

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

+ + + + +

REGULAR MEETING

+ + + + +

MONDAY

FEBRUARY 24, 2020

+ + + + +

The Regular Meeting of the District of Columbia Zoning Commission convened in the Jerrily R. Kress Memorial Hearing Room, Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 6:30 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice Chairperson  
MICHAEL G. TURNBULL, FAIA, Commissioner (AOC)  
PETER G. MAY, Commissioner (NPS)  
PETER SHAPIRO, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON S. SCHELLIN, Secretary  
PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, Deputy Director, Development Review & Historic Preservation  
JOEL LAWSON  
KAREN THOMAS  
MAXINE BROWN-ROBERTS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

DANIEL BASSETT, ESQ.  
ALEXANDRA CAIN, ESQ.  
PAUL GOLDSTEIN, ESQ.

The transcript constitutes the minutes from  
the Regular meeting held on February 24, 2020.

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

2 6:30 p.m.

3 CHAIRMAN HOOD: Good evening, ladies and  
4 gentleman. This is a public meeting of the Zoning Commission  
5 for the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice  
7 Chair Miller, Commissioner Shapiro, Commissioner May, and  
8 Commissioner Turnbull. We are also joined by the Office of  
9 Zoning staff, Ms. Sharon Schellin. Also, Mr. Paul Young, who  
10 is dealing with all of our electronic devices and is  
11 streaming us live in the back.

12 I will ask the Office of Attorney General to  
13 introduce themselves, and the Office of Planning to introduce  
14 themselves, in that order.

15 MS. CAIN: Alexandra Cain, Office of the Attorney  
16 General.

17 MR. GOLDSTEIN: Paul Goldstein, Office of the  
18 Attorney General.

19 MR. BASSETT: Daniel Bassett, Office of Attorney  
20 General.

21 MS. STEINGASSER: Jennifer Steingasser, Office of  
22 Planning.

23 MR. LAWSON: Good evening, Joel Lawson, Office of  
24 Planning.

25 MS. THOMAS: Good evening, Karen Thomas, Office

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1 of Planning.

2 MS. BROWN-ROBERTS: Maxine Brown-Roberts, the  
3 Office of Planning.

4 CHAIRMAN HOOD: Thank you.

5 Copies of today's meeting agenda are available in  
6 the bin near the door. For hearing action items, the only  
7 documents before us this evening are the application and the  
8 ANC set down report, and the Office of Planning report. All  
9 other documents in the record will be reviewed at the time  
10 of the hearing.

11 We do not take any public testimony at our  
12 meetings, unless the Commission requests someone to come  
13 forward.

14 This proceeding is being recorded by a court  
15 reporter. It's also webcast live. We ask you to refrain  
16 from any disruptive noises or actions in the hearing room,  
17 including display of any signs or objects.

18 At this time, please turn off all electronic  
19 devices.

20 Does the staff have any preliminary matters.

21 MS. SCHELLIN: Yes, sir. Staff would ask the  
22 Commission to consider voting on closed meetings for March  
23 9th and 30th, and April 13th and 27th.

24 CHAIRMAN HOOD: Okay, thank you, Ms. Schellin.

25 As Chairman of the Zoning Commission for the

1 District of Columbia, and in accordance with 405(c) of the  
2 Open Meetings Act, I move that the Zoning Commission hold the  
3 following closed meetings, on Mondays, March 9th, the 30th,  
4 and April 13th and the 27th, at 6:00 p.m., for the purpose  
5 of receiving legal advice from our counsel per 405(b)(4) and  
6 to deliberate but not voting on contested cases for  
7 405(b)(13) of the Act, and D.C. Official Code 2-575(b)(4) and  
8 (13).

9 Is there is a second?

10 VICE CHAIR MILLER: Second.

11 CHAIRMAN HOOD: Ms. Schellin, please take a roll  
12 call vote on the motion before us now that has been seconded.

13 MS. SCHELLIN: Chairman Hood?

14 CHAIRMAN HOOD: Yes.

15 MS. SCHELLIN: Vice Chair Miller?

16 VICE CHAIR MILLER: Yes.

17 MS. SCHELLIN: Commissioner Shapiro?

18 COMMISSIONER SHAPIRO: Yes.

19 MS. SCHELLIN: Commissioner May?

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Commissioner Turnbull?

22 COMMISSIONER TURNBULL: Yes.

23 MS. SCHELLIN: The motion carries.

24 CHAIRMAN HOOD: Okay. As it appears, the motion  
25 has passed, I request that the Office of Zoning provide

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1 notice of a closed meeting in accordance with the Act.

2                   Okay. Anything further?

3                   MS. SCHELLIN: No, sir.

4                   CHAIRMAN HOOD: Okay. Let's go right along with  
5 our agenda as proposed.

6                   Consent calendar items modifications of  
7 consequence. We've already done determination of the  
8 schedule --- well, determination of scheduling, we'll see how  
9 this goes.

10                  Ms. Schellin, Zoning Commissioner Case No. 15-27F.

11                  Ms. Schellin.

12                  MS. SCHELLIN: Yes, sir.

13                  The Applicant is requesting this modification of  
14 consequence to remove one of two 30-foot loading berths,  
15 along with it's associated 100-foot -- square foot, platform.

16                  At Exhibit 2H, we have ANC-5D's report in support.  
17 At Exhibit 5, you have an OP report that supports this as a  
18 modification of consequence. At Exhibit 6 through 6B have  
19 a supplemental submission from the Applicant, that includes  
20 an email from DDOT indicating it has no objection to their  
21 request, and an excerpt from their report on parking access  
22 and patio easement.

23                  At Exhibit 4, the Applicant has asked for an  
24 expedited review, to take action this evening. The ANC has  
25 already provided its report and attached to this letter at

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1 Exhibit 4 is an email correspondence from the attorney for  
2 the only other party advising that they have no objection to  
3 the Applicant's request before you this evening.

4 Therefore, this is ready for the Commission's  
5 action this evening if they so determine that it is, in fact,  
6 a modification of consequence, and wishes to proceed.

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

8 Commissioners, we have a recommendation before us,  
9 this being a modification of consequences. Any objections?  
10 Anybody like to change anything?

11 Okay. We will consider this as a modification of  
12 consequence. We have the record before us, and I believe all  
13 parties involved have responded.

14 Does anyone believe that -- any hesitation about  
15 moving forward this evening at the request as a modification  
16 of consequence?

17 Okay. So, with that I think the record is  
18 complete, but let me open it up for any other comments, or  
19 suggestions, or anything.

20 Any comments? Commissioner May?

21 Okay, no comments. All right. Well, if that's  
22 the case, then I will accept the motion to approve it as a  
23 modification of consequence.

24 COMMISSIONER TURNBULL: Mr. Chair, I would move  
25 that we take action on Zoning Case No. 15-27F, 1 Neal Place,

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1 PUD Modification of Consequence, at Square 3587. Look for  
2 a second.

3 COMMISSIONER SHAPIRO: Second.

4 CHAIRMAN HOOD: It has been so moved and properly  
5 seconded, any further discussion?

6 I'd just note that it is full of support for this  
7 modification of consequence and this action that we are  
8 taking.

9 Any further discussion?

10 All in favor?

11 (Chorus of aye.)

12 CHAIRMAN HOOD: Any opposition? Not hearing any,  
13 Ms. Schellin, would you please record the vote?

14 MS. SCHELLIN: Staff records the vote, 5-0-0 to  
15 approve final action, Zoning Commission Case No. 15-27F,  
16 Commissioner Turnbull moving, Commissioner Shapiro seconding,  
17 Commissioners Hood, May, and Miller in support.

18 We would ask the Applicant to provide us with a  
19 draft order within two weeks.

20 CHAIRMAN HOOD: Okay. Next, we have final action  
21 on Zoning Commission Case No. 19-16 MF WALP Phase 1, LLC.  
22 Consolidated PUD at Square 481. Ms. Schellin?

