

GOVERNMENT OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

JANUARY 12, 2023

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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
- PETER MAY, Commissioner
- 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 January 12, 2023

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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 us this evening are Vice Chair of Robert Miller, Commissioner Peter May, and Commissioner Joe Imamura. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations. In our Office of Zoning Legal Division we have Ms. Lovick, Mr. Ritting, and Mr. Liu. If we call someone up to testify or to come and give us comments, we will ask them to introduce themselves at the appropriate time. Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised that this proceeding's being recorded by a court reporter, it's 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 set down report, and the Office of Planning report. All other 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 requests someone to speak. And if you experience

1 difficulty, which we know we are having, accessing Webex or with  
2 your phone call-in, then please call our OZ hotline number, 202-  
3 727-0789 for Webex log-in or call-in instructions. Again, you  
4 can also catch us on YouTube, until we are able to resolve this,  
5 and be able to watch these proceedings, and I want to apologize  
6 to each and every one for being late, but technology is  
7 technology. And so it's very helpful to us when it's working  
8 great, and when it doesn't, we have to work through things. And  
9 this is what happened to us this evening. So again, our  
10 apologies.

11           So with that, does the staff have any preliminary  
12 matters?

13           MS. SCHELLIN: No preliminary matters.

14           CHAIRPERSON HOOD: Okay. Let's move right into our  
15 agenda. We have on the consent calendar item, minor modification  
16 and technical corrections, Zoning Commission Case No. 20-02B,  
17 Office of Planning request for technical corrections to Subtitle  
18 C 1003.3 and 1003.4.

19           Ms. Schellin?

20           MS. SCHELLIN: Yeah. So the first thing is that the  
21 Office of Planning is requesting a waiver for filing their report  
22 less than ten days from the meeting -- before the meeting. So  
23 I'd ask the Commission to consider that waiver request.

24           CHAIRPERSON HOOD: Any objections, colleagues, of  
25 giving a waiver and the Vice Chair if I don't hear I will assume

1 -- I'm going to -- not assume, 'cause I don't want to do that.  
2 If I don't hear from you then I know you agree with the waiver  
3 proceeding. Any objections?

4 Not hearing any, okay, Ms. Schellin.

5 MS. SCHELLIN: Okay. So the Office of Planning is  
6 filing this technical correction to clarify that when IZ Plus set  
7 aside requirement -- that the IZ set aside requirement is based  
8 on the percentage of bonus density use that a separate calculation  
9 based on a fixed percentage is required for any penthouse  
10 habitable space. And also it wants to clarify when NC zones are  
11 subject to IZ Plus, so they want to clarify when NC zones are  
12 subject to IZ Plus. So those are the two technical corrections  
13 they're asking to clarify in this technical correction. So that  
14 is what's before the Commission, if you will take that request  
15 up.

16 CHAIRPERSON HOOD: Okay. You've heard the discussion  
17 about IZ and IZ Plus corrections, as well as the NC zones,  
18 properties rezoned from the PR zone, or from an unzoned  
19 (indiscernible), so you've heard about the request both the  
20 background that the Office of Planning is trying to do a technical  
21 correction. I don't think there's anything substantive. Let me  
22 open it up and see if they have any objections to moving in that  
23 fashion.

24 Commissioner May?

25 COMMISSIONER MAY: Yeah, so this change certainly makes

1 sense from my perspective. The thing about it is that if we act  
2 on this as a technical correction right here and now, that means  
3 we're done with it. Right? It's just this is it and it's done.  
4 And I, you know, I feel like, you know, having waived the report  
5 in, we're not only doing a, you know, a quick action on this,  
6 we're doing it with less than the normally required lead time  
7 from the OP report. So I mean, I feel like we, you know, we  
8 should take this up and we should act on it quickly, but I'm just  
9 not totally comfortable with not having had the normal lead time.  
10 I mean, maybe I should have raised this when we waived the report  
11 in, but I just feel like maybe we ought to wait until the next  
12 meeting before we actually vote on this.

13 CHAIRPERSON HOOD: So yeah, and I didn't think it was  
14 nothing substantive, but I actually thought that the --  
15 especially IZ with all the confusion that not just the public but  
16 some of our government agencies have given us.

17 Ms. Schellin, does the public have a chance to comment  
18 on a technical correction the way it's in front of us today? Or  
19 maybe I should be asking the legal counsel that or somebody. Is  
20 there a point where the public can comment on something minor  
21 like this?

22 MS. LOVICK: No, the public wouldn't be commenting on  
23 this. There -- so there was a final order that was issued that  
24 amended the zoning regulations initially when 20-02 was issued,  
25 creating IZ Plus. So this would be a technical correction to

1 that text, to amend the text.

2 CHAIRPERSON HOOD: So my question would be back,  
3 Commissioner May, so I understand the hesitancy, but so what are  
4 we waiting on? That's what I'm trying to figure -- nothing's  
5 going to happen, but --

6 COMMISSIONER MAY: Yeah, I mean, so we cannot -- we  
7 won't be evaluating comments from the general public about this.  
8 And I know that it's -- I mean, technically on something like  
9 this, it's really just -- it's just the Zoning Commission, right?  
10 It's not even the ANCs; is that right?

11 MS. LOVICK: That's correct.

12 COMMISSIONER MAY: Yeah.

13 MS. LOVICK: Because it -- because of it was filed as  
14 a technical correction to the order, to the final order that was  
15 issued.

