

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC MEETING

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IN THE MATTER OF: :

:

Kenilworth Revitalization I JV, LLC : Case No. 15-21B

and DCHA - Minor Modification to PUD :

at Squares 5113, 5114, & 5116 :

:

Kenilworth Revitalization I JV, LLC : Case No. 15-21C

and DCHA - PUD Modification of :

Consequence to Modify Condition D(3) :

at Squares 5113, 5114, and 5116 :

:

1701 H Street Washington, LLC - PUD : Case No. 15-31A

Modification of Consequence at :

Square 4507 :

:

VNO South Capitol, LLC & Three Lots : Case No. 20-14

in Square 649, LLC - Design Review :

at Square 649 :

:

ANC 5D - Map Amendment at Squares : Case No. 19-30

4494, 4495, 4506 & 4507 and Parcels :

160/22 and 160/38 :

:

Office of Planning - Text Amendment : Case No. 20-20

re: Animal Care :

:

LDP Acquisitions, LLC and 525 Rhode : Case No. 20-23

Island Avenue LP - Map Amendment at :

Square 3623 and Parcels 131/94, :

131/146, 131/147, 131/155, 131/161, :

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131/162, and 131/217 :
 :
 Office of Planning - Map Amendment at : Case No. 21-01
 Parcels 131/216, 131/44 :
 :
 -----:

Thursday, January 14, 2021
 Webex Video Teleconference

The Public Meeting of the District of Columbia Board of Zoning Commission convened via Webex videoconference at 4:00 p.m. EDT, Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

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

OFFICE OF ZONING STAFF PRESENT:

- SHARON SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- JENNIFER STEINGASSER
- ANNE FOTHERGILL

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

- MAXIMILIAN TONDRO, ESQ.

The transcript constitutes the minutes from the Public Meeting held on January 14, 2021.

T-A-B-L-E O-F C-O-N-T-E-N-T-S

OPENING STATEMENT
 Anthony Hood: 6

PRELIMINARY MATTER:
 Commission vote regarding closed meetings for the calendar
 year 2021 7

VOTE:
 Commissioners: 8

PRESENTATION:
 Case Number 15-21B
 MS. Schellin: 9

COMMENTS AND QUESTIONS:
 Commissioners: 10

VOTE:
 Commissioners: NO VOTE

PRESENTATION:
 Case Number 15-21C
 MS. Schellin: 16

COMMENTS AND QUESTIONS:
 Commissioners: 17

VOTE:
 Commissioners: NO VOTE

PRESENTATION:
 Case Number 15-31A
 MS. Schellin: 18

COMMENTS AND QUESTIONS:
 Commissioners: 19

VOTE:
 Commissioners: NO VOTE

PRESENTATION:
 Case Number 20-14
 MS. Schellin: 23

COMMENTS AND QUESTIONS:
 Commissioners: 24

VOTE:
 Commissioners: NO VOTE

PRESENTATION:
 Case Number 19-30
 MS. Schellin: 43

NO COMMENTS.

VOTE:
 Commissioners: 44

PRESENTATION:
 Case Number 20-20
 MS. Schellin: 44

NO COMMENTS.

VOTE:
 Commissioners: 45

PRESENTATION:
 Case Number 20-23
 MS. Fothergill: 45

COMMENTS AND QUESTIONS:
 Commissioners: 47

VOTE:
 Commissioners: 49

ADDITIONAL COMMENTS AND QUESTIONS:
 Ms. Steingasser: 50
 Mr. Tondro: 51
 Ms. Steingasser: 51

MOTION WITHDRAWN: 51

PRESENTATION:
 Case Number 21-01
 MS. Fothergill: 52

NO COMMENTS.

VOTE:
Commissioners: 55

ADJOURN:
Anthony Hood: 57

1

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

2 (4:00 p.m.)

3 CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen.
4 This is a public meeting of the Zoning Commission for the District
5 of Columbia. Today's date is January the 14th, 2021. We are
6 convening and broadcasting this public meeting by video
7 conferencing. My name is Anthony Hood. Joining me are Vice-Chair
8 Miller, Commissioner Shapiro, Commissioner May, and Commissioner
9 Turnbull. We are also joined by the Office of Zoning staff, Ms.
10 Sharon Schellin, and also Mr. Paul Young who will be handling all
11 of our virtual operations, and also, the Office of Attorney
12 General if we need counsel.