23 MS. SCHELLIN: At Exhibits 71 through 72G, 76  
24 through 77A, you have the Applicant's post-hearing  
25 submissions. At Exhibit 73 and 74, you have submissions from

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1 the two churches that the Commission allowed to file after  
2 a meeting with the Applicant. In Exhibit 75, you have an OP  
3 supplemental report.

4 We'd ask the Commission to consider final action  
5 in this case this evening.

6 CHAIRMAN HOOD: Ms. Schellin, I'm going to start  
7 off, because I know we have a number of interests that are  
8 here, and we know this is not a popularity contest. We have  
9 rules and regulations we have to go by, but I will say that  
10 I asked the Applicant to go and work with the churches,  
11 because I, too, go to a Baptist church, so I understand.

12 But, I will tell you up front, one of the letters  
13 I got from Mt. Zion, I really appreciate their letter,  
14 because of its thoughtfulness. But, the other letter I  
15 really had some issues with, and the issues were to some of  
16 the things that were said, which makes me feel like they are  
17 saying in the letter, me asking the Applicant to meet with  
18 the church groups was a waste of time.

19 So, I'm not going to focus on that second letter,  
20 I'm going to focus on the first letter.

21 One of the things I did have a problem with, it  
22 seemed like there was a cutoff, and I know we have rules and  
23 regulations that we have to go on, I don't know how much  
24 support I have on this, but it seems to me like the ask was  
25 not equivalent to how much time that building was going to

1 be there. That building is going to be there for years to  
2 come.

3 And, I think that we could have worked -- I'm  
4 talking to the Applicant -- I think we could have worked a  
5 little better than that two years. I mean, come on. We need  
6 to work with neighborhoods and being able to try to co-exist.  
7 And, I don't know where others are, but I think that we could  
8 have done more than just say we allow parking for two years,  
9 and try to work something out.

10 And, I agree with one thing in that second letter,  
11 let's start -- I think it was the second letter -- let's  
12 think outside the box, and I think we can go there. I know  
13 that's not necessary pertaining to the zoning, I'm talking  
14 about impacts that are going to be impactful to a community,  
15 not just to the church, but to a community. They should be  
16 able to worship there, because I go to church, too, in  
17 Northwest, so I understand the issues of parking.

18 My church is up against parking, too, so I'm very  
19 sensitive to it, but I know about the issues. But I think  
20 with his new development, I think you could have thought  
21 outside the box, I think you could have done a little more,  
22 and I know it's your property and everything, but I think you  
23 could work it out to where even if you end the time limit  
24 from, I think it was 2022, or whatever the time limit was,  
25 you could work something out. Come on now.

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1                   You guys are developing stuff all over this city,  
2 and we need to be able to co-exist and be able to make things  
3 work for people who live here, who have been here, and be  
4 able to make it work for the people all over the city.

5                   I have a problem with it, and until that is  
6 resolved, take it to court. I'm used to that, too, now. I  
7 have -- I will not be voting in support of this project.

8                   Now, we can get to the zoning issues, but I also  
9 think the impacts of that community are at stake, and I'm  
10 saying that for the record, so, you know, I want to hear from  
11 my colleagues as well. But, I think that a little more could  
12 be done. With Pastor Young's letter, it seems like it was  
13 a cutoff. And, I think a little more could have been where  
14 you could work -- I'm not saying do it in perpetuity, but  
15 until things kind of ease, so people can continue to come  
16 worship in the District of Columbia and stop moving to Prince  
17 George's County. So, that's where I am.

18                   So, I open it up for others. And you can talk  
19 about zoning issues, but that's the issue, since I asked him  
20 to go back and talk to the churches. And, the response I got  
21 back, one was fine, one I did not care for. So, anyway, let  
22 me open it up.

23                   COMMISSIONER MAY: Mr. Chairman, I have a question  
24 for you. I mean, what would you do then? I mean, you are  
25 simply saying you are not going to vote for it. Do you want

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1 to proceed to the vote so you cannot vote for it? Or, do you  
2 want to make, you know, suggest that we defer and allow the  
3 Applicant more time to work with Pastor Young or whoever?

4 CHAIRMAN HOOD: Well, I would like some additional  
5 time to -- that's what I would like. I know that's not the  
6 major issue for us. I know we have other regulations we have  
7 to look at. But, I would really like for some more time, for  
8 both Pastor Young and for the Applicant, to think outside the  
9 box.

10 What can we really do to make this work? It seems  
11 like, okay, yes, two years as I said, and then the other  
12 letter was just so discouraging. I can tell you, let me just  
13 tell you this. I can't pull it up right now, because I'm  
14 having problems with my -- I think we are having problems  
15 with our database. I wanted to pull it up and read some of  
16 the stuff in that letter.

17 But, I think it's important to understand that we  
18 all need to learn how to co-exist, because a lot of those  
19 churches have been in this city for years, and like I said,  
20 a lot of them are moving to Prince George's County. I would  
21 like to allow more time, and let's make it work.

22 Most of the time, and my colleagues can correct  
23 me, most of the time when I do, that we have a 90 percent  
24 success record. And it's not involving the churches, so I  
25 just knew -- I didn't think it was going to be close, but I

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1 thought you would be better off than where you were when you  
2 came down here. It's further apart now than -- actually, I  
3 think it backfired.

4                   And, you know, we don't sit there and just make  
5 decisions, and we don't take this stuff home, because we live  
6 in it. And, I just think that, yes, Commissioner May, I  
7 would like for some more time. I would like for you to think  
8 outside the box. And, I would like for Pastor Young, and his  
9 team, to work with the Applicant, and you all think outside  
10 the box and come back with something that works.

11                  If we can do it in Georgetown, we can do it here.  
12 That's where I am.

13                  COMMISSIONER MAY: So, I don't have any objection  
14 to allowing the Applicant a little more time to work with the  
15 parties who are concerned about the development.

16                  I mean, I think some of the things that are in the  
17 letters are not going to be achievable, as a result of that  
18 conversation. I don't think that the project is going to get  
19 smaller. I don't think that they are going to build another  
20 -- build a below grade parking deck. I don't think that  
21 those are suggestions that are going to really go anywhere.

22                  But, I do think the notion of trying to come to  
23 some accommodation, encouraging the Applicant to work more  
24 closely with the neighbors, the neighboring churches, I  
25 wouldn't have any objection to that. I mean, this project

1 has taken a long time to get to this point. They waited very  
2 patiently to have the building vacated before they took  
3 action with us. So, I don't get the sense that there's an  
4 urgency about it.

5 So, I don't have any problem with continuing in  
6 the hopes that there is some more productive dialogue.

7 And, you are right, I mean most of the time when  
8 we ask for this, there is some progress, and this is,  
9 actually, very surprising that there was, virtually, none.  
10 Well, there was none, because there was no agreement.

11 So, I don't have any problem with that. I mean,  
12 I do have some comments about what we have received, because  
13 I think we should talk to all the other issues that the  
14 Applicant responded to. But, I think before we go that,  
15 let's try to see where other folks stand on more time.

16 CHAIRMAN HOOD: Okay. Commissioner Shapiro.

17 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

18 I would agree that I'm fine with granting more  
19 time, and I don't think that time should be unlimited, and  
20 I don't think there's a way to guarantee an outcome around --  
21 I mean, this specific issue around the parking.

22 But, I think that I'm fine with giving some more  
23 time, to see if we can come up with a better alternative.  
24 I mean, essentially what we are talking about is more, a  
25 little bit more parking in the right location. And, it is

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1 an impact on the community, and I'd like to see what the  
2 Applicant can do. So, I'm fine.

3 But again, for me it's a set amount of time, and  
4 not requiring an outcome, because we can't guarantee that.

5 COMMISSIONER MAY: Commissioner Shapiro, can I ask  
6 for clarification? Are you suggesting that the Applicant  
7 needs to include more parking within the project, or do some  
8 sort of accommodation, as was suggested in the offer that was  
9 made, that there would be some short-term for a period of two  
10 years, parking.

11 COMMISSIONER SHAPIRO: Essentially, it's that.  
12 It's just a version of what they offered, but a version that  
13 it -- enhanced version of that offer, either around time or  
14 number of spaces, or location of spaces, or whatever it is.

