of the other conditions getting
5 flushed out at this moment. I think that it's a matter of this,
6 you know, this essential question about how we could go forward.
7 For me, it's not a matter of "the perfect being the enemy of the
8 good." It's the, you know, it's just finding something that's
9 good, because I don't think that what's before us is good and
10 acceptable, so.

11 CHAIRPERSON HOOD: Okay.

12 COMMISSIONER MAY: Anyway, I appreciate everybody
13 else's thoughts on this and certainly the indecision, and the
14 desire to do something to be able to help the institution, you
15 know. But I feel like we have to do something that's consistent
16 with our regs, and what I see before us is not.

17 CHAIRPERSON HOOD: Right. Okay.

18 Anybody else?

19 Commissioner Imamura, anything else to add?

20 Vice Chair Miller?

21 Let me go to Commissioner Imamura first.

22 COMMISSIONER IMAMURA: No. I think Commissioner May
23 made an important point that, you know, we want to support the
24 school, but, I think, clearly, they're watching what's making, I
25 think, some of us feel uncomfortable is just that arrangement.

1 So if they can find a creative way around that, or at least
2 articulate what other options they've looked at or might
3 consider, that would be helpful.

4 CHAIRPERSON HOOD: Okay.

5 And Vice Chair Miller, anything else?

6 VICE CHAIR MILLER: Yes, Mr. Chairman. I'm -- I don't
7 know if you can hear me. I'm having connectivity issues. Can
8 you hear me?

9 CHAIRPERSON HOOD: Yes, we can hear you.

10 VICE CHAIR MILLER: Okay. So I threw out one little
11 popular phrase, "the perfect being the enemy of the good." I'll
12 throw out another one: "paralysis by analysis." I'm not going
13 to say anything more.

14 CHAIRPERSON HOOD: So I appreciate "paralysis by
15 analysis," but I mean I'm not going to throw out anything. I'm
16 just going to say I like to proceed with caution, because we put
17 Subtitle X, if that's the case, let's just throw Subtitle X out
18 the window. So that's kind of where I am. If that's where we're
19 going to throw -- start throwing regulations out, let's just get
20 rid of the Commission. We're not going to get rid of it like
21 Montgomery County did, because we don't do that kind of stuff.
22 But the point of the matter is, is that we have regulations, and
23 its predictability, the residents expect it from us and so does
24 the Applicant. But nobody wants Wesley Theological Seminary
25 whatsoever to put up their moving signs and move nowhere else.

1 I can just tell you that.

2 COMMISSIONER MAY: Right.

3 CHAIRPERSON HOOD: That sends a strong signal to
4 everybody. That's what I want -- I just want to make sure we're
5 procedural, and I'm not trying to paralyze the situation, I'm
6 trying to get there correctly. That's all.

7 All right. So Ms. Schellin, can you do this at our
8 next meeting and ask -- and I hope that the Applicant and
9 the -- and I'm not sure how to do this, but I hope that the
10 applicant knows what we're asking for. And I believe there will
11 be a time for people to respond quickly, or how does that work?

12 Maybe Ms. Lovick or Mr. Liu or somebody can help me.
13 If we ask for them to -- they may not come back with anything,
14 and then we may still have to decide what we had in front of us.
15 And believe me, this next time, I will decide, because I've
16 exhausted anything that I can possibly do to try to make it right.

17 MS. SCHELLIN: Yeah, I -- we can't do it at the next
18 meeting, because we do have to allow parties an opportunity to
19 respond, so we could do it at our November meeting.

20 CHAIRPERSON HOOD: Okay. That's close enough, because
21 that's only 30 days away, right? Yeah.

22 MS. SCHELLIN: It's November 10th. So --

23 CHAIRPERSON HOOD: Yeah.

24 MS. SCHELLIN: -- two weeks for the Applicant to come
25 up with something, come up with a response would be 3 p.m. on

1 | October 27th. And the parties, including OP and DDOT, if they
2 | choose to respond, would have until 3 p.m. on November 3rd. And
3 | we can put this on for November 10.

4 | CHAIRPERSON HOOD: And colleagues, I want to go
5 | straight to this, because we have the other issue that we're
6 | going to be dealing with on November the 10th. Hopefully, they
7 | could help us see our way through this. If not, I'm sure we'll
8 | be ready to -- we will have exhausted that, and we will -- I'm
9 | sure that we will probably make a decision, hopefully. Hopefully.

10 | COMMISSIONER MAY: I'm sure that we will probably. I
11 | like that. I'm sure we will probably make a decision.

12 | CHAIRPERSON HOOD: You're sure -- problem?

13 | COMMISSIONER MAY: No, you said you're sure that we
14 | will probably make a decision.

15 | CHAIRPERSON HOOD: Yeah. So it's always that little
16 | possibility -- because I - it's always better for the community,
17 | I believe, to make a decision. I hate when we -- I mean, we'll
18 | do our jobs, but it won't --

19 | COMMISSIONER MAY: Yeah.

20 | CHAIRPERSON HOOD: -- be liked either way, so.

21 | Okay. All right. So that's what we'll do, November
22 | the 10th. We will set this --

23 | Ms. Schellin, if we could set this, like, kind of early
24 | in the agenda, because we have some other stuff I want to try to
25 | remember. Okay. All right. Thank you.

1 Let's move on in the agenda to -- one second. I think
2 we're in the hearing action, right, Ms. Schellin?

3 (No audible response.)

4 CHAIRPERSON HOOD: Let me see. Yeah, hearing action.
5 That's where I am now. Thank you. Let's go to hearing action
6 in Zoning Commission Case No. 22-27. And I think it's going to
7 be Mr. Lawson and Ms. Steingasser.

8 Ms. Steingasser.

9 MS. STEINGASSER: Yes, sir. Thank you.
10 Commissioner Hood -- Chairman Hood, Commissioners.

11 Mr. Young will be sharing my PowerPoint.

12 So I'm here representing Case No. 22-27. And the Office
13 of Planning is recommending that the Zoning Commission set this
14 case down for a public hearing.

15 The case covers specifically Squares 567 and 569 in the
16 downtown. The property is under the -- is -- the property is
17 the Georgetown Law School, Law Center. The current property is
18 zoned D3, which is a high-density zone. It allows 110 feet as a
19 permitted height. The proposed text amendment would be to
20 increase that height to 130 for the two law school squares, which
21 would require a review and approval by the Zoning Commission for
22 heights between 110 and 130 and be, again, limited to these two
23 squares.

