

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

VIRTUAL PUBLIC MEETING

VIA WEBEX

1584th MEETING SESSION

THURSDAY, DECEMBER 14, 2023

The Public Meeting by the District of Columbia Zoning Commission convened via videoconference 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
TAMMY STIDHAM, Commissioner
JOSEPH S. IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, Esquire
JACOB RITTING, Esquire
DENNIS LIU, Esquire

The transcript constitutes the minutes from the Public Meeting held on December 14, 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 me are Vice Chair Miller, Commissioner Stidham, 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.

Our Office of Zoning Legal Division, Mr. Lovick, I mean, I'm sorry, Mr. Ritting, Ms. Lovick, and Mr. Liu. Copies of the -- and did I leave anybody out? No. Okay.

Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter and is also webcast live, Webex and YouTube Live.

The video will be available on the Office of Zoning's website after the meeting. Accordingly, all those listening on WebEx or by phone will be muted during the meeting unless the Commission suggests otherwise.

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

1 it's set down.

2 Again, we do not take any public testimony at our
3 meetings unless the Commission requests someone to come
4 forward.

5 If you experience difficulty accessing WebEx or with
6 your phone call in, then please call our OZ hotline number
7 202-727-0789 for Webex, login, or call-in instructions at
8 this time.

9 At this time does the staff have preliminary
10 matters?

11 MS. SCHELLIN: Sorry about that. Yes, sir. I'd
12 like to ask the Commission to please vote on having closed
13 meetings before each meeting and, if needed, hearing for
14 2024.

15 We typically do this every year in December, so
16 if we could do that, I'd appreciate it.

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

19 Colleagues, in accordance with 405(c) of the Open
20 Meetings Act, DC Official Code 2-575B, I move that the
21 Zoning Commission hold closed meetings on each Monday and
22 Thursday that is scheduled to hold a public meeting or
23 public hearing for the calendar year of 2024.

24 The closed meeting will begin at 3:15 and are for
25 the purpose of obtaining legal advice from our counsel on

1 all cases and to deliberate upon, but not voting on, the
2 contested cases -- sorry about that -- the contested cases
3 on the Commission's agenda. Is there a second?

4 VICE CHAIR MILLER: Second.

5 CHAIRPERSON HOOD: Okay. Will the secretary
6 please take a roll call vote on the motion before us now
7 that it has been seconded?

8 MS. SCHELLIN: Commissioner Hood?

9 CHAIRPERSON HOOD: Yes.

10 MS. SCHELLIN: Commissioner Miller?

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: Commissioner Stidham?

15 COMMISSIONER STIDHAM: Yes.

16 MS. SCHELLIN: Thank you. The vote is four to
17 zero to one third seat, appointed seat being vacant. So
18 the motion passes.

19 CHAIRPERSON HOOD: Thank you, everyone. I
20 request that the Office of Zoning provide notice of these
21 closed meetings in accordance with that.

22 Anything else on that, Ms. Schellin?

23 MS. SCHELLIN: That's it.

24 CHAIRPERSON HOOD: Okay. All right, let's go
25 right to our agenda.

1 I'm sorry?

2 VICE CHAIR MILLER: I thought Commissioner
3 Stidham was saying something and I couldn't hear her, but
4 maybe she wasn't.

5 CHAIRPERSON HOOD: Oh, Commissioner Stidham --
6 Commissioner Stidham, did you say something?

7 COMMISSIONER STIDHAM: No, sir.

8 CHAIRPERSON HOOD: Okay. All right. All right,
9 let me -- okay, good.

10 All right. Let's start with our agenda and I'll
11 just go in order unless somebody objects. Let's go to
12 advanced party status.

13 Zoning Commission Case No. 23-02. Office of --
14 wait a minute, it's an Office of Planning map amendment at
15 Square 175.

16 Ms. Schellin?

17 MS. SCHELLIN: Yes, sir. We have four parties
18 that are requesting individual -- I'm sorry, they're
19 requesting advanced party status approval.

20 They have all filed waivers because they thought
21 that they could have this heard and decided on December 18.
22 However, December 18th is a hearing and not a meeting.

23 And so they have all filed for a waiver for the
24 14-day filing notice or filing. And I think they filed it
25 about 10 or 12 days prior to this meeting.

1 So if the Commission would consider that waiver,
2 that would be great. And I have checked, all four
3 representatives are present, which is one of the
4 requirements.

5 CHAIRPERSON HOOD: Okay, thank you.

6 MS. SCHELLIN: So the waiver request is the first
7 thing.

8 CHAIRPERSON HOOD: Right. The waiver request.
9 And all four of them have filed the waiver request, right?

10 MS. SCHELLIN: They did, yes.

11 CHAIRPERSON HOOD: Okay. Any objections to the
12 waiver request?

13 Okay, certainly, I don't see -- Commissioner
14 Stidham, any objections to the waiver request?

15 MS. SCHELLIN: I can't see her. So --

16 CHAIRPERSON HOOD: I think I'll just take -- I
17 think I can be fine, just take that as a no. No
18 objections.

19 MS. SCHELLIN: Yeah. If we can't see her, we at
20 least have a quorum. So the three of you could proceed if
21 we -- if she's having difficulties.

22 CHAIRPERSON HOOD: Okay. She must be having some
23 difficulties. Okay. All right. So we will all give them
24 the waiver request. Understanding the request for the
25 advanced party.

1 All right, Ms. Schellin, what else do we need to
2 do on this?

3 MS. SCHELLIN: So each of them, the first one, I
4 don't know if you want to go through them, each
5 individually?

6 And I will say that the Office of Planning did
7 not file any opposition, which the regulations require,
8 that if they have opposition that they do that in writing.
9 Because this is all a paper process.

10 The consideration of party status now is all on
11 paper. So nobody is called up to the dais or in this case,
12 called forward unless the Commission feels a need to ask
13 any questions.

14 So I believe in one of the filings or in the
15 email they stated they talked and they feel that their
16 concerns are different and they cannot join together, as
17 the Commission asked at the opening of the last hearing.

18 And so therefore, they want to proceed to have
19 individual party status granted to each of the entities. I
20 believe there's one individual, yes, Mr. Jones. He's an
21 individual.

22 CHAIRPERSON HOOD: Randall Jones.

23 MS. SCHELLIN: So we've got Randall Jones --

24 CHAIRPERSON HOOD: Randall Jones.

25 MS. SCHELLIN: -- Black neighbors of 1617 U

1 Street Northwest, Dupont Circle, Citizens Association,
2 DCCA, and then homeowners within 200 feet of lots 826 and
3 827.

4 So we have four for your consideration. Thank
5 you.

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

8 I'm certainly not and we encouraged you
9 previously, and I do recognize that you said you all have
10 certain issues that may be different. I still would
11 encourage those organizations -- first of all, I have no
12 problems giving party status.

13 I just want to make sure it's efficient. But I
14 will, at the hearing, since they could not join together, I
15 would ask you do your presentation in some type of order,
16 whatever you can do to make it -- because we don't need
17 everybody to tell us the same thing.

18 Because the way I looked at this application, if
19 you're telling me the same thing then you're not unique.
20 So if everybody has the same issues, we're going to --
21 there's ways for us to deal with that too.

22 But according to our regulations, you have to be
23 uniquely affected. But if everybody comes down and say
24 that this is going on, that's going on, then you're not
25 uniquely affected.

1 So I don't necessarily have a problem. I always
2 want to make sure that the residents, including myself, are
3 being heard. I just try to make it more efficient. I
4 think I would say more efficiently effective in our
5 proceeding that is more advantageous to convince the
6 Commission the way you're going.

7 So I don't necessarily have a problem with any of
8 those, the homeowners of 200 feet, lots 826 and 827,
9 Randall Jones or the black neighbors of 17 U Street or
10 DCCA.

11 Every time I read DCCA, I think about DC Court of
12 Appeals. But it's another c in there. So either way,
13 Dupont Circle Citizens Association, I think I got it right.

14 But anyway, so I don't have a problem. But let
15 me open up to my colleagues and see where they are with
16 giving party status. But again, if we do grant it, I would
17 hope that you all will concur with me that they come to
18 some type of uniformity in their presentation or not be
19 duplicate, because I will be cutting that off and be
20 starting to talk about the same issues.

21 So, Commissioner Imamura, any comments on this?

22 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.
23 I concur with your comments. I certainly don't have any
24 concerns with granting advanced party status, but I think
25 what I heard you comment on is that they ought to

1 coordinate their presentation and that I think you made a
2 very good point, Mr. Chairman, that if any of them are
3 putting forward similar issues, then they are not uniquely
4 affected.

5 So if they all have, in fact, different concerns
6 or issues, it would make sense and behoove them to
7 coordinate their presentation, whether that be either in a
8 certain order based on topics or issues or concerns, or
9 however they think would be most efficient. But that's
10 where I stand, Mr. Chairman.

11 CHAIRPERSON HOOD: Thank you, Commissioner
12 Imamura.

13 Commissioner Stidham?

14 COMMISSIONER STIDHAM: Mr. Chair, I agree. I
15 agree also with your remarks regarding them to coordinate
16 their activities in the presentation.