16 COMMISSIONER MAY: Yeah. I mean, you know, my  
17 recollection is that many of the times that we've thought things  
18 were technical corrections, objections were raised about whether  
19 it truly is a technical correction. I don't remember how we  
20 heard those objections. Maybe it was just the Office of the  
21 Attorney General when they were our lawyers. I don't remember.  
22 I don't know, I just -- I thought I should raise that question.  
23 Again, I think it makes sense to do it, I just thought it seems  
24 a little bit weird that we would do it without even that little  
25 bit of lead time. Do we know --

1 MS. LOVICK: Well --

2 COMMISSIONER MAY: I'm sorry. I had a question, was,  
3 how far in advance did we actually receive this or was it posted  
4 in the record or whatever?

5 MS. LOVICK: So I mean, they can file something within  
6 ten days, so, because they're filing it based on an OP report.  
7 But there wouldn't have been an opportunity to comment by the  
8 general public. And I think that in the spirit of the regs the  
9 basis of that was the fact that at the initial time that this  
10 text amendment became effective, these particular corrections  
11 were anticipated and they were anticipated throughout that  
12 process, and they're documented in the record, and they were just  
13 left out and it was a mistake. Now, the regs don't clarify or  
14 specifically define a technical correction. You know, it's  
15 something that you have discretion on.

16 COMMISSIONER MAY: Right. It's a ministerial action.  
17 Yeah. All right. Well, I mean, I'm okay with moving forward.  
18 I imagine that -- and this is just a single vote, right, or a  
19 single approval that we are giving, right?

20 MS. LOVICK: That's correct, yes.

21 COMMISSIONER MAY: Yeah. I mean, and I don't see  
22 anything wrong with it. It just felt a little bit discomfoting  
23 that we were not only going to do this in one quick vote, but  
24 that we were doing it without the normal lead in time. I don't  
25 even know why we have lead-in time, you know, frankly, if there



1 isn't going to be any opportunity for public comment, but we do  
2 have that rule, right, so. All right. I mean, I'm happy to go  
3 ahead, Mr. Chairman, just --

4 CHAIRPERSON HOOD: Okay. So for me though,  
5 Commissioner May, if you feel uncomfortable, we can just let it  
6 sit and do it in -- and that'll be because this is -- I don't  
7 -- for me it's while it's a technical correction, I think we can  
8 just -- if you want to, we can let it sit until our next meeting,  
9 then maybe that'll give you more of a comfort level, even though  
10 we won't be getting anything in.

11 COMMISSIONER MAY: No, no. I mean, I think I'm okay  
12 having had some discussion of it.

13 CHAIRPERSON HOOD: Okay. Okay. All right. Sounds  
14 good.

15 Commissioner Imamura or?

16 COMMISSIONER IMAMURA: No comment, thank you, Mr.  
17 Chairman.

18 CHAIRPERSON HOOD: All right. Ms. Schellin has lost  
19 connection, so I'm going to be on the secretary role as much as  
20 I can for a moment. So until she gets back, she should be back  
21 shortly hopefully. We'll see how this works. Okay. With that,  
22 I will move approval of the technical corrections of these --  
23 dealing with the IZ Plus, as well as the NC zones as requested  
24 by the Office of Planning on Zoning Commission Case No. 20-02B  
25 and ask for a second.

1 COMMISSIONER MAY: Second.

2 COMMISSIONER IMAMURA: Second.

3 CHAIRPERSON HOOD: Okay. Hold on one second. Just  
4 trying to keep us going. Okay. It's been moved and properly  
5 second. Hood made the motion. All right. And who second that,  
6 was it --

7 COMMISSIONER MAY: We both did, but --

8 COMMISSIONER IMAMURA: But I'd defer to let  
9 Commissioner May.

10 CHAIRPERSON HOOD: Okay. And May second it. And all  
11 in favor? No, no, no, this might not work.

12 COMMISSIONER MAY: Mr. Chairman, would you take a roll  
13 call?

14 MS. SCHELLIN: I think I was in.

15 CHAIRPERSON HOOD: Okay. She's back then. This ain't  
16 going to work.

17 MS. SCHELLIN: Okay. I think I'm in. I heard.  
18 Commissioner Hood?

19 CHAIRPERSON HOOD: Yes.

20 MS. SCHELLIN: Commissioner May.

21 COMMISSIONER MAY: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 COMMISSIONER MAY: Commissioner Miller is showing up  
24 as muted, and --

25 MS. SCHELLIN: He needs to (indiscernible) star 6 on

1 his phone.

2 COMMISSIONER MAY: Commissioner Miller, you hear that,  
3 star 6?

4 (Pause.)

5 MS. SCHELLIN: Yeah, star 6 will --

6 CHAIRPERSON HOOD: He voted yes.

7 MS. SCHELLIN: Okay.

8 CHAIRPERSON HOOD: He sent us a message.

9 MS. SCHELLING: Commissioner Imamura?

10 COMMISSIONER IMAMURA: Yes.

11 MS. SCHELLIN: Okay. So the vote is four to zero to  
12 one to approve final action Zoning Commissioner Case No. 20-02B.  
13 The minus one being the third mayoral appointee position, which  
14 is vacant. Thank you.

15 CHAIRPERSON HOOD: Okay. Thank you. Let's hurry up  
16 and get through this before we have any more issues.

17 Let's go to final action Zoning Commission Case No. 22-  
18 16, Thor 3000 M Street, LLC, consolidated PUD and related map  
19 amendment at Square 1197.