24 Next slide.

25 It would clarify that there'll be no building within

1 the rights of way of F and G Streets, which are currently closed
2 within the campus boundaries. And there would be no additional
3 increase in FAR or any changes to the development standards. The
4 height would -- it would be purely just for height, and it would
5 allow taller floor to ceilings heights for each floor, and it
6 would be to allow them to be consistent with modern academic
7 standards.

8 Next slide.

9 The Comprehensive Plan identifies the sites on the
10 Future Land Use Map as institutional and high-density commercial
11 and on the General Policy Map as institutional and Central
12 Washington, both of which would accommodate these heights and
13 design review.

14 Next slide.

15 The proposal is also consistent with many policies of
16 the Comprehensive Plan, including the Land Use Element, where it
17 talks to the issue of corporate citizenship and the need for
18 larger institutions to serve as role models for smaller
19 institutions. It also would further the education element, which
20 talks to the issue of satellite campuses in the downtown and
21 promotes the development of satellite campuses as a way to relieve
22 growth pressure on existing neighborhoods and campuses, also
23 providing the opportunity to spur development in other parts of
24 the city. It would also encourage -- it would also be consistent
25 with the Urban Design Element, which recognizes the legacy of the

1 Height Act by not -- it -- obviously, it would not violate that
2 Height Act.

3 It would further the architectural excellence,
4 enhancing the identity of the Downtown East, which is called out
5 in the Central Washington Element. And specifically, it would
6 further a portion of the Downtown East Re-Urbanization Strategy.
7 And specifically, it calls for the proposed text amendment Goal
8 4G "to foster continued development of an" -- let me get that
9 right -- "to foster continued development of an emerging
10 knowledge hub and expand the role and impact of the law school
11 campus in the nearby market and community."

12 Next slide.

13 In terms of looking at the Comprehensive Plan through
14 the racial equity lens, the Law Center would be allowed to
15 modernize on its existing site. The Law Center advances racial
16 equity through clinics that directly represent District residents
17 who otherwise lack access to legal services in matters involving
18 housing, domestic violence, juvenile justice, criminal defense,
19 and people -- and parole hearing matters. Other equity-focused
20 university initiatives then have a presence in this downtown
21 location include the University's Center on Poverty and
22 Inequality, Health Justice Alliance and the recently-formed
23 Racial Justice Institute.

24 The Applicant will be providing a fuller discussion of
25 how the Comprehensive Plan through a racial equity lens moves

1 forward the racial equity issues if the case is set down.

2 With that, I'm available for questions and will
3 recommend the case be set down.

4 CHAIRPERSON HOOD: Thank you, Ms. Steingasser.

5 Commissioners, you heard the recommendation and the
6 report from Ms. Steingasser. Any questions or comments?

7 Commissioner May?

8 COMMISSIONER MAY: Yeah, a couple of questions. The
9 first one is, I assume it complies with the Height Act, because
10 there's New Jersey Avenue on the side of the one property, and
11 then there's the freeway on the side of -- on the other side of
12 both of them, right?

13 MS. STEINGASSER: That's correct. Yes.

14 COMMISSIONER MAY: Yeah, because the one, the southerly
15 one doesn't have wide enough streets to support 130 feet.

16 MS. STEINGASSER: Right. It would be able to leap up
17 to reach over that little -- that point.

18 COMMISSIONER MAY: It could -- oh, so they're actually
19 take -- that would be taking it from --

20 MS. STEINGASSER: New Jersey.

21 COMMISSIONER MAY: From New Jersey, because you can
22 cross a reservation.

23 MS. STEINGASSER: Reservation. Yes, sir.

24 COMMISSIONER MAY: Yeah. Yeah. Okay. All right. So
25 -- and it's not our job to enforce the Height Act anyway, but I

1 was just curious.

2 The next thing is, like, the -- well, that whole area
3 is pretty fully developed. I mean, are they talking about the
4 possibility of building a very large building where the original
5 Law Center building is? I mean, because that, like, fills the
6 whole square.

7 MS. STEINGASSER: They are looking at possible
8 additions to some of the buildings, and they -- and possibly
9 redevelopment of some of the spaces.

10 COMMISSIONER MAY: Yeah.

11 MS. STEINGASSER: They don't have a set plan at this
12 point.

13 COMMISSINOER MAY: Okay. All right. So they're looking
14 a little bit farther into the future.

15 MS. STEINGASSER: That's correct.

16 COMMISSIONER MAY: Okay. Yeah. All right. I mean, I
17 don't have any real issues with this. It seems like it's -- I
18 mean this is not an area where we have to be so concerned about
19 an extra 20 feet of height because of everything else that's
20 around it, so.

21 All right. Thank you.

22 MS. STEINGASSER: Uh-huh.

23 CHAIRPERSON HOOD: Okay. Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I have
25 nothing.

1 Thank you, Ms. Steingasser.

2 CHAIRPERSON HOOD: And Vice Chair Miller.

3 VICE CHAIR MILLER: Thank you, Ms. Steingasser, for
4 your report. And I agree with the questions, comments that have
5 been offered thus far. I'm prepared to set it down.

6 CHAIRPERSON HOOD: Okay. And I don't have anything
7 additional to add. I appreciate the way it was teed up in your
8 report, Ms. Steingasser. Looking forward to the hearing.

9 So that, unless I hear otherwise, I will move that we
10 set down Zoning Commission Case No. 22-27, Georgetown University
11 Text Amendment, Subtitle I, Sections 517.1 and 701.1 and ask for
12 a second.

13 COMMISSIONER IMAMURA: Second.

14 CHAIRPERSON HOOD: Moved and properly second. Any
15 further discussion?

16 (No audible response.)

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

19 MS. SCHELLIN: Commissioner Hood?

20 CHAIRPERSON HOOD: Yes.

21 MS. SCHELLIN: Commissioner Imamura?

22 COMMISSIONER IMAMURA: Yes.

23 MS. SCHELLIN: Commissioner May?

24 COMMISSIONER MAY: Yes.

25 MS. SCHELLIN: Commissioner Miller?

1 VICE CHAIR MILLER: Yes.

2 MS. SCHELLIN: The vote is four to zero to one to set
3 down Zoning Commission Case No. 22-27 as a contested case, the
4 minus one being the third mayoral appointee position, which is
5 vacant.

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

7 And thank you, Ms. Steingasser for the report.

8 Next, we'll go to Zoning Commission Case No. 22-26 Ward
9 8 Randle Heights/Fairlawn Residents text amendment to Subtitle
10 B, Definition of Public Schools.