17 CHAIRPERSON HOOD: And Vice Chair Miller?

18 VICE CHAIR MILLER: Thank you, Mr. Chairman. I
19 concur with each of your comments and encouraging them to
20 get together, if they can, to coordinate, not only for the
21 reasons that you've stated, to make it more efficient, but
22 really for their own case.

23 They are only going to have the time, the
24 collective time, in opposition that the applicant and the
25 parties in support will have. So if they're not

1 coordinating and presenting a coherent case, they're going
2 to end up maybe not using the best use of their limited
3 time that they'll have.

4 So it really would behoove them, in their own
5 interest, to coordinate and get together and designate a
6 representative, but I have no problem with any of them
7 being parties in opposition.

8 CHAIRPERSON HOOD: And thank you, Vice Chair, for
9 bringing that point about the time. I think that's very
10 critical and very important because I think DCA, DC Court
11 of Appeals has mentioned that to us before.

12 So anyway, let me also mention, Ms. Schellin, do
13 we still ask the applicants does he have any objections?
14 Or do we --

15 MS. SCHELLIN: No, if they had objections, they
16 should have put it in writing and they didn't do so. So
17 that opportunity is over now.

18 CHAIRPERSON HOOD: It's gone. Okay. I thought
19 so. Okay, great. I'm remembering more than I thought I
20 would.

21 All right, so with that, I will go ahead and move
22 that we set down with the party status, advanced party
23 status of before, which let me rename them homeowners
24 within 200 feet of lots 826 and 827, Randall Jones and
25 Black neighbors of 1617 U Street and also Dupont Circle

1 Citizens Association.

2 Hopefully I got Dupont Circle Citizen -- yeah,
3 hopefully I got that correct. Grant them advanced party
4 status in this case, which is case number 23-02. And ask
5 for a second.

6 VICE CHAIR MILLER: Second.

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

9 Not hearing any.

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

12 MS. SCHELLIN: Commissioner Hood?

13 CHAIRPERSON HOOD: Yes.

14 MS. SCHELLIN: Commissioner Miller?

15 VICE CHAIR MILLER: Yes.

16 MS. SCHELLIN: Commissioner Imamura?

17 COMMISSIONER IMAMURA: Yes.

18 MS. SCHELLIN: Commissioner Stidham?

19 COMMISSIONER STIDHAM: Yes.

20 MS. SCHELLIN: Okay. And so the vote is four to
21 zero to one to grant advance party status to the four named
22 groups and they are all four in opposition.

23 So that's granting them advanced party status in
24 opposition. The minus one being the third mayoral
25 appointee seat, which is vacant and that's it. Thank you.

1 CHAIRPERSON HOOD: Okay. Thank you. Let's keep
2 moving. Let's go to, under consent calendar, no, I'm sorry
3 -- yeah, consent calendar item. We have modification of
4 consequence, Zoning Commission, Case No. 11-03L, SRG Wharf,
5 phase 2 LLC, PUD modification of consequence.

6 Ms. Schellin?

7 MS. SCHELLIN: Yes, sir. There's a request from
8 the applicant for a modification of consequence to
9 construct enclosures for an outdoor cafe and entrance
10 within a portion of the ground floor of the parcel
11 six/seven building relating to a restaurant.

12 In addition to the OP and DDOT -- in addition to
13 DDOT and OP, all parties were served on November 16th. OP
14 filed a report at Exhibit 4 stating they believe the
15 application is appropriate for a modification of
16 consequence and the changes are generally consistent with
17 the intent of the original approval.

18 If the Commission agrees this is, in fact a
19 modification of consequence, then staff will be prepared to
20 set a schedule for the parties to submit their responses
21 along with the applicant to supplement the record as
22 requested by OP, who requested that they supplement the
23 record regarding materials they plan to use. Thank you.

24 CHAIRPERSON HOOD: Thank you, Ms. Schellin. I
25 appreciate you bringing up about the materials. I would

1 ask that the applicant -- if approve this -- first of all,
2 let me back up.

3 Does anyone disagree, as recommended, that this
4 is not a modification of consequence?

5 Okay. I assume that we all agree, so we'll do
6 that by general consensus. Thank you.

7 And as Ms. Schellin has already mentioned about
8 the supplemental record for the additional materials
9 consistent -- about the materials proposed for the
10 addition, consistent with submission standards for a PUD,
11 which I think OP has already asked for. So we ask them to
12 do that.

13 Ms. Schellin, can we do a scheduling?

14 MS. SCHELLIN: Yes, sir. And I would ask the
15 applicant to please reach out to the parties when they
16 serve them with this additional information. If they would
17 please file that additional information by our next
18 meeting, January 11th.

19 So if they would file that additional information
20 by December 28th, three o'clock p.m., then we can give the
21 parties until, a little additional time, until January 8th
22 to file their responses, and then we'll put it on for
23 January 11th for consideration, for deliberation.

24 CHAIRPERSON HOOD: Okay. Anything else on this
25 one, Ms. Schellin?

1 MS. SCHELLIN: No, sir. That's it for that one.

2 CHAIRPERSON HOOD: Okay. Thank you. Let's move
3 into Zoning Commission Case No. 85-16C, CLPF-CC Pavilion
4 LP, PUD modification of consequence at Square 1661.

5 Ms. Schellin?

6 MS. SCHELLIN: Yes, sir. On this one, the
7 applicant initially filed a minor modification request, but
8 then after talking with the community, they decided to
9 change that to a modification of consequence.

10 And that's what you have before you now. So --
11 sorry, I'm looking at a message. They're asking on the
12 case we just did that the ANC doesn't meet until January
13 8th, if they could change that to the second meeting.

14 So if I could, very quickly go back on that last
15 one and change that schedule for the applicant to provide
16 their information by January 8th and the ANC and any other
17 parties respond by January 18th.

18 And then we'll put this on for January 25th.
19 Sorry about that.

20 On this one, as I said, they came back with a
21 modification of consequence after community input. The
22 applicant is asking to revise Condition 13 of order number
23 517 to substitute a new truck management plan that provides
24 an updated truck delivery schedule that satisfies the
25 concerns of a new grocery store tenant.

1 The new plan has been accepted by the adjacent
2 building and ANC 3E subject to some conditions that ANC 3E
3 submitted and the applicant has agreed to at Exhibits 7 and
4 10.

5 OP and the original parties to the case were
6 served on November 7th. At Exhibit 9, OP filed a report
7 stating it has no objections to the requested
8 modifications.

9 Exhibit 8 is the ANC 3E report with the
10 conditions I mentioned that the applicant has agreed to.
11 And since the other parties have not yet responded, if the
12 Commission agrees, this is, in fact a modification of
13 consequence, a schedule for the parties to respond should
14 be set. Thank you.

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

17 What I would say -- let me first ask this. I
18 always forget this. Does anyone believe this is not a
19 modification of consequence?

20 Okay. Not hearing any. So we will consider this
21 a modification of consequence.

22 The only thing, and I just see what my colleagues
23 have to say. I get very nervous when we talk about money
24 and in this case and I don't want to undo anything, but I
25 see the applicant will pay \$10,000 to the courts of Chevy

1 Chase Homeowners Association to be used to reimburse costs.

2 Typically, this Commission has gotten away from
3 that. Typically, and I can stand to be corrected, I think
4 that language needs to be strengthened. I don't want it
5 undone.

6 I get what the HOA is trying to do and I agree
7 with the HOA. They want to have some protection there.
8 But should the applicant take care of the issue themselves
9 and show the bill of sales to the ZA and to the HOA or
10 should they give the HOA \$10,000?

11 I am not in favor of them or recommended them
12 giving the HOA \$10,000 because there's a specific mission
13 of what needs to be accomplished here if something goes
14 wrong.

15 I don't want to undo what's already been worked
16 out, but I think we either need to strengthen the language,
17 make sure exactly everybody knows what's happening and
18 what's going on.

19 Because in the past, I know that wouldn't happen
20 here, but in other cases, the 10,000 or 5,000 or 3,000
21 shows up doing something else and it doesn't accomplish
22 what the community worked towards.

23 So I just want to put the protections out there
24 for Chevy Chase HOA, as well as the applicant and the
25 residents who are looking for something to happen if

1 something does happen.

2 So I don't know how others feel. Let me see.
3 Vice Chair Miller, let me see how you feel about that?

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

5 Yeah, I generally concur with your comments, and
6 I think if we're going to set a time frame for party
7 responses, they should come back with maybe either a
8 condition for that monetary \$10,000 payment to the
9 homeowner's association for reimbursement for replacement
10 windows if the trucks for the grocery store end up damaging
11 their windows.

12 Either making it enforceable so that we have an
13 enforceable condition tied to a CFO for the grocery store,
14 since either the truck deliveries for the grocery store or
15 -- just it needs to be tightened, come back with
16 strengthened language that is clearly enforceable, either
17 tightened up with a specific milestone or time, like a CFO
18 of the grocery store or it's an escrow account, because I
19 don't even know if it's going to be necessary.