13 I would ask all others to introduce themselves at the
14 appropriate time.

15 Copies of today's meeting agenda are available on the
16 Office of Zoning's website.

17 Please be advised that this proceeding is being recorded
18 by a court reporter's, and it's also webcast live, Webex, or
19 YouTube Live.

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

24 For hearing action, the only documents before us this
25 evening are the application, the ANC setdown report, and the

1 Office of Planning's report. All other documents in the record
2 will be reviewed at the time of the hearing.

3 (Audio interference) our meetings unless the Commission
4 requests someone to come forward.

5 If you are experiencing difficulty accessing Webex or
6 with your phone call-in, then please call our OZ hotline number at
7 202-727-5471 for Webex login/call-in instructions.

8 Does the staff have any preliminary matters?

9 MS. SCHELLIN: Yes, sir, just one.

10 I'd like to ask the Commission to vote about closed
11 meetings for the calendar year 2021.

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

13 Now, Colleagues, in accordance with 405-C of the Office
14 of the Open Meetings Act, D.C. Official Code 2-575-C, I move that
15 the Zoning Commission hold closed meetings on each Monday and
16 Thursday that it is scheduled to hold a public meeting or public
17 hearing for the calendar year 2021. The closed meeting will begin
18 at 3:30 p.m. for the purpose of obtaining legal advice from our
19 counsel on all cases and to deliberate upon, but not voting on,
20 the contested cases scheduled on the Commission's agendas.

21 Is there a second?

22 VICE CHAIR MILLER: Second.

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

1 MS. SCHELLIN: Yes, sir.

2 Chairman Hood.

3 CHAIRMAN HOOD: Yes.

4 MS. SCHELLIN: Vice Chair Miller.

5 VICE CHAIR MILLER: Yes.

6 MS. SCHELLIN: Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Yes.

8 MS. SCHELLIN: Commissioner May.

9 COMMISSIONER MAY: Yes.

10 MS. SCHELLIN: Commissioner Turnbull.

11 COMMISSIONER TURNBULL: Yes.

12 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve closed
13 meetings on each Monday and Thursday for public hearings or public
14 meetings at 3:30 p.m.

15 CHAIRMAN HOOD: I request -- thank you, Ms. Schellin --
16 I request that the Office of Zoning provide notice of these public
17 closed -- of these closed meetings in accordance with the Act.

18 Anything else Ms. Schellin?

19 MS. SCHELLIN: No, sir.

20 CHAIRMAN HOOD: Okay. Moving right along with our
21 agenda.

22 Our first set down item is Zoning Commission Case Number
23 15-21B, Kenilworth Revitalization I JV, LLC and DCHA - Minor
24 Modification to PUD at Squares 5113, 5114, and 5116.

25 Ms. Schellin.

1 MS. SCHELLIN: Yes, sir. The applicant is requesting a
2 minor modification to the unit numbers and non-residential square
3 footage, reconfiguration of proposed lots for Phase I and revision
4 to the Zoning Data Table.

5 The OP reported Exhibit 4 is in support of the request
6 as a minor modification. And Exhibit 5 is a letter from the
7 applicant providing some further explanation of relief requested.

8 However, before the Commission goes into deliberation,
9 the applicant has submitted a letter to the Office asking for a
10 waiver of the 24-hour submission requirement to provide some
11 further information with regard to the reconfiguration of the
12 lots; and I would ask the Commission to consider that waiver
13 request so that, if you approve it, we can put that letter in the
14 record.

15 CHAIRMAN HOOD: Okay. Let me ask -- let me just do it
16 by general consensus.

17 Any objections to the waiver request?

18 I am not seeing any.

19 We will accept.

20 MS. SCHELLIN: Okay. I'll put that in the record. It
21 will be Exhibit 6.

22 Thank you.

23 CHAIRMAN HOOD: Okay. Thank you.

24 Commissioners, this is a modification that is already
25 teed up by Ms. Schellin.

1 Does anyone believe that this should come off of the
2 consent calendar as presented?

3 Mr. Turnbull.

4 COMMISSIONER TURNBULL: Mr. Chair, I would think that
5 this case should be moved from the consent calendar and put down
6 as a modification of consequence; that although the areas of
7 relief granted under the original order have not changed, the
8 extent of flexibility for individual buildings has changed; and in
9 some cases, that means flexibility is now requested where none was
10 requested previously.