11 Ms. Brown Roberts.

12 MS. BROWN ROBERTS: Good evening, Mr. Chairman and
13 members of the Commission. I'm Maxine Brown-Roberts representing
14 the Office of Planning on Zoning Commission Case 22-26.

15 Next slide.

16 The proposal submitted on behalf of the Randle
17 Heights/Fairlawn Community requests amending the definition of
18 public schools in Subtitle B, Section 100.2 by removing charter
19 schools from the definition of public schools if they are not
20 located on a District-owned property. In effect, the charter
21 schools would be classified as public schools. Amending the
22 regulations to define charter schools as private schools would
23 be inconsistent with federal and D.C. laws and would be
24 detrimental to charter schools and the families and students they
25 serve.

1 In reviewing the proposal, OP consulted with the Deputy
2 Mayor for Education, the D.C. Public Charter School Board, the
3 Office of State Superintendent of Education, and the Federal City
4 Council on this issue. All expressed deep concern with the
5 proposal.

6 Mr. Chairman, OP is recommending that the proposal not
7 be set down for public hearing. This is an unusual position,
8 but our analysis, as outlined in our report, leads us to believe
9 that the charter school operation would be severely affected by
10 the proposal.

11 Next slide.

12 The Comprehensive Plan instruct us to look at all
13 applications through an equity lens. Regarding displacement,
14 Having charter schools to be categorized as private schools when
15 they are not on DCPS property would result in uncertainty of
16 funding for charter schools when they need to expand or relocate,
17 which could reduce the number of schools that private opportunity
18 -- and private opportunities for education.

19 Charter schools are fairly distributed across all wards
20 except Ward 3, and their enrollment accounts for 48 percent of
21 the total student enrollment in public schools, with African
22 American students accounting for a high of 76 percent, while
23 white students account for approximately 7.6 percent in the 2020-
24 2022 school year.

25 At the same time, 74 percent of the students are

1 categorized as being economically disadvantaged, and students
2 considered at-risk were at 46 percent in the 2021-2022 school
3 year. These statistics demonstrate the important role charters
4 play in public school education. Subjecting charter schools to
5 the BZA process could be costly for some schools and could take
6 away needed resources from educational opportunities for some
7 disadvantaged students.

8 The educational element of the Comprehensive Plan
9 outlines -- highlights several areas and claims that the charter
10 schools are a threat to neighborhood character, and this was said
11 by the Applicant, as they are not subject to public review and
12 are not -- and are seen as a corporation. The laws creating
13 charter schools states that they are independent identities.

14 The Educational Element of the Comprehensive Plan
15 addresses the location of both DCPS and charter school and
16 recommends that charter schools can operate for many types --
17 from many types of facilities, including co-location, that they
18 work with neighbors to address neighborhood concerns and support
19 the funding of charter schools that they receive public -- as
20 they receive public funding in addition to private fundraising.

21 Next slide.

22 In the zoning regulations, public charter schools are
23 considered public schools, and as such, they are considered uses
24 customarily consistent with residential uses. They are permitted
25 as a matter of right in all residential zones, subject to the

1 development standards requirement of Subtitle D, Chapter 49.
2 They are reviewed by the Department of Building, including for
3 transportation and environmental issues and permitting. All
4 applications for charter school are reviewed by the D.C. Public
5 Charter School School Board, whose members are nominated by the
6 Mayor and approved by the Council and are open to public review
7 at a public meeting.

8 A requirement of the application process is that each
9 application be advertised in the D.C. Register and that the
10 relevant ANC Commission has a 30-day notification period.
11 Applicants are also encouraged to have dialogue with all relevant
12 civic association, churches, and other organization or persons,
13 and the interaction has to be documented.

14 The D.C. Public Charter School Board reviews all
15 application, including expansion, changes to goals, or otherwise,
16 if there is amendment to their charters at an open public meeting.
17 The D.C. Public Charter School Board can vote to approve,
18 recommend changes, approval with conditions, or deny
19 applications. This public review of the proposal for charter
20 schools and the involvement of the ANC and the community in their
21 approvals could be duplicative if all charter schools are also
22 required to be subject to BZA review.

23 The Applicant highlights various federal and local
24 laws. However, they make the distinction of public versus charter
25 schools, and all are not relevant to both, and if implemented,

1 | would be contrary to both Federal and District laws that create
2 | charter schools. Requiring charter schools to be subject to the
3 | requirements of private schools could be burdensome to the
4 | schools, students, and overall educational system. Overall, the
5 | review process could inject uncertainty and negatively impact the
6 | planning and operations of the schools and divert time and
7 | resources from classroom, student services, and ultimately harm
8 | students.

9 | We have laid out in our report the legal issues
10 | regarding the origins and the definition of public charter
11 | schools and their governing structure in comparison to DCPS
12 | schools.

13 | In summary, Mr. Chairman, amending the regulations to
14 | define charter schools as private school would be inconsistent
15 | with federal and D.C. laws and would be detrimental to charter
16 | schools and their families and students they serve. Therefore,
17 | the Office of Planning does not recommend that a proposal be set
18 | down for public hearing.

19 | Thank you, Mr. Chairman. And I'm available for
20 | questions.

21 | CHAIRPERSON HOOD: Ms. Brown-Roberts, that was a very,
22 | very thorough presentation. I thought it was very thorough and
23 | very, and you hit the point that I'm almost scared to even talk
24 | about it. So I'll turn it over to Commissioner May, because it
25 | sounds like we're in violation totally.

1 Commissioner May, you have any questions or comments?

2 COMMISSIONER MAY: I don't think I have any questions
3 about it. I mean, I -- yeah, I don't have any questions. I
4 appreciate the report and the analysis. And I can express some
5 sympathy, I think, with the concerns of the petitioners in this
6 case, and I certainly have my own concerns about charter schools,
7 but it is very clear to me that they are public schools, and they
8 should be treated the same as public schools. So I don't think
9 it's -- I don't think we should be setting this down.

10 CHAIRPERSON HOOD: Okay.

11 Commissioner Imamura?

12 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
13 don't have any questions, and I don't want to oversimplify the
14 public charter schools in the name. So I seem to think that
15 Ms. Brown-Robert's report speaks to the issues, and I'm in
16 agreement with that.

17 CHAIRPERSON HOOD: Okay.

18 And Vice Chair Miller?

19 VICE CHAIR MILLER: Thank, Mr. Chairman.

20 And thank you, Ms. Brown-Roberts, for your report.

21 CHAIRPERSON HOOD: And Ms. Brown-Roberts, I will tell
22 you, you may want to save that report, because it'll probably
23 come up in another 10 or 15 years, that issue. Because it came
24 up about 10 to 15 years ago, so I'm sure it'll probably resurface.
25 And I do understand some of the issues, but I appreciate your

1 analysis on that.

