

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

REGULAR PUBLIC

MEETING

THURSDAY

DECEMBER 15, 2022

+ + + + +

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

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

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

The transcript constitutes the minutes from the Regular Public Hearing held on December 15, 2022

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public meeting by video conferencing. My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner May, and Commissioner Imamura. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, as well as Mr. Paul Young, who will be handling all of our virtual operations, as well as the Office of Zoning's legal division, I think we have all of our counsel here, Ms. Lovick, Mr. Ritting, and Mr. Lie.

I will ask all others to introduce themselves at the appropriate time. Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised this proceeding's being recorded by a court reporter and is also webcast live Webex and YouTube Live. The video will be available on the Office of Zoning's website after the meeting.

Accordingly, all those listening on Webex or by phone will be muted during the meeting unless the Commission suggests otherwise. For hearing action items, the only documents before us this evening are the application, the ANC setdown report, and the Office of Planning report. All other documents in the record will be reviewed at the time of the hearing. Again, we do not take any public testimony at our meetings unless the Commission makes a request otherwise.

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2 your phone call-in, then please call our OZ Hotline Number, 202-
3 727-0789 for Webex, login, or call-in instructions.

4 At this time, does the staff have any preliminary
5 matters?

6 MS. SCHELLIN: Yes, sir, I have one. And that is for
7 the Commission to vote on closed meetings for 2023, if you would.

8 CHAIRPERSON HOOD: Okay. Ms. Schellin, did you send
9 it to me?

10 MS. SCHELLIN: I did. I emailed it to you.

11 CHAIRPERSON HOOD: Okay. Give me one second. I'm
12 sorry. I didn't see that. I knew you were saying you was going
13 to send it. That was the last I dealt with it. So give me one
14 moment. Okay. There it is. All right. In accordance with
15 405(c) of the Open Meetings Act, D.C. Official Code 2-575(c), I
16 move that the Zoning Commission hold closed meetings on each
17 Monday and Thursday that is scheduled to hold a public meeting
18 or public hearing for the calendar year of 2023. The closed
19 meetings will begin at 3:15 p.m. and are for the purpose of
20 obtaining legal advice from our counsel on all cases and to
21 deliberate upon, but not voting on, the contested cases scheduled
22 on the Commission's agendas. Is there a second?

23 VICE CHAIR MILLER: Second.

24 CHAIRPERSON HOOD: Will the secretary please take a
25 roll call vote on the motion before us now that it has been

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1 second?

2 VICE CHAIR MILLER: Mr. May had a question.

3 CHAIRPERSON HOOD: Question, Commissioner May?

4 COMMISSIONER MAY: Yeah. I'm sorry, I -- your motion
5 is for closed meetings on every Monday and Thursday when there
6 are hearings and meetings?

7 MS. SCHELLIN: It's for every meeting and if we need
8 them for a hearing. So we're already voting on it because there
9 were times -- this started when Alan Bergstein was here, that way
10 if you guys need to have one before a hearing, you can do it.

11 COMMISSIONER MAY: Oh, okay. I didn't realize that we
12 had set it up that way because we don't typically do them before
13 hearings.

14 MS. SCHELLIN: This is our third year. Yeah.

15 COMMISSIONER MAY: I did not realize that.

16 MS. SCHELLIN: Yep.

17 CHAIRPERSON HOOD: It's in there just to cover us.

18 MS. SCHELLIN: Just in case.

19 COMMISSIONER MAY: I get it. I get it.

20 CHAIRPERSON HOOD: But I will tell you that I stuttered
21 when I read it because I was like wait a minute, but anyway, it
22 works. So it's been moved and seconded. All right. At this
23 time we'd asked Ms. Schellin to do a roll call vote please.

24 MS. SCHELLIN: Chairman Hood?

25 CHAIRPERSON HOOD: Yes.

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1 MS. SCHELLIN: Vice Chair Miller?

2 VICE CHAIR MILLER: Yes.

3 MS. SCHELLIN: Commissioner May.

4 COMMISSIONER MAY: Yes.

5 MS. SCHELLIN: Commissioner Imamura?

6 COMMISSIONER IMAMURA: Yes.

7 MS. SCHELLIN: The vote carries four to zero to one,
8 the third mayoral appointee position being vacant. Thank you.

9 CHAIRPERSON HOOD: Okay. Give me one moment please.

10 (Pause.)

11 CHAIRPERSON HOOD: Okay. If nothing else, we'll move
12 right on with our agenda. Let me call under consent calendar
13 item, we have deliberations and modification of consequence,
14 Zoning Commission Case No. 20-06B.

15 Ms. Schellin?

16 MS. SCHELLIN: Yes, sir. On this case at the October
17 27th meeting, the Commission determined this was, in fact, a
18 modification of consequence and asked for some further
19 submissions. At Exhibits 14 and 15 the Applicant submitted a
20 supplemental statement, and at Exhibit 16 there's an OP report.
21 And so this is ready for the Commission to deliberate on. Thank
22 you.

23 CHAIRPERSON HOOD: Thank you. Let me just say at our
24 October 27th, 2022 meeting The Commission determined the
25 application was a modification of consequence as already stated

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1 and asked for another supplemental submissions from the Applicant
2 to clarify various concerns raised by OP and ANC 6B. The
3 Applicant agreed to all of the ANC 6B's mitigation measures,
4 which talks about increasing long-term residential cargo, tandem
5 sized bicycle parking spaces, installing electrical conduit to
6 provide approximately 47 EVs, and it goes on, flexibility in the
7 final order. And then it talked about shifting of theoretical
8 lot lines, shifting ground level PUD boundaries, shift the below
9 grade PUD boundary, increase in vehicle -- and I'm just reading
10 the topics, as my colleagues know -- and increase in bicycle
11 parking as is already stated. And that's kind of (indiscernible)
12 it up. And then we have a summary of the modifications as
13 requested, as I stated, expanding the below grade boundary, a
14 reduction in the eastern side yard, modification of consolidated
15 PUD, increasing the number of vehicle parking spaces as noted,
16 increase the number of long-term bicycle parking spaces in the
17 east tower from 163 to 167, and also increase the number of short-
18 term bicycle parking spaces, shifting the theoretical -- as I
19 mentioned -- modification of PUD to provide 14, and correction
20 of the IZ calculations for consolidated PUD and the revised
21 transportation demand management plan, as well as the
22 programmatic design changes within the flexibility. And that's
23 all laid out. So those are some of the changes. I'm not sure
24 who asked for what, but let me open it up for any question or
25 comments.

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1 Commissioner May?

2 COMMISSIONER MAY: Yeah, I appreciate the recap of all
3 of that. And I think -- and this is -- there's a lot that went
4 on with this modification of consequence. And I appreciate the
5 Applicant going ahead and meeting with the ANC and the ANC's, I
6 think, very thoughtful suggestions on further improvements to the
7 modification. So I mean, I think it's basically all the concerns
8 that we had have been worked out and I really appreciate getting
9 to this result and feeling like we can support this with
10 confidence. Thank you.

11 CHAIRPERSON HOOD: And let me just add, as we know DDOT
12 did have submissions and they had additional modifications. And
13 I think all that has been agreed to from the DDOT report, which
14 is Exhibit 7.

15 Anything else, anybody?

16 COMMISSIONER IMAMURA: Yes, Mr. Chairman.

17 CHAIRPERSON HOOD: Yes?

18 COMMISSIONER IMAMURA: While, I wasn't here for the
19 hearing at the -- late October, I did read into the record, and
20 I'd underscore there are a lot of moving parts here, but it does
21 appear that everybody's reached an alignment, if you will. So
22 I'm prepared to move forward.

23 CHAIRPERSON HOOD: Okay. Great. I should do that
24 first.

25 Vice Chair Miller?

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1 VICE CHAIR MILLER: And I concur, Mr. Chairman, with
2 your comments and those of Commissioner May. I agree with all
3 the -- and appreciate all the Applicant's condition and --
4 conditions in response to the ANC 6B's mitigation concerns. So
5 ready to move forward.

6 CHAIRPERSON HOOD: Okay. Thank you. And Commissioner
7 Imamura will be participating, he has reviewed the record.

8 So with that I would move approval of the modification
9 of consequence as noted and specified in the case file of Zoning
10 Commission Case No. 20-06B Felice Development Group, PUD
11 modification of consequence at Square 1048S, and ask for a second.

12 VICE CHAIR MILLER: Second.

13 CHAIRPERSON HOOD: Been moved and properly second. Any
14 further discussion? Not hearing any, Ms. Schellin, would you do
15 a roll call vote please?

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRPERSON HOOD: Yes.

18 MS. SCHELLIN: Commissioner Miller?

19 VICE CHAIR MILLER: Yes.

20 MS. SCHELLIN: Commissioner Imamura?

21 COMMISSIONER IMAMURA: Yes.

22 MS. SCHELLIN: Commissioner May?

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: The vote is four to zero to one to
25 approve final action Zoning Commission Case No. 20-06B, the minus

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1 one being the third mayoral appointee position which is vacant.

2 CHAIRPERSON HOOD: Okay. Now we are in the final
3 action. Zoning Commissioner Case No. 22-17 Wisco Wally,
4 hopefully I pronounced all that right, LLC, map amendment at
5 Square 1913.

6 Ms. Schellin?

7 MS. SCHELLIN: I'm sorry. At Exhibit 34, there's a
8 letter in opposition from Scott Jakyl (phonetic). Exhibit 37, a
9 request to reopen the record from a group of neighbors was
10 received and approved by the chairman, and their letter in
11 opposition was placed in the record at Exhibit 37A. Exhibit 38
12 is the Applicant's draft order. Exhibit 39, the Applicant's
13 response to the group of neighbors in opposition. And at Exhibit
14 39 there's an in NCPC report stating that the project is exempt
15 from review per Chapter 8 NCPC's submission guidelines. So this
16 case is ready for the Commission to consider final action. Thank
17 you.

18 CHAIRPERSON HOOD: Thank you, Ms. Schellin for
19 (indiscernible). I'm not going to be redundant and repeat all
20 that. I appreciate it. But I also want to acknowledge that, as
21 Ms. Schellin said, there's opposition to this proposal, which is
22 now part of the permanent record. Also I want to reiterate that
23 IZ Plus will apply to the map amendment, and its overall
24 consistency with the plan, notably its potential to increase
25 housing and affordable housing. Before we start getting into

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1 that, I do want to -- I was very disturbed after dealing with
2 this. And let me apologize for any confusion. We all -- that's
3 why the record was open. But I have some problems with some
4 information I received from one of the folks in opposition. And
5 I want to tell neighborhoods, be careful of who you get to
6 represent you. I want to, first of all, apologize to Ms. Ella
7 J. Ackerman. And I hope, Ms. Schellin, you will pass this on.
8 I'm sorry the way the public talked to her in saying that she
9 has a S-H-I-T job. I don't appreciate that. I think my
10 colleagues and I all agree -- and I think residents of this city,
11 we are more -- we can disagree, but we should be respectful to
12 tell her that she needs to gain decency and do something good
13 for the city, that hopefully that she would leave this S-H-I-T
14 job -- and I'm putting this on the record for her and I hope
15 she's listening. I don't make -- she doesn't make any money,
16 that I am not doing any good -- she's not doing any good here in
17 this position, and her salary's basically nothing. What a way
18 to talk to a public servant. And I will tell all those people
19 who have that petition next time find somebody better to represent
20 you. And yes, Anthony Hood said it. We're not going to -- this
21 Commission's not going to let nobody just call our staff and blow
22 and downgrade them when they're doing the best they can and we
23 all do the best we can for the interest of this city. So with
24 that, Ms. Schellin, thank you. I just -- could you pass that on
25 to Ms. Ackerman, please? Thank you.

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1 MS. SCHELLIN: I will.

2 CHAIRPERSON HOOD: And I apologize for that person, so.
3 Okay. Let me open it up, let me turn to my colleagues,
4 whoever'd like to go first. I'm just going to see who --

5 VICE CHAIR MILLER: Mr. Chairman.

6 CHAIRPERSON HOOD: Vice Chair Miller?

7 VICE CHAIR MILLER: As I indicated at the hearing, this
8 is in my neighborhood. It's about three blocks away. And I
9 acknowledge that you have the letters of opposition that have
10 come in from some of the neighbors. I just would note that it's
11 the ANC 3C supported this application, as I do, and don't agree
12 with the concerns that have been expressed by those in opposition.

13 CHAIRPERSON HOOD: Okay.

14 Commissioner May, I think I saw your hand too.

15 COMMISSIONER MAY: Yeah. I just want to say it's --
16 you know, it's unfortunate that we didn't have a couple of items
17 that were the opposition letters that entered into the record
18 late, it's unfortunate we didn't have those before the meeting,
19 but I understand that there was, you know, the folks who were in
20 opposition already were engaged. And I don't fully understand
21 exactly why they could not join the hearing on the day of because
22 apparently they were ware of the day of, and we would have
23 benefited from hearing from them at that time. That being said,
24 that's no excuse for the mistreatment that the Chairman
25 referenced before of the staff of the Zoning Commissioner. We

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1 -- I think this is probably the first time I've really heard a
2 substantive complaint about the Zoning Commission staff for the
3 most part. We hear great compliments about how the staff tries
4 to help the people who are interested in the cases that come
5 before us. So it's a very unfortunate incident. And in terms
6 of the merits of the case, I think the concerns in the opposition
7 are not of great concern to me. And I think that the Applicant
8 has made the case, the ANC's in support, as the Vice Chair said,
9 and so I'm ready to support this.

10 CHAIRPERSON HOOD: And I think, Commissioner Imamura,
11 you did read the record, I believe?

12 COMMISSIONER IMAMURA: I did, yes. Thank you, Mr.
13 Chairman. I did read into the record for this as well. And I
14 don't think I have anything additional to add, but I agree with
15 the comments of my colleagues, as well as your -- share in your
16 disappointment the event that took place with OZ staff. Public
17 servants who work on behalf of the residents of this District, I
18 think deserve a great applause. But I'm prepared to move forward.

19 CHAIRPERSON HOOD: Okay. And I would also add, I agree
20 with all my colleagues' comments. I would also add the racial
21 equity lens in this case I think is very superior. While I know
22 that we are filling a need in an area that definitely needs it.
23 So I will also be voting in support of this application. I think
24 we covered everything. And also the letters in opposition, I
25 think we pretty much discussed there was some information that

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1 we looked at, but I don't think it swayed me enough that it could
2 not be mitigated. But I think we pretty much discussed a lot of
3 some of the issues that were very germane to the whole area. So
4 I would leave it at that and ask maybe somebody else make a
5 motion, I wasn't going to say going to approve -- somebody make
6 a motion to approve or disapprove.

7 COMMISSIONER MAY: Mr. Chairman, I would make a motion
8 that we approve Zoning Commission Case -- take final action to
9 approve Zoning Commission Case No. 22-17, Wisco Wally, LLC, map
10 amendment at Square 1913.

11 VICE CHAIR MILLER: And I would second that. And is
12 this -- the map amendment has IZ Plus, as you've noted? Yeah,
13 so just to reiterate that.

14 COMMISSIONER MAY: Yes.

15 CHAIRPERSON HOOD: Yes.

16 CHAIRPERSON HOOD: Yes. So it's been moved and properly
17 second. Any further discussion? Not hearing any, Ms. Schellin,
18 would you do a roll call vote please?

19 MS. SCHELLIN: Commissioner May?

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Commissioner Miller?

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: Commissioner Hood?

24 CHAIRPERSON HOOD: Yes.

25 MS. SCHELLIN: Commissioner Imamura?

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1 COMMISSIONER IMAMURA: Yes.

2 MS. SCHELLIN: The vote's four to zero to one to approve
3 final action Zoning Commission Case No. 22-17. The minus one
4 being the third mayoral appointee position which is vacant.

5 CHAIRPERSON HOOD: So I have two -- I think I can do
6 both of -- I'm going to call these two cases both together and I
7 think I've been advised by counsel I can do them both together,
8 even though one requires a waiver and one doesn't. But let me
9 just try it this way. Zoning Commission Case No. 08-07K, Four
10 Points Development, LLC, two-year PUD time extension for Building
11 1 at Square 5785. This one needs a waiver. The next one is
12 Zoning Commissioner Case No. 08-07L, Four Points Development,
13 LLC, two-year PUD time extension for Building 6 and 8, at Square
14 5772 and 5783. This one does not need a waiver.

15 So Ms. Schellin, you want to work on the first one
16 first and then do the second one?

17 MS. SCHELLIN: Yes. So on the 08-07K, the Applicant's
18 requesting a two-year PUD time extension stating good cause being
19 because of litigation involving Building 4, negotiating with OFCO
20 and the D.C. Council regarding tax incremental financing for
21 Buildings 4, 5, and 8 in COVID-19. In addition, the Applicant
22 has requested a waiver which is needed to approve this time
23 extension as it is the third request and per the regulations that
24 limits the extensions to two, with the second one being only for
25 one year. Exhibit 7, you have an OP report in support of the

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1 waiver and the extension, and as of today, ANC 8A has not
2 responded, but the time period for doing so has expired.

3 With regard to 08-07L, the Applicant's requesting again
4 a two-year PUD time extension stating good cause being a lot of
5 what was previously discussed in the prior case, but specifically
6 for Building 8. It is now in a historic district and the
7 Applicant needs time to work with HPO. With respect to Building
8 6 and 7, they're currently occupied with office tenants and
9 because of the pandemic, the market is unpredictable and the
10 Applicant prefers to leave the current tenants in place until the
11 market improves. Exhibit 6 is an OP report in support of the
12 extension, and as of today again ANC 8A has not responded. But
13 again, the time period for doing so has expired. And the
14 Commission may proceed forward if it chooses to do so. Thank
15 you.