20 Ms. Schellin?

21 MS. SCHELLIN: Yes, sir. On this one, at Exhibit 30,  
22 31, and 33, we have the Applicant's draft proffers and conditions  
23 and their draft summary order. And at Exhibit 32, we have and  
24 NCPC report that found the case was not inconsistent with the com  
25 plan for the national Capitol, nor would any -- would it adversely

1 impact any other identified federal interests. So this case too  
2 is ready for final action. Thank you.

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

4 Colleagues, as you know, as Ms. Schellin has told us,  
5 we do have some new exhibits. Hang on one second. Again, this  
6 is the property, it was split zoned MU-4 and MU-12. The  
7 (indiscernible) we had a few issues -- I think we pretty much  
8 ironed a lot of this out as stated. And the issue with the  
9 original proposed FAR, but it's been decreased. I think we got  
10 that -- I think that was a discrepancy. That has been taken care  
11 of. I'm just trying to see what other issues there were. And I  
12 think that in the notes that we've been advised that the -- there  
13 was tension between the FLUM and the low density commercial  
14 designation, and the project's proposed FAR as already stated.  
15 I'm just trying to get highlights.

16 So does anyone have any questions or comments on this?  
17 And I know th3ere was some negotiations with the (indiscernible)  
18 chair, which is about NPS, I think that has been worked out with  
19 the superintendent. But I will open that up for others. So  
20 let's open it up. Any issues? And also there were conditions,  
21 but we can talk about that after we finish any other comments  
22 that you might have.

23 Commissioner Imamura?

24 COMMISSIONER IMAMURA: Sure. From my point of view,  
25 Mr. Chairman, the record is complete, and I'm prepared to take

1 final action tonight.

2 CHAIRPERSON HOOD: Okay.

3 Commissioner May, you have anything to add?

4 COMMISSIONER MAY: No, I mean, you mentioned the  
5 conditions. I don't think there's anything really else to add.  
6 I think all this got worked out in a remarkably smooth hearing.  
7 So yeah, I don't see that there's anything else that I want to  
8 raise at this point. I'm ready to move forward.

9 CHAIRPERSON HOOD: And that's where the issue with the  
10 fine arts and all that has been resolved, United States Commission  
11 on Fine Arts, that has been resolved. So it looks like, as you've  
12 already stated, a lot of things have been taken care of.

13 Vice Chair Miller, are we able to hear you now, star  
14 6? Okay. So if you can hear me, I guess I believe it's  
15 appropriate, and I'm sure Ms. Lovick or somebody will tell me if  
16 not, that you can vote like you did previously. Unless I hear  
17 something otherwise, I'm going to keep going in that fashion.

18 So would somebody like to make a motion to accept this  
19 -- I mean, to approve it?

20 Commissioner Imamura?

21 COMMISSIONER IMAMURA: Well, thank you, Mr. Chairman.  
22 I move the Zoning Commissioner take final action on Case No. 22-  
23 16, Thor 3000 M Street, LLC, consolidated PUD and related map  
24 amendment at Square 1197, and ask for a second.

25 COMMISSIONER MAY: I'll second that.

1 CHAIRPERSON HOOD: It has been moved and property  
2 second. Any further discussion? Not hearing any, Ms. Schellin,  
3 could you do a roll call vote please?

4 MS. SCHELLIN: Yes.

5 Commissioner Imamura?

6 COMMISSIONER IMAMURA: Yes.

7 MS. SCHELLIN: Commissioner May?

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner Hood?

10 CHAIRPERSON HOOD: Yes.

11 MS. SCHELLIN: And we got a yes via text from  
12 Commissioner Miller. I don't think he's able to unmute for some  
13 reason, and that makes the vote four to zero to one to approve  
14 final action Zoning Commission Case No. 22-16. The minus one  
15 being the third mayoral appointee (indiscernible).

16 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. And  
17 I see you're making it work.

18 Let's go to Zoning Commission case No. 22-18. This is  
19 Argyle Condominium Association's map amendment at Square 2607.

20 Ms. Schellin?

21 MS. SCHELLIN: Yes. At Exhibit 40 NCPC provided a  
22 letter advising the case falls under one of their exceptions  
23 listed under Chapter 12 of their submission guidelines for  
24 exceptions. So that's all that we have as far as new submissions.  
25 So this case is ready for the Commission to consider final action

1 also. Thank you.

2 CHAIRPERSON HOOD: Okay. In this case it's already  
3 stated, I think a lot of this was fleshed out. I don't remember  
4 any major -- unless I'm mistaken that it's happened. But I will  
5 note that I believe unless I hear otherwise, we all agreed with  
6 that IZ Plus is appropriate for this map amendment. I think that  
7 was discussed previously. If not, I wanted to put that in unless  
8 I hear disagreement. I think we all agree on that. And that's  
9 pretty much it. Let me open up, any further questions or  
10 comments? Okay.

11 COMMISSIONER IMAMURA: I'll just take it, Commissioner  
12 -- Mr. Chairman. I think this is pretty straightforward. It's  
13 a comp plan consistency exercise was what this really boiled down  
14 to, so. And I'm prepared to take final action tonight.

15 CHAIRPERSON HOOD: Okay.

16 Any additional comments?

17 COMMISSIONER MAY: No, I mean, I think we fleshed this  
18 out when we took proposed action. So I think it's, you know,  
19 it's ripe for final at this point.

20 CHAIRPERSON HOOD: Okay. All right.

21 Commissioner Imamura, I'm going to ask you to make the  
22 motion if you don't mind?

23 COMMISSIONER IMAMURA: Not at all, sir. I move that  
24 the Zoning Commission take final action on Case No. 22-18, Argyle  
25 Condominium Association map amendment at Square 2607 and that IZ

1 Plus applies, and ask for a second.

2 COMMISSIONER MAY: Second.

3 CHAIRPERSON HOOD: I was -- okay, we'll give that to  
4 Commissioner May, I think I was muted. But so -- all right. So  
5 it's been moved and properly second. Any further discussion?