15 COMMISSIONER MAY: I just wanted to clarify that  
16 you are not suggesting that they have to build more parking  
17 on site.

18 COMMISSIONER SHAPIRO: No, sir. That does not  
19 make sense to me.

20 COMMISSIONER MAY: Yes.

21 CHAIRMAN HOOD: Okay. Any other comments?  
22 Commissioner Turnbull.

23 COMMISSIONER TURNBULL: I would go along with more  
24 time. I'm fine with that. I mean, I think it's worth a try.

25 CHAIRMAN HOOD: Okay. Vice Chair, do you have

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1 anything you want add?

2 VICE CHAIR MILLER: I don't want to be redundant,  
3 no, I share your and my colleagues comments. You know, the  
4 -- it's an important project for the city, with 360 units of  
5 housing, when we are trying to build housing with the set  
6 aside of affordable housing. It's beyond the minimum that's  
7 required under Inclusionary Zoning.

8 We'll get to the zoning issues. But, the parking  
9 minimum is 61, as I recall, and they have 103. I don't know  
10 how much the church needs on a Sunday, but -- and I saw the  
11 Applicant's transportation study, which shows that they need  
12 more than the minimum in terms of comparable projects in the  
13 neighborhood. But, I think they could set aside some of the  
14 spaces, either that they are planning to build, or build more  
15 spaces and set aside for a longer period of time.

16 I know they are not going underneath that interior  
17 courtyard with the parking, because they wanted to have that  
18 landscape design have fully mature trees, be able to go down  
19 into the ground. But, they need their 103, and maybe they  
20 do need to build more parking.

21 So, I wouldn't discount that alternative if they  
22 need all 103, which is beyond the 61 minimum required, since  
23 this seems to be an adverse impact upon longstanding,  
24 existing churches in the neighborhood.

25 But, I do share with you, I am kind of disturbed

1 by some of the language in the church's letters. I don't  
2 like seeing terms like holocaust when we are talking about  
3 a zoning case in the city. It's just very disturbing.

4                   Maybe, I know passions are high, but we don't need  
5 to escalate them and make them worse than they are.

6                   CHAIRMAN HOOD: You know, I'm glad you printed it,  
7 I didn't know you had printed this letter out.

8                   VICE CHAIR MILLER: I found it, I'm very old  
9 school.

10                  CHAIRMAN HOOD: Oh, okay, old school.

11                  So again, we have a lot of decisions to make up  
12 here, and to read some of the stuff. The one thing that I  
13 do, is when I go to church I want to feel safe. And, I mean,  
14 I don't want nobody to get beat up on that, which is fine,  
15 because I signed up for it.

16                  But, when I come in and read some of the  
17 disturbing stuff people who worship believe like I believe,  
18 than I have a problem. The way it's been crafted, but Pastor  
19 Young, you know, I do know Pastor Young. I don't know him --  
20 I mention that, I know of his history, I remember when he  
21 came to that church, but I will tell you that I think his  
22 letter will get us where we need to go.

23                  I think we can get -- it might not be 100 percent,  
24 Pastor Young and your congregation, but I think you are going  
25 in the direction that we like to see, that I would like to

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1 see, because I think it's doable.

2                   Are you going to get everything? No, nobody does.  
3 I don't get everything up here with five of us, but some time  
4 I have to negotiate. And, I don't want nobody going to say  
5 Hood sells out, because I don't, because that's what will  
6 said later on, Anthony Hood sold out. No, Anthony Hood don't  
7 sell out. Anthony Hood makes it work. That's what I -- that  
8 we, try to do.

9                   So anyway, be as it may, I'd like for you all to  
10 continue to work with the churches, all of them. I don't all  
11 the ones, I only have letters from Miles Memorial, Christian  
12 Methodist and First Rise and Mount Zion, but all the  
13 churches, let's see what we can do.

14                   I'm not saying you have to foot the bill, but at  
15 least accommodate him and let's try to work that out, because  
16 I think it's doable, and we do this all over the City. This  
17 ain't our first rodeo. We do this all over the City.

18                   All right, let's come to the issues -- some of the  
19 zoning issues. Thank you.

20                   Who would like to get us started?

21                   COMMISSIONER MAY: Mr. Chairman, so I had raised  
22 concerns about the ventilation ducts and such on the facade  
23 of the building. And, I believe the Applicant has addressed  
24 that. There are a few places on the upper level where it's  
25 still going to be there, but it will be -- it seems like it's

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1 blending into the design a little bit better. So, I think  
2 that has been adequately addressed.

3 I think that the concern that -- well, and I see  
4 what they did, I appreciate the fact that they worked on the  
5 interior courtyards. I'm not sure that what they came up with  
6 is substantially better, or even better at all, but that was  
7 not a big issue for me. I'll let Commissioner Turnbull speak  
8 to that.

9 And, the flexibility of the number of units, and  
10 the need to retain two and three-bedroom units, I tend to  
11 agree with the Office of Planning, in that flexibility should  
12 come in the one bedroom and smaller units, not in the two and  
13 three-bedroom units.

14 And, I would hope that by the time the Applicant  
15 comes back, having had further discussions with the churches,  
16 that they might reconsider their position and be able to  
17 accept that the flexibility should be in the smaller units,  
18 not in those larger family-size units.

19 CHAIRMAN HOOD: Okay, any other comments,  
20 questions?

21 Vice Chair Miller.

22 VICE CHAIR MILLER: I would agree with  
23 Commissioner May's -- well, I appreciate the Applicant  
24 responding to the concerns raised at the public hearing  
25 regarding the location of the IZ units, you located them away

1 from the loading, which I think Commissioner Turnbull may  
2 have raised at the hearing, and on the vents, the venting  
3 issue that Commissioner May had raised.

4                   But, I agree that the -- with the flexibility  
5 that's been recommended by the Office of Planning should be  
6 limited to the studios and one bedrooms, which are 70 percent  
7 of the units.

8                   We appreciate that there are the two and three  
9 bedrooms, but we want to keep the two and three bedrooms, if  
10 you have to come back for a modification because it can't  
11 work for some reason later, we consider modifications of  
12 consequences and significance all the time, as we did  
13 tonight.

14 So, I agree that the flexibility should be limited  
15 there, and so I would hope that that would be modified in a  
16 subsequent submission by the Applicant.

17 CHAIRMAN HOOD: Okay, anybody else? Commissioner  
18 Turnbull.

19 || COMMISSIONER TURNBULL: Thank you, Mr. Chair.

1                   The interior courtyard, the reason I brought up  
2 the interior courtyard, because the first time we saw it, I'm  
3 sorry, probably 30 to 40 percent of the people live on the  
4 inside of that courtyard of this building. Well, I see  
5 something that's really vanilla, compared to the outside  
6 that's had all this wonderful stuff to it, I feel like the  
7 poor people on the inside who are going to live there get  
8 rather downgraded units, to just look out. Yes, they are  
9 going to have some nice landscaping, but I think the  
10 buildings themselves are not that attractive.

11                  They've done some. They've put a couple of  
12 different colors. They've done the siding, the cement panels.  
13 Maybe they got like three different colors. I don't know if  
14 I'm going to fall on my sword anymore on this, but it's still  
15 fairly no big deal. I mean, I don't think it's -- it is what  
16 it is, and if that's what they are going to give, and that's  
17 what they think people are going to pay a lot of money for  
18 to come in here to buy units that look fairly meager, then  
19 so be it.

20                  But, I mean, our job is to point things out, and  
21 to tell people what we think from the standpoint of the  
22 aesthetics and the impact to people that are going to be  
23 living there. I think they could have done more. I think  
24 it could have been a little bit more interesting in that  
25 courtyard.

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1                   They have attempted something. It's been fairly  
2 minimal. But, I don't know, Mr. Chair, as I say, I don't  
3 think I'm going to fall on my sword over this, but I think  
4 they could have done a hell of a lot better.