16 CHAIRPERSON HOOD: Okay. Thank you. Let me first see
17 if anyone has any issues to -- let's talk about the waiver issue
18 first, Subtitle Z 705.5. I like to always call it the Herb
19 Franklin rule, and that's one of the things that we talked about
20 for years about. I think for me and I think the African -- but
21 let me see, does anybody have a problem with waiving the rule?
22 Let's talk about that. I know it's hard, but.

23 Commissioner May?

24 COMMISSIONER MAY: I am just very pleased to know that
25 you will always cite the Herb Franklin rule. I was thinking

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1 about placing a wager on that with my fellow Commissioners in
2 advance of this meeting to see if I could win some money. I
3 probably -- they probably wouldn't have voted against me. But
4 yes, I -- there are some really extenuating circumstances in this
5 case, and I feel like it's completely appropriate to waive the
6 rule in this circumstance and grant an extension. And I'll save
7 the speech about whether we should pull the plug, because I just
8 don't think that's appropriate at this point.

9 CHAIRPERSON HOOD: Okay. Anyone else want to comment
10 on the waiver?

11 VICE CHAIR MILLER: I think good cause has been
12 demonstrated here, Mr. Chairman, as Mr. May and you have said.

13 CHAIRPERSON HOOD: Okay.

14 And Commissioner Imamura, any comments?

15 COMMISSIONER IMAMURA: I would only echo that these are
16 extraordinary times. Generally, I you know, time extensions I
17 have -- give me a little bit of pause. But I think in this case,
18 it certainly -- certainly could do so.

19 CHAIRPERSON HOOD: Okay. I'm sorry. I thought you
20 -- I'm getting a kind of late -- it's better, so don't touch
21 anything. So it's getting better. So on that case, we will
22 provide the waiver. And that's not some -- that's a hard
23 threshold. But I think, as my colleagues have stated, this is
24 different times. I appreciate that Commissioner Imamura, because
25 it is different times. When we wrote that rule we wouldn't have

1 never expected some of the things that have happened.

2 Okay. Let's talk about the merits of the first one,
3 08-07. The other one does not need a waiver. So any comments
4 on that? The good cause, I think Vice Chair's already mentioned,
5 the good cause, talking about litigation. I think they talked
6 about incremental financing, dealing with things with the D.C.
7 Council. And a lot of things got slowed up, especially due to
8 COVID. And I know they had a COVID time as well. That didn't
9 count towards this, as noted. And also materials in these cases
10 is starting to be harder for people to get. They weren't even
11 making cars, but, so I think these circumstances here warrant
12 that request to -- I think it was the November 22nd, 2024.

13 Anybody else on the first one, anything else?

14 Okay. Let's go to the second one. Any comments on the
15 second one?

16 Okay. I think that those comments would go for both
17 with the exception of the waiver. So with that, let me make the
18 motion since it's two. We will remove time extensions as
19 prescribed in both cases on the Zoning Commission Case No. 08-
20 07K as well as include the waiver in that case, as well as Zoning
21 Commission Case No. 08-07L which does not have a waiver, and ask
22 for a second.

23 COMMISSIONER IMAMURA: Second.

24 CHAIRPERSON HOOD: Okay. Been moved and property
25 second. Any further discussion?

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1 Not hearing, Ms. Schellin, would you do a roll call
2 vote please?

3 MS. SCHELLIN: Yes. Before I do the roll call, I do
4 want to point out that the -- on Item B, staff left out Building
5 7. So it includes Building 6, 7, and 8. I just want to make
6 that correction on the --

7 CHAIRPERSON HOOD: So let me -- I was making a motion,
8 I will accept the corrections, 6, 7, and 8, and the person who
9 second it will accept it I believe. And so --

10 MS. SCHELLIN: Commissioner -- yeah, Commissioner
11 Imamura.

12 CHAIRPERSON HOOD: Commissioner Imamura, okay.

13 COMMISSIONER IMAMURA: Yes.

14 CHAIRPERSON HOOD: And Ms. Schellin, could you now do
15 a roll call vote with the correction?

16 MS. SCHELLIN: Yes.

17 Commissioner Hood?

18 CHAIRPERSON HOOD: Yes.

19 MS. SCHELLIN: Commissioner Imamura?

20 COMMISSIONER IMAMURA: Yes.

21 MS. SCHELLIN: Commissioner Miller?

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: Commissioner May?

24 COMMISSIONER MAY: Yes.

25 MS. SCHELLIN: Vote's four to zero to one to approve

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1 final action in Zoning Commission Case Nos. 08-07K approving the
2 extension and the waiver, in 08-07L approving the extension as
3 requested. The minus one being the third mayoral appointee which
4 is vacant. Thank you.

5 CHAIRPERSON HOOD: Okay. Our next case under final
6 action, Zoning Commission Case No. 14-12G, EAJ 1309 5th Street,
7 LLC, two-year PUD time extension at Square 3591. We also have a
8 waiver request here as well.

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, sir. The Applicant's requesting a
11 two-year PUD time extension as stated. Their good cause has been
12 stated as economic changes, financing difficulties, and
13 construction challenges. As you stated, they are requesting a
14 waiver. It's needed to approve this extension. It is their
15 third request. So again, per the regulations to be in the max
16 with the second one being for one year. Exhibit 6 is an OP report
17 in support of the waiver and the extension. And ANC 5G submitted
18 a report today in support, so we'd ask the Commission to consider
19 moving forward with final action today.

20 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

21 Okay. Colleagues, you've heard the requests again of
22 Subtitle Z 705.5 in this case, the waiver, which we should --
23 time extension the waiver, which allows only two time extensions
24 for an approved PUD and limit the second time extension to one
25 year. That's necessary for us to do this for the third time. So

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1 let me hear what my colleagues have to say on this.

2 Commissioner May?

3 COMMISSIONER MAY: Yeah. Unlike the last one, I'm not
4 feeling so good about this one. Now, you know, I appreciate the
5 fact that we, you know, we got a late breaking letter from the
6 ANC in support. And I certainly understand the challenges that
7 the Applicant is facing in trying to get this project built. But
8 I have to say, I'm not surprised that they're facing these
9 challenges. I mean, some of them are, you know, the challenges
10 that are common to so many projects nowadays, you know, having
11 to deal with the pandemic and its aftermath, interest rates,
12 supply chain, construction issue -- you know, construction supply
13 issues that can affect how a project might be built. But I --
14 you know, from the very beginning, I was very concerned about the
15 prospects that a movie theater and office building on top of the
16 union market building was a viable project. I just -- I, you
17 know, I'm not convinced of this. Now, I mean, I guess I could
18 go along with an extension at this point, but at a certain point,
19 the assessment should not be well, how do we get this financed
20 or how can we try to move ahead, it's whether they should be
21 moving ahead. And maybe they just need this time to figure out
22 whether in fact they should be moving ahead or whether they need
23 to reimagine what this project should be. But I just -- I have
24 very little confidence that what was originally approved is ever
25 going to get built.

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1 CHAIRPERSON HOOD: Okay.

2 Anyone else? Vice Chair Miller?

3 VICE CHAIR MILLER: I would concur with Commissioner
4 May's comments. I didn't have the initial skepticism whenever
5 this was originally approved about the office and theater --
6 movie theater market. But I certainly do today, and I think
7 everyone in the nation does and maybe around the world. So I
8 agree with OP and the ANC that there's been good cause
9 demonstrated and a good faith effort has been made by the
10 Applicant to try to achieve this diversity of uses in this union
11 market neighborhood. But I agree that it's time to probably --
12 as we've seen in another project, I don't know if it's on our
13 agenda today or recently where they reimagined the theater and
14 office to be residential and other things because the market just
15 is not there post -- not post pandemic. We're still in the
16 pandemic. We're still in the pandemic. But anyway. So I think
17 I concur with the time extension for the reasons that others have
18 stated.

19 CHAIRPERSON HOOD: And Commissioner Imamura, any
20 comments on this?

21 COMMISSIONER IMAMURA: Just briefly, Mr. Chairman. I'm
22 in agreement. I want to be consistent about, you know, where we
23 evaluate these. So these are complex projects. And again, it's
24 extraordinary times. Everybody's dealing with the same issues.
25 But I'm optimistic we'll pull out of that and perhaps our judgment

1 will change later. But I'm prepared to vote in favor.

2 CHAIRPERSON HOOD: I would agree. And again, the late
3 breaking for me, what really helped me get over this, you know,
4 I agree with the Herb Franklin, but I agree with Commissioner May
5 wholeheartedly, but I also thought about -- what helped me get
6 over my -- I was I was on the fence. I don't like to be on the
7 fence. But what helped me get over it was the strong letter of
8 support from the ANC that -- late breaking strong letter of
9 support that we received. So I would go along with my colleagues
10 and let's grant this this time. It's not favorable to us, that's
11 why we put the rule in -- the Franklin rule in place. Very
12 critical and very important to keep things moving in the city.
13 So in this case, as we said in the other case, and as my colleagues
14 said of being consistent, I will agree to allow this extension
15 as well.

16 Commissioner May?

17 COMMISSIONER MAY: Yeah, I just want to add, I don't
18 think we -- the Applicant should interpret our skepticism as, you
19 know, a desire for this to not happen. I mean, I think it would
20 be nothing better than for them to succeed with what they
21 envisioned. I -- you know, and it's important to have that mix
22 of uses in the union market area, not just have, you know,
23 apartments and restaurants. I think, you know, this would be a
24 terrific addition if it could happen. But I do think it's a time
25 to consider whether, in fact, it should happen. So again, I'm

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1 okay with the extension, but I'm guessing this is -- this should
2 probably be the last one.

3 CHAIRPERSON HOOD: And I would agree, Commissioner May.
4 Let's just talk about that for the moment, as you mentioned. We
5 want them to be successful. I think they've been successful,
6 especially with their rooftop they have over there, which is
7 fabulous. The community enjoys. It's a draw. And that area
8 has been a major draw. And I think the key is what -- the reason
9 we started doing this because things get tied up. And years ago,
10 about 20 years ago, things just kept on being tied up and kept
11 on being tied up. And I just remember Herb Franklin sitting next
12 to me, the late Herb Franklin, always bring that up. And then
13 after these years, I now understand exactly what he meant. And
14 I think, Commissioner May, we all are in line with your comments,
15 I'm sure, that we want this to be successful, but we don't want
16 it to be tied up forever. So that's kind of where we --

17 COMMISSIONER MAY: Yeah. And I think, Mr. Chairman,
18 you brought up a good point, which is that, you know, maybe part
19 of the reason why it's okay for this to drag on a bit further is
20 the fact that, you know, this is not a vacant lot. Right? This
21 is not a parking lot. It's not -- I mean, this is -- it's an
22 active use that's happening there. And there isn't really any
23 great harm in continuing it. But I do think that if there's,
24 you know, if something is going to happen, the Applicant needs
25 to figure out what that is during this time extension.

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1 CHAIRPERSON HOOD: Okay. I agree.

2 So let's see. Somebody like to make a motion? I mean,
3 I can make them all, but I don't like to do that. Y'all want me
4 to call -- do I have to start calling on people to make motions?

5 VICE CHAIR MILLER: Mr. Chairman, I will perform my
6 vice chair duties and make the motion that the Zoning Commission
7 approve Case No. 14-12G, EAJ 1309 5th Street, LLC, two-year PUD
8 time extension at Square 3951 (sic) -- did we already do the
9 waiver request -- with the waiver request and ask for a second.

10 COMMISSIONER IMAMURA: Second with a friendly amendment
11 at Square 3591.

12 CHAIRPERSON HOOD: Is it 3590 or 3591? Oh, I'm on the
13 wrong case. I thought it was -- which one -- what did he say,
14 Commissioner Imamura?

15 COMMISSIONER IMAMURA: He said 3951.

16 CHAIRPERSON HOOD: Oh, well, that's definitely off. I
17 think it's -- is it 3590 or 3591?

18 COMMISSIONER IMAMURA: 3591.

19 VICE CHAIR MILLER: 3591, I guess I have become dyslexic
20 there, so.

21 CHAIRPERSON HOOD: All right. It's been moved and
22 properly second with the correct Square 3591. Any further
23 discussion?

24 All right. Ms. Schellin, can you do a roll call vote
25 please?

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1 MS. SCHELLIN: Commissioner Miller?

2 VICE CHAIR MILLER: Yes.

3 MS. SCHELLIN: Commissioner Imamura?

4 COMMISSIONER IMAMURA: Yes.

5 MS. SCHELLIN: Chair Hood?

6 CHAIRPERSON HOOD: Yes.

7 MS. SCHELLIN: Commissioner May?

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: The vote is four to zero to one to
10 approve final action in Zoning Commission Case No. 14-12G
11 approving the time extension and the waiver. And the minus one
12 being the third mayoral appointee position which is vacant.

13 CHAIRPERSON HOOD: Okay. Ms. Schellin, we're going to
14 keep right on moving. D I believe is where we are. Zoning
15 Commission Case No. 19-22A, MR 622 Eye Street Land, LLC, three-
16 year extension of combined lot development covenant per Title I
17 805.14 at Square 453.

18 Ms. Schellin?

19 MS. SCHELLIN: The Applicant is requesting a second
20 three-year extension of the expiration of the CLD covenant to
21 allow the architect to provide it certification for release of
22 escrowed funds. The Applicant provided an affidavit stating the
23 reasons it has not been able to fulfill this requirement. In
24 addition, the Applicant has requested a waiver which is needed
25 to approve this time extension as it is the second request. And

1 the regulations do allow -- give the Commission authority to
2 grant additional time up to a maximum of three years to make the
3 certification and release the funds. Exhibit 5 is an OP report
4 in support of the waiver and extension. Exhibit 6 is an ANC 2C
5 report in support of the request. Again, asking the Commission
6 to consider taking final action on this.

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

8 Again, we have a waiver request which will allow -- we
9 would grant -- Commission can grant the authority to allow
10 additional time up to a maximum of three years to make
11 certification for release of the funds. So let me say this is a
12 second -- necessary to permit a second three-year extension. So
13 let me hear what we have to say, whoever wants to go first.

14 COMMISSIONER MAY: Yeah, Mr. Chairman, I don't really
15 have comments on this. This is a very unusual situation, and I
16 don't think there's anything good that comes from not granting
17 the extension. I think we should go ahead and grant it and grant
18 the waiver.

19 CHAIRPERSON HOOD: Okay. Any objections? I will follow
20 suit with that. Any objections to what Commissioner May said?

21 Commissioner May, since you said that, would you mind
22 making the motion?

23 COMMISSIONER MAY: Not making a motion, I'm going to
24 make a motion.

25 I would move the Zoning Commission approve the waiver

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1 and three-year time extension for MR -- sorry, Zoning Commission
2 Case 19-22A MR 622 Eye Street Land, LLC, three-year extension
3 (indiscernible) lot development covenant per Subtitle I, Section
4 805.14, at Square 453. I didn't know it was going to be that
5 complicated when I started to make the motion.

6 COMMISSIONER IMAMURA: Second.

7 CHAIRPERSON HOOD: It has been moved and properly
8 second. Thank you both.

9 Any further discussion?

10 Not hearing any, Ms. Schellin, would you do a roll call
11 vote?

12 MS. SCHELLIN: Commissioner May?

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: Commissioner Imamura?

15 COMMISSIONER IMAMURA: Yes.

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRPERSON HOOD: Yes.

18 MS. SCHELLIN: Commissioner Miller.

19 VICE CHAIR MILLER: Yes. And I think we had an ANC
20 letter in support of this one that came in late. So I just wanted
21 to mention that if we hadn't already mentioned that.

22 MS. SCHELLIN: Yeah, we did.

23 And -- did I -- oh, you did say yes, I'm sorry.

24 So the vote is four to zero to one to approve final
25 action, 19-22A. The minus one being the third mayoral appointee

1 position.

2 CHAIRPERSON HOOD: Let's go to proposed action Zoning
3 Commission Case No. 22-06, 801 Maine Avenue, S.W., PJV, LLC,
4 consolidated PUD and related map amendment at Square 390.

5 Ms. Schellin?

6 MS. SCHELLIN: Yes, sir. On this one, Exhibit 110,
7 there's a letter in opposition from Jack Toumid (phonetic).
8 Exhibit 111 is OAG's supplemental report. Exhibits 112 through
9 112I, 117 through 119A5, 121 and 123 are the Applicant's post
10 hearing submissions. Exhibits 113, 114, and 122 are post hearing
11 submissions by Capitol Square Homeowners Association. Exhibit
12 116 is ANC 6D's post hearing report. And Exhibit 120 is a letter
13 in opposition from Councilmember Allen. Would ask the Commission
14 to consider taking proposed action on this case. Thank you.