6 All right. Ms. Schellin, could you do a roll call vote  
7 and the Vice Chair will vote as he's been doing previously?

8 MS. SCHELLIN: Okay.

9 Commissioner Imamura?

10 COMMISSIONER IMAMURA: Yes.

11 MS. SCHELLIN: Commissioner May?

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: And Commissioner Miller just sent a text  
16 voting yes. So that makes it four to zero to me to approve final  
17 action Zoning Commission Case No. 22-18. Third mayoral appointee  
18 position being the minus one. Thank you.

19 CHAIRPERSON HOOD: Okay. Let's move right on. I may  
20 have lost my place. Are we at time extensions?

21 MS. SCHELLIN: Yes. 15-21D.

22 CHAIRPERSON HOOD: Okay. All right. Let's go to time  
23 extensions. Zoning Commission Case No. 15-21D, Kenilworth  
24 Revitalization I, JVC, LLC and DCHA, one-year PUD time extension  
25 to Square 5113, 5114, and 5116.



1 Ms. Schellin?

2 MS. SCHELLIN: There is only one new -- well, I'm sorry,  
3 this is a new filing. So they are requesting a two-year -- I'm  
4 sorry, a one-year PUD time extension. They're also asking for a  
5 waiver because this is their third time extension. So they're  
6 asking for a waiver of Section Z, 705.5, which allows no more  
7 than two time extensions, and the second one being for one year,  
8 which that is what they are requesting. So they're asking for a  
9 waiver from the standard of review. And at Exhibit 6, there's  
10 an OP report that recommends the approval. Their justification  
11 for the waiver and the time extension is that it's based on delays  
12 in financing, navigating unfavorable market conditions,  
13 coordinating multiple (indiscernible) project with DCHA involving  
14 relocating families, and states that granting such a waiver will  
15 not prejudice the rights of the only party which is ANC 7D because  
16 the Applicant is diligently proceeding with the development  
17 program. So this request is before the Commission to consider  
18 final action on. Thank you.

19 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

20 I will note we do have a letter from single member  
21 district 7D03, Dorothy Douglas, in support, but we don't have a  
22 full letter from the full ANC, so let's talk about that first.  
23 Any -- do we want to hold off on this? I do know we do have a  
24 representative from one single member district, but that doesn't  
25 cut the mustard as far as getting great weight. And I'm just

1 curious of what others think on that issue.

2 Commissioner May?

3 COMMISSIONER MAY: Yeah, I think this is pretty  
4 straightforward. It's just a time extension. We've already  
5 gotten over the big hoops with regard to the approvals of the  
6 project back from when it was approved. And I don't know what  
7 year it was, but. And I, you know, I think the issues associated  
8 with it have been fleshed out pretty thoroughly. And you know,  
9 this is now a project that's under construction, and they have  
10 given good reason for why they need a waiver and another time  
11 extension. So you know, I mean, it's not -- it's -- it -- they're  
12 dealing with the market conditions, which we know have been rough.  
13 We've been dealing with a number of these time extensions and  
14 waivers because of that. We -- this is also a case where they're,  
15 you know, they're working with DCHA, who actually controls the  
16 property. And the last thing that I think is an interesting  
17 complication and a good reason why it would take a little bit  
18 longer is that they are not -- they want to be able to move folks  
19 from, you know, existing housing into, you know, newly built  
20 buildings so that they don't have to move twice. And I think  
21 that's a worthwhile reason. I mean, it's a good thing for them  
22 to do. It's a good reason for us to give them a little bit of  
23 slack in the circumstance. So I don't have any problem with  
24 moving ahead today, even if we haven't heard from the full ANC.  
25 They did have theoretically enough time to do that. So I'm not

1 -- if they were really had concerns about it, I think we would  
2 have heard.

3 CHAIRPERSON HOOD: Okay. Thank you, Commissioner May.  
4 Commissioner Imamura, anything to add?

5 COMMISSIONER IMAMURA: No, I think Commissioner May  
6 stated it quite well. The Applicant has shown good cause and I  
7 think this is just -- you know, some justifiable statements for  
8 us to move forward tonight.

9 CHAIRPERSON HOOD: Okay. And as we all know, the  
10 Applicant did address our issues and I'm sure we've all read  
11 them. The feasibility, I think we had issues on that.  
12 Sufficiency of the Applicant's affordable housing proffer, I know  
13 there were some questions about that. We mentioned that IZ would  
14 not apply to this PUD, we've been going through that, as  
15 mentioned. I think -- I know Commissioner May I think articulated  
16 that during that proceeding. And discussion of the proposed MU-  
17 9A zoning potential inconsistency, I think we've fleshed a lot  
18 of that out.

19 MS. LOVICK: Well, aren't we on the time extension?

20 CHAIRPERSON HOOD: Did I go to another -- are we on the  
21 time extension?

22 MS. LOVICK: Oh, okay. Yeah, you -- I'm sorry, you  
23 moved ahead and I got --

24 CHAIRPERSON HOOD: All right. You know what? I done  
25 moved to the -- I'm sorry.

1 MS. LOVICK: No, you moved ahead, yeah.

2 CHAIRPERSON HOOD: I move to the proposed. Let me back  
3 up and move back up.

4 MS. LOVICK: We're on the time extension.

5 CHAIRPERSON HOOD: Okay. I'm sorry. I though -- I was  
6 on the -- okay. I'm on another case. Well, with everything else  
7 that I'm over here working on, trying to figure things out, I  
8 can make a mistake. Okay. So I would agree. This is the  
9 Kenilworth. So yeah, I can agree, I think it's pretty  
10 straightforward. I don't have anything other than to add that  
11 we have to do a waiver I believe of our rules on this one. Is  
12 that correct, Ms. Lovick?