5                   CHAIRMAN HOOD: Okay. Commissioner Shapiro.

6                   COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

7                   The only thing I would add is that there's a  
8 question, we brought this up in our previous discussion  
9 around the IZ proffer. And, for us to consider whether there  
10 should be a -- whether the IZ proffer is sufficient.

11                  And, I would say, Mr. Chair, I'm curious to see  
12 where my colleagues are, but I would say the IZ proffer is  
13 sufficient, given the amount and degree of development sums  
14 requested.

15                  And, I would also agree that any flexibility  
16 around this should only be for the one or two-bedroom units,  
17 not the larger units. So, I agree with my colleagues on  
18 that.

19                  That's all I have, Mr. Chair.

20                  CHAIRMAN HOOD: Okay.

21                  COMMISSIONER SHAPIRO: And, I appreciate the other  
22 changes that the Applicant made, related to environmental  
23 benefits as well, so I'm satisfied with all that.

24                  CHAIRMAN HOOD: Okay. Let's go second round.  
25 Commissioner May.

1                   COMMISSIONER MAY: I just want to say, I agree  
2 with Commissioner Shapiro that the 12 percent IZ proffer is  
3 sufficient in this case.

4                   CHAIRMAN HOOD: Okay. Vice Chair Miller.

5                   VICE CHAIR MILLER: I would concur with that, and  
6 also say that although there is a pretty significant increase  
7 in density beyond matter of right, although permitted with  
8 the IZ bonus and the other bonuses that are allowed with  
9 this type of project, part of the reason why for the  
10 increased density is to keep the height at the matter of  
11 right height of 50 feet, which was a request of the ANC in  
12 Ward 5, I think 5D is it, which supports this project. And  
13 so, they were trying to keep the height.

14                   And so, I think that -- I don't know if you said  
15 it wasn't in a very attractive frontage, did you say that?

16                   COMMISSIONER MAY: No, I just think the project --

17                   VICE CHAIR MILLER: Oh, you meant the interior  
18 part?

19                   COMMISSIONER MAY: The exterior of the building  
20 looks wonderful.

21                   VICE CHAIR MILLER: Yes, okay.

22                   COMMISSIONER MAY: But -- I have no problems with  
23 that, it's just I think that all the design went to the  
24 outside of the building, but you've got a significant number  
25 of people who will live on the interior courtyard. It could

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1 have been better.

2 VICE CHAIR MILLER: No, I wanted to just emphasize  
3 then your point that the exterior is attractive and  
4 compatible I think with the lower density row houses that are  
5 nearby, with the setbacks at the higher floor levels, and  
6 with all the materials and the bays. I think it is an  
7 attractive project that will contribute to the neighborhood,  
8 and, hopefully, will be good neighbors with the existing  
9 neighbors.

10 CHAIRMAN HOOD: Okay. I, too, agree with the  
11 comments that I heard. And, I thought -- at the hearing I  
12 did mention how I thought attractive this building was.

13 But, I couldn't get beyond that, because of the  
14 zoning issue. Sometimes you get stuck somewhere, you know,  
15 and the good parts are just -- so, I do like everything else  
16 about this, but as I stated earlier, for me unless we come  
17 up with something, for me, it will be a show stopper. And,  
18 I hate to do that, because along with affordability and  
19 everything that it does for this neighborhood, potential  
20 affordability.

21 Now, I have my -- that's whole other discussion  
22 for me about affordability. But anyway, I would hope that  
23 we could at least close the loop or the gap on making sure  
24 we, as I mentioned at the hearing, come up with a good  
25 neighbor policy.

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1                   So, if you don't pick up anything else, Applicant  
2 and the church, just remember, we all need to be good  
3 neighbors. And remember, the church was there first. It's  
4 not who was there first, or who was there second, so let's  
5 work with neighborhoods that we come into, because most time  
6 developers come into neighborhoods, and I hate to lecture,  
7 but I think I will since I have the mic, you come into  
8 neighborhoods to develop, and the people who live there, and  
9 are going to be there, they endure and developers should go  
10 back home.

11                   So, let's make sure we keep that in mind as we --  
12 now, I don't want applause, you know, I don't need applause.  
13 I just want to make sure we keep that in mind as we move  
14 forward, because what I'm pushing for is to come back with  
15 a little more resolution. I don't want to come back with  
16 what I saw.

17                   And, if you are going to write me a letter like  
18 one of the ones I got, just write two sentences, and I'll  
19 fill in the rest. But, let's try to come back on a united  
20 front, or at least closer than where we are today. Okay?

21                   All right. Do we need to come up with some time?  
22 And I appreciate my colleagues who are supporting this, this  
23 time frame, to give you all more time.

24                   I don't know, Pastor Young, Applicant, am I  
25 wasting time again, or should I try, or should I just say

1 forget it and we vote on it tonight? I'm looking, I'm  
2 asking.

3 I'm looking at you, Mr. Tummonds, and Pastor  
4 Young, you can speak for everybody else, you can come forward  
5 here. Typically, we don't do this, but I'm doing it now.  
6 I don't want to -- I just want to know, am I wasting time?  
7 Am I wasting time?

8 MR. TUMMONDS: You are not wasting time.

9 CHAIRMAN HOOD: Okay. Pastor Young, am I wasting  
10 time?

11 PASTOR YOUNG: The comment about wasting time was  
12 not directed to the Commissioners, it was directed to --

13 CHAIRMAN HOOD: I got that, Pastor Young. Come on,  
14 I just asked one question. Am I -- I'm talking about where  
15 we are now, am I wasting time doing this? Do you want us to  
16 go ahead and vote tonight, or I am wasting time.

17 PASTOR YOUNG: No, you are not wasting time.

18 CHAIRMAN HOOD: Okay. That's all I wanted to know.  
19 Thank you both, appreciate it.

20 All right.

21 Ms. Schellin, can you tell us the time frame?

22 MS. SCHELLIN: So, our next meeting is March 9th,  
23 which is exactly two weeks from tonight. And, the one after  
24 that is March 30th.

25 CHAIRMAN HOOD: So, let me ask this. Pastor, in

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1 the spirit of your letter, and I'm not trying to discount  
2 going to church, I'm not doing that. I'm just saying, your  
3 letter was what I'm used to seeing with the path going  
4 forward.

5 If we could kind of fine tune, or find a way to  
6 make it work in that letter, not that we will get everything,  
7 and I don't know where my colleagues are, but at least come  
8 more to where we are today. It looks it just dropped, it  
9 looked like it took me to a cliff, and then you just dropped  
10 me off, and I fell to the bottom. That's what it looks like  
11 in your letter. Okay?

12 So, can we do that in two weeks? You all need  
13 more time? Okay. A month, 30 days? So, let's go --

14 PASTOR YOUNG: With the idea that we would have  
15 a decision on this on March 30th, so then that gives us --

16 CHAIRMAN HOOD: Let me ask this question. I hate  
17 to do that, but I'm going to do that, but let me ask.

18 Is Reverend Hagler going to be in the meeting?  
19 Are you going to the meeting, Reverend Hagler?

20 REVEREND HAGLER: If I'm invited.

21 CHAIRMAN HOOD: Okay. All right. I just wanted  
22 to know. But, I'm asking everybody, whoever goes to the  
23 meeting, I'm not calling you out, but everybody whoever goes  
24 I'm just asking, let's go in there with an open mind. Let's  
25 try to make it work. Okay? All right.

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1 MS. SCHELLIN: Okay. So then in that case, only  
2 the two reverends would be providing a follow-up to the  
3 meeting.

4 CHAIRMAN HOOD: And another thing, when I read  
5 that letter about the parking spaces -- anyway, come on,  
6 we've got to do better than that. Unless I read it wrong,  
7 it looked like it was offering two people that came to a  
8 meeting a parking space. Did I read that correct?

9 MR. TUMMONDS: There's more to it. We will have  
10 a flushed out discussion, and I think if we look back from  
11 two weeks, or a decision date on March 30th, I think we could  
12 figure out the timing, we will get a full and comprehensive  
13 report back to the Zoning Commission.