20 It would be preferable, just because of all the
21 reasons you say to Mr. Chairman, if the ANC or the
22 homeowners had a separate agreement with the applicant and
23 just worked it out, and we could acknowledge that in
24 whatever order we do.

25 But you're right, it does create some problems

1 whenever there have been monetary contributions without the
2 actual deliverable being -- be there before the CFO as to
3 how that money gets used.

4 So they can work that out in the time frame that
5 we, hopefully they could work that out and strengthen it or
6 remove it and do it privately, and we could let us know
7 that they've done it privately, have a separate agreement,
8 and we can acknowledge it.

9 So I guess that's where I am. I want to -- I
10 also don't -- I appreciate the applicant working with the
11 ANC, getting their approval based on these conditions in
12 this long running, contentious development. Thank you.

13 CHAIRPERSON HOOD: Okay. Thank you.

14 Commissioner Stidham, any comments?

15 COMMISSIONER STIDHAM: No, sir.

16 CHAIRPERSON HOOD: Okay.

17 Commissioner Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

19 I'm in agreement with your comments and the
20 comments of Vice Chair Miller. I think the general theme
21 is tighten up the language, make it date certain, or
22 provide evidentiary proof of the payment.

23 So it just needs more specificity to make it
24 enforceable. But otherwise, I think that would make
25 everybody a little more comfortable around the \$10,000

1 payment.

2 CHAIRPERSON HOOD: All right. Thank you all.
3 Thank all of you for your comments.

4 Ms. Schellin, could we do the scheduling?

5 MS. SCHELLIN: Yeah. I think in light of the
6 holidays, and it sounds like they need to work this out,
7 maybe we should use the same schedule that I would say,
8 actually, maybe not the same one.

9 We may need to give the applicant a little more
10 time, because it sounds like they need to come back with a
11 different condition.

12 So if the applicant could come back with a
13 revised condition or respond to that by, let's say, by,
14 since the Commission does not want any money out there, if
15 the applicant would provide their response by the 16th of
16 January, and then the parties can respond by the 23rd, then
17 we can put this on for January 25th.

18 CHAIRPERSON HOOD: Okay. So we all straight on
19 that, Ms. Schellin? We're good? We're good, January 25th?

20 Okay. Okay, good. All right. Let's keep it
21 moving.

22 Let me go to further deliberations. I'll be
23 frank, I don't know how much more we can deliberate on this
24 next case, but let me go to Zoning Commission Case No. 23-
25 08 and Zoning Commission Case No. 23-08(1), I believe.

1 Wesley Theological Seminary of the United Methodist Church.

2 MS. SCHELLIN: Sorry.

3 CHAIRPERSON HOOD: First stage PUD and request
4 Square 600, lot 6, 818 and 819, seven, eight, and nine, and
5 then 23-08(1), Wesley Theological Seminary of United
6 Methodist Church Campus Plan Square 1600, lot 6, 818 and
7 819, seven, eight, and nine.

8 Ms. Schellin.

9 MS. SCHELLIN: Sorry about that. My pups hit the
10 space bars. I think they run this laptop sometimes.

11 So on this case, they were on the last meeting
12 agenda, but they were deferred to allow all parties an
13 opportunity to respond to the applicant's filing that
14 included a statement from AU.

15 All parties have now responded and those are in
16 the record at Exhibits 69 through 74. In addition, from
17 that last meeting, the following exhibits were received;
18 Exhibit 66.

19 The applicant is requesting a two-month
20 postponement, now, one month until January 31, to give the
21 applicant more time to meet with AU to explore the
22 possibility of a text amendment and provide more
23 information on the student affordability housing program.

24 ANC 3E filed its opposition to that request at
25 Exhibit 67. The party in opposition, or joint parties in

1 opposition, filed their opposition to that request,
2 postponement request at Exhibit 68.

3 And then also a late filing at Exhibit 75 was
4 from the ANC to a motion to file its updated ANC report
5 came in, I think, today. I haven't had an opportunity to
6 look at it, but I got a message from our attorney asking to
7 update that too, that the ANC 3D filed a motion to be able
8 to update their ANC report.

9 Although their response, I think it may have been
10 a little out of scope in their response. It might have
11 included some new information, though.

12 If you could ask Mr. Liu about that, though. I
13 think that one of the parties, the party in opposition, had
14 made mention of that, that their updated response contained
15 information that was new information. And outside of the
16 response to the AU letter, I believe.

17 Mr. Liu, is that correct?

18 MR. LIU: I think ANC 3D, they're making a motion
19 just to late file an updated report since they had a
20 meeting, it appears, on the 6th. So they're saying that
21 they just want to file a letter as a result of that meeting
22 after the deadline.

23 MS. SCHELLIN: Oh, okay. Okay. Because they had
24 filed a letter and I returned it to them because it was
25 late. They had a -- it was outside of the deadline the

1 Commission had set, and it was brought to my attention by
2 the party in opposition.

3 In addition ,to the fact that it was late, the
4 party in opposition also advised that it was beyond what
5 they were supposed to respond to. And so that's why there
6 needs to be some clarification, I guess, on what they're
7 trying to file.

8 CHAIRPERSON HOOD: So let me ask, do we have that
9 letter already in the file?

10 MS. SCHELLIN: I think it's just the motion. Is
11 that correct, Mr. Liu?

12 CHAIRPERSON HOOD: So we don't have the letter?
13 We just have a motion?

14 MR. LIU: I see an updated ANC 3D report in ISIS
15 at Exhibit 74.

16 MS. SCHELLIN: Okay. So there is an updated
17 report? Okay.

18 CHAIRPERSON HOOD: Dated December the 6th. So
19 that's already in the file.

20 MR. LIU: Right?

21 MS. SCHELLIN: Okay.

22 MR. LIU: I think that's what they're asking to
23 late file.

24 CHAIRPERSON HOOD: It's already there anyway. So
25 I would have let -- let me just, for the record. I would

1 encourage my colleagues, let's let it in anyway, even if it
2 wasn't in. ANCs are our frontline; they don't get paid.
3 They don't get a dime and they work hard. And sometimes
4 they run up to the last minute and we got to stop this tit
5 to tat.

6 Our ANCs are working. I know people may be in
7 opposition of it, but we need as much information as we
8 can. We can decipher what does not go in there. And I'm
9 saying that for those who are in opposition, but I believe
10 that the ANCs work hard. They don't get paid.

11 Some of us have been around for a while, and we
12 know how hard those jobs are to do free work. So I'll
13 leave you with that. All right.

14 Anything else, Ms. Schellin?

15 MS. SCHELLIN: No, sir.

16 CHAIRPERSON HOOD: Okay. So now, Mr. Liu, I
17 think Mr. Lui, come back because I want to make sure I'm
18 proceeding correctly.

19 Now, we have to deal with taking care of that.
20 So now we need to deal with the ask of postponement,
21 correct?

22 MR. LIU: Right. Wesley is requesting a
23 continuance until January 31st.

24 CHAIRPERSON HOOD: Right. Let me start off.
25 Thank you, Mr. Lui.

1 Let me start off. And I want to hear from my
2 other colleagues. For me, when we set -- when we went away
3 -- well, we had to go away so they can respond.

4 Everybody's done that, for the most part.

5 For me, though, again, I'm going to go back to
6 something I said. Through the case, I'm really trying to
7 figure, and I was kind of concerned about AU's -- I'm not
8 going to say non-responses. They did respond. They
9 basically didn't respond like I thought they would have.

10 For me, here's my issue, and I stand to be
11 corrected if I'm wrong. The public, I'm sure, will let me
12 know. The parties and opposition will let me know. But
13 here we have Wesley, and I will be frankly clear that I
14 want Wesley to remain in the District of Columbia.

15 We got enough things going on where people are
16 talking about leaving this city and we don't need that to
17 happen. And this is all about timing.

18 So I want Reverend McAllister and all those to
19 know the goal for me, Reverend McAllister, Wilson, and I'm
20 putting this on the record, is for Wesley to stay here
21 where they are.

22 And I think we have to do it, but I'm just trying
23 to -- I just want to see us do it right. I was not fond of
24 telling the applicant to come back with a PUD. That's not
25 up to me.

1 All I'm doing is -- my job, I believe, is to come
2 back and deal with what's in front of me and be able to
3 make sure it falls in line with the law. If I stick to the
4 law, then I'm fine.

5 But my problem is about this commercial, I can't
6 just get away from that. Here's AU -- more AU -- so I'm
7 going to say 90 percent and I may be wrong on my numbers,
8 90 percent are going to stay in this new dormitory and 10
9 percent of Wesley, and that helps support Wesley.

10 Okay, I get that. No one has produced another
11 college doing this. I don't think it's done in this city.
12 The community, some folks, one of the ANCs, I think, it's
13 3E is concerned that this is commercial use. And it's not
14 relevant to the mission of Wesley.

15 I mean, that's arguable. But still, for me, I
16 just need that cleared up. I want to clear that up. And
17 that's why I wanted Wesley to go back and come up with a
18 formula, within our regulations, to make it right.