13 COMMISSIONER MAY: Yes.

14 CHAIRPERSON HOOD: Yeah. Okay. That's all I need to  
15 know. All right. Thank you for straightening out.

16 All right. So with that, we will grant the waiver --  
17 somebody make a motion and include all that in one?

18 COMMISSIONER IMAMURA: Sure, I'll make the motion.

19 COMMISSIONER MAY: Good, thank you.

20 COMMISSIONER IMAMURA: As stated by Chairman Hood, so  
21 I move we take -- Zoning Commission take final action on time  
22 extension for Case 15-21D, Kenilworth Revitalization I Joint  
23 Venture, LLC and DCHA, one-year PUD time extension at Squares  
24 5113, 5114, 5116 to include waiver and time extension request,  
25 and ask for a second.

1 COMMISSIONER MAY: Second.

2 CHAIRPERSON HOOD: Case has been moved and proply  
3 second.

4 And Ms. Shellin will give us the other vote from Vice  
5 Chair. So any further discussion?

6 All right. Ms. Schellin, could you do a roll call vote  
7 please?

8 MS. SCHELLIN: Yes.

9 Commissioner Imamura?

10 COMMISSIONER IMAMURA: Yes.

11 MS. SCHELLIN: Commissioner May?

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: And Commissioner Miller voted yes for  
16 the waiver and yes for the extension, so that makes the vote four  
17 to zero to one to approve final action Zoning Commission Case No.  
18 15-21D, minus one being the third mayoral appointee position  
19 which is vacant. Thank you.

20 CHAIRPERSON HOOD: Okay. Thank you.

21 Now, let me go to the case and I'm going to start here  
22 so I can finish off where I left off. Let's go to proposed action  
23 Zoning Commission Case No. 96-13A, Street Retail, LLC,  
24 modification of significance and a PUD and map amendment at Square  
25 1661.

1 Ms. Schellin?

2 MS. SCHELLIN: Yes. The Applicant's post-hearing  
3 submissions are found at Exhibits 38 through 38C and 39, and the  
4 OP supplemental report is at Exhibit 40. And this is ready for  
5 the Commission to consider proposed action. Thank you.

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

7 And I think we heard this case on December the 5th and  
8 we've also heard -- we've heard from the Applicant, but we also  
9 heard from a number of parties overall comments and opposition  
10 from the Ward 3 Housing Justice, Committee 100, and OAG as well.  
11 They thought that we should have -- this project should have  
12 additional more affordable housing, more set aside, and I think  
13 some of the responses that we've had, especially from the Office  
14 of Planning and we got responses from the Applicant, as we noticed  
15 there were three conditions. The Applicant agreed to the first  
16 two conditions and following OP withdrew the third condition --  
17 actually I think they did it on the -- at the public meeting.  
18 There was some other issues that came up, the recommendation  
19 regarding the side yard flexibility, also the request for more  
20 information. So I think all that has been resolved the way I  
21 understand it. And as I was stating earlier, there was some  
22 submissions that were included speaking with the discussion of  
23 the MU-9A, sufficiency of the Applicant's affordable housing  
24 proffer, there was commented on some of the comments that we  
25 heard from housing -- Ward 3 Justice and the OAG, as well as

1 Committee 100, and then determination of the feasibility of the  
2 (indiscernible) suggested by the Commission, and the Applicant  
3 responded to those things. So let me open it up for questions  
4 or comments or responses that you're satisfied with or not  
5 satisfied with.

6 Commissioner May? You heard this? Yeah.

7 COMMISSIONER MAY: I'm sorry. What was that last thing  
8 you said?

9 CHAIRPERSON HOOD: I was trying to remember did you  
10 hear this case, but you did I think.

11 COMMISSIONER MAY: Oh, yeah.

12 CHAIRPERSON HOOD: Okay.

13 COMMISSIONER MAY: Yeah. So I mean, this certainly is  
14 an interesting case because of where it is and what's happening  
15 to the existing building and how it's going to change as a result  
16 of this. And you know, there were issues having to do with the  
17 comprehensive plan implying that additional planning was needed  
18 before such action could be taken. I think that the Applicant  
19 and the Office of Planning have both made the case pretty clearly  
20 that a (indiscernible) development is not really subject to that  
21 requirement for the additional area planning. The, you know, the  
22 concerns about whether the level of affordability is, you know,  
23 is appropriate or is sufficient, I guess is the better word for  
24 it, again I think the Applicant has made a good case. It is by  
25 all of our past standards for PUDS. This is a very significant

1 inclusionary zoning component for this project, a range of  
2 affordability that we often do not see. And so I think that  
3 it's, you know, that proffer of affordable housing is worthy of  
4 approval. I think that, you know, the concerns that, you know,  
5 we should be using IZ Plus as a floor for consideration on PUD  
6 cases, you know, that keeps coming up. I hope at a certain point  
7 people begin to understand that that is not what IZ Plus is  
8 intended to be and that we should not be using that as the  
9 measuring stick when it comes to IZ in a PUD case, because there  
10 are other benefits that come from it.