14 MS. SCHELLIN: So, if the two reverends and the  
15 Applicant could provide their follow-up, do you want to do  
16 it two weeks prior to the meeting, or one week? I mean, is  
17 that going to be enough time to provide it? Do you plan on  
18 meeting soon?

19 MR. TUMMONDS: Absolutely. But, I also think  
20 there's importance of having a decision date on March 30th,  
21 also focus the discussions on the relevant things that we  
22 heard this evening.

23 MS. SCHELLIN: Right. So then, if you could  
24 provide your letters, your follow-up letters, by 3:00 p.m.  
25 on March 23rd, that will give you extra time to meet, in case

1 you need to have a follow-up meeting or whatever. And then,  
2 you can provide your letters by 3:00 p.m. on the 23rd of  
3 March.

4 And then, we'll put it on the 6:30 p.m. meeting  
5 on March 30th.

6 CHAIRMAN HOOD: Okay. So, March 30th. Who is  
7 Reverend Andujo?

8 PASTOR YOUNG: That's Andujo.

9 CHAIRMAN HOOD: Who?

10 REVEREND ANDUJO: Andujo.

11 CHAIRMAN HOOD: Andujo, okay. All right.

12 So anyway, we have dates. We are all on board,  
13 right? All right.

14 MR. TUMMONDS: Yes.

15 CHAIRMAN HOOD: All right, thank you, Ms. Schellin.  
16 So that's the schedule. All right. Thank you very much.

17 MR. TUMMONDS: Thank you.

18 CHAIRMAN HOOD: All right. So, we'll take a break,  
19 unless you all want to hang around and hear the rest of it.  
20 We'll give you two minutes to leave.

21 (Whereupon, the above-entitled matter went off the  
22 record at 7:02 p.m. and resumed at 7:05 p.m.)

23 CHAIRMAN HOOD: All right. Let's go back on the  
24 record. Let's go to Hearing Action, Zoning Commission Case  
25 14-13E Office of Planning -- Text Amendment to Penthouse

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1       Regulations.

2                   MS. SCHELLIN: That will be last.

3                   CHAIRMAN HOOD: Oh, that's -- you know, we are  
4 going to do that one last. Thank you.

5                   So, let's go to Zoning Commission Case No. 19-28  
6 Square 417, LLC -- Map Amendment @ Square 417.

7                   Ms. Brown-Roberts.

8                   MS. BROWN-ROBERTS: Good evening, Mr. Chairman,  
9 and Members of the Commission.

10                  Square 417, LLC requests for the property at 18  
11 47th Street NW, be resolved from the RF-1 Zone to the ARTS-3  
12 Zone. The ARTS-3 Zone permits medium density, mixed-use  
13 development, with a focus on employment.

14                  The proposal would not be inconsistent with the  
15 future land use map, which recommends medium density  
16 residential, and medium density commercial for the site, and  
17 the generalized policy map designates this site as being  
18 within the Neighborhood Enhancement Area.

19                  The proposed zone would also not be inconsistent  
20 with many of the City-wide elements and the near northwest  
21 area element, and is identified as being within one of the  
22 near northwest policy focus areas.

23                  Properties to the north, east, and south of the  
24 site are in the ARTS-2 Zone. However, the ARTS-3 Zone is  
25 more appropriate for the site, as it will allow for a density

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1 nearly similar to that of the ARTS-2. But of significance  
2 is that it mandates protection through setbacks from the  
3 adjacent lower density row dwellings. This protection is not  
4 available in the ARTS-2 Zone.

5 The subject property has a targeted location in  
6 both the Duke Plan and the Convention Air Strategic  
7 Development Plan for redevelopment with a mix of high density  
8 residential and retail uses than currently exists on the  
9 site, or permitted in the current RF-1 Zone.

10 During the 2006 Comprehensive Plan Amendment, the  
11 subject property designation of low density commercial,  
12 moderate density residential, was changed to mixed use medium  
13 density commercial, medium density residential, to be  
14 reflective of the recommendations of the two plans.

15 The ARTS-3 Zone would support future development  
16 that would not be inconsistent with the medium density mixed  
17 use development anticipated by the plan.

18 The Office of Planning therefore recommends set  
19 down for the requested map amendment.

20 Thank you, Mr. Chairman, and I'm available for  
21 questions.

22 CHAIRMAN HOOD: Okay. Commissioner Shapiro.

23 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

24 I appreciate the clarity around the decision about  
25 why -- about your reaction to ARTS-3 versus ARTS-2, that was

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1 very helpful.

2 The site location map we are looking at in front  
3 of us, actually, says RF-1 to ARTS-2. Are we looking at the  
4 same thing?

5 MS. BROWN-ROBERTS: Yes, I'm sorry.

6 COMMISSIONER SHAPIRO: So, maybe that speaks to  
7 the sort of ambivalence around ARTS-2 versus ARTS-3, but  
8 again, the specificity, which why you were describing ARTS-3  
9 makes sense, and I appreciate that.

10 Thank you, Mr. Chair.

11 CHAIRMAN HOOD: Okay, thank you.

12 Any other questions or comments?

13 Okay, we have a request -- Commissioner Turnbull?

14 COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair.

15 Ms. Brown-Roberts, the setback is one to one,  
16 after 50 feet, is that correct?

17 MS. BROWN-ROBERTS: It is a setback of one to one,  
18 and then as it goes to the higher levels there's also a  
19 second setback.

20 COMMISSIONER TURNBULL: Is that setback on all  
21 sides, or the alley side?

22 MS. BROWN-ROBERTS: The alley side, yes, this  
23 specifies to the alley.

24 COMMISSIONER TURNBULL: Okay. But, any others are  
25 on the street side also?

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1 MS. BROWN-ROBERTS: It doesn't call out the street  
2 side, no. Just the alley side.

3 COMMISSIONER TURNBULL: Okay. Thank you.

4 CHAIRMAN HOOD: Okay, anything else?

5 Would somebody like to make a motion to set it  
6 down?

7 COMMISSIONER SHAPIRO: Mr. Chairman, I move that  
8 we set down Zoning Commission Case No. 19-28, Square 417, LLC  
9 -- Map Amendment @ Square 417, and look for a second.

10 VICE CHAIR MILLER: Second.

11 CHAIRMAN HOOD: It has been moved and properly  
12 seconded. Any further discussion?

13 All in favor, aye?

14 (Chorus of ayes.)

15 CHAIRMAN HOOD: Any opposition? Not hearing any,  
16 Ms. Schellin, would you please record the vote.

17 MS. SCHELLIN: Staff records the vote 5-0-0 to set  
18 down Zoning Commission Case 19-28 as a contested case,  
19 Commissioner Shapiro moving, Commissioner Miller seconding,  
20 Commissioners Hood, May and Turnbull in support.

21 CHAIRMAN HOOD: Okay. Next, Zoning Commission Case  
22 No. 20-05 Office of Planning -- Text Amendment to Subtitle  
23 K, Chapter 8, Drinking & Eating Establishments in the ARTS  
24 Zones.

25 Ms. Brown -- I mean, I'm sorry. Ms. Thomas.

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1 MS. THOMAS: Good evening, Mr. Chair, Members of  
2 the Commission.

3 This text amendment represents a technical  
4 correction only of Subtitle K, Section 811, in response to  
5 the Zoning Administrator's request, to clarify language and  
6 correct minor measurement-related errors of the linear  
7 frontages for eating and drinking establishments within  
8 squares in the ARTS Zones, noted in the table of our report.

9 And, those include along U Street, between 9th and  
10 14th Street, and along 14th Street between U and Rhode Island  
11 Avenue, NW. Again, the proposed changes would not alter  
12 language of the text related to the ARTS Zones.

13 I would be happy to take any questions. Thank  
14 you.

15 CHAIRMAN HOOD: Thank you, Ms. Thomas.

16 Any questions? This is pretty straightforward.  
17 I hope that we may be able to put this in with another  
18 hearing, the same night. All right. Any questions,  
19 comments?