19 Because Wesley, understand this, Anthony Hood
20 wants you to stay, and I think others do. So you know, I
21 get it. I want you to stay right there where you are and
22 flourish and not age in place. But what is it? Sustain in
23 place, I guess, is what I would say.

24 But how we get there, I think, is key. And I
25 know there's some objections. I'm not necessarily with all

1 objections, but I just can't get beyond the commercial use,
2 where the money will then be paid to Wesley to help them
3 sustain.

4 You know. I'm trying to work through that. If I
5 can get through that and we can figure that part of it out,
6 then I don't have a problem moving forward, but I do want
7 Wesley to stay. I can't say that more than enough, and I'm
8 making my point clear and loud and clear, and that's what I
9 believe.

10 So let me go to Commissioner Imamura first.

11 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

12 This is certainly a complex case, a lot of moving
13 parts, a lot of issues here, and it's an important one.

14 I've always said zoning is imperfect. It's a bit
15 of science and a bit art. And so this is part of a little
16 bit of both.

17 I think that the other aspect of this, Mr.
18 Chairman, is also the IZ component. If the dormitory were
19 only for Wesley, it would not trigger the IZ requirement.
20 But because they're targeting AU students as well, that's
21 also a sticking point here.

22 And so by effect, it's creating affordable
23 student housing program, one where there's not really any
24 bumper guards or structure put in place yet for that. And
25 I certainly don't think that the Zoning Commission is

1 structured in a way to stand something up like this.

2 It is a creative solution to a very difficult
3 financial problem, and that certainly makes a lot of people
4 uncomfortable about this sort of agreement, structured
5 agreement with a third party coming in to do the
6 development.

7 I think that the fact that they've suggested, the
8 applicant has suggested to postpone until January 31
9 certainly interests me to see what else they might be able
10 to come up with and where this might lead.

11 I think you're right, Mr. Chairman, that
12 everybody is in general agreement that it benefits the city
13 and the neighborhood for Wesley to thrive in place, stay in
14 the District.

15 But as you mentioned, it's the way in which we
16 get there. We want to get to, yes, but we need to do it in
17 a way that I think is in adherence to our regulations. So
18 I remain uncomfortable about this case and what's been
19 proffered, and I certainly see both sides and I think that
20 we can reach a resolution here.

21 I'm interested in finding out, you know, an
22 additional 45 days here or so, whatever it is, until
23 January 31st, to find out what else Wesley might be able to
24 generate in terms of either AU?

25 Maybe they might have further conversations with

1 AU or maybe they have additional numbers or information to
2 provide us. I think for a case like this, Mr. Chairman,
3 I'm rather surprised that they didn't come forward at the
4 beginning with the data to support a project like this.

5 In a data driven world where we make informed
6 decisions based off of a collection of information and
7 data, I thought that maybe they would say, x number of
8 students we anticipate. We've done our market research and
9 studies. These are the numbers. This is what we
10 anticipate in terms of a business plan, and I haven't seen
11 that.

12 And the fact that AU will engage at an
13 appropriate time has kind of come and gone. And it does
14 seem rather that they're not taking a position one way or
15 the other. Certainly understand that also, given the
16 sensitivity of this case and that it's delicate, and that
17 maybe there might be some more information that Wesley
18 comes forward with.

19 Otherwise, I think that, I'm not sure -- I'm not
20 convinced yet that the Zoning Commission is set up to
21 establish an affordable student housing program. And
22 certainly, as I mentioned before and shared with Vice Chair
23 Miller at one of our hearings, we deliberated over 15 hours
24 on this case.

25 I'm all for affordable student housing. I could

1 have benefited. I was a student from something like that.
2 But based on what's before us, I'm not quite convinced or
3 certain that this is the right framework to set up for us.

4 But like you said, Mr. Chairman, I want to get to
5 yes. Just not sure that we're there yet.

6 CHAIRPERSON HOOD: Thank you. And I would hope
7 that Wesley's listening and that they would take the
8 comments of Commissioner Imamura very seriously about the
9 data driven piece. I think that's very important. That's
10 a good point.

11 So I'm hoping that once we get, if we decide to
12 postpone, which I'm inclined to do, and I think he is as
13 well. So we know we got two right now, but I want to throw
14 a caveat in that after I hear from my other colleagues.

15 Commissioner Stidham?

16 MS. SCHELLIN: Thank you, Chair Hood.

17 You know, I am supportive of Wesley staying
18 within the city and supportive of finding a way, but I too,
19 am uncomfortable with where we are right now.

20 There's two things that I'm uncomfortable with.
21 I'm not convinced this isn't a commercial activity, and I'm
22 not convinced that this is an educational use.

23 I do agree that dormitories on a campus are an
24 educational use when it's providing that service to the
25 students that go there. But the fact that I think it's

1 only 90 Wesley students and the rest are unknown at this
2 point that it's hard for me to accept that it's an
3 educational use for Wesley. It's just not making all that
4 sense.

5 And the amount, the size of the dormitory for
6 what they're asking for, the impacts to the community and
7 the relief that they want, it's just not adding all up for
8 me.

9 I am willing to give them 45 more days to come up
10 with more information that maybe changes where I am. So
11 I'm happy to do that. I just want to be clear that there
12 are still outstanding questions that I haven't been able to
13 resolve.

14 CHAIRPERSON HOOD: Okay. Thank you.

15 Vice Chair Miller. Any additional comments?

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

17 I'm not sure that I have any additional comments
18 beyond what I've stated on several prior occasions when
19 this case has come up.

20 But what's before us is the request for
21 continuance to January 31st, or whatever that is, for them
22 to -- for Wesley to evaluate the latest request from what's
23 in the record that they consider a text amendment.

24 I think, without being redundant, I previously
25 stated that I do not support a city-wide text amendment

1 based on this one extraordinary case. I don't think a hard
2 case should make bad law for the Zoning Commission.

3 I'm willing to consider a text amendment if it
4 makes the process going forward for Wesley to stay in place
5 to exempt it from the IZ regulations, despite the fact that
6 they are committing and would be in our order to set aside
7 more affordable housing units at a deeper set aside than
8 the IZ would require if it did apply.

9 It normally wouldn't apply if it was just Wesley
10 students. It's AU students. So IZ comes into play or has
11 to be dealt with. DHCD has said they think they can do an
12 affordable housing covenant. In this case. I was willing
13 to let that go forward, whether it was part of the campus
14 plan, the PUD combination with a text specific -- a site
15 specific text amendment that would make it easier for this
16 process to move forward.

17 This is not the case. We don't choose the cases
18 -- well, sometimes we do, if we initiate, which we should,
19 maybe more often, but we don't choose the cases that
20 applicants bring before us.

21 And I would have preferred, as I've said several
22 times before, if Wesley and AU had worked something out
23 differently, a disposition of some sort, where AU would get
24 this abutting property. Abutting. It's abutting. Two
25 educational institutions, abutting each other, that have a

1 religious affiliation, historically.

2 One has a lot of students who need housing, and
3 the other has few students that need housing. One has a
4 religious do-gooder mission. They're both nonprofits.

5 All of the revenue that Wesley would receive
6 would go toward their, from this arrangement, would go
7 toward their educational mission. It's a dormitory. It's
8 abutting another university where there's been a long-
9 standing relationship.

10 So I didn't have a problem with the considering
11 it a residential use. I realized that's a disagreement.
12 And I understand the disagreement with those of my
13 colleagues and those in the community on that point,
14 whether it's commercial use or residential use.

15 But anyway, what's before us is a request for a
16 continuance to see if we can find a way, if they can find a
17 way to get majority of the Commission to support it going
18 forward somehow.

19 So I'm willing to give them that extra time or as
20 much time as they. So that's where I am. That's what's
21 before us. I support the request for continuance.

22 Thank you, Mr. Chairman.

23 CHAIRPERSON HOOD: Thank you. And good afternoon
24 and good evening, almost good evening to my good friend,
25 Archie. I saw him coming. It's always good to see the

1 young folks.

2 I don't know how much he's listening, but I'm
3 sure he hears a little bit. Those dribbles going in his
4 ear. And he hears what's going on.

5 VICE CHAIR MILLER: He's very interested. And
6 when he hears your voice and sees your face, he's familiar.
7 And even though you've only met a few times, including at a
8 July 4th parade, he likes to see you, Chairman Hood.

9 CHAIRPERSON HOOD: Likewise. Likewise.

10 I agree with the postponement. But here is what
11 I was thinking. First, I want to know why they asked the
12 January 31st. This is holiday time, and I've said this to
13 many.

14 So I wanted to give them more time. And I know
15 that I probably should just kept my mouth shut. But I know
16 what happens during -- I think our last hearing is when?
17 Monday.

18 Sharon, isn't it Monday? And we wouldn't come
19 back on the 8th if it wasn't for another case. We wouldn't
20 come back the second week in January, if it wasn't for this
21 case that the Commission decided to have.