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

16 Colleagues, as you all may remember, what we did, as
17 Ms. Schellin has mentioned, we did get an updated public benefits
18 and amenities package. There were a number of moving parts in
19 this case. The ANC and the party in opposition, which is Capitol
20 Square Homeowners Association, still believes -- and we asked
21 them to go back and work some more, but they still believe --
22 those bodies still believe that the profit benefits are
23 inadequate and do not fully address their concerns about the
24 project's density high impacts are inadequate on the vehicle and
25 pedestrian safety and cut-through traffic through the Capitol

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1 Square Homeowners Association. They also, in the way I understand
2 it, they also put money up -- the Applicant also did some things
3 to try to mitigate and continue to mitigate some of the requests
4 that the Capitol Square Homeowners Association has done. But it
5 appears that there's still opposition. And then I guess for me,
6 what concerns me the most about this is that the council member
7 now has weighed in. These are his constituents. But then there's
8 a letter from the Applicant telling the council member that we
9 can meet with you to explain some of the inefficiencies. So I'm
10 just bothered by this whole thing. I always believe time is
11 better to heal things. I'm not saying everybody's going to hold
12 hands. They're still far apart. But at least have a conversation
13 with the council member. And I don't know if it's a verbal one
14 or -- council member -- because he wrote a letter. And I know
15 we have our various opinions of it, but that concerns me. And
16 it also concerns me that the ANC still has a problem even with
17 the amended -- I mean, the changes that the Applicant has made.
18 So I'm open for discussion. I still think I'm not -- personally
19 I'm not prepared to move forward on this. I think there still
20 should be some more conversations because the end of the day,
21 Capitol Square, the ANC, folks who live in that area are going
22 to have to deal with whatever decision we make and the impacts
23 that this development's going to have on that area. But let me
24 hear from others who may have a different opinion or the same
25 opinion.

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1 Commissioner May?

2 COMMISSIONER MAY: Sure. Mr. Chairman, I am prepared
3 to move forward tonight. But of course, if you really don't want
4 to, I would not insist on it. I do believe that the Applicant
5 has made the case that they have met the tests for approval of
6 this PUD. It is undoubtedly a complicated one. And, you know,
7 there are aspects of it where they are seeking density that's at
8 the very high end of what would be considered medium density, and
9 that they are, you know, they are seeking a zone designation that
10 is technically above what would be considered medium density.
11 However, the project itself, you know, they're not seeking the
12 full FAR that would be possible under that zone designation. And
13 the need for that zone designation is driven by the need to push
14 the height of the building closer to Maine Avenue. And I think
15 that they made a good case of explaining why having that density,
16 that taller building -- I'm sorry, who's the call-in user who
17 just came in here?

18 MS. NADIA: Okay. Hi, I'm Nadia. I'm the president
19 of the tenants association. How are you doing? How is everybody
20 doing?

21 COMMISSIONER MAY: I'm sorry, I'm not --

22 CHAIRPERSON HOOD: I think we need to take her out.
23 I'm not sure what that is, but yeah, let's just take her out.

24 COMMISSIONER MAY: Thank you very much, yeah.

25 CHAIRPERSON HOOD: We'll get back to you, Ms. Nadia.

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1 COMMISSIONER MAY: Anyway, I think the Applicant made
2 a good case to explain why -- how this proposed PUD is consistent
3 with the comprehensive plan and is consistent with the southwest
4 small area plan. And it's -- you know, their attempts to I think
5 mitigate any of the potential negative impacts associated with,
6 you know, parking and traffic I think have been reasonable. Their
7 attempts to mitigate the concerns of the abutting neighbors to
8 the north or actually the neighbors across the street to the
9 north I think are reasonable, offering to contribute \$100,000 to
10 some, you know, direct methods they might use to stop cut-through
11 traffic. I think further conversation with DDOT actually might
12 be in order there to see whether there are other changes to the
13 roadways that might reduce that potential. I think one of the
14 reasons why people do that cut-through is because there's no way
15 to turn right on G Street there, you know, off of, what is it,
16 7th, 9th, I forget. Anyway, you know, they cut through because
17 they can't -- you know, it's a one-way stretch of road. I don't
18 know if that's something that can be done differently. There are
19 some things that I think that DDOT needs to do to look at that
20 offramp from the freeway and 9th Street coming through from the
21 -- through L'Enfant Plaza. I think that there's -- there's some
22 sort of reconfiguration that needs to happen there because it's
23 a very confusing intersection. So it might be part of a bigger
24 -- there might be a bigger solution in the future to address
25 those concerns. But I do think the Applicant has done what they

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1 can to try to address that, again, with that donation to the
2 homeowners association and also the contribution to a
3 (indiscernible) study for a traffic signal at the intersection.
4 Let's see, what other aspects did I want to hit on this? I think
5 the you know, there is an essential misunderstanding. And I
6 don't know how many times we have to say, I feel like we've said
7 it over and over and over again, but IZ Plus is not the standard
8 by which PUD affordable housing should be measured. It is a tool
9 that is used for map amendments when there are not other benefits
10 to be gained through the PUD process. And that, you know, IZ
11 Plus applies whenever the nature of the up-zoning calls for it,
12 and is it necessarily the best time to do a PUD, sometimes it
13 has to do with the size of the property, sometimes it has to do
14 simply with the fact that there isn't that much to be gained and
15 that the best thing to do is simply apply IZ Plus and a map
16 amendment. There are significant additional benefits associated
17 with this project that would not be achieved if this were a map
18 amendment, whether it was -- whether it would be at the proposed
19 zone, the MU-9A zone, or some lesser zone like MU-8. I think
20 that this project yields better benefits to the community. That's
21 the whole point of a planned unit development to be able to
22 harvest some of those greater benefits for the broader community,
23 both the immediate community and then the city as a whole. And
24 so, you know, we can't set that -- the IZ Plus numbers as a
25 threshold. I mean, it is useful as a measure to understand

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1 whether we are getting enough and whether some of the other
2 benefits, how those figure into it, it's a useful measure, but
3 it is not a floor that we should be abiding by. And I think that
4 there is an essential misunderstanding that is being promoted by
5 the Office of the Attorney General and others that I think is
6 counterproductive because it creates this image that we are
7 somehow discounting the inclusionary zoning component of projects
8 like this for no good reason. We are not discounting it. We
9 are -- you know, we are looking at the overall picture that
10 includes things much more -- much beyond the affordable housing
11 component. And I think that's a critical piece that people need
12 to come to understand. I don't know how many times more we'll
13 have to say it, but we'll keep saying it I think in order to make
14 it -- in order to help people understand

15 I think there was one other thing that I was going to
16 say. What was I going to say? Gosh, and now I'm losing it. I
17 guess I'm all talked out. I lost my last point. Maybe I'll
18 remember it when everybody else is talking.

19 CHAIRPERSON HOOD: You'll think of it. You'll think
20 about it.

21 COMMISSIONER MAY: Oh, I know, I know what it was. I
22 know what I was going to say, which is to say I don't know if
23 the Chairman would be willing to consider taking proposed action
24 tonight, knowing full well that we may not take final action at
25 some later date. And I think we could encourage the Applicant

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1 to have the discussions with the council member's office as they
2 see fit and then provide an additional submission to the record
3 once that happens, and then we could take final action at some
4 later date. I'm not usually the one who suggests that course of
5 action, but I would certainly be open to that if other members
6 of the Commission and of course the Chairman are willing. But I
7 don't feel super strongly about that, I just wanted to throw that
8 out there, as you often say.

9 CHAIRPERSON HOOD: Okay. All right. Thank you. And
10 I'll respond last.

11 Commissioner Imamura, any questions or comments -- I
12 mean, not questions, you don't have questions. Any comments?

13 COMMISSIONER IMAMURA: That was -- that would be --
14 thank you, Mr. Chairman. That is difficult to follow-up with
15 Commissioner May, his comments there. I recall that there's
16 certainly a tremendous amount of opposition here in the record,
17 but what I do recall also from the hearing is that there was an
18 agreement that this project is not -- will not rectify or resolve
19 the traffic issues that the opposition had raised as part of
20 this. And so I think there was that acknowledgment and I think
21 there are certainly a number of public benefits that far outweigh
22 some of these concerns. Certainly compassionate and empathetic
23 to those issues that are that are raised in the opposition, but
24 I certainly am prepared to move forward and take Commissioner
25 May's approach, but also amenable to your thoughts, Mr. Chairman.

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1 CHAIRPERSON HOOD: All right. Thank you.

2 Vice Chair Miller?

3 VICE CHAIR MILLER: Thank you, Mr. Chairman. I could
4 not agree more than I do agree with the comments of Commissioner
5 May and Commissioner Imamura just now. This affordable housing
6 proffer in this PUD-related map amendment is among the highest
7 of all recent PUDs that do not involve -- that do not involve
8 -- any public subsidy, public financing, or public land
9 disposition or ground lease. Fifteen percent of the residential
10 gross floor area in the PUD will be reserved for affordable
11 housing, including eight -- eight -- three-bedroom units at the
12 50 percent median family income level. We just do not see that
13 in a non-publicly -- we have not seen that in a non-publicly
14 subsidized project. As far as I know, that's the case with this
15 project. I certainly was sympathetic, empathetic with the
16 concerns raised by the party in opposition, Capitol Square
17 Homeowners Association, but there were adjustments that were made
18 in response to their concerns, reducing the height in that
19 northern portion. So yeah, in order to keep the amount of
20 affordable housing and market rate housing, which are all
21 important priorities of the city, in addition to all the other
22 public benefits associated with this PUD, they increased the
23 height on the Maine Avenue side to 130 feet, except for, I think,
24 a small section at the southeastern corner, at 120 feet. And I
25 certainly would have preferred that it be 120 feet since there

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1 is that medium density designation in the comp plan land use map.
2 But as we have stated and the courts have affirmed from our orders
3 that you can balance out the 90-foot versus the 130-foot, the
4 overall 7.99 FAR is within the medium density designation with
5 the PUD and with the inclusionary zoning that's being provided
6 here.

7 So yeah, I would have preferred if it was less than
8 that tunnel effect. I don't want to see that tunnel effect on
9 Maine Avenue, and any precedent set for future sites. But I
10 think there's been a lot of work to try to mitigate the adverse
11 impacts upon those to the north and including the traff- -- all
12 the transportation related contributions to studies for the
13 signalization at 9th and G, and the contri- -- the self-funded
14 study I think by the Applicant of how to mitigate cut-through
15 traffic through this neighborhood to get to the wharf. But as
16 Commissioner Imamura said, I mean, one project cannot solve all
17 of the transportation-related issues in this whole southwest
18 neighborhood area, which are many.

19 So I mean, in general, I think that the comprehensive
20 plan consistency argument case had been made by the Applicant,
21 especially in its response to Councilmember Allen and that the
22 PUD balancing test that the public benefits and amenities
23 associated with the project outweigh -- are commensurate with the
24 height and density that's being requested, the amount of
25 affordable and market rate housing. They tried to respond to the

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1 conflicting -- I heard conflicting -- concerns about a grocery
2 store. So they tried to say that it won't be a minimum -- 6,000
3 will be a minimum, 3,000, and then the opposition party said we
4 never said we wanted it less. They did say they wanted less
5 traffic impact from any grocery store food option that would be
6 provided there. I think food options need to be provided
7 everywhere throughout the city equitably. And I think this
8 project would try to try to help that situation.

9 So I do agree with Commissioner May's point to you, Mr.
10 Chairman, that we could take proposed action. He normally does
11 not go along with that. I do usually go along with that and hope
12 that and encourage the parties to continue to work together. The
13 Applicant has offered to meet with the council member. I don't
14 know if that has happened yet. It should happen, and further
15 meetings should happen. And there was a mistrust that got built
16 up between the Applicant and the party in opposition, which was
17 unfortunate but evident at the public hearing. But I think it
18 can continue to be attempted to be rebuilt in the time between a
19 proposed action and a final action, then maybe further
20 mitigations and modifications might be able to be made without
21 -- well, with -- maybe further mitigation and modification be
22 made without jeopardizing the public benefits and amenities that
23 are so significant here. So I'm ready to move forward, Mr.
24 Chairman. Thank you for the opportunity to express this opinion.

25 CHAIRPERSON HOOD: Okay. Thank you for all your

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1 comments. I really appreciate it.

2 I still say that my concern of the -- I'm still trying
3 to grasp my arms around this \$100,000 of mitigation. Is it a
4 study, is it mitigation? And I'm saying this for the Applicant
5 -- I'm with the Applicant, if I decided to go in the way that
6 Commissioner May, which is usually the opposite because I'm
7 usually ready to do it that way and Commissioner May's the other
8 way, so this is very opposite. But I'm a guy that will -- I can
9 go along with that, Commissioner May. I was sitting here thinking
10 that why you were talking, should I do a proposed, I don't like
11 to send too many strong signals, but I have no problems when it
12 gets to final than to vote against it, even though it sounds like
13 I'm going to be the only vote against it for now.

14 But I will tell you that the \$100,000 concerns me. And
15 I looked at what the homeowner association sent, (indiscernible)
16 square, the homeowners association, the letter they sent, and
17 this -- it's like a study. You know we study to study to study.
18 And I know they're talking about the gates and they're
19 recommending some things, but those kind of things should be to
20 the point where we're ready to put them in place, not studying
21 something and then we try to figure it out. I think -- I just
22 see it -- I think what I would like to see, if we vote for
23 proposed tonight, I would like to see the Applicant just shore
24 that up a little bit for me, explain to me what's really going
25 on and how we're going to carry out that mitigation. It may be

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1 there and maybe this is not -- it's not -- pops out -- it doesn't
2 pop right out at me. I have to keep reading it over and over
3 again to try to figure out. And also, Vice Chair, you mentioned
4 about the eight three-bedroom units at 50 percent of the MFI.
5 People that look like me still can't afford that. I'm sorry. So
6 I understand what the ANC and what the community and a lot of
7 people are saying. You know, if we want to make the waterfront
8 conducive for all, we need to try -- not just this project, but
9 everything that's going on down there. We need to make it
10 conducive. People still today complain about how much parking
11 is at the waterfront. They still complain about how much it
12 costs. So you know, if -- I'm asking now, I'm asking the
13 Applicant, and just drop it so a few people that look like me
14 can get down there and live. And I'm not saying they don't, we
15 have a few, but we do could do better. So some of those things
16 I like to tighten them. And even more than that, I'd like to
17 know if they have had a conversation with the council member
18 because that's what he's asked for. A lot of council members
19 don't weight in, some do. And I know that this council member
20 has weighed in. And I think with continuing to work with
21 Councilmember Allen as well as the ANC, as well as the homeowners
22 association, I think we'll have a better outcome.

23 And to Commissioner Imamura's point about the different
24 projects, when you vote on enough of the different projects, like
25 I have, and you hear the same things on all those different

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1 projects, somewhere we got to draw the line. And I'm not saying
2 this may be the right -- probably should have drew it about nine
3 projects ago. There was a area -- there was a group in this
4 area, and Commissioner May, you may remember this group, they
5 looked at all the profits and benefits in that area. They were
6 very well organized. I don't know what happened. I think Ms.
7 Hamilton -- and I don't know what happened with that group, but
8 I can just tell you that that was very beneficial starting off,
9 it's like it disappeared. So I don't have a problem voting for
10 proposed, but I just want to have some things tightened up. This
11 is a voluminous record, a lot of different pieces are moving, but
12 I just think that I -- and let me just say this, there is a lot
13 of letters in support. There's not just all opposition. There
14 are some -- a lot of letters in support in this application. Let
15 me -- hold on, let me make sure I'm looking at the right, yeah,
16 there are letters of support in this application. So that's why
17 I'm -- I don't know if the Applicant is not clear on what I'm
18 asking for. I'm asking for more definite resolution to this
19 study to study to study, and let's get it done, not just study
20 it. I am concerned about the eight, 50 percent, and I agree with
21 you, Vice Chair, but how do we get it so we can be inclusive to
22 all? And it's just, to me, it's still so much uncertainty of
23 the folks who want to be living there. So that's why I was not
24 prepared necessarily to move forward, but I will do the proposed.
25 I do think there are some benefits to this application, but I

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1 also think there's a lot of uncertainty and confusion and
2 misunderstanding as well. So hopefully we can shore all that up.
3 That's where I am

4 Anything else, Commissioner May?

5 COMMISSIONER MAY: Yeah. Mr. Chairman, I appreciate
6 your trying to clarify on what the \$100,000 is for. I mean, it's
7 pretty clear to me that that's comes from a study and that it
8 will be money that goes to the homeowners association to actually
9 implement some of the cut-through preventative measures. But
10 certainly understanding that better, as, you know, we would have
11 time to be able to do that between proposed and final. And I'm
12 sure the Applicant would be able to provide a succinct write-up
13 that lays it out very clearly for you -- or for us.

14 CHAIRPERSON HOOD: Yeah, I thank you, because the way
15 I read it, it's a study to study to study. So and I may be wrong,
16 but I've read it more than once trying to figure out what was
17 actually happening.

18 So anything else? And thank you, Commissioner May, for
19 that.

20 Anything else, anybody?

21 All right. So since I'm the one that's hesitant on
22 making the motion, I'll let somebody else make it.

23 COMMISSIONER MAY: I can go ahead and make the motion.
24 I would move that the Zoning Commission take proposed action on
25 Case No. 2206, 801 Maine Avenue, S.W. PVJ, LLC, consolidated PUD

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1 and map amendment at Square 390, and requesting that the Applicant
2 provide update on any sort of further communications with the
3 council member and further information on the \$100,000 mitigation
4 money for the traffic issues brought up by the homeowners
5 association. And think that's all that we were asking for, right?

6 VICE CHAIR MILLER: I'll second.

7 CHAIRPERSON HOOD: I know this is a pretty -- all I'm
8 doing is asking. I know it's 50 percent of the MFI. I'm asking
9 we look at maybe seeing what we can do to lower it. I'm not
10 saying all of it.