11           Frankly, I thought from the moment that this was set  
12 down that it was going to be controversial, but not in the ways  
13 that it has, that, you know, that people had concerns about.  
14 Right? I mean, my thinking was that because of its proximity to  
15 those, the other portion of the original PUD, those rowhouses in  
16 the back, I thought that was going to be where the resistance  
17 would come from, but it was not. And I -- you know, it's actually  
18 pretty remarkable. I think the developer's done a good job with  
19 the community outreach and with trying to address all of the  
20 varied demands on the project. And it's going to bring a lot of  
21 new units and a lot of new affordable units to a part of the city  
22 that could use both. So I think it's fully supportable as it  
23 has been presented to us, and I am prepared to vote in favor  
24 tonight. And this is a two-vote case, right? Yes.

25           CHAIRPERSON HOOD: This is a two-vote -- yes.



1 COMMISSIONER MAY: Yeah.

2 CHAIRPERSON HOOD: Okay. Thank you.

3 Before I go to Commissioner Imamura, I'm just letting  
4 the Vice Chair know if he has any comments, he can text them and  
5 I'll read them out loud or his vote.

6 Okay. Commissioner Imamura?

7 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I have  
8 nothing further to add. I think I'm in full agreement with  
9 Commissioner May's summary.

10 CHAIRPERSON HOOD: Okay. I don't have anything else  
11 to add. I will say that the Vice Chair concur -- let me make  
12 sure I got the right case number here -- he concurs. The Vice  
13 Chair concurs with his colleagues. So, okay, we'll just leave  
14 it at that. And proposed action, yes.

15 All right. And he's supportive.

16 All right. So Ms. Schellin, no -- so it's -- can I  
17 get a motion to approve this 19-13A?

18 COMMISSIONER MAY: I feel like we're on a like -- you  
19 know, Commissioner Imamura's on a roll and we should let him do  
20 all the motions today. What do you think?

21 CHAIRPERSON HOOD: It would be very helpful 'cause I'm  
22 looking at my phone and looking at people. It'd really be  
23 helpful.

24 COMMISSIONER MAY: Well, I'm not even asking you if you  
25 want to make them. It's really just like, Commissioner Imamura,

1 do you want to do it, if you don't, I'd be happy to do it.

2 COMMISSIONER IMAMURA: Happy to do it. Happy to do it.  
3 All right. Mr. Chairman, I move that Zoning Commission take  
4 proposed action for Case No. 96-13A, Street Retail, LLC,  
5 modification of significance of PUD and map amendment at Square  
6 1661 and ask for a second.

7 COMMISSIONER MAY: Second.

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

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

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: Commissioner May?

15 COMMISSIONER MAY: Yes.

16 MS. SCHELLIN: Commissioner Hood?

17 CHAIRPERSON HOOD: Yes.

18 MS. SCHELLIN: And Commissioner Miller is voting yes.  
19 He concurs with his colleagues, that makes the vote four to zero  
20 to one to approve proposed action in Zoning Commission Case No.  
21 96-13A. The minus one being the third mayoral appointee position,  
22 which is vacant.

23 CHAIRPERSON HOOD: Okay. All right. Let's go to  
24 hearing action. Start bringing up OP. Zoning Commission Case  
25 No. 19-31A. This is the Office of Planning text amendment to

1 Subtitle B 100.2, youth rehabilitation home. I think that is  
2 going to be -- I don't know who that's -- I know it's a telephone,  
3 whoever that is. So you may begin, whoever it's going to be.  
4 I'm sorry. If you hit star 6.

5 MS. BROWN-ROBERTS: Hello?

6 CHAIRPERSON HOOD: Yes, there you go. Ms. Brown-  
7 Roberts?

8 MS. BROWN-ROBERTS: Yes, Mr. Hood.

9 CHAIRPERSON HOOD: Okay. There you go. All right.

10 MS. BROWN-ROBERTS: If Mr. Young could bring up --  
11 there's a slide that I have. I'm not seeing it, so anyway. Good  
12 afternoon, Mr. Chairman and members of the Commission. Maxine  
13 Brown-Roberts, representing the Office of Planning on Zoning  
14 Commission Case 19-31A for a text amendment to Subtitle B, Chapter  
15 1 to add the definition of a youth residential care home. In  
16 the OP set-down report for Zoning Commission Case 19-31, the  
17 definition of youth residential care home was included and was  
18 also included in the use permissions list. However, it was  
19 inadvertently not included in the public hearing notice or the  
20 Zoning Commissioner order. This amendment would only add the  
21 definition for the youth residential care home. Next slide?

22 In the instant set-down report, two typos were  
23 identified in the proposed text and the text should be on the  
24 screen hopefully. And I just want to note that the two areas  
25 highlighted was that the word "that" should be "than." And for

1 the second, a Y was added to the word operator. The remainder  
2 of the text remains. The proposal will continue to not be  
3 inconsistent with the comprehensive plan when viewed through the  
4 racial equity lens. OP therefore recommends that the proposal  
5 be set down for public hearing. Thank you, Mr. Chairman, and  
6 I'm available for questions.

7 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts. And  
8 I want to make sure I crafted that correctly. The only thing,  
9 it's already a permissible use. The only issue is the definition.  
10 We're changing the two words and the definition, and it was left  
11 out. That's it. So it's not controversial (indiscernible)?

12 MS. BROWN-ROBERTS: No, let me go back.

13 CHAIRPERSON HOOD: Okay.

14 MS. BROWN-ROBERTS: The whole definition, the whole  
15 definition that is given to youth residential care home, that was  
16 left out. So we are proposing to put that back into the  
17 definition.