22 So I just think that we need to give them more
23 time. I actually was thinking out to March the 1st. Now
24 they don't need it, but I wanted to give it to them.
25 Because I'd rather have given it to them in advance than to

1 come back January 31st or whatever date was, and we still
2 have the same stalemate.

3 Because March 1st, we will be, I hope to move
4 forward. I don't know. Let me just throw that out there.
5 Here what others say. If you think that they're going to
6 work during the holiday season on this as opposed to
7 spending time with their families and celebrating the
8 reason for the season or whatever, however they celebrate,
9 then I don't know.

10 Maybe I'm wrong. But I just believe in the
11 holiday time people kind of wind down and so do we. So let
12 me hear from others.

13 Commissioner Imamura?

14 COMMISSIONER IMAMURA: Mr. Chairman, I think the
15 good reverend is putting his faith in a Christmas miracle.

16 So I'm not opposed to extending this out should
17 they want more time. I know that they probably felt by
18 that when they did submit this suggestion, or to January
19 31st, I think it was almost two months or longer, rather
20 almost, maybe two and a half or three months out.

21 So I'm not opposed to giving them additional time
22 should they need it or want to take it. I think that it's
23 a good idea to ferret out whatever it is that they can and
24 come back with next steps.

25 CHAIRPERSON HOOD: Okay. Thank you.

1 Ms. Schellin, you held your phone. Did they
2 already contact you on my comments?

3 MS. SCHELLIN: I was just going to state that the
4 January 31st deadline would bring that back to the
5 Commission at the February 8th meeting. If the Commission,
6 since you mentioned March 1st, you could put it off if you
7 wanted to. I wanted to give you that option.

8 There is a second meeting in February on the
9 29th, Leap Year. If you wanted to do it on February 29th,
10 which puts you almost at March 1st.

11 VICE CHAIR MILLER: That's Archie's birthday.

12 MS. SCHELLIN: Oh, Archie gets to celebrate for
13 once.

14 VICE CHAIR MILLER: We don't have to not schedule
15 it because of that, but since you happen to mention that
16 it'll be his first real birthday --

17 MS. SCHELLIN: Yeah.

18 VICE CHAIR MILLER: Because he'll (crosstalk) --

19 MS. SCHELLIN: So we have a meeting that night
20 and so we could put it on for that night and work some
21 dates out for submissions and responses based on that
22 meeting if the Commission would like.

23 CHAIRPERSON HOOD: Let me see what others --

24 MS. SCHELLIN: Yes. I just wanted to let you
25 know about that.

1 CHAIRPERSON HOOD: Commissioner Stidham, what do
2 you think?

3 COMMISSIONER STIDHAM: I'm fine with extending it
4 longer since this is the holiday season.

5 CHAIRPERSON HOOD: And Vice Chair Miller, you and
6 Archie -- tell Archie I appreciate it if he does it, that
7 way he'll spend his birthday with us.

8 VICE CHAIR MILLER: He was right here and I
9 didn't ask him if it was okay, but it's okay with me.

10 CHAIRPERSON HOOD: Okay. Let's do that. And if
11 they have a problem with what I'm proposing, then they can
12 always let us know. We'll move it back further, to back
13 closer to January 31st, but I just think the holiday
14 season, and I do understand. I agree. I'm hoping we get a
15 miracle, if not, we will work it out. We will work out the
16 miracle.

17 All right. Anything else on that, Ms. Schellin,
18 or is that good?

19 MS. SCHELLIN: Just got the dates. Which meeting
20 date did you want to go with? The 29th?

21 CHAIRPERSON HOOD: Yeah, 29th. I'm sure they
22 would have contacted you by now if it was a problem. If
23 that was a problem.

24 MS. SCHELLIN: I didn't get an email, so working
25 with that date, if we could have -- we want to allow our

1 staff an opportunity to be able to review these documents,
2 so if we could have the applicant provide their submission
3 by February 9th, 3 p.m., and then the parties would have
4 until February 16th to provide their responses by 3 p.m.
5 Then we can put this on for the 29th of February.

6 CHAIRPERSON HOOD: Okay. Thanks, everybody.

7 Let's --

8 MS. SCHELLIN: Yeah, we'll go with that date. He
9 was saying okay or later in early March. I think this is a
10 good date. We'll just go with it.

11 CHAIRPERSON HOOD: Okay. Was that the applicant
12 that was saying that?

13 MS. SCHELLIN: Yeah. But I mean --

14 CHAIRPERSON HOOD: Okay. So let's --

15 MS. SCHELLIN: -- you guys need -- I mean, if
16 they were asking for January 31st and we're giving them
17 another month, I think that's a --

18 CHAIRPERSON HOOD: Yeah. Okay. I think we're
19 good. I'm good. But just the fact by them asking, even
20 adding to that, tells me that we're making the right move.
21 So I'll leave it there.

22 MS. SCHELLIN: Yeah.

23 CHAIRPERSON HOOD: Okay, thank you. All right,
24 where are we at now?

25 MS. SCHELLIN: 22-23. Final action.

1 CHAIRPERSON HOOD: Okay. Hold on one second.

2 MS. SCHELLIN: I believe. Final action.

3 CHAIRPERSON HOOD: Okay. I'm at time extension.

4 Okay, let me go back. Okay, I see where we are.

5 Okay. Next final action on Zoning Commission
6 Case 22-23, Alan Gambrell, Hugo Roell, AIA Guillermo Rueda,
7 forgive me for butchering your names, I know I did, AIA
8 text amendment to Subtitle B, Section 324.1.

9 Ms. Schellin?

10 MS. SCHELLIN: Yes, sir. A notice of proposed
11 rulemaking was published on November 3.

12 The only response we got was from the petitioner.
13 They provided comments at Exhibit 23. I believe there were
14 four things they made comments on.

15 NCPC provided delegated action at Exhibit 25,
16 finding the proposed text would not be inconsistent with
17 the federal elements of the Comp Plan or adversely affect
18 any identified federal interest.

19 So this case is ready for the Commission to take
20 final action if it deems to do so. Considering the
21 petitioner's submission, also their comments, if you'd like
22 to accept those changes?

23 CHAIRPERSON HOOD: Okay, let me just go over the.
24 I always thank our legal staff for pulling all this out of
25 all the other stuff and making sure that we focus on

1 exactly what's at hand.

2 There were three comments. There was one comment
3 from the petitioner that said, deletion of text dealing
4 with 100.2 yard as the edit is in there. The Office of
5 Planning recommended against changing its definition in the
6 Zoning Commission, we concurred, but the petitioner had
7 three comments.

8 The other comment was on page -- okay. The other
9 comment was revision of the draft set down narrative,
10 including removing incorrect narrative, stating that the
11 text amendment purpose was to revise the building area
12 definition and replacing with narrative to explain the
13 actual goal.

14 Clarification with ZC-17 reversion that changed
15 the building area definition and thus the calculation of
16 lot occupancy. Again. And then the last one, I believe,
17 is page -- which was on page 3. Revision of language in
18 the public hearing section that incorrectly credited the
19 Office of (inaudible) uncovered with reference and
20 calculation of building area for porches and decks no more
21 than 4 feet from the ground level was offered by the
22 petitioner and I think they all agreed to by the Office of
23 Planning and Sub planning endorsed by the Zoning
24 Commission. Okay.

25 Any issues on those? I think, from a legal

1 standpoint, we've been advised that we can adopt it if we
2 choose to and if we have any concerns, we can always not
3 adopt it.

4 But I think this actually clarifies and I want to
5 thank this petitioner for being that -- being that up on
6 this to make sure that we did not put anything out there
7 that may have caused more confusion when we're trying to
8 write regulations to lessen confusion.

9 Any comments from anyone?

10 Commissioner Imamura? Commissioner Stidham?
11 Vice Chair?

12 Okay. No comments. All right. So this is final
13 action? Yeah, this is final action. Somebody like, and I
14 want to thank again, the petitioner as well. I think I
15 covered everything. If not, I'm sure somebody's camera
16 will come on, but I must have.

17 So somebody like to make a motion to approve this
18 under final action.

19 COMMISSIONER IMAMURA: I'll make the motion, Mr.
20 Chairman.

21 I move that the Zoning Commission take final
22 action or approve Case No. 22-23, Alan Gambrell, Hugo
23 Roell, AIA, Guillermo Rueda, AIA text amendment to Subtitle
24 B, Section 324.1 and ask for a second.

25 COMMISSIONER STIDHAM: Second.

1 CHAIRPERSON HOOD: The case has been moved and
2 properly second. Any further discussion?

3 Not hearing any, Ms. Schellin, would you record
4 the vote, please? I mean, do a roll call vote?

5 MS. SCHELLIN: Yes. Commissioner Imamura?

6 COMMISSIONER IMAMURA: Yes.

7 MS. SCHELLIN: Commissioner Stidham?

8 COMMISSIONER STIDHAM: Yes.

9 MS. SCHELLIN: Commissioner Hood?

10 CHAIRPERSON HOOD: Yes.

11 MS. SCHELLIN: Commissioner Miller?

12 VICE CHAIR MILLER: Yes.

13 MS. SCHELLIN: The vote is four to zero to one to
14 approve final action in Zoning Commission Case No. 22-23,
15 the minus one being the third mayoral appointee seat, which
16 is vacant. Thank you.