11 COMMISSIONER MAY: Okay. All right. And I would accept
12 that as a friendly amendment to note that you're requesting
13 further information on the MFI levels. So did I hear the Vice
14 Chair second?

15 VICE CHAIR MILLER: Yes. Second.

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

18 And let me just clarify. I think while we don't
19 necessarily make our decisions on what council members write to
20 us or not, I just want to clarify that -- I just wanted to make
21 sure that the correct conversation has been had with the council
22 member since now he has noted, because it looks like they say
23 well, we could -- in the letter that we got -- and I'm going by
24 what's in the record, in the letter we got from the Applicant,
25 it says oh, council member, we can meet with you to explain it.

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1 I'm just -- that gives me a lot of pause. So anyway, hopefully
2 that'll happen. And we like -- as Commissioner May has already
3 mentioned in his motion and we get results from that. I just
4 want to be clear.

5 Okay. It's moved and properly second. Any further
6 discussion? And this is proposed action.

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

8 MS. SCHELLIN: Was that Commissioner Miller who second
9 it?

10 CHAIRPERSON HOOD: Yes.

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Okay.

13 Commissioner May?

14 COMMISSIONER MAY: Yes.

15 MS. SCHELLIN: Commissioner Miller?

16 VICE CHAIR MILLER: Yes.

17 MS. SCHELLIN: Commissioner Hood?

18 CHAIRPERSON HOOD: Yes.

19 MS. SCHELLIN: Commissioner Imamura?

20 COMMISSIONER IMAMURA: Yes. And I appreciate the
21 dramatic effect by Chairman Hood.

22 MS. SCHELLIN: You did a half dramatic effect there,
23 your little hesitation.

24 CHAIRPERSON HOOD: Actually, I was -- my mouse was on
25 the other screen, I'm moving to the next case, and I couldn't

1 get it back down to unmute myself.

2 Now, Commissioner --

3 COMMISSIONER IMAMURA: We believe that, Mr. Chairman.

4 CHAIRPERSON HOOD: Commissioner Turnbull told me hit
5 the space button, but if the mouse is up in the other screen,
6 the spacebar doesn't work. So anyway. I need my grandkids here
7 to help me. So anyway, let me -- okay. Maybe Archie can tell
8 me over the phone what I need to do.

9 MS. SCHELLIN: Okay. With the holidays --

10 VICE CHAIR MILLER: He's not here tonight.

11 MS. SCHELLIN: Yeah. With the holidays I'm going to
12 put this on for final action at our February 9th meeting. So
13 I'm going to give the Applicant until January 26 to provide --
14 to be able to meet with the council member and provide what they
15 need to do. That's January 26, 3:00 p.m. And the parties can
16 respond to that if they choose to do so. They cannot provide
17 anything else. I know that they were listening, but the ANC and
18 the party in opposition can only respond to what is submitted by
19 3:00 p.m. on February 2nd. And then, like I said, we'll put this
20 on for the February 9th meeting. And in addition, of course,
21 the Applicant knows that they need to go through the proper
22 process per the regulations. Thank you.

23 CHAIRPERSON HOOD: Okay. Thank you. Let's go to --
24 anybody need a break or we good? Okay. Let's go to our next
25 case, Zoning Commission Case No. 22-09, Mid-City Financial

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1 Heritage -- well, let me -- MCF Heritage 1700, LLC, consolidated
2 PUD and related map amendment at Square 419.

3 Ms. Schellin?

4 MS. SCHELLIN: Yes, sir. Exhibits 45 through 45D and
5 48 through 49A are the Applicant's post hearing submissions and
6 then exhibits 46 and 50 through 50A are ONE DC's post hearing
7 submissions. Exhibit 47 is an OP supplemental report. This case
8 is also ready for the Commission to take proposed action on.
9 Thank you.

10 CHAIRPERSON HOOD: Okay. Thank you.

11 Again, colleagues, there was some information that came
12 up from, I think, ONE DC, I know I talked about solar panels.
13 There were some design changes. So the biggest issue for me was
14 ONE DC, but I won't start off on this one, I'll wait to hear from
15 others. And I know this happened -- and I think testimony that
16 -- a lot of this stuff happened prior to this and there was a
17 phasing out process that went on. I can't remember all of it,
18 but as I was reading back through it, I know there was a phasing
19 out. And my only issue that stuck me was there consideration
20 given as we were phasing out with the I think it's HPAP, or
21 whatever the assistance was. So anyway, let me open it up, let
22 me hear from others. And I guess if we can -- I don't know if
23 anybody -- I guess we can start it talking about ONE DC. That's
24 very critical and I know they really brought back to us the racial
25 equity lens, which we're required to look at by law. So if my

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1 colleagues are ready and we can -- let's just -- let me hear your
2 comments on ONE DC.

3 Commissioner May, you'd like to go first 'cause --

4 COMMISSIONER MAY: I was wondering if you wanted to go
5 first, Mr. Chairman.

6 CHAIRPERSON HOOD: Well, I can go first.

7 COMMISSIONER MAY: See what resonates for you?

8 CHAIRPERSON HOOD: Yeah, I can go first. I'm still
9 concerned, but I'm just trying -- well, you know what? I'm really
10 concerned about how they were done, but I don't know if that's
11 what we should be looking at. I know that the Applicant has been
12 working with them, and I don't believe from what I see in these
13 submissions, they're still not satisfied. I would kind of do
14 just like I did the previous case, continue to have those
15 discussions because I think that as they will phase -- the way I
16 understand it, the way they were phasing things out and I think
17 they relocated, what, 27 -- was it 27 people or 27 families, 27
18 residents, so I don't know if that's 27 homes or what, but 27
19 residents moved to another property, the one across the street.
20 Now the Applicant has said, and I wanted to make sure, the way I
21 understand it, the Applicant has said they're not going to do any
22 redevelopment yet to the place across the street. That's the way
23 I understood it.

24 So my only thing is I want to make sure that folks at
25 ONE DC understand what's going on and also -- because the way I

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1 -- the submission really they just flat out against what's
2 happening here and I know some things happened to them prior. So
3 that's kind of where I am. I'm always open to making sure they
4 continue to have conversations. If not, I'll just simply vote
5 against it. That's just where I am.

6 Commissioner May, you want to -- I don't know if --

7 COMMISSIONER MAY: Yeah, sure. I mean, I can talk
8 about this a bit too. Yeah, I mean, it's not great that, you
9 know, at this point, now nine years after the building became a
10 market rate building that we're now facing this question of how
11 is it that, you know, people came to vacate the property over
12 the years? I don't think there's that much that we can do about
13 it on the one hand. And you know, was this part of a greater
14 long-term strategy on the part of Mid-City financial to try to
15 encourage people to leave? I mean, certainly they made -- they
16 created opportunities for people who wanted to leave the building
17 to move across the street to I think what were renovated units.
18 And I think we have an indication from the Applicant that they
19 are, you know -- even when they've talked to people about the
20 prospect of moving back, there's not a whole lot of interest in
21 doing that. So yeah, I mean, I think there's -- it creates a
22 little bit of an uneasy feeling. But I also feel like we can't,
23 you know -- what's before us now is does it make sense to build
24 this larger building on this property.

25 I believe we've got another caller who needs to be

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1 taken out, I think.

2 CHAIRPERSON HOOD: Can we take that call -- can we take
3 the caller out again? Okay. Thank you.

4 COMMISSIONER MAY: Yeah. Anyway, it's going to be a
5 larger building, there's going to be significant affordability
6 within the building. It's going to bring amenities to the
7 neighborhood. I think that overall it's a worthwhile project the
8 way it has been designed. I would acknowledge that the Applicant
9 has looked at some of the questions that came up about the design
10 between, you know, the hearing and today. And I didn't have a
11 whole lot of concerns about those aspects of the project, but.
12 So I'll leave it to my colleagues to comment on the things that
13 were questions from their perspective. I think my questions were
14 answered on the day of the hearing.

15 So I mean, all things considered, I think it makes
16 sense for us to move forward with this because I do think given
17 where we are right now, the best thing to do is to see this
18 property redeveloped with a significant affordable housing
19 component. And yeah, I mean, I think that overall, you know,
20 it's a worthwhile PUD. It's again -- you know, I have to say IZ
21 Plus is not the floor. It may be a measure that we can look at,
22 but this was brought up again by the Office of the Attorney
23 General, I don't know how many times I have to say that.

24 Anyway, I think that there -- yeah, I think that on
25 balance the overall benefits of this project are worthy of this

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1 map amendment and approval of the PUD. And so I'd be prepared
2 to vote in favor of it tonight.

3 CHAIRPERSON HOOD: Okay.

4 Commissioner Imamura, any questions or comm- -- I mean,
5 any comments?

6 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
7 agree mostly with Commissioner May in the fact that it does bring
8 a number of benefits, deeply affordable housing. I think that
9 its location will -- it will be a node at that Metro station
10 there. I certainly understand that people are looking back to
11 what's happened in the past, but here we are to look forward and
12 evaluate what's before us. I'm wildly underwhelmed by some of
13 the modifications that have taken place with the design, but
14 that's not enough to prevent me from agreeing to move forward
15 with this project.

16 CHAIRPERSON HOOD: Okay. Thank you.

17 And Vice Chair -- let me just state -- let me go to
18 Vice Chair -- let me let the Vice Chair go first. Vice Chair
19 Miller?

20 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman.
21 Just briefly, I mean, I agree again with all Commissioner May's
22 comments. And I think that the OAG's continuing misapplication
23 of our Inclusionary Zoning Plus regulations to PUD-related
24 projects does a disservice to the public, disservice to the
25 District government, and creates false hope that something is

1 provided for in regulation that is not provided for. And it's
2 very unfortunate, especially given that they were our former
3 legal counsel and are very aware of that fact, which we reiterated
4 at this hearing and previous hearings, where they've misstated
5 what the what the floor should be. It's important to understand
6 what it would be if it was just a straight map amendment, just
7 to understand the overall context, but that's not what's required
8 for good or bad that's not what's required under the regulations
9 we adopted with OAG advice years ago.

10 Anyway, I think the comprehensive plan consistency test
11 has been met in this case. I think the PUD balancing tests of
12 public benefits commensurate -- amenities commensurate with the
13 height and density has been met in this case. And I'm prepared
14 to move forward tonight with proposed action. Thank you, Mr.
15 Chairman.

16 COMMISSIONER MAY: Mr. Chairman, can I make one other
17 point? This is something that I should have mentioned in the
18 last -- on the last case as well. But I think one of the things
19 that people don't understand about the difference between IZ
20 Plus, map amendments, and PUDs is that there is a much greater
21 level of community engagement, involvement, participation in
22 shaping the project itself. Right? I mean, when it's just a
23 map amendment, all we're doing is saying how big it can be and
24 how much land it can take and what the yards -- I mean, it's
25 those -- it's -- we're establishing a zone and that's it. And

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1 so there's no room for those -- for the, you know, the community
2 benefits agreements. There's no room for addressing other
3 concerns of the neighborhood that might be mitigated by the
4 project. And so you know, there is a real cost, if we think of
5 it just in terms of well, you know, all we really need is more
6 affordable housing and this should be the floor because you're
7 just not going to get that and you're losing control if you don't
8 go it. So this is why PUDs are important to be able to do in
9 this circumstance, because there's more to a project than just
10 what the percentage of affordable housing is. And the community
11 has a role in saying how much more and what that is. That's it.

12 CHAIRPERSON HOOD: Okay. Thank you.

13 You know, I don't disagree with anything that I've
14 heard my colleagues say. My only problem is it's always trying
15 to grapple with -- let me back up. Mid-City did a project in my
16 neighborhood and I tried to stay far away from that. Actually,
17 I did very well. I evaded, staying away from the neighbors and
18 everything, and it actually worked out to be better, much
19 beneficial and better for the community. And I really appreciate
20 that. So I know the work that they do. I'm not against the work
21 that they do. But also I understand that the conversation, as
22 my colleagues have said and counsel has mentioned over and over
23 again to us in the submissions, that what went on previously is
24 not part of this application. I get that. But the residents
25 don't see it that way. So what -- I know they had a meeting, I

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1 think December the 8th, in preparation for this meeting, which
2 was our meeting here, the 15th. But what I'm going to continue
3 to ask for and I think this is a two-vote case. Am I correct,
4 Ms. Schellin?

5 MS. SCHELLIN: Uh-huh.

6 CHAIRPERSON HOOD: I always ask that they continue to
7 have conversations because I can count -- I can understand the
8 conversation and I can count the votes. So what I -- and I don't
9 see myself voting against this project. I think if it's like
10 the one in my neighborhood, I think it's very beneficial to the
11 residents of this city and to the neighborhoods, because the one
12 in my neighborhood really -- and I don't want to sound redundant,
13 but it really has made a heck of a difference. So I just want
14 to make sure that we be inclusive and I appreciate the Applicant
15 of what they're not going to do to ONE DC. And I tell you, I
16 would just encourage them to continue -- Mid-City to continue to
17 work with folks and keep everybody abreast and give them some
18 comfort and some predictability. I know that's not necessarily
19 in the regulations, the zoning regulations, but I think you get
20 a better outcome.

21 So in Exhibit 48, I've read that, I've read Exhibit 46,
22 and I want ONE DC to know that, and I agree with my colleagues
23 what they said, I'm not going to even respond to the OAG because
24 that's again more misinformation that confuses people and muddies
25 the water. So I'll just leave that alone. I do appreciate the

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1 solar panels. I forgot maybe that I'd even mentioned solar --
2 me of all people solar panels. But I do appreciate the response
3 I got back, and what it's going to go to the construction costs
4 and some of the things. The design changes, I think my colleagues
5 already mentioned. The comprehensive plan issues, I think we've
6 talked about it being consistent.

7 So I think in light of that, the balancing test I think
8 has been met. And in light of that, I think that the only thing
9 that I can do is vote for it and ask that the Applicant continue
10 to work with ONE DC and listen, let's not make them feel like
11 they are -- even though I know it happened, what, eight years
12 ago or nine years ago, let's not make them feel like that they
13 are -- we're totally disregarding them because by no means would
14 I ever disregard any residents in the city. So I think it meets
15 all of the development standards. I don't have any issues with
16 it. And I'm sure it'll improve the -- as my colleagues already
17 stated, I'm sure it'll improve the area and also beneficial to
18 the city. So I'll just leave it at that. Anything else?

19 Vice Chair Miller?

20 VICE CHAIR MILLER: Did we mention the ANC's, I think,
21 support for this application in this case, ANC 6E is it? I just
22 I just wanted to mention it in part of our deliberation.

23 CHAIRPERSON HOOD: Okay. Let me make sure -- somebody
24 let's find that and make sure 'cause -- it's 6E. I think they
25 were in support, but let me make sure.

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1 Mr. Ritting, can you tell us right quick or I may have
2 to look for it?

3 MR. RITTING: Right, it's 6D and they were in support.
4 It's in the record at Exhibit 19.

5 CHAIRPERSON HOOD: Okay. Thank you, Mr. Ritting.

6 MR. RITTING: Thank you.

7 CHAIRPERSON HOOD: Mr. Ritting, do you have enough
8 information to write the order or do we need to talk some more?
9 I think the record's complete.

10 MR. RITTING: Well, you have to vote for final action
11 in the future. So you'll have plenty of time to talk about it.

12 CHAIRPERSON HOOD: Oh, that's right. This is two --
13 all right. Okay. Well, all right, you can turn your camera back
14 off now, Mr. Ritting. All right. All right.

15 Okay. So again I would hope that the Applicant would
16 take all of our comments and concerns. And I know the young lady
17 who was trying to come on, I believe, is the young lady who
18 represents ONE DC. So we -- I would like to know the status
19 between proposed and final of again continuing those
20 conversations. So I'm asking the Applicant as well as ONE DC if
21 -- those are the only two things I would like.

22 So would somebody like to make a motion?

23 VICE CHAIR MILLER: Mr. Chairman, I'll move that the
24 Zoning Commission take proposed action on Case 22-09, MCF
25 Heritage 1700, LLC, consolidated PUD and related zoning map

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1 amendment at Square 419, and ask for a second.

2 COMMISSIONER MAY: Second.

3 CHAIRPERSON HOOD: It's been moved and properly second.

4 Any further discussion?

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

7 MS. SCHELLIN: Commissioner Miller?

8 VICE CHAIR MILLER: Yes.

9 MS. SCHELLIN: Commissioner May?

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Imamura?

14 COMMISSIONER IMAMURA: Yes.

15 MS. SCHELLIN: The vote is four to zero to zone to
16 approve proposed action 22-09. The minus one being the third
17 mayoral appointee position, which is vacant, of course. And I
18 think that with the holidays, if we could use the same schedule
19 as the last case, give the Applicant and ONE DC until January
20 26th to meet and have them both follow-up with a response which
21 would be due by February 2nd. And we'll put this on for February
22 9th.

23 CHAIRPERSON HOOD: Again, let me just say, I understand
24 that that what happened previously has nothing to do with this
25 application. But I think it's always good to have that

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1 conversation and continue the dialog, and I just want to make
2 sure that that's happens. So thank you all. Thank you both,
3 ONE DC and Applicant, for doing that.