20 Vice Chair Miller.

21 VICE CHAIR MILLER: I only have a general  
22 question. Is this the same kind of technical correction  
23 clarification needed for other what we used to call overlay  
24 zones, which have limitations on eating and drinking  
25 establishments, and other kinds of uses, because that always

1 -- I know in my own neighborhood that's always an issue that  
2 comes up, how do you calculate that? Are you looking at  
3 that and applying this kind of clarification of other places  
4 maybe?

5 MR. LAWSON: Sorry, Joel Lawson, from the Office  
6 of Planning.

7 I don't believe so. Most of the other  
8 neighborhood commercial areas anyway don't have these same  
9 prescribed frontage links. The retail requirement, the  
10 restaurant limitation, tends to be dealt with differently in  
11 the neighborhood commercial zones.

12 There's also similar kinds of language in some of  
13 the other zones, but again, this is the only place that I  
14 know of in the Zoning Regulations where there's natural table  
15 with the frontage as stipulated right in the Zoning.

16 And, that's what the Zoning Administrator was  
17 really encouraging us to correct. It may not sound like  
18 much, but when somebody wants to do a restaurant it's a  
19 really big deal.

20 VICE CHAIR MILLER: Yes. I see, okay, thank you  
21 for that.

22 CHAIRMAN HOOD: Okay. Anything else? All right.  
23 Somebody can make a motion to set it down.

24 COMMISSIONER TURNBULL: Mr. Chair, I would move  
25 that we set down Zoning Case No. 19-28, Square -- no, wrong

1 one, I'm sorry -- Zoning Case No. 20-05, Office of Planning  
2 -- Text Amendment to Subtitle K, Chapter 8, Drinking & Eating  
3 Establishments in the ARTS Zones, and look for a second.

4 VICE CHAIR MILLER: Second.

5 CHAIRMAN HOOD: Okay. It's been moved and properly  
6 seconded. Any further discussion?

7 All in favor, ayes.

8 (Chorus of ayes.)

9 CHAIRMAN HOOD: Any opposition?

10 I handed to Ms. Schellin, to please record the  
11 vote.

12 MS. SCHELLIN: Yes. Staff records the vote 5-0-0  
13 to set down Zoning Commission Case No. 20-05 as the  
14 rulemaking case, Commissioner Turnbull moving, Commissioner  
15 Miller seconding, Commissioners Hood, May, and Shapiro in  
16 support.

17 CHAIRMAN HOOD: Okay. Next, we have Zoning  
18 Commission Case No. 14-13E Office of Planning -- Text  
19 Amendment to Penthouse Regulations. Mr. Lawson.

20 MR. LAWSON: Good evening, Chairman Hood.

21 At your January 27th public meeting you received  
22 our first report, recommending a series of text amendments  
23 related to the penthouse provisions in the Zoning  
24 Regulations.

25 You asked us to do a couple of things. You asked

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1 us to return with additional analysis of BZA cases that  
2 included a request for relief from the penthouse provisions.  
3 This is provided in our supplemental report. I'm not going  
4 to go through in detail here, but happy to take questions if  
5 you have any once I'm done.

6 Your main recommendation from the original report  
7 was with regard to our recommendation to allow by right a  
8 stairwell and small storage stair area on the roof of the  
9 single family dwelling or flat. This is a use that's  
10 currently only permitted by special exception. As I said,  
11 we were proposing text amendments which would allow it by  
12 right.

13 You asked us to relook at this proposal, so the  
14 more detailed review of the BZA cases that you asked us to  
15 do was, actually, kind of helpful with regards to this.

16 And, we also had additional conversations with the  
17 Zoning Administrator, and with OAG staff, which was also very  
18 helpful as it always is.

19 As a result, the supplemental report provides a  
20 revised proposal. The revised proposal would allow for roof  
21 access stairwell and storage area by right, only if it's  
22 entirely within the permitted building height for the zone,  
23 such as if it's on the roof of a one or two story house or  
24 row house.

25 A stairwell which is above the permitted height,

1 for example, on a three-story row house, would remain  
2 requiring special exception review.

3 The additional research also indicated that the  
4 permitted height of these stairwells tended to be in about  
5 the eight to nine foot range. Right now, they are allowed  
6 to be 10 feet tall. We thought that it would be totally fine  
7 to reduce the permitted height from 10 feet to nine feet.  
8 Not a big difference, but it might be helpful.

9 And, while we were at it, we also thought it would  
10 be appropriate to apply the standard to enclose stairwells  
11 to a roof deck on an accessory building. We don't see a lot  
12 of stairwells frankly to roof decks on accessory buildings.  
13 They tend to be open stairways, but we thought that we should  
14 apply the standard to accessory buildings as well, kind of  
15 for consistency, if for no other reason.

16 So, you also asked for more illustrations or some  
17 illustrations, and we had a little bit of trouble doing a lot  
18 of illustrations, but we were able to come up with a couple  
19 of admittedly pretty basic illustrations. And, they are,  
20 specifically, related to the change that we are bringing  
21 before the Zoning Commission tonight. They are up on the  
22 screen right now. They are also in our report, although the  
23 ones up on the screen we did revise a little bit to show not  
24 just the stairwell, but also the area of the roof where the  
25 stairwell could be located, and still meet setback

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1 requirements, and that's the green dotted line on the roof  
2 plans at the top of the page.

3 This first slide, the one that's up right now,  
4 shows a typical two-story row house pair, one on an interior  
5 lot, and one on a corner lot. The main difference in the  
6 requirements between the two is that the one to one setback  
7 for the penthouse on the corner lot, the one on the corner  
8 of two streets, needs to provide a setback from both the  
9 front and the street side building walls, as well as from the  
10 rear yard.

11 Whereas, the setback from the street side building  
12 wall would not be required for an interior lot, because it's  
13 not fronting onto the street.

14 For both houses, the stairwell would continue to  
15 require special exception approval, as they would both be  
16 located above the permitted building height.

17 This is slide two, it is very similar, except that  
18 the house on the corner lot is only two stories in height.  
19 The house on the interior lot is three stories in height.  
20 A rooftop stairwell would still be required on the two story  
21 -- sorry, on the two story house, while on the corner lot  
22 a rooftop stairwell would still be required to provide the  
23 setback from both street walls, as well as from the building  
24 rear wall, but it would not require special exception review  
25 in this case, as the penthouse would be entirely below the

1       permitted building height of 35 feet in the RF Zones.

2                   And, once again, we've added in the green dotted  
3       area the area where a stairwell could be provided. So, where  
4       we've shown it mean is not likely, frankly, where a stairwell  
5       would go, it's a pretty bad location for an enclosed  
6       stairwell, but we just wanted to show what it could look  
7       like.

8                   So, based on this, OP recommends that the  
9       Commission set down for a public hearing the amendments to  
10       the Zoning Regulations brought forward in the first report,  
11       with the exception of the modified text related to rooftop  
12       stairwells and the small storage area on the roof of a  
13       one-family dwelling flat, row house conversion or accessory  
14       building contained in the supplemental report.

15                  These amendments would not be inconsistent with  
16       the Comprehensive Plan, and would be consistent with the  
17       Height Act requirements.

18                  We would also, of course, continue to ask for  
19       flexibility to continue to work with OAG to refine the text  
20       as needed for the public hearing notice, and that's it.

21                  Happy to take questions. Thank you.

22                  CHAIRMAN HOOD: Thank you, Mr. Lawson.

23                  Let's see if we have any comments. Commissioner  
24       Turnbull.

25                  COMMISSIONER TURNBULL: Thank you, Mr. Chair.

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1                   Mr. Lawson, I just had a question. On your chart  
2 on page three of your report, the percentages next to the  
3 cases down -- how do you read the -- how do you infer those  
4 numbers?

5                   MR. LAWSON: I'm sorry, those are the percentages  
6 from my original report, and those are the percentage of BZA  
7 cases that included penthouse relief, that included this  
8 specific kind of relief.

9                   So, you know, for 20 percent of I think it was the  
10 -- I can't remember how many cases there were, of the BZA  
11 cases, including that amount of relief, that kind of relief,  
12 but the number, the actual number of cases was 14.