17 CHAIRPERSON HOOD: Okay, the next final action we
18 have is Zoning Commission Case No. 09-08H, Skyline
19 Holdings, LLC. Modification of significance of the first
20 age PUD is Square 5633.

21 Ms. Schellin?

22 MS. SCHELLIN: Yes, sir. The Commission left the
23 record open for the ANCs and Mr. Villareal Johnson to
24 provide some follow up letters. New exhibits, since the
25 hearing, include post-hearing submissions from the

1 applicant at Exhibits 27 and 29 and SMD Commissioner 7B-02,
2 Vice Chair Pearsall, he submitted a letter in his
3 individual capacity as the ANC did not meet ANC 8A and Mr.
4 Johnson did not provide follow up letters.

5 The time period for them to do so has passed. So
6 this case is ready for final action also. And I'll just
7 say there is a time extension related to this case that is
8 on the agenda next. So I just want you to know that.

9 CHAIRPERSON HOOD: So can we do them all at the
10 same time? Let me just stick -- no --

11 MS. SCHELLIN: You could, yes.

12 CHAIRPERSON HOOD: We could? Okay. Well, I was
13 going to say, why don't you call the next one?

14 MS. SCHELLIN: Sure.

15 CHAIRPERSON HOOD: Let me call the next one.

16 We're going to do both of them. Also, we have a time
17 extension after Zoning Commission Case No. 09-03G Skyline
18 Holding, LLC, two-year PUD time extension at Square 5633.

19 You have anything you want to tee up on that, Ms.
20 Schellin?

21 MS. SCHELLIN: Sure. So the applicant is
22 requesting a two-year PUD time extension to begin
23 construction on block one to January 8, 2025.

24 This case was held in advance by the Commission
25 to be taken up when final action was taken on the previous

1 case we just brought up. The applicant is requesting a
2 waiver also of Subtitle z, Section 705.5, which only allows
3 two extensions, and the second one being only for one year.

4 I believe this is the fourth extension for two
5 years. The applicant justifies this by stating that the
6 waiver will not prejudice the rights of any party, but will
7 enable the completion of Skyland Town Center and its host
8 of significant benefits to the community.

9 The applicant further states the extension is
10 necessary for block one to allow time to process the
11 approved modification of significance that we just spoke
12 of, and it had to revisit the development of block one due
13 to the changes in the economic market conditions which were
14 outside of its reasonable control.

15 OP filed a reported Exhibit 7, recommended an
16 approval of the waiver and the extension request. All
17 parties were served January 4, 2023.

18 More than 30 days have passed, which is the
19 response time, and even if they had responded up to
20 yesterday, we would have probably put it in the record.
21 And so this case, too, is ready for the Commission to
22 consider final. So the waiver request is something that
23 you do need to consider on this case.

24 CHAIRPERSON HOOD: Okay. Thank you, Ms.
25 Schellin.

1 Any objections to the waiver request on the time
2 extension? Any objections?

3 Okay. Not seeing any.

4 What I will just start off by saying is the first
5 case on Commission Case No. 09-03H, I think we have
6 exhausted -- had overwhelming support. We gave opportunity
7 for others to submit.

8 Unfortunately, while we appreciate Vice Chair
9 Pearsall's letter, as mentioned, it did not get the full
10 ANC and also Mr. Johnson did not submit a letter, I don't
11 believe. At least I haven't seen it.

12 So with that, we will go ahead and move forward.
13 I would recommend that we move forward, but I want to hear
14 from others, and also, I have no problems with granting the
15 time extension as requested and asked for.

16 Okay, let me go first to Commissioner Stidham?

17 COMMISSIONER STIDHAM: Thank you, chair. (Audio
18 cutout.)

19 CHAIRPERSON HOOD: Ms. Schellin, I'm actually
20 having a problem here. Is anybody else having a problem
21 here?

22 VICE CHAIR MILLER: I was having a problem.

23 CHAIRPERSON HOOD: Stay there.

24 COMMISSIONER STIDHAM: I've had huge technical
25 issues this evening. My apologies.

1 I have no questions or comments on either case
2 and ready to support both of them.

3 CHAIRPERSON HOOD: Okay. Commissioner Imamura?

4 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

5 I agree with your comments. I'm ready to move forward with
6 both.

7 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

8 VICE CHAIR MILLER: Yeah, Mr. Chairman, thank
9 you.

10 I support the modification of significance to
11 facilitate the all-senior affordable housing development
12 and the time extension associated with the Skyland long
13 running -- long running Skyland development.

14 I appreciate the applicant and the community
15 patience and sticktoitiveness in dealing with a lot of
16 circumstances beyond their control, economic market, and
17 especially the retail tenant that shall not be named here,
18 backing out on their agreement to anchor that town center.

19 So I think they've come up with a good solution
20 for the community that will benefit the neighborhood. So
21 I'm ready to move forward. Thank you, Mr. Chairman.

22 CHAIRPERSON HOOD: Okay. Thank you. Would
23 somebody like to make a motion?

24 VICE CHAIR MILLER: I will defer to Commissioner
25 Stidham.

1 COMMISSIONER STIDHAM: Sure. I would like to
2 make a motion on Zoning Case No. 09-03H, Skyline Holdings,
3 LLC, modification of significance of first stage PUD at
4 Square 5633 and Zoning Case No. 09-03G, Skyline Holdings
5 LLC., two-year PUD time extension at Square 5633 for time
6 extension.

7 CHAIRPERSON HOOD: Someone make a second?

8 VICE CHAIR MILLER: Second.

9 CHAIRPERSON HOOD: It's been moved and properly
10 second. I just like Archie. I'm sorry, you all.

11 VICE CHAIR MILLER: He was going to third the
12 motion.

13 CHAIRPERSON HOOD: He got his hand up. Where
14 were you at when I needed you, Archie?

15 Okay. So it's moved and properly second.

16 Any further discussion?

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

19 MS. SCHELLIN: At first, I thought he was pumping
20 his fist at you, so I wasn't sure if he's waving or
21 pumping.

22 That was --

23 VICE CHAIR MILLER: We're going to sleep well
24 tonight, I hope.

25 MS. SCHELLIN: Yeah. That was Commissioner

1 Stidham who made the motion and Commissioner Miller who
2 seconded, correct?

3 CHAIRPERSON HOOD: Yes, that's correct.

4 MS. SCHELLIN: Okay. And you made it for both
5 cases at the same time?

6 COMMISSIONER STIDHAM: Yes.

7 MS. SCHELLIN: Okay. So, Commissioner Stidham?

8 COMMISSIONER STIDHAM: Yes.

9 MS. SCHELLIN: Commissioner Miller?

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner Hood?

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Imamura?

14 COMMISSIONER IMAMURA: Yes.

15 MS. SCHELLIN: So the vote is four to zero to one
16 to approve Zoning Commission Case Nos. 09-03H and 09-03G
17 the minus one, of course being the third mayoral appointee
18 seat, which is vacant.

19 Hopefully soon we'll get that filled.

20 CHAIRPERSON HOOD: Yeah, hopefully, for sure.

21 All right, give me one minute, please.

22 (Pause in proceedings.)

23 CHAIRPERSON HOOD: All right, if everybody's
24 back. Thank you.

25 I'll just say when they drop packages off at your

1 house during this holiday season, I suggest you just turn
2 your camera off, tell me to wait a minute, and go get it.
3 I'll just leave it at that. That's what I had to do.

4 All right. I think we have proposed action,
5 right, Ms. Schellin?

6 Okay. Zoning Commission Case No. 23-09, 650
7 Morton Street, Northwest LLC map amendment at Square 3040.

8 Ms. Schellin?

9 MS. SCHELLIN: Yes, sir. For this one since the
10 hearing, the applicant has submitted post-hearing
11 submissions at Exhibits 36 through 36c, and 37 and this
12 case is ready for the Commission to consider proposed
13 action.

14 CHAIRPERSON HOOD: Okay. I'm going to let one of
15 my other colleagues, whoever wants to go first, to start us
16 off, and we'll all chime in together on this one.

17 Somebody to start us off? Maybe Commissioner
18 Imamura? You'd like to start us off?

19 COMMISSIONER IMAMURA: I was going to defer to
20 Vice Chair Miller.

21 CHAIRPERSON HOOD: Okay. Vice Chair Miller?

22 VICE CHAIR MILLER: Okay, thank you, Commissioner
23 Imamura, and Chairman Hood.

24 This is a map amendment, largely a zoning
25 consistency case with the Comprehensive Plan which calls

1 for medium density residential designation for the area of
2 the property and will result in the creation of more
3 affordable housing and more market rate housing than
4 otherwise -- than the existing zoning.

5 We asked for certain things at the hearing. We
6 received them. I don't know if I want to comment on -- it
7 was responsive. The applicant supplemental statement was
8 responsive, and I'm prepared to move forward.