4 All right. We ready to move on? I need to take a
5 break.

6 MR. RITTING: Just wanted to pop up for a second to
7 remind the Applicant that because you're taking proposed action
8 that the proper --

9 CHAIRPERSON HOOD: Proper --

10 MR. RITTING: (Indiscernible) schedule in addition to
11 the days that Ms. Schellin mentioned.

12 MS. SCHELLIN: Right. It's in the regs, so it's -- we
13 don't say it -- really have to say it anymore because it's in
14 the regs. But occasionally I do it as a reminder, but it's in
15 the regs, so we don't always say it.

16 CHAIRPERSON HOOD: All right. Well, thank you.

17 Can we take a three-minute break please? Three
18 minutes.

19 (Whereupon, there was a brief recess.)

20 CHAIRPERSON HOOD: Thank you, everyone, for those three
21 minutes. Let's go to Zoning Commission Case No. 22-11, MCRT
22 Investment, LLC, consolidated PUD and related map amendment at
23 Square 439S.

24 Ms. Schellin?

25 MS. SCHELLIN: Yes, sir. Exhibits 86 through 86A and

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1 88 we have the Applicant's post hearing submissions. And then
2 87 and 87A is the OAG supplemental filing. Exhibit 89 is AND
3 6D's post hearing report. So this case is ready for the
4 Commission to consider proposed action on also. Thank you.

5 CHAIRPERSON HOOD: I'm on mute. Who'd like to start
6 us off on this case? I'll go to somebody else.

7 Vice Chair Miller, you want to start us off? No, no,
8 going to go to Commissioner Imamura, you want to start us off on
9 this case?

10 COMMISSIONER IMAMURA: I'll defer to Vice Chair Miller.
11 That's fine.

12 VICE CHAIR MILLER: And I will defer to Commissioner
13 Imamura.

14 COMMISSIONER IMAMURA: All right.

15 COMMISSIONER MAY: Well, that's why I wind up going
16 first all the time.

17 CHAIRPERSON HOOD: Exactly. You defer it and I have
18 to do it and the Chairman usually goes last. I've learned from
19 Phil Mendelson, I've learned from Vince Gradler and from Linda
20 Kropp, I've learned from all of them how to do it.

21 So Commissioner May, could you start us off please?

22 COMMISSIONER MAY: I'd be happy to. So you know, we
23 had great anxiety about this case in the very beginning, so much
24 so that we were not prepared to set it down immediately, as I
25 recall. Or no, we were not prepared to -- we set it down, but

1 we were not prepared to go ahead with the hearing when it first
2 came up. And so we postponed that initial hearing. And I think
3 the Applicant made very substantial changes to the project to
4 address some of the greatest concerns about it. It is at this
5 point, I believe, that they have met the standards for approval
6 of the PUD and the map amendment. I think I should just record
7 my speech about OAG and IZ Plus and how it doesn't apply and we
8 could just like push a button and play it whenever it happens.
9 But once again, the OAG had comments about, you know, what level
10 of affordability, what the IZ component should be. And you know,
11 it's IZ Plus is not the floor. It's not the minimum. It is --
12 it's something that we can look at, you know, to provide some
13 information, but it's not a map amendment, it's a PUD and a map
14 amendment, which means that we are looking at IZ and all of the
15 other benefits of a project. And you know, I think that if we
16 look at the other benefits of the project, I think they're pretty
17 substantial. The -- I mean, there is a 170 percent more housing
18 than permitted under the existing zoning, 200 percent more
19 affordable housing than permitting under the existing zoning, 6
20 market rate, and 3 IZ three-bedroom units. The sustainable
21 design, rooftop solar, the contributions to the public
22 (indiscernible) on Maine Avenue, a contribution to Jefferson
23 Middle School, contribution to Habitat for Humanity. I mean,
24 this is you know, it's a well-rounded project, I think, well
25 considered, and far more than we would achieve through a straight

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1 map amendment. I think there was a you know, the issue was raised
2 about whether, you know, if this were a -- considered as a map
3 amendment that the Office of Planning would not support a map
4 -- a straight map amendment to MU-10. And again, you know.
5 Office of the Attorney General has misunderstood the process,
6 right? I mean, yes, it's absolutely true that the Zoning
7 Commission gets to make the decision about whether a particular
8 map amendment should be approved, but the Office of Planning is
9 the, you know, the first stop on the road to getting a map
10 amendment or a PUD. And if the Office of Planning is not going
11 to support a particular project, it is not likely that we would
12 set it down for a hearing or consider it. We want to know that
13 our planning experts in this city support this particular move
14 before we would consider it. And so it would never even come to
15 us as a straight up map amendment to MU-10. So I think that they
16 are -- you know, it's the -- the logic that they are applying in
17 this circumstance simply doesn't make sense.

18 Now, I know we had concerns that were raised by nearby
19 residents. I understand those concerns. I think they were pretty
20 general in nature. And I think that they have been addressed by
21 the Applicant. I think we also had the ANC in opposition. Oh,
22 sorry, conditional support. But that conditional support is
23 based on an improved IZ proffer up to the level that the OAG
24 wanted. So again, this is where the OAG's statements about these
25 things is misdirecting other people who are trying to look at

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1 this earnestly and consider what should be done. So I think,
2 you know, it's -- the Office of Attorney General is doing a
3 significant disservice by trying to make it sound like we should
4 be taking a different action. We are the Zoning Commission. We
5 have made the rules. And the rules are that the PUD is not a
6 map -- not an IZ Plus map amendment, and that this is a way for
7 the community to be involved in reaping all of the potential
8 benefits and not simply bottom lining things to an IZ proffer.

9 So I think that there were, you know, some other
10 concerns raised by the ANC. I don't think those really resonated
11 with me, but I do appreciate every- -- you know, all of the work
12 of this ANC in particular, because there is so much development
13 they have been dealing with over the years and it seems to be
14 continuing unabated with so many development projects within this
15 ANC. But I do think this is a good one and -- now it is a good
16 one and that it is worthy of our support. They've met the
17 balancing test and I am prepared to vote in favor tonight.

18 CHAIRPERSON HOOD: Okay.

19 Who'd like to go next?

20 Vice Chair Miller?

21 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
22 you, Commissioner May, for as usual, stepping up to the plate
23 first because you often almost always cover everything. And I
24 concur with everything you said. Thank you.

25 COMMISSIONER MAY: Thank you.

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1 CHAIRPERSON HOOD: All right.

2 And Commissioner Imamura?

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
4 agree with Vice Chair Miller that Commissioner May is always
5 thorough and comprehensive in his summary. And I will say at
6 least OAG seems to be consistent in their message. But again,
7 as Commissioner May pointed out, it's not a comparison to some
8 hypothetical alternative. So with that, I'm prepared to move
9 forward with this project. There's a number of benefits and that
10 Commissioner May has already laid out and that's in the record,
11 so. I'm prepared to vote in favor.

12 You're on mute, Mr. Chairman.

13 CHAIRPERSON HOOD: Thank you. I must be getting tired
14 of talking now, so.

15 What I did not see is that -- I know that ANC was in
16 opposition in Exhibit I think 59, and in Exhibit 82 they were
17 conditional. And there were a number of points and I'm trying
18 to go off the top of my head, a number of points, I guess I could
19 have pulled it up, there were a number of points that the ANC
20 mentioned. And I didn't see whether or not the -- and maybe
21 counsel or somebody could help me, I didn't see whether or not
22 the response from the Applicant or maybe I missed it. Well, I
23 wouldn't be surprised. Did the Applicant respond to what ANC's
24 6D's conditional support said? So either way, this is a two-
25 vote case, I believe, right?

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1 MR. RITTING: Yes. So here are the points in the ANC.

2 CHAIRPERSON HOOD: Okay. Yeah, I know the points. I
3 just -- I got the points, I got that in front of me. I just
4 wanted to know --

5 MR. RITTING: FAR, that's not changing, public art, oh,
6 I can't -- don't quote me on this, but I think there was some
7 movement, but I don't know. I can't tell you exactly what it
8 was. There was some movement on the contri- --

9 CHAIRPERSON HOOD: Mr. Ritting, what exhibit are you
10 looking at now? 'Cause I'm looking at something totally
11 different.

12 Mr. RITTING: Exhibit 82.

13 CHAIRPERSON HOOD: 82, okay, yeah, that's --

14 MR. RITTING: That was the report that was at the
15 hearing. There was -- after the hearing in the post hearing
16 submission, the ANC addressed principally the affordable housing.
17 So if your question was about the affordable housing issue, that's
18 --

19 CHAIRPERSON HOOD: No, my question is, I just didn't
20 see where the Applicant accepted some of the things they talked
21 about or if there's nothing to change. I'm thinking that the
22 Applicant's proffered the 75k to support a public -- so they
23 outlined what was there, and I didn't see -- hold on. The cond-
24 -- I want to make sure that the conditional support is intact
25 with -- I want to make sure the conditional support has been

1 agreed to by the Applicant. That's all I'm trying to figure out.
2 And I didn't see that.

3 MR. RITTING: No, they didn't -- there's still some
4 -- there's a gap in a number of their (indiscernible).

5 CHAIRPERSON HOOD: So I hear my colleague says move
6 forward, what I want to do -- because as mentioned -- thank you,
7 Mr. Ritting. What I want to do is mention again I do understand
8 that they're going by our regulations. And the Vice Chair and
9 all of us have talked about this before. Sometime maybe we need
10 to relook at them or revisit them. We might need to get deeper,
11 lower, we need to change our rules because some of the things
12 that they're asking are some of the things that maybe we should
13 be looking at. And then we can stop -- we can cut off some of
14 this misinformation that the Office of the Attorney General is
15 giving.

16 Ms. Schellin, you have something for me?

17 MS. SCHELLIN: Yes. The Applicant's attorney contacted
18 me and said that they did not agree to their conditions.

19 CHAIRPERSON HOOD: None of them? Because I didn't see
20 that in the --

21 COMMISSIONER MAY: Yeah, I didn't see an indication
22 that they'd agreed to the conditions that I saw, but I'm going
23 off of my notes rather than the (indiscernible).

24 MS. SCHELLIN: I'm waiting for a response about whether
25 they agreed to none of them or not.

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1 CHAIRPERSON HOOD: So here's what I want to do. I
2 would like for the ANC and the Applicant to tell me where they
3 disagree at. If it's all of them, just tell me it's all of them.
4 I'm going to vote in favor, because it does meet the standards
5 of our review. But I'm trying to get -- what I would like to do
6 at some point is figure out how to get to where ANC 6D is. That's
7 my goal. That should be all of our goals, because I think what
8 ANC 6D wants or is trying to get in all of these projects for
9 the most part is as a very diverse and livable community. I
10 think that's what they're trying to do. And it's coming bright
11 -- it's coming through -- most of the projects that go on in that
12 area, they vote against. And like I have another case on the
13 BZA that I want to bring to the Commission too once I get it
14 together, but most -- sometimes we have to make it conducive for
15 the people who live there and that's the people who live in the
16 city, and that's what I'm trying to get to. Do we need to relook
17 at them? I think so. But do we need to change them? It's up
18 to the Commission. But I think at least every so often we need
19 to do a onceover and make sure that we are proceeding correctly
20 or within the best interests of the residents, so anyway.

21 I will leave it at that and anything else? And just
22 ask in between proposed and final that we can kind of hash a
23 little more than just telling me this is the list and no response
24 or what comes prior to that says they disagree with this or we're
25 not going to agree to anything or we agree with three of them,

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1 but we don't -- I need to know where you part at. If it's all
2 of it, just say all of it, so. All right. Hopefully, that's
3 understandable. If not, call Ms. Schellin, she'll explain my
4 foreign language to you.

5 All right. So anything else? Somebody'd like to make
6 a motion?

7 COMMISSIONER IMAMURA: Sure, Mr. Chairman.

8 CHAIRPERSON HOOD: Commissioner Imamura, go right
9 ahead.

10 COMMISSIONER IMAMURA: I move that the Zoning
11 Commission take proposed action for Case No. 22-11 in CRT
12 Investments, LLC, consolidated PUD and map amendment at Square
13 439S, and ask for a second.

14 COMMISSIONER MAY: Second.

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

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

19 MS. SCHELLIN: Commissioner Imamura?

20 COMMISSIONER IMAMURA: Yes.

21 MS. SCHELLIN: Commissioner May?

22 COMMISSIONER MAY: Yes.

23 MS. SCHELLIN: Commissioner Hood?

24 CHAIRPERSON HOOD: Yes.

25 MS. SCHELLIN: And Commissioner Miller?

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1 VICE CHAIR MILLER: Yes.

2 MS. SCHELLIN: So besides the proffer process, the ANC
3 and the Applicant will make their submission, each of them make
4 their submissions, of what their understanding is of what's been
5 agreed to by January 12, 3:00 pm, and then they can each respond
6 to each other's submission by January 19 at 3:00 p.m., and we'll
7 put this on for January 26th. Thank you.

8 CHAIRPERSON HOOD: And again, let me just say to both
9 of those, the ANC and to the Applicant, if I missed it, forgive
10 me, just tell me where it is because I didn't see it. All right.

11 Let's move on to the next case. Just a second. Okay.
12 Zoning Commission Case No. 22-19, McDonald's Corporation map
13 amendment at Square 3786.

14 Ms. Schellin?

15 MS. SCHELLIN: Yes. Exhibit 39, the Applicant's post
16 hearing submission. Exhibit 40 is an OP supplemental report.
17 This is ready for the Commission to consider proposed action.
18 Thank you.

19 CHAIRPERSON HOOD: Okay. With this one I'm going to
20 start with Commissioner -- Vice Chair Miller.

21 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman, I
22 think. So I support this application going forward. I was
23 concerned at the hearing about the potential inconsistency in our
24 own zoning regulations between the description of what an MU-7
25 zone is as medium density, whereas the comp plan I think was

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1 recently modified to change this site, and correct me if I'm
2 wrong, there's so many cases before us tonight, it's hard to keep
3 track of all of them, I think it was changed I think from low to
4 moderate density commercial. And this is a map amendment to
5 change it from -- is it MU-3 currently -- to MU-7, which is
6 clearly designed to permit what's being contemplated here because
7 the MU-7 zone is the first MU zone which would allow a drive-
8 through fast food restaurant which is what's being contemplated
9 here, a renovation, an expansion of this McDonald's in this
10 neighborhood, which based on the testimony we received by and
11 large, not without exception, but by and large, has been a benefit
12 to the community in many different ways. So there may be a
13 resolution that we have to do between the text of our zoning
14 regulations at MU -- which describes MU-7 as being a medium
15 density zone and the comp plan land use map is -- says that this
16 site is in that moderate density. But it clearly in the comp
17 plan land use map, the framework element I think it does say that
18 MU-7 could be one of the potential zones that are allowed for
19 here.

20 So we have the unfortunate situation of the DDOT
21 recommendation that it not be changed to an MU-7 zone because
22 they -- DDOT doesn't support drive-through fast food restaurants
23 at all because of the vehicular impact that that has on
24 neighborhoods. And I was concerned at some point also during the
25 hearing that there might be queuing or backup in the neighborhood.

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1 But I think we received sufficient testimony and evidence that
2 that can be mitigated, that that isn't a problem, that the benefit
3 outweighs that potential adverse impact.

4 And so, Mr. Chairman, maybe you can remind me, the ANC,
5 I believe, was in support of this project; is that correct?

6 CHAIRPERSON HOOD: Yes, Vice Chair, they've actually
7 sent us, I think, three letters. So we -- I want to make it
8 clear to the ANC, we got it. They sent us three letters
9 explaining to us that --

10 VICE CHAIR MILLER: Right. You're required to give
11 great weight, statutorily we are required to give great weight
12 to the ANC and to the Office of Planning, which is recommending
13 this map amendment. So I am prepared to move forward tonight
14 and think that it will be appropriate to have this map amendment
15 for this site.

16 CHAIRPERSON HOOD: Okay. Thank you.

17 Commissioner Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'll
19 try to be brief. This particular case gave me some heartburn
20 about whether -- I think Commissioner May had suggested and maybe
21 DDOT had also suggested about consideration for MU-5 just for
22 consistency sake versus MU-7. And as Vice Chair Miller pointed
23 out, and as you pointed out, Mr. Chairman, great support from the
24 ANC, give great weight to the OP and the ANC for this certainly
25 I think. At the hearing, I was sort of -- I was conflicted about

1 this. The testimony was compelling and I can -- certainly
2 empathetic to the issues that were raised in terms of just general
3 mobility and how adding a drive-through would be helpful for
4 those who have mobility issues or are impaired in some way. I
5 think the Applicant certainly has been there for quite some time.
6 And this is a mainstay in the neighborhood. And I am prepared
7 to move forward and vote in favor of this.