2 So I'm almost to the point I want to deny it, but I
3 know it's an issue with denying and dismissing, but let me hear
4 what others have to say. Do you want to deny or dismiss, or do
5 you want to approve? I'm just taking it for granted, but after
6 the report, I'm sure everybody wants to do something with it.

7 Commissioner May, let me go to you first.

8 COMMISSIONER MAY: Yeah, I expect we'd all be
9 comfortable just dismissing it without prejudice.

10 CHAIRPERSON HOOD: Okay.

11 All right. Thank you, again, Ms. Brown Roberts.

12 So --

13 VICE CHAIR MILLER: I -- and I too, Mr. Chairman, would
14 support dismiss without prejudice as opposed to an outright
15 denial. If this is a community-based petition, I don't want to
16 -- it throws such a hammer on community-based petitions coming
17 before --

18 CHAIRPERSON HOOD: Okay.

19 VICE CHAIR MILLER: -- us and they may be able to garner
20 ANC or other information that might be useful in the future. So
21 I would support dismissal without prejudice.

22 CHAIRPERSON HOOD: Right. And they may be able to work
23 it out without coming through a legal system, whatever the issues
24 are.

25 VICE CHAIR MILLER: Right. Right.

1 CHAIRPERSON HOOD: I'm sure I can figure out what some
2 of them are. So hopefully, they can get a community and schools
3 agreement among themselves, and they, you know, work on it as
4 collaborative neighbors. So I'll just leave it at that.

5 VICE CHAIR MILLER: And it sounds like this was based
6 on a case -- specific case that somehow didn't have -- get the
7 right public input in the one particular charter school case. I
8 don't know the details about that, but it -- probably that needs
9 to be looked at.

10 CHAIRPERSON HOOD: Right. Okay. So hopefully they can
11 work that out without coming through these kind of systems.

12 All right. So anybody have anything else?

13 (No audible response.)

14 CHAIRPERSON HOOD: So with that, I would dismiss -- I
15 would rule that with the evidence in front of us that the Zoning
16 Commission dismiss Zoning Commission Case No. 22-26 without
17 prejudice, the Ward 8 Randle Heights/Fairlawn Residents Text
18 Amendment to Subtitle B, Definition of Public Schools, and
19 continue to encourage all the groups to continue to work together
20 as neighbors. That's -- to the extent of it and ask for a second.

21 COMMISSIONER MAY: Second.

22 CHAIRPERSON HOOD: It has been moved and properly
23 second. Any further discussion? Sorry, I don't know how to cut
24 my phone off.

25 VICE CHAIR MILLER: Welcome to my world.

1 CHAIRPERSON HOOD: That's my work phone. I'm off from
2 work. So anyway, moved and properly second. Any further
3 discussion?

4 Okay. Ms. Schellin, would you do a roll call vote
5 please?

6 MS. SCHELLIN: Commissioner Hood?

7 CHAIRPERSON HOOD: Yes.

8 MS. SCHELLIN: Commissioner May?

9 COMMISSIONER MAY: Yes.

10 MS. SCHELLIN: Commissioner Miller?

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: The vote is four to zero to dismiss Case
15 22-26 without prejudice, the minus one being the third mayoral
16 appointee position, which is vacant.

17 CHAIRPERSON HOOD: One moment.

18 I understand that we do have the letter. It's been
19 sent to us.

20 MS. SCHELLIN: Yes.

21 CHAIRPERSON HOOD: Can we take three minutes and try
22 to review that letter and see if we can proceed with what's in
23 front of us? So let's take three minutes to review the letter
24 and come back at 5:17. Okay? Thanks, everybody.

25 (Off the record.)

1 (On the record.)

2 CHAIRPERSON HOOD: Okay. That three minutes went by
3 fast. It's 5:18. Maybe I must have got it on the end of 5:14.
4 But either way. Waiting on Commissioner Miller -- Vice Chair
5 Miller and then we can -- all right.

6 Ms. Schellin, we all back?

7 MS. SCHELLIN: (No audible response.)

8 CHAIRPERSON HOOD: Okay. All right. I've read the
9 letter. I'm sure you read it briefly. Are we ready to proceed,
10 at least discuss the letter. I will tell you that my concern is
11 I will need to know first -- and I don't know if we can do this
12 now, I think we can. The ANC letter just came in, and there
13 three points. And I'm not sure where everyone else is. Three
14 points: Does the Applicant accept all three of these points, or
15 do they have a problem with one of them? Can we bring the
16 Applicant up? And I guess I'll have to bring the ANC up too, if
17 we can try to (indiscernible).

18 No, before I do that, Commissioner May? Yes?

19 COMMISSIONER MAY: Yeah. I mean, in the response from
20 the Applicant, they mentioned all of these concerns, and they
21 said that they, you know, they were not in agreement on these in
22 their submission. They reported on the -- their discussions with
23 the ANC, and it was reasonably close to what the ANC reported.
24 But they said that, you know, they don't agree to those. So I'm
25 not -- I mean, I don't object to bringing them on, but I, you

1 know, I think they said they don't agree.

2 CHAIRPERSON HOOD: I didn't read it like that. I
3 thought some things were -- I thought these were new. But if
4 these are the same points, then it that goes back to what we --

5 COMMISSIONER MAY: Now, let's bring them up rather than
6 speculate.

7 CHAIRPERSON HOOD: Because in this case, like number
8 two, I mean, when they're talking about the roofing -- procedure
9 of the roof above, I don't think they were even amenable, at
10 least the way I read it, at first to what I'm seeing something
11 different here now. Let's bring everybody up, so. I'm unclear.

12 MS. SCHELLIN: Mr. Young, that's Christine Roddy.

13 CHAIRPERSON HOOD: Maybe I'm confused.

14 MS. SCHELLIN: And if Mr. Edwards is on, if not, it
15 would be --

16 CHAIRPERSON HOOD: I think it's now Ms. Kramer.

17 MS. SCHELLIN: Ms. Kramer.

18 CHAIRPERSON HOOD: So the Applicant --

19 MR. YOUNG: I do not see Ms. Kramer.

20 CHAIRPERSON HOOD: -- provided a detailed noise
21 mitigation plan, including the possible permanent deployment of
22 the roof above the proposed mezzanine, and that if it is permitted
23 to be non-permanent, the plan for deployment will be reviewed by
24 -- maybe I didn't read it that way. Because I thought they want
25 it to be stationary, and now they've backed off and said, okay,

1 | you can do a deployment, but how that access -- we'll look at it
2 | in six months. I don't know.