9 I think this is a case where not only it's also
10 planning support, but I think we have the ANC support. And
11 the IZ plus designation would automatically apply to this
12 map amendment.

13 So that's what I would note. Someone can just
14 correct or clarify whether the ANC in this hearing did
15 submit something in record I thought they had in support.

16 CHAIRPERSON HOOD: Thank you.

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

18 CHAIRPERSON HOOD: Okay. Thank you. I was
19 looking myself; I think -- let's see who -- Commissioner
20 Stidham, you have any further comments or questions? I
21 mean, comments?

22 COMMISSIONER STIDHAM: No, I do not.

23 CHAIRPERSON HOOD: And, Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

25 I believe Vice Chair Miller is correct that the ANC is

1 supportive of this. There were -- thank you, Mr. Ritting.
2 I see him nodding his head and confirmation.

3 There were a few residents that expressed
4 concerns for trees and height and concern for the historic
5 integrity of the future development, what that might look
6 like. I certainly wanted to ferret that out. And I did
7 ask for a massing study in shadow study. I did see the
8 massing study in -- shadow study. I did see the massing
9 study, I don't see a shadow study provided, but I was able
10 to at least glean enough from the massing studies and was
11 satisfied with what the additional submissions in the
12 record and am prepared to vote in support.

13 CHAIRPERSON HOOD: I was on mute. Okay. Thank
14 you. I, too, would agree.

15 I do know that the ANC, as already mentioned, the
16 ANC did support this, as you mentioned, Vice Chair Miller
17 and I think Mr. Ritting acknowledged it as well.

18 The three letters, not three letters, but I think
19 we had three people in opposition, and I just wanted to
20 speak to it.

21 I think the applicant responded and also, I think
22 the ANC responded to some of that opposition as well. So I
23 don't have anything else to add. I think this is ready to
24 move forward, and I think, as mentioned, IZ plus will
25 automatically apply to this amendment.

1 Anybody else? Anything else to add? And I
2 appreciate the diligence that the applicant did in trying
3 to rectify or mitigate some of the concerns from those who
4 were in opposition.

5 All right, so with that, let me just do this. I
6 would move that we do proposed action Zoning Commission
7 Case No. 23-09 and ask for a second.

8 COMMISSIONER IMAMURA: Second.

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

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

13 MS. SCHELLIN: Commissioner Hood?

14 CHAIRPERSON HOOD: Yes.

15 MS. SCHELLIN: Commissioner Imamura?

16 COMMISSIONER IMAMURA: Yes.

17 MS. SCHELLIN: Commissioner Miller?

18 VICE CHAIR MILLER: Yes.

19 MS. SCHELLIN: Commissioner Stidham?

20 COMMISSIONER STIDHAM: Yes.

21 MS. SCHELLIN: The vote is four to zero to one to
22 approve proposed action Zoning Commission Case No. 23-09,
23 the minus one being the third mayoral appointee seat, which
24 is vacant.

25 CHAIRPERSON HOOD: Okay. Next, we have a hearing

1 action. I take this our last agenda item, unless there's
2 something else, Ms. Schellin.

3 We have hearing actions on the Commission Case
4 number 23-27 Office of Planning text and map amendment to
5 create Navy Yard East NYE zone.

6 Ms. Thomas?

7 MS. THOMAS: Yes. Thank you, Mr. Chairman. The
8 Office of Planning is proposing a text and map amendment to
9 create a Navy Yard East zone for the southeast portion of
10 the Washington Navy Yard assigned by the Navy for future
11 development.

12 Next slide.

13 This special purpose zone is proposed as a result
14 of the collaboration with the General Services
15 Administration, the Navy Yard, and its private developer
16 for the site beginning around mid-2021.

17 Discussions for the development plan were based
18 around the form and character of the private development,
19 waterfront setbacks, and the relationship of new
20 construction to the Navy Yard's historic district and its
21 master plan.

22 The Historic Preservation Office, District
23 Department of Transportation, and Department of Energy and
24 Environment have also been involved in these discussions
25 and helped shape the detailed guidelines that are in the

1 text.

2 The proposed zoning is generally consistent with
3 these discussions, although the development team has
4 disagreed with certain aspects of the proposal, mainly
5 related to the application of IZ plus as the affordable
6 housing requirements, encroachments into the waterfront
7 setbacks, and vehicle parking details.

8 New private development under guidance of the
9 Navy Yard Master Plan calls for almost two million square
10 feet of mixed-use development with new buildings between
11 130 and 110 feet in height.

12 Existing structures are between 25 and 55 feet in
13 height and that would be historic structures. The Navy
14 Yard Master Plan is currently undergoing revisions which
15 have recently been reviewed by the Commission of Finance,
16 and we have included a summary of their comments in our
17 report.

18 Next slide.

19 The Comprehensive Plan provides that the zoning
20 of any given area should be guided by the Future Land Use
21 Map interpreted in conjunction with the text of the Comp
22 Plan, including the citywide and area elements.

23 The slide deck is not up. Do we have the slide
24 deck?

25 MR. YOUNG: I wasn't sent anything.

1 MS. THOMAS: I sent it. I'm sorry. Let me just
2 try that again. Could you hold one second, let me try it.

3 (Pause in proceedings.)

4 MS. THOMAS: That is so weird. I don't know if
5 it was too big or -- did you get it?

6 (Pause in proceedings.)

7 MS. THOMAS: Okay. We're on the third slide.
8 The Comp Plan? Yeah. Thank you.

9 Yes, okay. So I'll start again with the Comp
10 Plan.

11 The Comp Plan provides that designing of any
12 given area should be guided by the Future Land Use Map
13 interpreted in conjunction with the text of the
14 Comprehensive Plan, including the citywide and area
15 elements, as well as approved small area plans.

16 The designation of the site is federal and the
17 federal category generally denotes federal ownership and
18 use. However, in the event federal interests, on any given
19 federal site terminate, zoning for these areas should be
20 established in a manner that is consistent with Comp Plan
21 policies.

22 Our report provides a comprehensive list of all
23 the main policies of the elements in the Plan that are
24 consistent with the proposal. Mixed use, high density
25 commercial and residential development envisioned for the

1 area would be consistent with the abutting Southeast
2 Federal Center and the Yards development to the west,
3 together with the parks and open space along the Anacostia
4 Riverwalk.

5 The Generalized Policy Map also places the site
6 within federal designation and a resilience focus area due
7 to the 100 year and 500-year floodplain.

8 Next slide.

9 This table provides a brief summary of the
10 development parameters. The new zone would generally
11 follow the height and use designations for mixed use, high
12 density commercial and residential development with a
13 maximum 8.0 FAR with IZ and heights that range between 90
14 and 110 feet.

15 Generally, heights based on the high (inaudible)
16 with the exception as reflected in the text. Vehicle
17 parking, biking parking, loading requirements must meet the
18 requirements of Subtitle C with exceptions outlined in the
19 text.

20 Next slide.

21 Other key features of the zoning would include 20
22 percent IZ plus, which is a requirement which is consistent
23 with the regulations when unzoned land is zoned to a
24 special purpose district.

25 Another feature would be the number of

1 sustainability related regulations included ,design
2 criteria, as well as designated street frontages with
3 design and use requirements, which would require Zoning
4 Commission review and approval.

5 The Navy Yard is in an historic district and the
6 CFA and HPRB will also review all development proposals
7 that may have an impact on the historic resources within
8 this area.

9 Next slide.

10 To summarize the findings from OP's report
11 related to the impacts to racial equity, we applied the
12 Commission's Racial Equity Tool as a guide and reviewing
13 demographic data disaggregated by race.

14 We found that there were disparities by race in
15 economic and other demographic indicators within the lower
16 Anacostia waterfront and the New Southwest planning area.

17 The most recent American community survey, for
18 periods from 2012 to 2021, shows that the homeownership
19 rate is higher for whites than it is for blacks, and the
20 median income is slightly lower than that for whites and
21 other ethnic groups within this survey.

22 The income levels, on the other hand, increased
23 for all racial groups, although the total income levels
24 remained far apart for those groups. OP finds that the
25 proposed zoning action should result in more equitable

1 outcomes for residents of the planning area and residents
2 of new development.

3 Firstly, it will allow a new development to
4 generate revenue for the District and allow new housing on
5 a site without housing amenities for district residents.

6 The proposal to include a 20 percent IZ plus
7 requirement for affordable housing should ease the upward
8 pressures on housing prices and allow greater access to
9 housing in this southeast corner of the waterfront,
10 particularly for lower income residents.

11 And this would go a long way towards meeting the
12 Mayor's affordable housing goal District wide, especially
13 since there are no residential uses on federal property.

14 New development would also provide increased
15 access to amenities for both residents and employees who
16 work nearby, and there should be additional retail and
17 service uses in the development, along with zoning that
18 would help continue the access along the 20-mile river
19 walk, which is a significant feature of the Anacostia
20 Waterfront Initiative.

21 With respect to equity as a process, should this
22 petition be set down, meetings with nearby ANCs and
23 developers are anticipated and OP will be participating in
24 those meetings.