8 CHAIRPERSON HOOD: I thank you.

9 And I will -- I'll go last.

10 I'll let Commissioner May go next.

11 COMMISSIONER MAY: Okay. So I remain concerned about
12 the prospect of a drive-through being built here in a replacement
13 restaurant. I mean, there are good reasons to support this map
14 amendment. The idea of increasing the density and allowing for
15 housing and affordable housing are good things, but -- and who
16 knows, maybe someday that might happen. But we have heard that
17 the primary reason or one of the primary reasons why this
18 particular zone is sought is so that they could have a drive-
19 through. And we have this -- you know, we have a report from
20 DDOT where they take the position that a lower zone would be more
21 appropriate because they do not support a drive-through. I have
22 to say that I have consistently raised concerns, if not opposed,
23 to drive-throughs in the past. And in fact, when we were doing
24 the zoning regulation rewrite, I recollect that I argued to no
25 longer allow them, period, which is something that has happened

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1 in many jurisdictions across the country because they are not
2 good for traffic and they are not good for the environment.
3 They're not good for the people nearby because of the, you know,
4 the vehicular traffic that they generate. I certainly understand
5 and I am somewhat sympathetic to the testimony that we heard
6 about how much a benefit a drive-through is. And I will admit
7 that I have on occasion gone to a drive-through. And there are
8 times when, you know, especially when I'm wrestling with many
9 young children in the car -- well, not actually wrestling them,
10 but they're in there and they're wrestling, you know, it's a
11 convenient thing, but it's not impossible in many, many
12 circumstances. And I mean, granted, there are some circumstances
13 where it really truly is a benefit for some individuals. But I
14 don't know that that's enough justification. And I would like
15 -- I would prefer it if we had actually taken action to simply
16 no longer allow drive-throughs in the District of Columbia
17 because I think that, you know, we are very forward thinking,
18 very progressive on issues of environmental concern and issues
19 of mitigating traffic issues and trying to drive down the use of
20 cars and -- but on this one, I think we are still a bit backward.
21 So I understand that I would not be in the majority, but I planned
22 -- plan to vote against this tonight. Thank you.

23 CHAIRPERSON HOOD: I really appreciate my colleagues
24 and Commissioner May in particular. You and I have served
25 together a long time. We don't always agree. And this is one

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1 of those where we definitely don't agree. As I looked into this
2 and I started doing my own research and when I looked at the
3 bicycle lanes, this being proposed at South Dakota avenue, I have
4 the audacity to say that DDOT has a problem with drive-through
5 with seniors who predominately want to drive-through but they
6 don't mind bicycle lanes. I think that's disrespectful to a
7 middle-class black neighborhood and I have problems with that.
8 I do know that it can be mitigated. We mitigate everything else.
9 And then also to tell a neighborhood North Michigan Park -- and
10 yeah, this is where I grew up, in this area. So the thing about
11 it -- and we all grew up in some areas. But then I fundamentally
12 disagree with my good friend, Commissioner May, 100 percent.
13 He's saying do away with drive-throughs and I see everybody
14 getting a drive-through. So I'm getting mixed signals from what
15 Commissioner May is saying. I'm not making this about
16 Commissioner May because I'm sure he's well stooped what he's
17 saying. But I don't see that. I see drive-throughs being put
18 in. I don't think nobody builds anything else, especially in the
19 suburbs and even in cities without a drive-through now. And I
20 think that's what they're trying -- we just had a drive-through
21 put in up the street just put in.

22 COMMISSIONER MAY: I'm not talking about the nearby
23 jurisdictions, I'm talking about across the country, there are
24 many reports of them being banned in certain cities.

25 CHAIRPERSON HOOD: I would love to -- I would do some

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1 more research, but I can just tell you, even right here in this
2 city, right up the street one was just put in a couple of months
3 ago.

4 COMMISSIONER MAY: I understand that. It's allowed in
5 certain zones.

6 CHAIRPERSON HOOD: So what I'm saying is -- so to say
7 that we're concerned about pedestrian and pedestrian traffic and
8 car traffic, I don't understand DDOT's philosophy. I got by not
9 what I read, but what actually happens. When you look at
10 Pennsylvania Avenue and across Pennsylvania Avenue down there by
11 the White House and even at 1300 right near the Wilson building,
12 if you walk across there in the bicycle lanes and you walk across
13 there and you standing there waiting to get to the other side,
14 you better watch out for the bicycles. You want to talk about
15 pedestrian safety, and now you're talking about putting bicycle
16 lanes on South Dakota Avenue? Let's get real. Those residents,
17 the ANC -- and Vice Chair, I appreciate you bringing that up,
18 Chairman Edwards has sent us three letters, two to three letters,
19 the last one I remember saying I read this at the hearing, it
20 specifically said we reiterated what we said previously. And
21 then Office of Planning found a zone where they can -- for the
22 plan -- from the plan -- they're the planners, not DDOT, but then
23 on the other side of it, DDOT has their own plan for this
24 neighborhood, a middle-class black neighborhood, that they want
25 to see what they want to see in somebody else's neighborhood. I

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1 think that's not actually the way to go. While I appreciate
2 DDOT, but you can't tell me anything about a drive-through versus
3 bicycle lanes on South Dakota Avenue. That's ludicrous, it makes
4 no sense to me how you're going to argue one against the other.

5 But again, as has already been stated, you have to give
6 the Office of Planning great weight. And I appreciate the work
7 that they did, they're the planners. And you also have to give
8 the ANC great weight. Not only that, the North Michigan Park
9 Civic Association, which had 96 people, 96 people I understand,
10 at that meeting was testified to. And I know you have four or
11 five people who came and they have concerns. But all that can
12 be mitigated. North Michigan Park has always been a area in
13 which they work together to make things work.

14 So I'll leave it at that. I appreciate the
15 conversation. And with that, we will go ahead and proceed unless
16 somebody else have any additional comments.

17 All right, so --

18 COMMISSIONER IMAMURA: Mr. Chair?

19 CHAIRPERSON HOOD: Yes?

20 COMMISSIONER IMAMURA: Mr. Chairman, I just want to
21 compliment Commissioner May standing on principle, on good
22 planning principles. I believe in my own professional judgment
23 he's not wrong about the environment -- the environmental impacts
24 of this, the traffic impacts of this. But as you see, Mr.
25 Chairman, I personally believe that I think there could be a safe

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1 drive-through here. So against my better judgment, I'm still
2 willing to vote in favor of this at a benefit to the neighborhood
3 and its residents, so. But I just again wanted to reiterate that
4 Commissioner May, in terms of planning and design principles, is
5 not wrong.

6 CHAIRPERSON HOOD: Okay. I'm going to follow up on
7 that. We're going to follow up on that because I do want to
8 learn more about -- because what he's saying I don't see it. I
9 see more drive-throughs and I see people continue to build them.
10 Matter of fact, people pass by this McDonald's I know for a fact
11 and go to the one over there in Maryland because it has a drive-
12 through.

13 COMMISSIONER MAY: We heard that in testimony.

14 CHAIRPERSON HOOD: Yeah. Okay. I knew I heard it from
15 somewhere. But anyway.

16 Vice Chair Miller, you had your hand up?

17 VICE CHAIR MILLER: Yeah, Mr. Chairman. Just to say I
18 understand where everybody is coming from on this issue. But I
19 do particularly understand where you're coming from on this issue
20 and the reality that we all like to occasionally use drive-
21 throughs. I have. And they're convenient and they're helpful.
22 And if it can be worked out with the traffic pattern. And also,
23 I mean, I generally support -- not generally, I strongly support
24 the city's expansion of bike lanes throughout the city, but it'll
25 be interesting to see what happens on Connecticut Avenue when two

1 lanes are removed to have two bike lanes there, for all that
2 commuter traffic that's going to end up in my neighborhood three
3 blocks away because they can't move on Connecticut Avenue. And
4 anyway, there are a lot of a lot of nuances in all of these
5 proposals and a lot of ramifications. But we need to equitably
6 provide choices for both bike lanes and drive-throughs and other
7 food, healthy food options throughout the city that's been kind
8 of a theme throughout this evening's hearing. It needs to be
9 equitable. If you're going to allow it in one neighborhood, it
10 shouldn't be suddenly disallowed in another neighborhood. Maybe
11 it's grandfathered in the drive-through that's located not too
12 far from where I'm located, although I've never actually used
13 that one. But anyway, I just wanted to express that I understand
14 where everybody's coming from on this issue. And it can be a
15 conversation and a policy issue that we can look at again, Mr.
16 May, as we go forward. I can't remember where I was when we
17 considered that in ZR16, I probably was close -- more closely
18 aligned with you going forward, but I can't remember.

19 CHAIRPERSON HOOD: Well, I don't want to pick on
20 Commissioner May, but I appreciate -- what I do appreciate though
21 is the discussion on this, because I think as -- even though we
22 are on different ends, I think we come out with a better outcome.
23 But I'm pretty sure I wasn't with you, Commissioner May, on that
24 one, so I'm pretty sure of that already without even trying to
25 think about it. So with that, unless there's some more

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1 discussion, I would move that --

2 COMMISSIONER MAY: I think a lot of people were not
3 with me on that.

4 CHAIRPERSON HOOD: I can't wait for 20 years from now.
5 I know you and I are going to stay in touch 20, 30 years from
6 now I want to see you on that bike doing all the -- I can't wait
7 for this. I'm looking forward to it. If the Lord allows me --

8 VICE CHAIR MILLER: There'll be the bike-through lane
9 at the McDonald's.

10 COMMISSIONER MAY: I have ridden my bike through the
11 drive-through lanes.

12 COMMISSIONER IMAMURA: Mr. Chairman, I just want to say
13 one more thing and just about the bikes is that we're all familiar
14 with the term every time a bell rings, an angel gets its wings.
15 I firmly believe that every time Commissioner May rings his bike
16 bell, D.C. gets another bike lane.

17 CHAIRPERSON HOOD: And let me clarify this though. I
18 am not against bicycles. I got beat up some years ago, if you
19 all remember. I go to Bike Day every -- I used to go to Bike
20 Day down at Freedom Plaza after that, every year. I am not
21 against it, but -- like I appreciate the Vice Chair, it's about
22 choices. Let's give people choices, equitable choices. So I
23 appreciate that. All right. Let's go -- I make -- I would move
24 that we approve Zoning Commission Case No. 22-19, McDonald's
25 Corporation map amendment at Square 3786, and ask for a second.

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1 VICE CHAIR MILLER: Second.

2 CHAIRPERSON HOOD: Move and properly second. Any
3 further discussion?

4 And I also would hope that DDOT would not try to throw
5 up any roadblocks even in public space, because I know that they
6 have last say. But the community wants that. They're the ones
7 who live there. And I'll leave it at that.

8 Any further discussion?

9 All right. Ms. Schellin, would you do a roll call vote
10 please?

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Miller?

14 VICE CHAIR MILLER: Yes.

15 MS. SCHELLIN: Commissioner Imamura?

16 COMMISSIONER IMAMURA: Yes, ring, ring.

17 MS. SCHELLIN: Commissioner May?

18 COMMISSIONER MAY: No.

19 MS. SCHELLIN: So staff records the vote three to one
20 to one to approve proposed action in Zoning Commission Case No.
21 22-19. Commissioner May opposing and the minus one being the
22 third mayoral appointee position which is vacant. Again, this
23 one -- well, actually it's not a PUD, so I don't need to remind
24 them of anything. Thank you.

25 CHAIRPERSON HOOD: Okay. And this the last thing I'm

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1 going to say about Commissioner May. I'm going to stand out at
2 the McDonald's when it's raining and see if he uses it -- when
3 they -- if they do a drive-through, which I don't know what they
4 might do, but if they do a drive-through, I'm going to stand
5 there and see if I see him go through the drive-through.

6 COMMISSIONER MAY: If I do, it'll be on my bike.

7 CHAIRPERSON HOOD: No, I don't even want you to do it
8 on your bike.

9 COMMISSIONER MAY: On those great new bike lanes.

10 CHAIRPERSON HOOD: Oh, I may ride a bike down there
11 too, but I don't want to kill myself.

12 All right. I think the next thing we have -- thank you
13 all for that discussion -- I think the next -- and more to come,
14 I'm sure.

15 All right. Hearing action -- is hearing action the
16 next one, Ms. Schellin, I think?

17 Okay. Hearing action Zoning Commission Case No. 22-
18 33, and going to bring Mr. Mordfin up and then we'll hear from
19 Ms. Steingasser.

20 Good evening, Mr. Mordfin, you may begin when you're
21 ready.

22 MR. MORDFIN: Okay. Thank you. Good evening, Chair,
23 and members of the Commission. I'm Steven Mordfin with the Office
24 of Planning. Okay. So the subject property, which is located
25 at 7050 Eastern Avenue, N.W., is on the southwest side of Eastern

1 Avenue between Piney Branch Road and Cedar Street, N.W. The
2 Applicant's requesting a map amendment for what is today a split
3 zoned lot from RA-1, a low to moderate density residential zone,
4 and MU-4, a moderate density mixed use residential and retail
5 zone to rA-3, a medium density residential zone. Can you move
6 to the next slide please?

7 The future land use map predominantly identifies the
8 subject property as appropriate for moderate density residential
9 uses consistent with the requested RA-3 zone. The generalized
10 policy map predominantly locates the site within the neighborhood
11 conservation areas or locations intended for conservation and
12 enhancement of established neighborhoods, but not to prevent
13 development. The requested map amendment would permit an
14 increase in density and could facilitate the construction of new
15 affordable and market rate housing that will be subject to the
16 IZ Plus zoning regulations. Located within walking distance of
17 a Metro station, this site, if rezoned, could improve access to
18 economic, educational, and healthcare opportunities throughout
19 the Washington area, helping to address barriers that communities
20 of color often experience. Therefore, OP recommends the
21 Commission set this application down for a public hearing and is
22 available for questions.

23 CHAIRPERSON HOOD: Thank you, Mr. Mordfin. Let's see
24 if we have any questions. Who'd like to start us off? I don't
25 want to always call on Commissioner May. Just raise your hand.

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1 Is that what Fred says, just raise your hand, I forgot how he
2 says it. I get tickled, raise your hand. Feel like I'm in
3 school.

4 Okay. Well, Commissioner May?

5 COMMISSIONER MAY: I don't have any comments. I support
6 the set down.

7 CHAIRPERSON HOOD: Okay. Well, I'm -- Commissioner
8 Imamura? You're on mute. I think you're still on mute or
9 something's going on. All right. I'll come back to you. I'll
10 come back to you.

11 Vice Chair Miller?

12 VICE CHAIR MILLER: Okay. Thank you, Mr. Chairman. So
13 I support set down of this case. I would just note, as our
14 counsel has advised and I'm reading from their advice to us, the
15 comp plan consistency racial equity analysis of a zoning action
16 considers displacement as a factor because the property owner
17 here exercised its tenant opportunity of purchase rights to
18 purchase the property and assigned that rights to this developer
19 entity. In this case, displacement of the existing tenants at
20 the property is more of a certainty than would typically be the
21 case because of rezoning. For this reason, we need to ensure
22 -- so it was kind of a voluntary displacement because they agreed
23 to do this redevelopment project. So they're saying that we
24 should ensure, and I agree, that the relocation and right to
25 return plans are clearly described by the Applicant, both at the

1 public hearing and in the final case record. So I support this
2 set down. Thank you, Mr. Chairman.

3 CHAIRPERSON HOOD: Thank you. Thank you all. I'm
4 going to go back to Commissioner Imamura in a moment. Are you
5 straight now? Okay. No, I can't -- I don't know. Okay. So I
6 guess for the -- we don't have much, so you can just wave or
7 something, okay.

8 So I appreciate Vice Chair Miller for bringing that up.
9 I think that's very important as our counselors and Liu has --
10 but I always want to say this while I'm thinking about it, I
11 really appreciate the way our counsel looks at all the legal
12 issues for us and help us frame them. While we make the decisions
13 on the legal stuff and sometimes we may not follow it always,
14 but they always give us the legality and let us know what we
15 should be doing, what the letter of the law is and we follow that
16 to a point. But we always put our own pieces in it. But I just
17 wanted to thank them for that, because I think they did a heck
18 of a job, especially today. They do it all the time, but
19 especially today. So I appreciate all the legal stuff, even
20 though sometimes it's kind of complex sometimes. As long as I've
21 been doing it, I still have to read stuff, the same sentence
22 sometimes four and five times, so I do want them to know I
23 appreciate that.

24 All right. So with that, I think this is ready for set
25 down. We don't have any other questions. Thank you, Mr. Mordfin.

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1 And what we'll do, Vice Chair Miller, I'll ask you to make a
2 motion if you don't mind.

3 VICE CHAIR MILLER: Okay. Thank you. I would move
4 that the Zoning Commission set down for a public hearing Zoning
5 Commission Case No. 22-33, NHP Foundation, map amendment at
6 Square 3351 from RA-1 and MU-4 to RA-3 and ask for a second.

7 CHAIRPERSON HOOD: I'll second it.

8 It's been moved and properly second.

9 Ms. Schellin, when you call the vote, Commissioner
10 Imamura will raise his hand if he's in support. There's no sense
11 in logging off and come back on right now.

12 MS. SCHELLIN: Commissioner Miller?

13 CHAIRPERSON HOOD: Hold on.

14 Any further discussion? Hold on one second. Any
15 further discussion?

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

18 MS. SCHELLIN: Commissioner Miller?

19 VICE CHAIR MILLER: Yes.

20 MS. SCHELLIN: Commissioner Hood?

21 CHAIRPERSON HOOD: Yes.

22 MS. SCHELLIN: Commissioner May?

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: Commissioner Imamura?

25 COMMISSIONER IMAMURA: Yes.

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1 MS. SCHELLIN: Oh, we heard him. So and the vote is
2 four to zero to one to set down Zoning Commission Case No. 22-33
3 as a contested case. The minus one being the third mayoral
4 appointee position, which is vacant.

5 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

6 I know we have a Office of Planning update.

7 Yeah, Ms. Steingasser?

8 MS. STEINGASSER: Yes, Mr. Chairman.

9 Mr. Young, could you bring up our PowerPoint as well
10 as Mr. Kirschenbaum and Art Rogers? It'll be a part of our
11 presentation. Thank you. Jonathan and Art, are they up?