18 CHAIRPERSON HOOD: So (indiscernible).

19 MS. BROWN-ROBERTS: However, you know, set-down reports  
20 --

21 CHAIRPERSON HOOD: Uh-huh.

22 MS. BROWN-ROBERTS: In a set-down report, the  
23 definition had two typos in it and the first one was "that," the  
24 word "that" should be "than" and then in the second the word  
25 operator, a Y was added at the end.

1 CHAIRPERSON HOOD: Okay. I think -- I'm sure I got it.  
2 That's not complicated. I just wanted to make sure I was  
3 straight, and I appreciate you repeating that. So let's see if  
4 we have any questions or comments.

5 Commissioner May?

6 COMMISSIONER MAY: I have no questions or comments.  
7 This is pretty straightforward.

8 CHAIRPERSON HOOD: Yeah.

9 Commissioner Imamura?

10 COMMISSIONER IMAMURA: No questions or comments.

11 CHAIRPERSON HOOD: Okay. All right.

12 And Vice Chair, I didn't see -- I don't see -- okay.  
13 All right, I got it. All right.

14 All right. So with that, I would move -- thank you,  
15 Ms. Brown-Roberts.

16 MS. BROWN-ROBERTS: Thank you.

17 CHAIRPERSON HOOD: I would move that we set down Zoning  
18 Commission Case No. 19-31A, Office of Planning text amendment to  
19 Subtitle B, 102.2, youth rehabilitation home as discussed with  
20 Ms. Brown-Roberts from the Office of Planning, and ask for a  
21 second.

22 COMMISSIONER IMAMURA: Second.

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

25 Hearing none, Ms. Schellin, would you record the vote

1 please? I mean, would you do a roll call vote?

2 MS. SCHELLIN: Commissioner Hood?

3 CHAIRPERSON HOOD: Yes.

4 MS. SCHELLIN: Commissioner Imamura?

5 COMMISSIONER IMAMURA: Yes.

6 MS. SCHELLIN: Commissioner May.

7 COMMISSIONER MAY: Yes.

8 MS. SCHELLIN: And Commissioner Miller votes yes. So  
9 the vote is four to zero to one to set down Zoning Commission  
10 Case No. 19-31A as a rule-making case. The minus one being the  
11 third mayoral appointee position.

12 CHAIRPERSON HOOD: Okay. I think our last and final  
13 case is hearing action Zoning Commission Case No. 23-01, Office  
14 of Planning text amendment to Subtitle B 200.2, dormitory use  
15 within campus master plan in the MU zones.

16 All right. Let me go to the Office of Planning.

17 MS. BROWN-ROBERTS: Thank you again, Mr. Chairman. For  
18 the record, I'm Maxine -- uh-huh. For the record, I'm Maxine  
19 Brown-Roberts on behalf of the Office of Planning on Zoning  
20 Commission Case 23-21 (sic) regarding a text amendment to clarify  
21 that a dormitory within a campus master plan may utilize the  
22 matter of right residential density of the MU zones. A dormitory  
23 within a campus plan is res- -- in residential zone is allowed  
24 by special exception as part of the campus plan and stipulates  
25 that the maximum FAR and height allowed for all buildings and

1 structures on a campus plan within a residential zone. However,  
2 the regulations do not specify how to calculate the density of  
3 buildings within the campus plans in mixed use zones. A dormitory  
4 is listed as a use within the educational -- within the education  
5 college university use category and is therefore limited to the  
6 nonresidential FAR of mixed-use zones. This limits the density  
7 of a mixed-use building within a campus plan intended for campus  
8 housing and other uses at locations where higher densities are  
9 envisioned and encouraged. The proposed text amendment will  
10 clarify that notwithstanding the use category, dormitories are  
11 residential use and may utilize the residential density allowed  
12 within a mixed-use zone even when they're governed by a campus  
13 plan. The proposal would amend section B -- I'm sorry, Subtitle  
14 B, Section 200.2 by adding dormitories to the land listed -- to  
15 the listed examples of residential uses and by deleting education  
16 from the list of exceptions to residential uses. The proposal  
17 would not be inconsistent with the comprehensive plan, as it  
18 would allow for universities to house more of their students on  
19 campus and allow for the mixed use anticipated by the MU zones  
20 and is not inconsistent with the comprehensive plan when viewed  
21 through a racial equity lens. Therefore, OP recommends that the  
22 Zoning Commission set this application down for a public hearing.  
23 Thank you, Mr. Chairman, and I'm available for questions.

24 CHAIRPERSON HOOD: Thank you, Ms. Brown-Roberts.

25 Any questions of Ms. Brown-Roberts, anyone?

1 COMMISSIONER MAY: Yeah, I've got questions.

2 I don't understand this at all. So I guess what I'm  
3 getting out of this is that if a university is located in a mixed-  
4 use zone, that any dormitory use that is part of their campus  
5 plan would count against the educational component of that -- of  
6 their site or whatever, but couldn't be considered simply as  
7 residential, and so therefore it constrains how much density they  
8 could have for other uses; is that --

9 MS. BROWN-ROBERTS: That's correct, Mr. May. That's  
10 correct. That is correct.

11 COMMISSIONER MAY: So how often does this happen? I  
12 mean, how many universities have sites in mixed-use zones?

13 MS. BROWN-ROBERTS: I looked at it. And Howard  
14 University has it.

15 COMMISSIONER MAY: Howard University is the only one.  
16 Okay.

17 MS. BROWN-ROBERTS: Yes.

18 COMMISSIONER MAY: Is that the only one or is that the  
19 one that you are aware offhand?

20 MS. BROWN-ROBERTS: I looked at some of the others and  
21 I did not notice that. But -- so from my understanding, that's  
22 the only one.