3 | MS. SCHELLIN: Yeah, I don't see an ANC rep up.

4 | CHAIRPERSON HOOD: Okay.

5 | MS. SCHELLIN: I don't see Mr. Edwards or Ms. Kramer --

6 | CHAIRPERSON HOOD: Okay.

7 | MS. SCHELLIN: -- on.

8 | CHAIRPERSON HOOD: Ms. Roddy?

9 | MS. RODDY: Yes.

10 | CHAIRPERSON HOOD: Could you come on, and identify
11 | yourself?

12 | MS. RODDY: Hi. Christine Roddy with Goulston & Storrs,
13 | and I represent the Applicant. And I'm sorry, I can't seem to
14 | get my video to work, so I apologize.

15 | CHAIRPERSON HOOD: Okay. Well, we know your voice.
16 | We'll take it that it's you. The thing is, you've heard our --

17 | COMMISSIONER MAY: We know what she looks like.

18 | CHAIRPERSON HOOD: With some of the confusion, I was
19 | trying -- we were trying to discuss whether these are the exact
20 | same issues that you all had, and you all didn't agree with them
21 | or is there some give-and-take here? I think the proposed
22 | mezzanine covering, I thought there was some give-and-take. It
23 | looks like they backed off of their position. Is that a fair
24 | assessment, or is it still the same?

25 | MS. RODDY: So the way that I read it and that I heard

1 | it at the meeting was that they still have noise concerns with
2 | still light, permanent deployment of the canopy, but understood
3 | we could not agree to that. So in that case, they wanted to
4 | reassess the impacts of the noise after six months of operation.
5 | And I think that's their first point.

6 | CHAIRPERSON HOOD: Right. Okay. So they want to
7 | reassess it, but they're still giving you the -- so we won't have
8 | to have the permanent, because most people want to eat out --
9 | some people want to eat outside, like at The Point. I thought
10 | that was a good concept. Our Vice Chair Miller is raising his
11 | hand. I guess he likes to eat outside too.

12 | So I want to -- I don't want to, and I will tell ANC I
13 | don't want to limit. And I understand about the traffic issue.
14 | But let's go -- do you -- let me go back. Do you all accept all
15 | three of these or -- in the format the way it's fashioned, or
16 | you still have a problem with it?

17 | MS. RODDY: No. I think that we could ultimately --
18 | I'm pulling it back up. I think we do have questions on what
19 | would happen after six months, since it's already built at that
20 | point, and what would be the trigger for enforcing that. So I
21 | think that there was just a question around that. I don't think
22 | that we have an issue with a reassessment. I think that that's
23 | fine. But in trying to -- in terms of coming up with an
24 | enforceable condition that reflects what the ANC wants seem
25 | problematic.

1 CHAIRPERSON HOOD: Okay. It sounds like you all need
2 further clarification.

3 MS. RODDY: Well, I don't -- I think it was more just
4 a logistical issue than a clarification?

5 CHAIRPERSON HOOD: Right. But the problem I have --
6 the problem that I'm having, and I'll open it up to my colleagues,
7 is what you just said is I can't speak for the -- I can't, and
8 you really can't speak for the ANC, and you all need to know what
9 happens in those six months. And that's something that has to
10 be decided, I believe, between you all and not the Zoning
11 Commission. Do you agree with that statement?

12 MS. RODDY: I would agree with that. I mean, I guess
13 I would say we agree with their condition to look at this in six
14 months. We don't have an issue with that, and we don't have an
15 issue with providing a speaker plan. That's perfectly fine. We
16 can do that as well. I don't believe that we -- we don't believe
17 that a Traffic Management Plan is required. But if that's what
18 the Commission would like to see, we're happy to provide that as
19 well.

20 CHAIRPERSON HOOD: I think you're being a good
21 neighbor, I think that would -- because they're exactly right,
22 and they're the ones who endure that. And for those of us who
23 visit it on those days when they exactly know what they're talking
24 about, and not just putting it all on you, but I think that they
25 are trying to protect the community's interests. And I think

1 | this is well thought of. But I think they're not asking for a
2 | lot here. I think we just need to fine-tune just these three
3 | points. I would not be willing to revisit anything else. But I
4 | think we need to find these -- fine-tune these three points.

5 | Not saying that you got to have a whole -- just,
6 | unfortunately, Ms. Kramer is not here, so I have to be fair to
7 | both sides. I don't feel comfortable. I'd like to proceed with
8 | caution, especially with the neighbors' input. I'd like for you
9 | all to work out one, two, and three a little more so you can
10 | understand what they mean after -- what is the six -- after six
11 | months? What happens after six months? I think that we would
12 | do our due diligence if we narrow the scope so the predictability
13 | will be knowing what happens.

14 | Do we revisit? Do we look for more mitigation methods?
15 | Do we do a permanent roof, or do we never open the roof again
16 | for six months? I mean those are the kind of things that need
17 | to be discussed. But I do believe that I was -- I'm prepared
18 | to, at some point, once you all fine-tune those things, to go
19 | ahead and move forward. So let me open it up for others first
20 | though, because they may not agree with me.

21 | Commissioner May?

22 | COMMISSIONER MAY: No, I agree with you, Mr. Chairman,
23 | believe it or not.

24 | CHAIRPERSON HOOD: Well, I'm in --

25 | COMMISSIONER MAY: I'd like to see these issues

1 | revolved, and I do think they're pretty small issues, but it
2 | would be best to have them resolved before we take a vote.

3 | CHAIRPERSON HOOD: Okay.

4 | Commissioner Imamura?

5 | COMMISSIONER IMAMURA: Agreed.

6 | CHAIRPERSON HOOD: And Vice Cahir Miller.

7 | VICE CHAIR MILLER: I generally agree. I just -- the
8 | only comments I would add, Mr. Chairman, are that -- and I think
9 | I'm in a minority here, as I have when we've discussed other
10 | noise issues with restaurants. There's another body that deals
11 | with that on a regular basis, the ABC Board, which this use would
12 | have to go before or on a periodic basis. There's your periodic
13 | review, and they're familiar with dealing with that. Having gone
14 | down there only a few times, I think a Traffic Management Plan,
15 | not because of this additional 60 seats, but because of what's
16 | happening in that whole area, not even from that one development,
17 | would be useful.