12 MR. KIRSCHENBAUM: I'm here, I think Art is in as well.

13 MS. STEINGASSER: Okay.

14 Good evening --

15 MR. ROGERS: Yep, I'm here as well, thank you.

16 MS. STEINGASSER: Okay, good. Thank you.

17 Chairman Hood, Commissioners, at the last meeting, the
18 Commission asked that OP provide an update on the roundtable that
19 OP had hosted on IZ in the downtown, affordability in general
20 terms district wide. And so that's what this report is about,
21 this update. Next slide please?

22 So at the roundtable, which we hosted on November 1st,
23 we had 22 people sign up. We had over 50 in -- that were
24 observing, but 18 provided testimony, either written or verbally
25 at the roundtable. And we sought general comments on ideas stated

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1 here, ways to encourage housing and affordable housing citywide.
2 We were also looking for any kind of thoughts and ideas people
3 have and opportunities for new housing and affordability in the
4 downtown and any thoughts about the recent changes in the demand
5 for office and the trend that we are seeing of conversion of
6 resident -- of office space to residential, and ways that we
7 could leverage inclusionary zoning as well as other tools that
8 affect the supply of housing and affordable housing. As you
9 know, IZ is just one of many tools and it hits a very narrow
10 slice of the housing. So Art Rogers is going to go through the
11 issues as they were presented to the public. And then Jonathan's
12 going to follow up with the comments that we heard back, and then
13 we'll give you our next steps and time frame. So I believe the
14 next slide would go to Art.

15 MR. ROGERS: Hi, members of the Commission. My name
16 is Art Rogers. I'm the senior housing planner for OP. And
17 apologies, I don't know if my camera is working, so it doesn't
18 seem to be working. But as Jennifer said, I'm going to present
19 to you tonight sort of a few slides that we presented at the
20 roundtable. Not all the slides, but the slides that talk about
21 the District's affordable housing tools, about IZ and about some
22 of the steps that we're doing for affordable housing in central
23 Washington. So I believe the Commission has seen this slide
24 before. We've presented it. It's a good graphic that illustrates
25 all the different types of tools or many of the different types

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1 of tools that the District uses to provide affordable housing.
2 And I think the key lesson for everybody is that all these tools
3 generally have a target income that they try to serve and we meet
4 the needs of a variety of different incomes by blending these
5 tools together. So no one tool typically can target extremely
6 low income households. They often need a layering of subsidies.
7 And I think that's a good lesson for us all to remember. And in
8 this case, what does happen with inclusionary zoning is, for
9 instance, with the rental units that 60 percent of the median
10 family income, if we could advance the slide, it's actually not
11 the slide, just animate it.

12 CHAIRPERSON HOOD: I think Commissioner May is saying
13 something.

14 COMMISSIONER MAY: Yeah, sorry, before we go, can we
15 ask questions? Each one of these categories includes something
16 called an affordable dwelling units. And what exactly is that?

17 MR. ROGERS: Those are -- in many cases, those are
18 projects that were pre IZ. There's two major types. So they
19 are the PUDs that were delivered prior to IZ. They are also, in
20 some cases, the land disposition units from public lands.

21 COMMISSIONER MAY: Okay. All right. Thank you.

22 MR. ROGERS: Yeah. So if we can advance, we have an
23 animation to show the links. There we go. Thank you.

24 So this just shows the link of how inclusionary zoning
25 works with vouchers to enable lower income households to afford

1 the units. As the Commission knows, the IZ units, the matter of
2 right IZ targets rental units at 60 percent of the median family
3 income. And through blending in with these other tools, the
4 different types of vouchers, primarily the housing choice
5 vouchers, and then the District's local rent supplement program,
6 we can make the IZ units affordable down to extremely low
7 household incomes. Similarly with the housing ownership units.
8 If we could advance it again? There we go.

9 Occupants of the IZ units that are set at 80 percent
10 of -- excuse me -- of AMI often rely on the two major
11 homeownership programs the District offers. One is the home
12 purchase assistance program through DHCD, which is a down payment
13 assistance program, and then there's also through the Housing
14 Finance Agency called Open Doors. It is a low interest rate
15 mortgage program. And in the case of IZ units, in the past fiscal
16 year report that should be published by the DHCD fairly soon,
17 about 17 purchasers of the IZ units at 80 percent of AMI also
18 used the D.C. Open Doors and the HPAP program. And so in this
19 way, we can again achieve affordability to those deeper and lower
20 income households. Okay. Next slide please?

21 This is very similar. It presents to the Commission
22 though the incomes and the household sizes that fit the extremely
23 low, very low, and low income housing definitions under the
24 comprehensive plan. And also you can see on the slide that the
25 definition of the moderate income households. So there's not

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1 much more to say about this budget, but it does provide the
2 Commission an understanding of the types of household incomes and
3 those household sizes that the different targets will serve.

4 CHAIRPERSON HOOD: So Mr. Rogers, excuse me, can we get
5 this -- can we get your presentation, can you email it, have Ms.
6 Schellin and email it to us? I'd like to keep this, especially
7 this chart.

8 MR. ROGERS: Absolutely, yes. And this is in the
9 comprehensive plan. It's in the housing element. So you can
10 also find it there. But we'd be happy to provide it to the
11 Commission.

12 CHAIRPERSON HOOD: Well, I don't want to look through
13 all them pages. This right here is sufficient, thank you.

14 MR. ROGERS: Understood. Okay. If we could have the
15 next slide?

16 So we did provide the basic information to the
17 participants of the roundtable, the basic information on
18 inclusionary zoning. So I think the Commission is fully aware
19 of this slide. So I'm not going to go into too much detail. One
20 of the things that we did call out were the flexibility, the
21 existing flexibility, that the program offers. So next slide
22 please?

23 We also provided the performance of the program on how
24 many units have been produced and where those units are being
25 produced. And I think this is a very useful illustration of the

1 program and its change over time. You can see that the number
2 of units delivered annually has pretty consistently increased
3 since about 2014, up until where we're receiving almost 400 or
4 delivering almost 400 units a year in 2021. The other thing I
5 want to point out to the Commission is this chart also shows the
6 results of the changes to the IZ program back in 2016 and 2017,
7 which shifted the targeting of the rental units towards 60 percent
8 of AMI. You can see those in orange. So we can see the increase
9 in the number of units targeting 60 percent of AMI. And I think
10 what's also interesting is we're also maintaining a good share
11 of units at 50 percent of AMI, and this is achieved through a
12 variety of different ways. This includes units developed through
13 the penthouse regulations, through PUD proffers, and also some
14 residual projects that were -- had their development rights prior
15 to the to the IZ changes. And then on the right, we can see
16 where inclusionary zoning units are being located. And I think
17 the good story about this is they're really being distributed all
18 across the city, but particularly in those areas where we see a
19 lot of market rate development. As the Commission is aware,
20 that's what IZ is really tied to, is where there is market rate
21 interest to build new residential units. So I think these two
22 slides really tell a good story about the program. And this is,
23 again, what we presented to the folks on the roundtable. Next
24 slide?

25 So we also talked to the members of the roundtable

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1 about the focus on planning areas, but specifically central
2 Washington. As the Commission is probably aware, the housing
3 element and the comprehensive plan adopted goals across all
4 planning areas to have a minimum of 15 percent affordable units
5 by the year 2050. And then you can see on the slide the direct
6 policy statement that is directed at central Washington and the
7 goals of central Washington are to absorb a lot of the demand
8 for the high density housing and encourage affordable housing
9 production through regulations and incentives. Next slide?

10 So I believe that the Commission has seen a similar
11 present- -- this slide in the past that we've presented. And
12 this is a little bit different. We wanted to show the Commission
13 where IZ currently applies, which is the area in purple and where
14 it does not apply, where it's exempt, and that's the area in
15 orange. And so this sort of zooms in from that citywide map and
16 provides an illustration of where IZ applies. We also presented
17 to the participants sort of a summary of what the downtown
18 development district or the D zones provide in far as encouraging
19 affordable housing and the tools for housing overall. I think
20 one of the things we also want to share with the Commission right
21 now, and if we could advance the slide?

22 Is this past fiscal year, or this past budget I should
23 say, the council approved a tax abatement to provide IZ units in
24 this area that you see outlined in the purple would require
25 affordable housing and in exchange they would get a tax abatement.

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1 And I think one of the interesting thing is the Commission -- or
2 not the Commissioner, I'm sorry, the coucil decided that the
3 program should require 15 percent of the units to be affordable
4 at 60 percent of the median family income. And with a number of
5 proposed conversions of housing, there is potential for a number
6 of projects to use -- to decide to use this tax abatement and
7 deliver affordable units in central Washington. So the next
8 slide?

9 And then finally, I wanted to share with the Commission
10 some of the successes the District has had. As I said earlier,
11 there is a goal of 15 percent affordable units in all planning
12 areas by 2050, and we want to let the Commission know that we
13 are very close to that right now, we're around 14 percent. And
14 I think what's interesting is we're maintaining that 14 percent
15 as the number of market rate projects that are exempt from IZ
16 are proposed in central Washington. And we're doing it through
17 a variety of tools. So these projects here you see represent
18 some of the major tools that we use for affordable housing. For
19 instance, at 555 East Street, there is a land disposition that
20 from DMPED has 57 affordable units in it. There's an example of
21 financing at 1035 4th Street in the Mount Vernon Triangle area,
22 and that project has 223 affordable units. And the Commission
23 may be familiar with the Wal-Mart in downtown on 8th Street at
24 77 8th Street, that has IZ units in it. And then finally proposed
25 at 1133 North Capitol is the redevelopment of the existing housing

1 authority site, and that's proposed to have 86 affordable units
2 in it. And the only other thing I would like to say about this
3 is most of these projects have a blend of affordability that
4 reaches down to 30 percent of the median family income. So the
5 77 8th Street is an IZ project that was built prior to the changes
6 in 2016. And so it only has units at 80 percent of the median
7 family income. But all these other projects have a variety of
8 income targets that they're serving. That pretty much concludes
9 what I want to share with the Commission. And I'll now hand it
10 over to Jonathan, who will share the feedback that we heard from
11 the public.

12 MR. KIRSCHENBAUM: Thank you. So I am Jonathan
13 Kirschenbaum with the Office of Planning. Next slide please?

14 So as Mr. Steingasser mentioned, we did have a number
15 of organizations and some individuals testify at the roundtable.
16 We also had people who could not testify live provide testimony
17 to us in writing. And so the summary of those -- so there's a
18 summary of those comments both that were given at the roundtable
19 and also received after. We received a lot of comments about
20 both housing and affordable housing, both District wide and also
21 pertaining to the downtown. The testimony ranged from policy
22 directly related to zoning, and then there's also comments
23 related to more broader affordable housing policies that are not
24 necessarily within the scope of zoning. So on the next couple
25 slides, we summarize what we heard by topic. So the first topic

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1 is downtown zoning. We heard that an IZ requirement should only
2 be applied if IZ bonus density or tax abatements could be provided
3 in those downtown zones. Related to this, we also heard that
4 transfer and recordation tax relief should also be considered.
5 We heard without bonus density or tax subsidies, IZ would reduce
6 residential land values by approximately 20 percent and would
7 make it difficult to finance conversions of existing office
8 buildings to residential use. So we heard that this would make
9 it inappropriate to apply IZ to downtown. We also heard from
10 several people that IZ. should apply to downtown, regardless of
11 the ability to provide either zoning bonus density or tax
12 abatements. We also heard that an IZ requirement in the downtown
13 would increase the likelihood that properties would stay vacant
14 for extended periods of time, resulting in negative impacts on
15 surrounding land values and tax revenues. And lastly, we heard
16 that an IZ requirement, if it is applied, should be done over a
17 phase period of time over three years to allow financing and land
18 values to adjust accordingly for the new IZ requirements. Next
19 slide please?

20 Regarding to comments related to citywide zoning and
21 affordable housing, we heard the following: OP should maximize
22 the IZ Plus program by initiating map amendments to apply IZ Plus
23 to more properties to support the creation of more affordable
24 housing. So that would be particularly bringing forward map
25 amendments where there have been FLUM changes as part of the last

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1 comprehensive plan update. We heard that PUD level density should
2 be provided as a matter of right if the proposal is for all
3 affordable housing. We also heard that minimum parking
4 requirements for affordable housing units should be eliminated.
5 We also heard that existing IZ affordability levels should be
6 maintained. So the current MFI levels that the IZ program
7 requires, those should be maintained because requiring deeper
8 affordability is not a good fit for the land value capture program
9 that IZ currently is. And then lastly, we heard that any increase
10 in density provide for more affordable housing should be
11 compatible with the existing neighborhood character. Next slide
12 please?

13 And then these are comments that really deal with more
14 sort of broader affordable housing policies that are not quite
15 directly tied to zoning. We heard that an affordable housing
16 property acquisition fund for high opportunity areas should be
17 created to purchase land and buildings for the creation of
18 permanent affordable housing. The existing rent control program
19 only applies right now to buildings built in 1975 and earlier.
20 So there was a comment that rent control should be extended to
21 post-1975 buildings. The District's right of first refusal
22 should be extended to all land sales instead of just properties
23 that are vacant, blighted, or funded by housing production trust
24 fund dollars. Another idea was a land value taxation system
25 should be created to make it more expensive and to also

1 disincentivize landowners from keeping land vacant and
2 underutilized. That -- the idea behind that would it would be
3 -- incentivize owners to develop their properties with more
4 housing. Another idea was that the Cash for Covenants program
5 should only be used for existing market rate run -- excuse me,
6 to bring affordability to existing market rate units and not to
7 run stabilized units to ensure that units are -- excuse me, to
8 ensure that units made affordable are truly affordable new units.
9 Right now, the program can be used for rent controlled units, and
10 the idea is that that's not really creating more or new affordable
11 units. We also heard that the D.C. Housing Authority should
12 permit residents to have pets such as dogs. And we also heard
13 that the existing D.C. housing programs should be examined to
14 look out how they're succeeding and where they can be further
15 strengthened to ensure that the current programs that we have are
16 working as intended. Next slide please?

17 And then we also heard some comments about the Height
18 Act. Several comments suggested that the District should
19 investigate changes to the Height Act to support the development
20 of more housing and affordable housing, while others were against
21 changing the character of Washington and amending the Height Act.
22 And those are a summary of the comments we heard from the
23 roundtable. And I will turn it over to Ms Steingasser to talk
24 about our sort of next steps in this process. So next slide
25 please?

1 MS. STEINGASSER: So Commissioners, as you can see, we
2 heard a lot -- a very broad range of ideas and recommendations,
3 warnings, concerns, enthusiasm. And the whole idea of the very
4 first slides was to show the complex relationship between the
5 various AMIs and MFIs and the funding tools that are available
6 but that need to work together. So we're going to spend -- we'll
7 right now we're continuing to work with the stakeholders and go
8 through some of these comments. We're trying to model some of
9 them financially and economically and analyze those options and
10 see how they work together. We'll be doing that through the rest
11 of December. We hope to be -- in the winter sometime in January,
12 February, we'll be bringing a report to you on the parking
13 exemptions for affordable housing that ties into DHCD programs
14 and their time-frame, so we want to be able to be responsive to
15 those. So those will be coming to you first. The off-site
16 provision and deeper affordability, there is a text amendment
17 that has been filed from another agency that's before you. We
18 will be responding to that text amendment. We see that coming
19 in February, March sometime. And then as all of those are moving
20 on, we'll still be looking and analyzing and working on the
21 downtown IZ and how does IZ -- how can it be integrated into the
22 downtown, at what levels, should there be phasing, you know, what
23 is the financial impacts of those, and so we're going to be
24 spending a lot of time modeling and forecasting that. And we
25 expect to be able to bring you something in Spring, April, May.

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1 So and that may be concepts, it may be text amendments directly,
2 we don't know. But we've been very clear that when we bring
3 something back to the Zoning Commission, we will have worked with
4 the stakeholders, we will have worked with the development
5 community, whether it's the developers roundtable, DCBI, they
6 -- nobody will be surprised. OP won't work in isolation; it will
7 be a very public process as we continue to investigate these
8 things. So with -- that's our time-frame and that's our status
9 report on the issue.

10 CHAIRPERSON HOOD: Thank you, Ms. Steingasser, Mr.
11 Kirschenbaum, and Mr. Rogers. You have time for a couple of
12 questions?

13 MS. STEINGASSER: Yes.

14 CHAIRPERSON HOOD: Okay. So. So first, let me ask you
15 about the -- and I may not be clear how it was presented -- let
16 me ask you about the roundtable. So you said you had, what, 18
17 people testify, but you had 50 in total?

18 MS. STEINGASSER: You know how you can see the count
19 of who's watching?

20 CHAIRPERSON HOOD: Oh, okay, I gotcha, I gotcha.

21 MS. STEINGASSER: Yeah, that's how we were --

22 CHAIRPERSON HOOD: Okay. So you had 18 though to
23 testify?

24 MS. STEINGASSER: Yes, sir.

25 CHAIRPERSON HOOD: Now, of those 18, was -- were there

1 developers, were there housing advocates, citizens who don't
2 really do this all the time? I mean, what was -- do you know
3 what the makeup kind of was?

4 MS. STEINGASSER: Yes. Yes, there was -- and we have
5 that list. There were developers. There were, like you say,
6 housing advocates. There were the Committee 100. There were
7 preservationists. There were those who were worried about the
8 quality of life in public housing and the animals. We had a
9 pretty strong range of participants. We also had -- you know,
10 we had people representing some smart growth organizations and
11 -- yeah, and we have that whole list. And when we come back to
12 the Commission with the more formal written report, we'll list
13 those representations.