25 So, in summary, we find that the proposed text

1 and map amendment would not be inconsistent with the Comp
2 Plan's written policies and land use maps, including when
3 viewed through a racial equity lens.

4 We are therefore recommending this petition be
5 set down for a public hearing and we will continue to
6 refine the text with feedback from the Commission, the
7 Navy, and its partners, as well as other city agencies.

8 Thank you. And the Office of Planning, together
9 with Ms. Steingasser, is able to answer any questions you
10 may have. Thank you.

11 CHAIRPERSON HOOD: Thank you very much, Ms.
12 Thomas, and let's see if we have any comments or questions?

13 Commissioner Imamura?

14 COMMISSIONER IMAMURA: Thank you, Mr. Chairman.

15 Ms. Thomas, thank you for your report. I
16 especially was really pleased to see on page 2, paragraph
17 three, a very short paragraph, but essentially your remarks
18 were that the establishment of a zoning by the District is
19 consistent with DC policy direction as well established for
20 private development for the private use on federally owned
21 land.

22 And you gave several examples there about the
23 Southeast Federal Center, DOT headquarters, Walter Reed,
24 among others. So I appreciate that was upfront and early
25 in your report.

1 So I just want to remark on that if we do decide
2 to set this down, I would be interested in hearing OP
3 elaborate a bit more on any disagreements that either have
4 taken place or might take place between OP and the
5 development team.

6 I'd like to learn a little bit more. I'm
7 interested in setting this down. I don't know where my
8 fellow commissioners are, but I think I'd like to see a
9 little more information there.

10 But otherwise, thank you for a very thorough
11 report, and I'm interested to see where this leads.

12 Thank you, Mr. Chairman.

13 CHAIRPERSON HOOD: All right. Thank you.

14 Commissioner Stidham?

15 COMMISSIONER STIDHAM: Thank you, Chair.

16 First of all, I want to be on the record that I
17 am very familiar with this transaction, as it pertains to
18 the work that I do with the National Park Service, but I
19 would say that I will be participating in the case because
20 what I know, that is not included in the record, still
21 allows me to be impartial in making my decision. So just
22 wanted to be clear about that.

23 Ms. Thomas, thank you for your report. And thank
24 you again for the section that Commissioner Imamura laid
25 out. That was appreciative. I, too, am looking to

1 understand more about the disagreements.

2 So hopefully if we set this down, and I'm
3 supportive of that also, that we can learn more.

4 Back to you, Chair.

5 CHAIRPERSON HOOD: Thank you.

6 And Vice Chair Miller?

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

8 I appreciate the comments of my colleagues, both
9 Commissioner Imamura and Stidham, and appreciate the
10 disclosure. Commissioner Stidham, I have no doubt that you
11 could be impartial in this case, despite whatever -- we all
12 know lots of things. It's a very small city, and we all
13 know lots of things about lots of things that relate to
14 what we deal with.

15 But I appreciate you disclosing that. And I've
16 disclosed that kind of thing in the past, too, and
17 sometimes felt it necessary re recuse, but I don't think
18 that's necessary in this case, based on what you've said.

19 So I support setting this down for a public
20 hearing. I think we have a letter from the Department of
21 the Navy, the owner of the property that has this lease
22 exchange agreement with Red Brick for development of this
23 property. And Red Brick is going to give property on the
24 west side of the Navy yard.

25 I guess that's for their Navy museum and there

1 are a lot of development parameters that will apply --
2 restrictions that will apply no matter what we do by zoning
3 that will apply -- whatever is in place due to that federal
4 exchange review, they will take precedence over whatever we
5 do.

6 That Navy Department letter raised a number of
7 concerns, though, about our authority to even set this down
8 as a case for a hearing to hear all the concerns from them
9 and others, quoting from their letter at Exhibit 3, because
10 of continued federal control and oversight of the property,
11 federal preemption law, and the National Defense
12 Authorization Act Authority.

13 So I think the Office of Planning as the
14 applicant, is it the applicant or the petitioner? I always
15 get that confused.

16 But as the initiator of this case for the
17 Washington Navy Yard East District creating this map
18 amendment with IZ Plus, I think they should respond to --
19 have a response by the time of the public hearing, either
20 in the pre-hearing or at the hearing with a legal response
21 to that issue that we don't even have the authority to be
22 doing what we're doing here.

23 Even though, as your own report indicated, that
24 there are any number of private developments on federally
25 owned property that the Zoning Commission has done zoning

1 for in the past, whether it's the old post office building
2 or the other examples that you've cited, and this may be an
3 ongoing agreement to disagree that the District has had
4 with the federal government, clearly their restrictions
5 will apply.

6 It's my recollection that when we've done zoning
7 in those cases, all of the federal restrictions apply, and
8 we then may have done even more restrictions as is being
9 proposed in this case, for example, that there be a greater
10 affordable housing set aside for the high-density zoning
11 that's being proposed here.

12 So I just think we need a response to either a
13 legal response or some kind of response from OP's folks and
14 maybe from our folks formally, depending how much we go
15 into that at the hearing, if we get to a hearing.

16 But I support setting it down for a public
17 hearing. I think this is a good workout that will benefit
18 both the Navy Yard and the city and obviously the private
19 developer involved in this case, but also the affordable
20 housing and the great amount of housing that would be
21 provided in a prime setting along the waterfront.

22 So I support going forward with setting down the
23 case for a public hearing, Mr. Chairman.

24 CHAIRPERSON HOOD: Okay. Thank you. Thank you
25 all for your comments.

1 I would agree. I also think that we should set
2 this down as a rulemaking case. I would ask that all of
3 the notice requirements are met and that all the ANCs who
4 are included this be also contacted.

5 Again, I would ask that the Office of Planning to
6 supplement the case record with responses to the community
7 outreach and as well as the NYE zone.

8 I do take note on the letter that's submitted
9 from the federal party. Federal folks, I get it, but we're
10 going to do all of what we have to do. I definitely would
11 not disregard federal involvement.

12 But if there are legalese that need to be worked
13 out, disagreements, I'm sure that will be discussed, and
14 I'm sure a lot of that will be hashed out. As the Vice
15 Chair said, we can agree to disagree, but either way, we're
16 going to go with our process, which we know that we cannot
17 zone federal land. We get that.

18 But the way this is being presented to us, we're
19 going to do our part. And if at some point our part is
20 taken out from up under us, that's just how that'll be
21 done. But I'm ready to set this down.

22 And I want to make note of the letter from the
23 Navy has already been mentioned, but I want to make sure we
24 acknowledge that even though it's not necessarily within
25 our consideration at this point. But I'm sure we'll hear

1 all of that if we get to a hearing and if it's something
2 where it's not in our jurisdiction, that will come out in
3 all the legalese, the word I call it, and the legal realm
4 of things not necessarily in our jurisdiction of how we
5 move forward.

6 So I'm comfortable with setting this down. And
7 unless I hear from anyone else, I would move that we set
8 down Zoning Commission -- for hearing action, set down
9 Zoning Commission Case No. 23-27 with all the comments
10 noted by myself and my colleagues as well.

11 Is there a second?

12 COMMISSIONER STIDHAM: Second.

13 COMMISSIONER IMAMURA: Second.

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

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

18 MS. SCHELLIN: Sure. Commissioner Hood?

19 CHAIRPERSON HOOD: Yes.

20 MS. SCHELLIN: Commissioner Stidham?

21 COMMISSIONER STIDHAM: Yes.

22 MS. SCHELLIN: Commissioner Miller?

23 VICE CHAIR MILLER: Yes.

24 MS. SCHELLIN: Commissioner Imamura?

25 COMMISSIONER IMAMURA: Yes.

1 MS. SCHELLIN: Vote is four to zero to one to set
2 down Zoning Commission Case No. 23-27 as a rulemaking case.
3 The minus one being the third mayoral appointee seat, which
4 is vacant.

5 CHAIRPERSON HOOD: Okay. Ms. Schellin, do we
6 have anything else before us?

7 MS. SCHELLIN: Nothing else.

8 CHAIRPERSON HOOD: Okay. The Zoning Commission
9 will meet again on December the 18th, and I think that's
10 our last meeting --

11 MS. SCHELLIN: It is.

12 CHAIRPERSON HOOD: -- before the holiday period.
13 So let me just wish everyone a happy holiday or however you
14 celebrate at this point and I'll do that again on the 18th,
15 but I know we have more people at the meeting than we do at
16 our hearing. The Zoning Commission will meet -- Zoning
17 Commission No. 22-31. I believe the case is SIM
18 Development LLC, and we'll meet on these same platforms on
19 December the 18th. With that, I want to thank all of my
20 colleagues and everyone who helps get us prepared for these
21 meetings and with that, this meeting is adjourned.

22 Good night, everyone. Have a nice weekend.

23 (Whereupon the above-entitled meeting was
24 adjourned.)

25 * * * * *

REPORTER CERTIFICATE

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This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: D.C. Zoning Commission

Date: 12-14-2023

Place: Teleconference

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



Gary Euell