18 | And I don't know if it has to be a full-fledged traffic
19 | management, but something to trying to -- is saying what potential
20 | mitigation could be. And I had another thought, but I can't
21 | remember what it is at the moment. Anyway. I think -- so yeah.
22 | Oh, it was that we haven't heard from the people who live there.
23 | I mean the ANC is saying that they're representing the people who
24 | live there, and they do, they're the elected representative of
25 | the people who live there, but they haven't -- I don't know what

1 outreach that there have been to the -- you know, if you choose
2 to live above a restaurant, whether it's downtown or on The Point,
3 you know what you're kind of getting into, or if I choose to live
4 next to a recreational field that has Little League going on and
5 basketball games going on from dawn to dusk and even after dusk
6 when they're not supposed to be, I made that choice.

7 So people make choices. I'll leave it at that. There's
8 only so much regulation can do, and the market will determine a
9 lot of this.

10 CHAIRPERSON HOOD: Okay. And I will say this to you
11 Vice Chair. Sometimes people buy places and things come later
12 on afterwards.

13 Ms. Schellin?

14 MS. SCHELLIN: Ms. Kramer is now on if you still need
15 her.

16 CHAIRPERSON HOOD: Yeah, let's bring her up, because I
17 think we need to.

18 MS. RODDY: And I -- if I could suggest that maybe we
19 incorporate the three items that the ANC proposed as conditions
20 of approval, if the Commission was willing to take a vote this
21 evening. We have these obligations, and so timing is critical,
22 so we're happy to continue to work with the ANC and incorporate
23 those conditions as a measure of good faith. Those conversations,
24 obviously, would be required to continue.

25 CHAIRPERSON HOOD: Ms. Roddy, I really appreciate that,

1 | but I hear that all the time. And it's always the Commission
2 | that has to hurry up and do their things and not do their due
3 | diligence for the residents of this city. And I think that it's
4 | time for us to slow up, take our time, and do it right. That's
5 | why I want to have Ms. Kramer. There was -- and I hear you,
6 | Ms. Roddy. Thank you. But I think we're going to proceed, unless
7 | I hear something different from Ms. Kramer. We're going to
8 | do -- we're not going to -- I don't feel rushed. I don't like
9 | to feel rushed. It's always time constraints. We got to do
10 | this; we got to do that. But appeal will be working these things
11 | for two or three years before we get it. So let us do our due
12 | diligence so Ms. Kramer and the ANC and the residents of this
13 | city won't think that we're not doing our due diligence and our
14 | job.

15 | So Ms. Kramer, first of all, good evening. Let me ask
16 | --

17 | COMMISSIONER KRAMER: Good evening.

18 | CHAIRPERSON HOOD: I don't know. I was looking at your
19 | letter, and there was some uncertainty on our part. We wanted
20 | to make sure that you all fine-tune. Like one of the questions
21 | that Ms. Roddy had was about the six months. What happens after
22 | the six months? I think you all need to -- I think it needs to
23 | be memorialized, and you all need to work that out.

24 | COMMISSIONER KRAMER: Right.

25 | CHAIRPERSON HOOD: And some of things -- and I will

1 | tell you that I am inclined to -- I'm going to let you know where
2 | I am with this roofing, because people like to eat outside. And
3 | I appreciate the ruling that you all had about the retractable
4 | or however that's going to work. I appreciate -- and then you
5 | all do an assessment after six months or whatever the case is.
6 | And my -- one of my colleagues mentioned that when you buy up
7 | over the top of a restaurant, then you do. But then also, what
8 | was the outreach to the residents. So I'm trying to bring you
9 | up to speed a little more, because I don't know if you were
10 | listening.

11 | COMMISSIONER KRAMER: Can --

12 | CHAIRPERSON HOOD: But we see the three points. Do you
13 | think -- and I'm going to stop in a second. The three points --

14 | COMMISSIONER KRAMER: Okay.

15 | CHAIRPERSON HOOD: -- do you think that you all are
16 | fine with the way it's presented in your letter, or do you all
17 | think you need to need to fine-tune a few things, because that's
18 | what we think. That's where we left it. And I'll be quiet now
19 | and let you speak.

20 | COMMISSIONER KRAMER: No, I appreciate it. I'm getting
21 | double -- I don't know whether you're hearing me double. I'm
22 | hearing you double. Can you hear me just -- I'm hearing --

23 | CHAIRPERSON HOOD: I can hear you. I'm sorry you're
24 | hearing me double. That means somebody else must be unmuted.

25 | COMMISSIONER KRAMER: I don't know how -- why that's

1 | happening.

2 | CHAIRPERSON HOOD: It wasn't here.

3 | MS. SCHELLIN: Ms. Kramer, did you have it up on YouTube
4 | or on your phone listening before?

5 | COMMISSIONER KRAMER: I thought I closed everything off
6 | that I needed to. Let me see if I can --

7 | MS. SCHELLIN: Okay. It may be that you still have it
8 | open.

9 | COMMISSIONER KRAMER: I -- can you hear me regular?

10 | CHAIRPERSON HOOD: Yeah, we can hear you. Let's let
11 | you go ahead. I'll stop talking.

12 | COMMISSIONER KRAMER: Okay. Okay. No, no, no, I think
13 | that's better. I -- so I missed some of this, because -- I so
14 | apologize. I didn't realize this was going to be a -- what
15 | amounts to an open hearing, so I wasn't on at the right time.

16 | I think there's some confusion. It may be just a
17 | wordsmithing issue on the after six months and before six months.
18 | The point is that we were -- the -- we were frustrated by trying
19 | to find -- are you still there? Can you hear me?

20 | CHAIRPERSON HOOD: Yes, we can hear you.

21 | COMMISSIONER KRAMER: Okay. Okay. Good. I'm very
22 | frustrated about how to assess noise and what was going to happen
23 | to the residents. This is a situation where there's -- it's not
24 | just this restaurant, but it's added to another restaurant and
25 | then there will be a third restaurant. So you have to sort of

1 | see the whole thing in context. And so, what we were trying to
2 | do was if they do not -- if you do not -- if you agree to their
3 | proposal of a retractable roof, then we would want to revisit
4 | that with the residents six months after and say it's either
5 | working or not working in terms of the way they're operating it.

6 | If you do not agree to that, then we would simply say
7 | make the roof permanent, and that would be it. I think your
8 | suggestion, which I think I caught, is that we meet with them
9 | again and sort of refine this and then see whether we can make
10 | something very clear to your Commission, so that you can say, I
11 | understand what you're trying to do and can -- and we can achieve
12 | that. That's what we were trying to do.

13 | CHAIRPERSON HOOD: Okay. And I do appreciate that.

14 | COMMISSIONER KRAMER: If that helps.