13                  COMMISSIONER TURNBULL: Well, I'm just curious,  
14 because I add up all the percentages and I'm way over 100  
15 percent. So --

16                  MR. LAWSON: You would be, a number of the cases  
17 included relief for multiple --

18                  COMMISSIONER TURNBULL: Multiples, okay.

19                  MR. LAWSON: Yes.

20                  COMMISSIONER TURNBULL: Okay. I was just curious.  
21 I'm like, what am I adding here. Okay, great, thank you.

22                  CHAIRMAN HOOD: Okay. Commissioner May.

23                  COMMISSIONER MAY: Yes, okay.

24                  So, can we go back to the first slide?

25                  MR. LAWSON: I'll try. There we go.

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1                   COMMISSIONER MAY: Just because the way I was  
2 thinking about it, I guess I could have used the second one.

3                   Anyway, the setback that's required from the side  
4 street only applies on a side street? Does it apply on  
5 alleys or other public ways?

6                   MR. LAWSON: I'd have to check the wording, but  
7 I believe it applies from an alley, a street, or a public  
8 park right.

9                   COMMISSIONER MAY: Okay. I wanted that clarified,  
10 because that's what I thought I had read in the text, and I  
11 didn't have time to go back and check all that.

12                  The second thing is that, in this diagram we are  
13 not showing what the matter of right height is, and we are  
14 showing a three-story townhouse, which would, typically, be  
15 at or near 30 feet, or maybe more. So, theoretically, these  
16 all need relief anyway, right?

17                  MR. LAWSON: Well, these would require special  
18 exception approval for the stairwell itself.

19                  COMMISSIONER MAY: Correct.

20                  MR. LAWSON: In both of these cases. Yes.

21                  COMMISSIONER MAY: Yes. Okay, but if we locked  
22 off a story, and all this were happening below 35 feet, then  
23 the stairwell would be matter of right.

24                  MR. LAWSON: That's what we are proposing now.

25                  COMMISSIONER MAY: Okay. So, hopefully, I mean

1 it would be good to see a diagram that demonstrates that  
2 clearly, because I'm not sure what the purpose of this one  
3 is, other than showing the setback.

4 I mean, I know we are showing it here in  
5 conjunction with a three-story building, but it would be  
6 useful to just have like the two side by side --

7 MR. LAWSON: A two story beside a two story.

8 COMMISSIONER MAY: Right.

9 MR. LAWSON: Yes, sure.

10 COMMISSIONER MAY: Okay, just to make it clear  
11 that this is now a matter of right, and make a very clear  
12 statement. This would now be matter of right.

13 Can we go back to the first one again? So, a lot  
14 of what's shown here is, basically, the current situation,  
15 in terms of setbacks. Well, not a lot of it, some of it's  
16 the same. What's different is the guard rail at the back,  
17 go all the way to the back of the house.

18 MR. LAWSON: That's one difference.

19 COMMISSIONER MAY: That's one difference.

20 What else is different here from what's -- what's  
21 --

22 MR. LAWSON: The ability to do the stairwell  
23 against the side of property, the side building wall is a  
24 little bit different from the current provision.

25 I will say that the current provision is

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1 sufficiently confusing.

2 COMMISSIONER MAY: Yes.

3 MR. LAWSON: That there's been a lot of discussion  
4 over the last two years about when that side yard is  
5 required.

6 COMMISSIONER MAY: Right.

7 MR. LAWSON: One of our goals was to provide a  
8 kind of clarity, and also a much greater sense of certainty,  
9 in this situation it's required, in this situation it's not.

10 COMMISSIONER MAY: And, that's where I think, you  
11 know, diagrams can be very helpful when we get to that.

12 So, the other thing that is confusing to me is  
13 that on the bottom line where it says required for guard  
14 rail, set back from side, it says in the chart, no, and yet  
15 it's shown setback in the diagram.

16 MR. LAWSON: Yes. I probably should have had two,  
17 one required from the side facing the street.

18 COMMISSIONER MAY: Yes.

19 MR. LAWSON: And, one from a normal side, in which  
20 case for a normal side it would be no.

21 COMMISSIONER MAY: Right, got it.

22 Because the way it looks -- the way -- what it's  
23 pointing at --

24 MR. LAWSON: I got it.

25 COMMISSIONER MAY: -- it's inconsistent to that.

1 Okay.

2 So, let's go to the second one. I think I had a  
3 question on the second one. Yes.

4 I guess, I mean, I guess it's -- I think that  
5 answers my other question, never mind. You answered the alley  
6 question.

7 Oh, so you are suggesting that there should not  
8 be a requirement for a setback for solar panels, when they  
9 are less than four feet.

10 MR. LAWSON: Yes.

11 COMMISSIONER MAY: And, that's from all sides.

12 MR. LAWSON: Correct.

13 COMMISSIONER MAY: Okay. So, I'm not,  
14 necessarily, enthusiastic about that, because it could mean  
15 that your solar panels could be right up at the edge of the  
16 house and four feet tall.

17 MR. LAWSON: That's correct. That's our proposal.

18 COMMISSIONER MAY: Which is not good.

19 MR. LAWSON: We think it's very good, but we  
20 understand that not everybody is going to agree with us.

21 COMMISSIONER MAY: I mean, four feet, four feet  
22 of a setback. I mean first of all, I mean, probably what we  
23 are dealing with is the fact that solar installers will do  
24 the cheapest fastest, and the easiest thing, and very often  
25 that means if they want to get a slope on it they are going

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1 to get the slope with this many panels as possible. So, they  
2 will unnecessarily elevate things. They don't have to go all  
3 the way up to four feet, but they'll do it if it's cheaper  
4 and easier.

5 I don't think that we want to be looking at the  
6 top of any house in, you know, a row house situation where  
7 they are right up against the front of that house. I mean,  
8 you know, granted in some cases there will be a parapet, and  
9 so it won't be visible, but that's not, necessarily, it's  
10 certainly far from universal. It's certainly not the case  
11 with my house, which is a flat roof right up to the front  
12 cornice. But, I'm in a historic district, so it doesn't  
13 matter. You can't see them, you are not allowed to see them.

14 But, I don't -- I'm not in favor of setting it  
15 down that way. I think that it should be retained for solar  
16 panels to encourage them to be lower, and they could be, the  
17 setback could be as little as, you know, a foot, because they  
18 don't have to be that tall.

19 MR. LAWSON: Well, we're certainly happy to --  
20 well, that will be up to the Commission I guess, to decide  
21 what the set down. We, actually, feel pretty strongly about  
22 this. We feel it's important to be encouraging people to  
23 maximize the use of solar panels in the District. We  
24 received a lot of support from DOEE for this provision.  
25 We've received a lot of support from other staff at OP.

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1                   So, we feel that this is an appropriate approach.  
2 I totally understand your comments, and I guess I wouldn't  
3 normally do this, but if I can ask for one clarification.  
4 Are you talking about just from the front, or are you talking  
5 from any side?

6                   COMMISSIONER MAY: I think just from the front.  
7 I think that if it were a -- if there's a side that's on a  
8 street I would say that it should also be set back.

9                   And again, the fact that it has to be set back  
10 doesn't mean that it's going to be set back four feet,  
11 because these things can be much lower to the roof, but set  
12 back from a side street, but not, necessarily, from an alley.  
13 I think it's less objectionable on an alley.

14                   I just think, I mean, I don't know, maybe I'm  
15 somebody who just sees these things, and notices them, and  
16 gets annoyed by them, but I see them all the time. And, I  
17 see crummy installations, where they are just, you know, they  
18 are raking them up as high as they can, again, because the  
19 installer is doing in the fastest, cheapest, easiest way.  
20 I mean, I have solar panels in the historic district. We  
21 took steps to make sure that it was not visible from the  
22 street. It's not that hard to do, and it didn't -- it did  
23 not decrease the capacity of my system at all. The only  
24 thing that decreased the capacity of my system is the fact  
25 that there's a big tree in a neighbor's yard in the back that

1 blocks the sunlight. So, it didn't make any sense to put  
2 panels down there.