14 CHAIRPERSON HOOD: Okay. Good. Sound like you had a
15 great representation of all aspects of advocates in whatever
16 position --

17 MS. STEINGASSER: Yes.

18 CHAIRPERSON HOOD: -- whatever position they're in.
19 The other question is the way I looked at the presentation, it
20 looks like, at least from that roundtable, that a lot of people
21 will have a problem with IZ being applied to D zones, was that
22 -- did I get that right?

23 MS. STEINGASSER: There is a lot of concern by property
24 owners and developers who work in the downtown about the heavy
25 application of IZ, because there is no ability to offset through

1 incentives or bonus density. So yes, there is a very big concern
2 about the state of downtown right now. You know, there's over a
3 million square feet of vacant office space and there is a -- I've
4 heard that Washington may be leading the country in converting
5 office space to residential in the downtown, but it's a very
6 expensive process and not all office buildings lend themselves
7 easily to conversion to residential. So there's, you've got to
8 put in different elevator cores, you've got to cut in -- you
9 know, the floor plates are of an office building are much larger
10 and wider. The window, the light, safety, fire, all of that's
11 very difficult and requires often a loss of a square footage. So
12 the issue of inclusionary zoning is very closely watched, yes,
13 sir.

14 CHAIRPERSON HOOD: Well, thank you, Office of Planning,
15 Ms. Steingasser, and her team for having that roundtable. And I
16 know my colleagues may have other questions. Really appreciate
17 the status report and update.

18 Let me see. Commissioners, any question?

19 COMMISSIONER MAY: I just wanted to comment. I saw two
20 -- at BZA yesterday we had two different office to residential
21 conversions and they were both terrific projects. I was very
22 excited to see both of those.

23 MS. STEINGASSER: Yeah, I saw those. Yeah. And those
24 smaller buildings can lend themselves very easily. It's the
25 bigger ones.

1 COMMISSIONER MAY: Yeah. One of them seemed like a
2 pretty natural adaptation, given the shape of it. But the other
3 one, they had to cut a courtyard into the middle of the building,
4 the deep floor plates. So that's obviously very costly, but it's
5 terrific because they're going to deliver, you know, a lot of
6 housing in places where there maybe isn't that much.

7 MS. SCHELLIN: Yeah. Yeah. We're very supportive of
8 that.

9 CHAIRPERSON HOOD: Right. Any other questions or
10 comments?

11 Vice Chair Miller?

12 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
13 you, Ms, Steingasser, Mr. Rogers, and Mr. Kirschenbaum, for your
14 presentation update this evening on the application of
15 inclusionary zoning to downtown. I was one of the 50 observers
16 of your November 1st public roundtable and I would encourage my
17 fellow commissioners who may not have been able to tune in, I'm
18 sure it's on, if not our website, on OP's website; is that
19 correct, Ms. Steingasser?

20 MS. STEINGASSER: Yes, sir, it is. It's on the OP
21 YouTube channel.

22 VICE CHAIR MILLER: Yeah. And it was -- I appreciate
23 all your work and the presentation that you did there and the
24 information you provided and the feedback that you got and the
25 information that you're providing tonight. This is a complicated

1 issue. IZ is just one little, as you said, sliver of the
2 affordable housing programs that the District has that we are
3 involved with. And there's so many more. We're mostly involved
4 with private sector housing development. And so we have a program
5 that took a long time to get promulgated. I was involved in that
6 effort with your Office of Planning and the community many years
7 ago in getting it promulgated. And the Office of Planning's
8 original position was that it should be voluntary IZ, but it
9 became mandatory IZ. I don't know if you remember those
10 nomenclatures, you probably do.

11 MS. STEINGASSER: Yes. Yes, I do.

12 VICE CHAIR MILLER: Yeah. So I mean, that was a big
13 deal then. And the development community was adamantly opposed,
14 even though under that proposal, voluntary or mandatory, there
15 was the additional density that was able to be provided to
16 compensate for the new affordable housing requirements that would
17 be laid on to a what otherwise would be a matter of right zoning
18 development. And we don't have that -- we understand that, we
19 don't have that with downtown currently because downtown is at
20 its maximum intensity and there is a bonus density be provided.
21 But it's -- but the argument then was partially about this will
22 reduce land values of the wherever you're going to require it.
23 And it might have. I don't know if it did. And certainly the
24 commercial office where a lot of the residential was being -- the
25 IZ was going to be required was going to maybe have an effect, a

1 deleterious effect, on the commercial property tax revenue that
2 downtown traditionally has generated for the District of Columbia
3 to fund everything that we do, that we want to do for social and
4 economic justice and programs.

5 And the pandemic has highlighted how the downtown and
6 other property values throughout the city and the nation, maybe
7 the world, have to be devalued beyond their overvalued prices of
8 what they are in order to permit or facilitate the development
9 that's currently permitted, or if we want to put another
10 requirement on it, like IZ downtown, it may be devalued further,
11 but that may be an appropriate time to devalue when it's already
12 being devalued and maybe our property tax assessments don't
13 reflect appropriately the value of downtown property that is 25
14 percent vacant or 50 percent vacant or one million square plus
15 vacant that you just said tonight. I mean, that's a lot of
16 vacant. So that's -- but there needs -- that's part of what it's
17 all about. It is part of adjusting the values to accommodate
18 the goals, the aspirational goals, that we want to meet in the
19 city that are equitably distributed throughout the city, and
20 downtown should absolutely be participating in affordable housing
21 when downtown under I think Zoning Commission Chairman Cherse
22 Gozeberg (phonetic) or maybe Obana (phonetic), I can't remember,
23 maybe it was under both of them, did the downtown development
24 district regulation that basically down-zoned downtown to try to
25 meet housing, historic preservation, retail, other requirements

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1 and you weren't going to just be able to do, you know, 12-story,
2 13-story office buildings. And there was that argument from DCBA
3 and all the others how it's going to devalue downtown, but I
4 think we all can agree 30 years later, 30 plus years later, that
5 we got a better downtown because we required housing, we required
6 -- we didn't require affordable housing, but we required housing.
7 We required historic preservation. We required retail, although
8 we probably did too much retail at the time. We had to scale it
9 back because we did the second floor. And arts, overlay. We
10 had all these overlays. So there are always adjustments and
11 evolving -- the evolving zoning regulations, which is just a very
12 small part of what we're trying to achieve in the city in terms
13 of equitable development. But downtown needs to be participating
14 in the affordable housing development, and we've seen projects
15 come forward voluntarily because it's not mandatorily required
16 except in, I think, 3D -- three downtown zones right now, is it
17 D-2, 4, and D-2, 3, and 4? What is it?

18 MS. STEINGASSER: I think it's 2, 4, and 6. Oh, go
19 ahead.

20 MR. KIRSCHENBAUM: D-2, D-4, and D-8.

21 VICE CHAIR MILLER: Right. And so the D-5 zone, which
22 is -- has been particularly problematic because that's near
23 southwest along the south capitol corridor. Nobody thinks that
24 that is really the downtown. And when those projects have come
25 forward without any inclusionary zoning or sometimes voluntarily,

1 they threw a bone to the ANC, that was good if they did, but they
2 should -- D-5 should have been included. And so I don't know if
3 all of downtown should be included because that's pretty -- I can
4 understand the ramifications of that on our property tax base in
5 the long -- short-term and long-term. But our property tax base,
6 if it's being assessed properly, it's probably already adversely
7 impacted from everything that's happened.

8 I appreciate you having the November 1st roundtable.
9 That was, I think, very useful to have. And you said the council
10 passed tax abatement for downtown housing and requiring 50
11 percent of units to be affordable. I don't think that's funded,
12 right? I don't think they've funded it yet. Does that -- is
13 that right, Jonathan -- I mean, Mr. Rogers?

14 MR. ROGERS: No, I believe it is funded. Yes.

15 VICE CHAIR MILLER: They funded it? Beginning when?

16 MR. ROGERS: I believe it's going to start in fiscal
17 year '24. Right now, DMPED is working on --

18 VICE CHAIR MILLER: So October -- October 1, 2023.
19 It's not funded right now.

20 MR. ROGERS: It was in the -- it was in the budget that
21 was passed.

22 VICE CHAIR MILLER: Yeah.

23 MR. ROGERS: And I believe DMPED is beginning to draft
24 the regulations.

25 VICE CHAIR MILLER: And do you know how much money is

1 allocated to that, just out of curiosity?

2 MR. ROGERS: We can find that out for the Commission.

3 VICE CHAIR MILLER: I mean, it's not really relevant
4 to our deliberations, but it's a lot of money. I mean, I realize
5 it's an expensive proposition to require affordable housing to
6 be on the most -- what was most, what used to be the most property
7 in the city. I'm not sure it is anymore, given everything that's
8 happened and happening with remote work, office work. I'm not
9 sure what other questions I might have, but I think the timetable
10 for bringing something forward to us for a case that's currently
11 pending, so you have the January, February, I think, for the
12 parking affordability. I think you got -- I don't want the April,
13 May. We've waited too long. We've talked about looking at
14 downtown housing. We just want to have a hearing on it. I know
15 you need to do your analysis, but really we've been talking about
16 this for three years.

17 MS. STEINGASSER: Uh-huh.

18 VICE CHAIR MILLER: We need to have a set down hearing.
19 We'll do it ourselves if you're not going to recommend it to us,
20 or at least I'll recommend it. I don't know if there are three
21 colleagues -- two colleagues that would support me. We need to
22 have a public hearing on applying inclusionary zoning to more of
23 the city, especially the downtown, or at least parts of the
24 downtown. Doesn't have to be the central core, but the D-5
25 adjacent to the southwest baseball park -- ballpark yard area,

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1 that needs to be part of -- they need to be -- everybody needs
2 to be participating in this. It's really a de minimis effort
3 that we can do. It's zoning. It takes a lot more with the
4 subsidies and the land writedowns and the public dispositions to
5 do all that we need to do for affordable housing and acquisitions
6 of properties, which should have been probably done in up in my
7 upper northwest neighborhood. There are -- we've had so many
8 missed opportunities, whether it's Marriott Wardman, the Maza
9 Galleria site, Lord & Taylor, they're not going to be there
10 forever for affordable housing to be included in the area, which
11 is the most deficit -- has the most deficit of affordable housing.
12 And I'm embarrassed that I live in that neighborhood where there
13 is that deficit of mixed income housing. And I know it's
14 expensive. It's obviously very expensive, but we spend a lot of
15 expensive things on a lot of things that we want to do. And
16 affordable housing is the number one civic priority in the
17 comprehensive plan. And we need to put our money where our mouth
18 is. So if anyone wants to comment in response to that, I got
19 -- not really a question, but I just wanted to vent, Mr. Chairman,
20 'cause it's what I do. Thank you.

21 CHAIRPERSON HOOD: All right. I think that was very
22 well said, Vice Chair. I want you to add my list to the support
23 of we have to do it. I want to give Ms. Steingasser and them
24 time, because if we do it, I don't know, some of the time I always
25 wonder about the outcomes. But I would even put my RA-1 issue

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1 on the back burner for this, and I think it's very important that
2 we move as fast -- as expeditiously as possible in this case.
3 But I did hear that what Ms. Steingasser and the report said
4 about the concern, but I would agree, I think it was the D-5 you
5 mentioned, but I would agree with you, you have my support on
6 that. I don't know how we'd do that. I don't want to jump --
7 and jump into the fire. I don't want to do that out the frying
8 pan, but I do want to make sure that I give Office of Planning
9 their due diligence, but we want to move this as fast as possible.
10 And again, I will put that RA -- forgot what it was now -- I
11 haven't heard a lot on that lately, but I'll put that on a back
12 burner, Ms. Steingasser to try to move this faster.

13 Let's see if, Commissioner Imamura, you have any
14 comments or questions?

15 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'm
16 kind of in a position here because I stand between the end of
17 this meeting and everybody's dinner hour. So not always a good
18 spot to be in before food. But I just want to mention, Mr.
19 Chairman, that I too, along with Vice Chair Miller, was one of
20 those participants at the public roundtable. And just want to
21 take this opportunity at the end of our meeting here today to
22 highlight the work that Ms. Steingasser and her team did during
23 the hearing. Tremendous work, highly professional. And you
24 know, given that at the beginning of this meeting, we were all
25 sort of disheartened by the way one of our team members was

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1 treated, I just want to remind everybody out there the good work
2 that Ms. Steingasser and her team and other public servants out
3 there do on behalf of the residents of D.C. And I want to say,
4 Mr. Rogers, some of the maps and charts that you showed certainly
5 gets me excited about planning and the reason why I enjoy the
6 role that I have. And, Mr. Kirshenbaum, thank you for finishing
7 off the second half of the presentation and articulating all the
8 thoughts and interests of the residents. But I will say those
9 maps and charts definitely demonstrate the work that you all are
10 doing in addition to other city agencies in partnership with OZ
11 well, to advance the city and our goals. So thank you very much
12 for working on behalf of the residents to make D.C. a better
13 place to live, play, and work. So thank you.

14 MS. STEINGASSER: Thank you. I appreciate that. And
15 I'll pass that on to all my colleagues that work on this.

16 COMMISSIONER IMAMURA: Please do.

17 CHAIRPERSON HOOD: So the other thing I do want to
18 mention, Vice Chair Miller mentioned it, I came in on some of
19 the tail end of those discussions. I remember when Gerilee was
20 the chairperson, Gerilee Press (phonetic), I remember Charlie
21 Doctor, I remember Terry Lynch, and I think it was called a
22 downtown cluster.

23 MS. STEINGASSER: Uh-huh.

24 CHAIRPERSON HOOD: They were the ones who were really
25 pushing. And you brought back some of that, when you mentioned

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1 Maybelle (phonetic), who I replaced, which she had some great
2 shoes to fill, and I still haven't filled them. But you had
3 Maybelle and you mentioned Cherse Gozeberg, people who I've
4 learned from and have had many conversations with. So you know,
5 I know, Terry, I don't know if Mr. Doctor is still around or
6 still hopefully he is, or still out doing things, but I know
7 Terry is. I would be interested in -- I don't know -- have you
8 all reached out to them, Ms. Steingasser, have y'all had
9 discussions with Terry Lynch?

10 MS. SCHELLIN: We have not talked with Mr. Lynch about
11 this. And I believe Mr. Doctor passed away a few years back.

12 CHAIRPERSON HOOD: All right. I just know that those
13 two always came in front of the Commission advocating for downtown
14 housing, and it just jogged my memory when the Vice Chair
15 mentioned. So, you know, let's see what we can do to kind of
16 move this along even faster. Whatever we need to take off your
17 plate, Ms. Steingasser, we will. But we appreciate the work you
18 do. And I appreciate the work. One thing that I tell people
19 when they stop me in Costco, when they don't go through the drive-
20 through and we in McDonald's talking, you know, if you're telling
21 me this, you can imagine the Office of Planning, the Zoning
22 Commission, the Office of Zoning, or even the D.C. Council, you
23 get one person to tell you something on the right side, you're
24 going to hear something totally different on the left side, and
25 you don't know what's coming down the middle. So you know, those

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1 of us who have all these things to weigh, sometimes it's not all
2 that easy. So I would I would ask the public not always to get
3 mad with us because we have to listen to more than just one
4 person. If I didn't just -- if we just all of us just in one
5 person's way, that's different. But we have a whole lot of input
6 that we have to try to make (indiscernible) and make our decision
7 now. I know that's on a soapbox. They probably say Hood's
8 getting tired 'cause it's getting late. But that's the reality
9 of it. And I want to thank Vice Chair Miller for that, I'm not
10 going to call it a dissertation, I'm going to call it, for that
11 bringing us up to speed of where we need to be and also bringing
12 back and I appreciate your comments more than you ever know
13 because I just -- it recollect me on the people who fought before
14 us about downtown housing and what was going on downtown, Charlie
15 Doctor and Terry Lynch showed up every time we had a case or
16 something downtown. So let's see if we can continue that legacy
17 and move it on.

18 Any other comments or questions?

19 All right. I want to, again, Ms. Steingasser, thank
20 you, as Commissioner Imamura said, thank you for all the work
21 that you all do. We appreciate it.

22 MS. STEINGASSER: Thank you.

23 CHAIRPERSON HOOD: All right. We've had a long meeting.
24 I want to thank everybody. Let me see when we meet again. Seems
25 -- like I said the other night, seems like we're just going to

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1 meet through the holiday, but the Zoning Commission -- Ms.
2 Schellin will tell me if I get this wrong, because for some reason
3 I always go in here and it seems like I get it wrong. You know
4 what? We meet Monday the 19th -- or no, that was canceled. No,
5 wait a minute, hold on. I'm on -- 'cause it's not showing up in
6 my -- give me one second 'cause I want to announce this for the
7 public. Oh, yeah, here we are. December the 19th. Zoning
8 Commissioner will meet again on these same platforms. Our Case
9 No. is 22-22, December the 19th, on these same platforms. Our
10 case is Preservation DCL and 6, LLC. I want to thank everyone
11 for their participation tonight and appreciate your indulgence.
12 It's been a long meeting, so with that, I want to thank everyone
13 and thank my colleagues for all the work they put in, and our
14 staff and everyone. So with that, this public meeting is
15 adjourned. And goodnight. Have a nice weekend.

16 (Whereupon, the above-entitled hearing was adjourned.)
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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

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