15 | CHAIRPERSON HOOD: Yes, it helps. And I hope you're
16 | not hearing me double.

17 | COMMISSIONER KRAMER: No. Now I'm not hearing you
18 | double. And even so, I would just listen to both pieces of you,
19 | but that's okay.

20 | CHAIRPERSON HOOD: We -- you are very kind, because
21 | most people don't want to listen to me the first time, so you're
22 | one of the few ones.

23 | COMMISSIONER KRAMER: It's okay.

24 | CHAIRPERSON HOOD: So I will tell you that I -- it
25 | would be good -- not that you have to have a -- and this is not

1 a hearing.

2 COMMISSIONER KRAMER: Right.

3 CHAIRPERSON HOOD: This is something you brought up,
4 and we're glad that you came on, but it will be good for us if
5 you fine-tune it. I think you can give us a (indiscernible) just
6 on those three tissues. And let me ask you, is somebody in
7 communication with the neighbors who live up, because I
8 don't -- we don't --

9 COMMISSIONER KRAMER: I tried to, yes. That's that -
10 - that's sort of a part of the frustration. I tried to reach
11 out to them. The Applicant did have a couple of tastings, which
12 I'm sure were tasty -- I didn't participate in those -- and then
13 had a very small meeting with literally, as far as I can tell,
14 three, maybe five people. I don't know. The residents that I
15 met with, which was also only a handful, got the notice late. It
16 seemed to me there was not a lot of understanding about the
17 details of this restaurant, how it would work and how it, you
18 know, whether it could create issues or not.

19 And so it would be very helpful for me to send out
20 another broad solicitation or informational to the residents.
21 This is exactly -- these are the details. This is what -- what's
22 happening, and this is what we're trying to do to both embrace
23 the restaurant -- we're not -- we're have no problems with the
24 restaurant coming in -- and also make sure that the residents are
25 also protected over the long haul. So that would be fine. We

1 can meet with them, and we can also discuss with our -- amongst
2 ourselves as commissioners what wording seems to satisfy.

3 My only question to you then is can we -- do you wish
4 us to vote on this again, which would be probably helpful and
5 useful, in which case we would come back in -- our ANC meeting
6 is in -- is on November 14th. We may have a special meeting
7 between, in which case we'll jump the calendar. But at the
8 moment, it's the 14th.

9 CHAIRPERSON HOOD: Let me just say, and let me go to
10 Commissioner May. But before I do that, let me just say the only
11 issues are just to fine-tune these three issues. That's it.

12 COMMISSIONER KRAMER: Right.

13 COMMISSIONER MAY: Right.

14 CHAIRPERSON HOOD: And keep the first one open, because
15 I can tell you the residents of the city do like to eat outside.
16 And if -- and by the folks who live in the part -- the area not
17 -- the ones who live over top not saying anything gives me a
18 strong signal that they are very supportive. So I -- that's just
19 me from the outskirts of looking at it. So if you could do your
20 due diligence, we appreciate it.

21 Commissioner May.

22 COMMISSIONER MAY: Yeah. So just to go through the
23 conditions again, more or less in reverse order. The Applicant
24 was willing to submit a Traffic Management Plan. And you know,
25 I think that would be helpful. I think we heard from Vice Chair

1 | that that would be helpful. So that would pretty much take care
2 | of that one.

3 | The second one, I think there is some specific
4 | information about how, you know, speakers would be deployed.
5 | That can be refined. I think that's a relatively easy thing for
6 | the Applicant and the ANC to figure out.

7 | The first one is the most complicated one. Not -- I
8 | mean we understand the intent. The question is: How do you make
9 | that into an enforceable condition? And I think that's what Ms.
10 | Roddy has been struggling with.

11 | So -- and I -- but I do think, you know, I don't want
12 | to drag this on forever. I do appreciate the fact there's, you
13 | know, the Applicant needs to move this along soon. We certainly
14 | heard that from Ms. Roddy. So I'm not inclined to extend this
15 | well into November. I think that, you know, we just give it two
16 | weeks, and hopefully, we can get those few small refinements
17 | executed. And if you can get in touch with people who are living
18 | above it, and it's not just, like, the people directly above it,
19 | it's two, you know, another story up, another story up, where I
20 | think you saw the information that we got from the acoustic
21 | consultant. Those are the areas that are most likely to be
22 | affected by the noise that would come from this elevated platform.

23 | And I think the -- but, you know, if you can get those
24 | people, great, but if you can't, I think you're already doing the
25 | right things to be protective of their interests by, you know,

1 | agreeing to this rooftop kind of thing, and then figuring out how
2 | to, you know, seeing how it works after six months. I think
3 | that's a smart way to handle it. But again, making it an
4 | enforceable condition is the route.

5 | COMMISSIONER KRAMER: Okay. So the -- just to clarify,
6 | so we will not wait until our November 14th meeting. And you
7 | will also accept something that's in the -- over my or the Chair's
8 | signature of a modification --

9 | COMMISSIONER MAY: Yeah.

10 | COMMISSIONER KRAMER: -- or a refinement.

11 | COMMISSIONER MAY: Right. What I'm imagining is, is
12 | that what we receive in the end is consistent with the report
13 | that you've already provided us. So it's really just a matter
14 | of how that language in your report gets translated into an
15 | enforceable condition. So that's why I'm thinking that another
16 | vote isn't necessary.

17 | COMMISSIONER KRAMER: It's not necessary. No, but the
18 | -- but it -- the -- I guess what I'm concerned about is -- or
19 | technically, I -- it's my SMD. I'm the Vice Chair of the
20 | Commission, but it's my SMD, so technically I could do this on
21 | my own, in effect. I don't like to do that on something where
22 | -- that it has precedent for other, you know, for projects. So
23 | it's just a question of whether we sort of stick to this
24 | nonretractable roof or whether we do something, which was my
25 | attempt at a midpoint position, which was, you know, if

1 | you're -- if the Zoning Commission is not going to insist on a
2 | nonretractable roof, then we revisit it and revise it according
3 | to problems that develop.

4 | COMMISSIONER MAY: I don't think that we're -- I don't
5 | want to insist on a nonretractable roof. I'm fine with the
6 | retractable roof, and I think that's probably the sense of the
7 | Commission, and I'm sort of filling in some blanks here. But
8 | there is support for having open air dining, and that means open
9 | to the sky --

10 | COMMISSIONER KRAMER: Right.

11 | COMMISSIONER MAY: -- under certain circumstance. And
12 | there going to be a lot of circumstances where they -- where it's
13 | closed, just to provide shade, I'm sure --

14 | COMMISSIONER KRAMER: Right.