23 COMMISSIONER MAY: Okay. And so the way this is -- I  
24 mean, I don't know that there's anything that's driving this in  
25 particular, but the way this would play out a -- you know, would



1 be that if the university proposed a mixed-use building within  
2 that campus plan, that they would -- I mean, they -- is it --  
3 would it stop them from actually developing a mixed-use building  
4 where there's retail on the ground floor and maybe some classrooms  
5 and then some -- well, I guess classrooms are still the  
6 educational use, but would it actually stop them from developing  
7 a mixed-use building or just place that constraint over the rest  
8 of the campus plan?

9 MS. BROWN-ROBERTS: No, it wouldn't restrict them from  
10 doing their ground floor retail. And in, you know, this is in  
11 response to a building that Howard is proposing that is along  
12 Georgia Avenue, which is zoned in the MU zones, and the property  
13 is zoned for a higher density; however, using -- if they were to  
14 use the nonresidential portion that's permitted, the density --  
15 the amount of units that they could get would be very low.

16 COMMISSIONER MAY: Ah, okay, 'cause the edu- -- 'cause  
17 it counts as an education use, not as the residential use?

18 MS. BROWN-ROBERTS: Not a residential use, yes, that's  
19 correct.

20 COMMISSIONER MAY: Oh, okay. Okay. Now it's becoming  
21 more clear because it's, you know, the zone might allow 6.0 FAR,  
22 but only, you know, 2.0 FAR could be nonresidential, something  
23 like that.

24 MS. BROWN-ROBERTS: Right. That's correct. That's  
25 correct.

1           COMMISSIONER MAY: Got it. So it's not about the  
2 entirety of the campus, it is about that individual -- or it can  
3 be about that individual building. All right.

4           MS. BROWN-ROBERTS: That's exactly it.

5           COMMISSIONER MAY: Yeah, I understand that. So if this  
6 is driven by a particular case, I think it would be helpful for  
7 the public's understanding and certainly for my understanding to  
8 see how this text amendment would affect that particular project,  
9 or at least have an example that would illustrate, if it's not  
10 that specific a case. If you don't want to -- if we don't want  
11 to go -- with a text amendment we don't want to get into the  
12 particulars of a case.

13          MS. BROWN-ROBERTS: Too specifically, right.

14          COMMISSIONER MAY: For a map amendment and things like  
15 that, we want to -- but being able to understand -- and you guys  
16 do good diagrams, so it would be a good, you know, a good way to  
17 make it easy for, you know, even people like me to understand.  
18 So I appreciate that. And now I feel like I have an understanding  
19 of what this text amendment is about. Thank you.

20          MS. BROWN-ROBERTS: Okay. You're welcome.

21          CHAIRPERSON HOOD: Thank you.

22          Any further questions or comments, Commissioner  
23 Imamura?

24          COMMISSIONER IMAMURA: I do not.

25          CHAIRPERSON HOOD: Okay.

1 I want to say that I really appreciate the exchange.  
2 I was trying to understand it, but I think the exchange  
3 Commissioner May and you and Ms. Brown-Roberts had I think really  
4 enlightened it and so now I want to associate myself with your  
5 comments about the diagram. So I really appreciate your  
6 conversation. So now I understand what's actually happening  
7 here. So great.

8 All right. Commissioner -- Vice Chair Miller, did you  
9 -- let me see -- you have any comments or questions? I don't  
10 see any, so -- let me see. Okay. I got you.

11 All right. Ms. Schellin, so we should be good. All  
12 right. So what I would do is move that we set down Zoning  
13 Commission Case No. 23-01 and appreciate the exchange between Ms.  
14 Brown-Roberts and Commissioner May and ask for a second.

15 COMMISSIONER IMAMURA: Second.

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

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

20 MS. SCHELLIN: Commissioner Hood?

21 CHAIRPERSON HOOD: Yes.

22 MS. SCHELLIN: Commissioner Imamura?

23 COMMISSIONER IMAMURA: Yes.

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: And I have a yes from Commissioner Miller  
2 to set down. So the vote being four to zero to one to set down  
3 Zoning Commission Case No. 23-01 as a rule-making case. The  
4 minus one of course being the third mayoral appointee position.

5 CHAIRPERSON HOOD: And do we have anything else on our  
6 agenda, Ms. Schellin?

7 MS. SCHELLIN: I do not. I know Ms. Steingasser is on,  
8 so if she has something, she can star 6 and unmute herself to  
9 speak, but I don't think they have anything.

10 CHAIRPERSON HOOD: Okay. Unless we hear a star 6 or  
11 anybody say anything -- okay, I see they unmuted I think. Ms.  
12 Steingasser, you have anything? Okay. Guess -- I don't think  
13 so. Some reason it's not a good day to have anything, so. All  
14 right. So anyway. The Zoning Commission will meet again, Ms.  
15 Schellin, let me know if I'm incorrect, on January the 19th,  
16 which is Trenton Park Apartments, LP, Zoning Commission Case No.  
17 22-10. We will meet at 4 p.m. on these same platforms and we  
18 will make sure hopefully we can get rid of some of our  
19 technological problems before then. So we need to do that. All  
20 right. So with that, I want to thank everyone for their  
21 participation in this meeting tonight. And with that, this  
22 meeting is adjourned. Good night, and again we apologized for  
23 the issues. Good night, everyone.

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

25

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

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 01-12-2023

Place: Teleconference

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

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GARY EUELL