3 I don't think that it really costs anything at  
4 all. I think to say that we are for solar panel, you know,  
5 as much as possible is great, but I think that I shouldn't  
6 have to look at it across the street at my neighbor's house,  
7 and nobody else should either, you know, when it's on a  
8 street-facing facade, because it can be done without that.

9 MR. LAWSON: All right. Well, obviously, we're  
10 happy to take direction from the Zoning Commission what you  
11 decide to set down.

12 We, you know, once again, the Office of Planning  
13 doesn't consider solar panels to be a visual aberration on  
14 a -- and I know that's not what you said, I know that's not  
15 what you said.

16 COMMISSIONER MAY: No, it is. It is a visual  
17 aberration.

18 MR. LAWSON: Oh, okay.

19 COMMISSIONER MAY: And I can't understand why you  
20 don't think that. They are not pleasant to look at from the  
21 street.

22 MR. LAWSON: Obviously, I mean, I would absolutely  
23 disagree with that. I don't think they detract from the  
24 character of a house at all. But, I will leave that up to  
25 the Commission to instruct us on what you would like us to

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1 set down.

2 COMMISSIONER MAY: I admire your sticking to your  
3 position.

4 MR. LAWSON: Thank you. Likewise.

5 CHAIRMAN HOOD: All right. Commissioner Shapiro.

6 COMMISSIONER SHAPIRO: All I would say is that --  
7 and I, actually, appreciate, Commissioner May, your concerns  
8 about this, and also your support of it, too. And, I feel  
9 like this should not be a reason not to set it down. But,  
10 it certainly is worthy of a discussion, and seeing if there  
11 is some way that it can be, you know, whatever aspect of this  
12 is visual blight can be attended to as well.

13 MR. LAWSON: I will say, I do think that there  
14 probably is room for nuancing it. I'm not, off the cuff, I'm  
15 not quite sure what that nuancing is, but I think there  
16 probably is some room for that.

17 COMMISSIONER SHAPIRO: And, that's all I feel,  
18 that if it's not I don't think that's a reason not to set it  
19 down.

20 CHAIRMAN HOOD: Okay. Anybody else. Vice Chair  
21 Miller?

22 VICE CHAIR MILLER: Yes. I appreciate all the  
23 Office of Planning's additional work on this. I support the  
24 set down and I agree with that with OP. Respectfully  
25 disagree with Commissioner May, when I see solar panels I,

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1 actually, am happier about our planet, so I don't mind -- I'd  
2 like to see them everywhere, even in historic districts I  
3 would like to see them more.

4 So, I'm glad that there's been some direction in  
5 that area that the HPRB be recently, or HPO, and trying to  
6 get rid of some of the visual comments that were previously  
7 there.

8 But, I agree that there could be -- this could be  
9 something for further discussion at the hearing, and it might  
10 be for street facing now, there could be some nuance there.  
11 But, I support setting it down as is.

12 CHAIRMAN HOOD: No comments? All right.

13 Yes, I believe in setting it down, but also I want  
14 to take note on what Commissioner May has said, because I  
15 need to make sure I understand what it would be, so I don't  
16 know how this -- I have no problem setting it down.

17 I don't know if some of that ugly articulation,  
18 or whatever the case is, has to do with installment. I think  
19 all that will be fleshed out in the hearing, and I'm sure  
20 Commissioner May will bring that up again, so I can have a  
21 better insight to exactly the discussion.

22 I thought the discussion between you two went very  
23 well. We could have, actually, started the hearing, because  
24 I was very interested in that discussion.

25 One of the things that I have done, though, I've

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1 asked, I should have probably done this a long time ago, I've  
2 asked the Office of Zoning at our next training is to ask  
3 DOEE come in and give us a briefing on how solar is going.  
4 I should have probably done it the last time, I didn't think  
5 about it. I think that would be, for me it would be very  
6 educational, and what their thoughts are. So, I think it  
7 will be a good discussion at the hearing and I look forward  
8 to Commissioner May and Mr. Lawson continuing that dialog so  
9 I can expand on it.

10 Let's move along. Commissioner Turnbull.

11 COMMISSIONER TURNBULL: Yes, thank you, Mr. Chair.

12 I am looking forward to the hearing also. I hope  
13 that we get enough people coming out on several sides that  
14 can talk about it, other than Mr. Lawson and Commissioner  
15 May. Hopefully, we get a good dialog going on with this.  
16 I think it's very important.

17 CHAIRMAN HOOD: All right, anything else?  
18 Commissioner May?

19 COMMISSIONER MAY: Yes. So, I'm debating whether  
20 I want vote in favor of set down, because I feel strongly  
21 about this. But, I think what I would, actually, like to do,  
22 I mean I'm willing to set it down, have a discussion, but I  
23 would request that we, actually, see some -- we ask the  
24 Office of Planning to provide some photographs of existing  
25 installations that can put people at ease about what they

1 look like.

2                   And, if they don't exist, because everybody asked  
3 to set them back as it is right now, although, you know, who  
4 knows whether there's some good enforcement on that issue,  
5 then, you know, maybe some simulations on how it could work.

6                   It's not that hard to do photo simulations, and  
7 I would think that it's something that could be done, you  
8 know, for our hearing. I think that, again, it's not that  
9 I'm against having solar panels, it's just that we don't need  
10 to open the door for very careless installations.

11                  I can see, you know having, you know, a setback  
12 of -- I mean, a one-to-one setback requirement of some sort  
13 that could alleviate somebody's concerns, and encourage  
14 people to keep them low to the roof.

15                  I just -- I feel like it's, you know, as much as  
16 it makes Commissioner Miller feel better to see solar panels  
17 everywhere, whether he'd like to come over to my house I'll  
18 show him mine, and the ones from my neighbors that you can  
19 see from my roof, right, because we are in an historic  
20 district and you have to get up pretty high to see them.

21                  But, there are some that are, actually, not very  
22 well installed either. And, you see them, I mean, you see  
23 them regularly, you see them not set back in certain  
24 circumstances or they are visible from a distance and what  
25 not. They just don't have to be all installed that way.

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1                   So, yes, something photographic or simulated would  
2 be very helpful if we are going to -- and creative thinking  
3 about how to inject some sloping I think would also be  
4 appreciated, because I think we all share the same objective  
5 of maximizing the use of solar panels on our roofs. But,  
6 it's a question of what we all have to look at as well.

7                   Thank you.

8                   CHAIRMAN HOOD: Okay. Any further questions or  
9 comments? So, in the spirit of what I've heard I think we  
10 can set this down and then go from there, so that will be a  
11 good start.

12                  So, with that, let me move that we set down Zoning  
13 Commission Case No. 14-- hold on, which case are we on?  
14 Zoning Commission Case No. 14-13E Office of Planning -- Text  
15 Amendment to Penthouse Regulations, and ask for a second.

16                  VICE CHAIR MILLER: Second.

17                  CHAIRMAN HOOD: It's been moved and properly  
18 seconded. Any further discussion?

19                  All in favor?

20                  (Chorus of ayes.)

21                  CHAIRMAN HOOD: Any opposition? Not hearing any,  
22 Ms. Schellin, would you please record the vote.

23                  MS. SCHELLIN: Staff records the vote 5-0-0 to set  
24 down Zoning Commission Case No. 14-13E as a rulemaking case,  
25 Commissioner Hood moving, Commissioner Miller seconding,

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1 Commissioners May, Shapiro and Turnbull in support.

2 CHAIRMAN HOOD: Okay. Do we have anything else  
3 before us tonight?

4 MS. SCHELLIN: No.

5 CHAIRMAN HOOD: Ms. Steingasser, do you have  
6 anything?

7 MS. STEINGASSER: No, sir.

8 CHAIRMAN HOOD: All right. So, with that I'm going  
9 to thank everyone who is left for their participation, and  
10 this hearing is adjourned, or this meeting is adjourned.

11 (Whereupon, the above-entitled matter went off the  
12 record.)

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In the matter of: Meeting

Before: DCZC

Date: 02-24-20

Place: Washington, DC

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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