15 | COMMISSIONER MAY: -- or shelter from rain. So I mean,
16 | there's a lot of practical reasons why it would be the right
17 | solution, and having a permanent roof over it, I don't think is
18 | the right solution. It's a matter of working out the conditions
19 | so that it is something that can be revisited later if it needs
20 | to be deployed more often for acoustic reasons.

21 | COMMISSIONER KRAMER: Okay. Okay. So do you have a
22 | date that you wanted --

23 | CHAIRPERSON HOOD: Ms. Kramer, before you keep going,
24 | I do know that the Applicant has revised some, and I've just been
25 | calling my attention. I actually like what they wrote. So I

1 | would tell you that the retractable is, as far as I'm concerned,
2 | because I, you know, down at The Point. Some of the people who
3 | may have the complaints, guess what, they're down at The Point.
4 | And where are they eating? Outside. So I mean, that's just the
5 | way this city goes.

6 | They complain to us. And when you look at The Wharf,
7 | I watch The Wharf on TV. I didn't go. Everybody down there
8 | enjoying it. So I just -- for my -- that's probably going to
9 | perplex me until when I come off the Commission.

10 | But let me see if Commissioner Imamura has a question
11 | or comment on this.

12 | COMMISSIONER IMAMURA: No question, Mr. Chairman.
13 | Thank you. I support wholeheartedly the retractable roof. I
14 | think that's really important. We've seen this through the
15 | pandemic across the country how important it is to have outdoor
16 | air and space. And quite frankly, my position for the acoustics,
17 | I read through the report, and I should mention that I wasn't at
18 | the hearing in July, but I did read the full record. I mean,
19 | we're talking about 46, I think, additional seats that were --
20 | maybe a few four tops, a couple two tops. I mean, the noise, I
21 | think, is really going to be negligible. But you know, I think
22 | I'm more interested, I think that the greater concern would
23 | probably be the Traffic Management Plan. I think, to Vice Chair
24 | Miller's comment that perhaps it could be a Cliff Note version
25 | of it, or a, you know, some appendix to that. But I think it's

1 pretty clear and important just in general to have that
2 retractable roof.

3 And as Commissioner May said, if there's additional
4 noise, perhaps then it's revisited in the six months that it's
5 closed more frequently. So it's really a matter of frequency
6 than anything else. But I think there ought to be, at least if
7 the ANC is going to go back with the Applicant, at what point
8 are we going to, you know, they'll need to work this out to figure
9 out at what point will they stop, so that it just doesn't continue
10 ad nauseum --

11 CHAIRPERSON HOOD: Okay.

12 COMMISSIONER IMAMURA: -- to revisit this. And I think
13 to Vice Chair Miller's comment, you move down there, you know
14 what, you know, what's planned and what's anticipated, so. But
15 again, it's only, you know, 40 some people that are sitting up
16 there. So the noise really -- it might be more the speakers that
17 are an issue than anything else.

18 CHAIRPERSON HOOD: Okay.

19 And Vice Chair Miller, you have anything to add? This
20 should be very --

21 VICE CHAIR MILLER: I have nothing further to add. I
22 agree with everything and the direction that -- looks like people
23 are working together to try to make this happen in a way that
24 works for everybody.

25 CHAIRPERSON HOOD: Okay.

1 I think, Ms. Kramer, we can do it in two weeks.

2 COMMISSIONER KRAMER: Yeah. Two weeks.

3 CHAIRPERSON HOOD: So Ms. Schellin --

4 COMMISSIONER KRAMER: The 27th.

5 CHAIRPERSON HOOD: We don't have to have a full-blown
6 out anything, just something to fine-tune the three things -- the
7 three -- only issues that we're going to take up, which are
8 especially traffic. Everything else, I think, for the most part
9 -- directional they've already submitted they would do
10 directional speakers. And if this is done, Ms. Kramer, I'm going
11 to come down there, and I'm going to look and see if you're
12 sitting outside enjoying a meal. Okay.

13 COMMISSIONER KRAMER: I've sat outside in The Point a
14 lot. It's one of my favorite spots, so.

15 CHAIRPERSON HOOD: I'll see you down there.

16 COMMISSIONER KRAMER: Okay. Okay. So we'll come back
17 to you. We'll meet with the Applicants, and we can come back to
18 you on -- by the 27th. Is that okay? Is that two weeks from
19 today?

20 CHAIRPERSON HOOD: Ms. Schellin is going to give us the
21 schedule.

22 MS. SCHELLIN: I -- we meet --

23 CHAIRPERSON HOOD: Ms. Schellin is going to give us the
24 schedule.

25 COMMISSIONER KRAMER: Oh, sorry.

1 MS. SCHELLIN: I actually need the Applicant -- after
2 you and the Applicant meet --

3 COMMISSIONER KRAMER: Oh.

4 MS. SCHELLIN: -- if you could both make your
5 submissions by 3 p.m. on I'm going to say the 25th, because our
6 attorneys need an opportunity to review it.

7 COMMISSIONER KRAMER: Okay.

8 MS. SCHELLIN: And then we'll put it on for the 27th
9 at 4 p.m. So by 3 p.m. on the 25th.

10 COMMISSIONER KRAMER: Okay. Perfect. I appreciate
11 that.

12 MS. SCHELLIN: Okay.

13 COMMISSIONER KRAMER: That's totally fine. Thank you
14 very much, everybody.

15 CHAIRPERSON HOOD: Okay. Thank you,
16 Commissioner Kramer, and thank you, Ms. Roddy.

17 MS. RODDY: Thank you.

18 CHAIRPERSON HOOD: We won't delay this any longer. We
19 will do this on the 27th, as stated. So anything else on that?

20 (No audible response.)

21 CHAIRPERSON HOOD: We don't have anything else. Thank
22 you both.

23 Ms. Schellin, do we have anything else?

24 MS. SCHELLIN: I do not. I don't think OP has a report,
25 so I think we're good.

1 CHAIRPERSON HOOD: Okay. Thank you.

2 I want to thank everyone for their participation in
3 this meeting tonight. The Zoning Commission will be meeting
4 again October the 17th at 4 p.m. on these same platforms.

5 The TBSC Master Owner I, LLC will be our case for that
6 evening, which is this coming Monday at 4 p.m.

7 So one more time, I want to thank everyone for their
8 participation in this meeting. This meeting is adjourned.
9 Goodnight, everyone.

10 (Whereupon the above-entitled matter went off the
11 record at 5:41 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: 10-13-2022

Place: Teleconference

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