11 There's a few more issues too, but I think there is
12 enough here to move it to modification of consequence.

13 CHAIRMAN HOOD: Okay. All it takes is one.

14 Ms. Schellin, can we move that down to our hearing
15 action?

16 MS. SCHELLIN: Yes, sir.

17 CHAIRMAN HOOD: Okay.

18 MS. SCHELLIN: That would be moved down to Item A which
19 has a sister-case to this, 15-21C.

20 CHAIRMAN HOOD: So we have -- so do we move both of
21 them, or do we need to consider 15-21C as well? I guess we'll --

22 MS. SCHELLIN: They're both on -- they will both now be
23 under modification of consequence. So you can go ahead and
24 proceed --

25 CHAIRMAN HOOD: Okay. So --

1 MS. SCHELLIN: -- with this one as a modification of
2 consequence.

3 CHAIRMAN HOOD: Okay. So we're going to move on to --
4 so we don't need to take up -- let me make sure I understand. We
5 don't need to take up 15-21C. We will deal with that now under
6 the hearing action as well.

7 MS. SCHELLIN: No. That -- no under hearing action,
8 modification of consequence after this case. It's (audio
9 interference) --

10 CHAIRMAN HOOD: Okay. I got you.

11 MS. SCHELLIN: Yeah.

12 CHAIRMAN HOOD: I'm good. I'm good. I've got to (audio
13 interference). All Right. I'm getting a little confused. Well,
14 not actually, but anyway.

15 Zoning Commission Case Number 15-21C. This is the
16 Revitalization -- I mean Kenilworth Revitalization I JV, LLC &
17 DCHA - PUD Modification of Consequence to Modify Condition D(3) at
18 Squares 5113, 5114 --

19 MS. SCHELLIN: Excuse me. Chairman, since you moved 15-
20 21B down, did you not want to continue deliberating on that
21 because you haven't taken any kind of action on that one. You
22 just moved it down. So I thought you were going to continue
23 deliberation on that one now as a modification of consequence
24 which would include --

25 CHAIRMAN HOOD: So what --

1 MS. SCHELLIN: -- if you need additional information
2 from the applicant and then setting a schedule for when it would
3 come back. You know, the ANC report and any additional --

4 CHAIRMAN HOOD: So -- right. So what I was going to do,
5 we moved it down under hearing action. I was going to deal with
6 it when we got down there.

7 MS. SCHELLIN: Okay. I -- we're there now.

8 CHAIRMAN HOOD: We're not on hearing action now.

9 MS. SCHELLIN: Not hearing action. You moved it to
10 modification of consequence, right?

11 VICE CHAIR MILLER: I believe that the chairman said
12 hearing action; however, I believe he probably meant modification
13 of consequence.

14 MS. SCHELLIN: Right. That's what I thought he said
15 too.

16 VICE CHAIR MILLER: Yeah.

17 CHAIRMAN HOOD: Okay. So, okay, maybe I'm getting
18 confused. Okay. It won't be the first time. So the public
19 understands, every so often Hood gets confused.

20 So, Ms. Schellin, thank you for bringing me back. I
21 think you're right. This needs to be A, under modification of
22 consequence.

23 MS. SCHELLIN: Yes.

24 CHAIRMAN HOOD: What got me confused was I thought it
25 was A where it was, but okay. We're good.

1 MS. SCHELLIN: Yes.

2 CHAIRMAN HOOD: So anyway, let's (audio interference)
3 action to the first case which we just moved down which was under
4 the consent calendar item. Okay. I'm on board. I'm with you all
5 now.

6 Okay. So under consent calendar item (audio
7 interference). Thank you, Ms. Schellin. So you should have
8 interrupted me earlier.

9 But anyway, Commissioners, we have moved -- Zoning
10 Commission Case Number 15-21B, Kenilworth Revitalization I JV, LLC
11 and DCHA - Minor Modification to PUD at Squares 5113, 5114, and
12 5116. We took it off the consent calendar item and moved it down
13 to the modification of consequence.

14 So is there anything that we're looking for -- and this
15 is -- that we wanted to -- because we've taken it off as a minor
16 modification. Does anyone -- I think -- does anyone have an
17 objection of us determining this as modification of consequence?

18 COMMISSIONER SHAPIRO: No objection to -- I think we're
19 -- it would be helpful to have the ANC waived in order to make
20 sure that we give enough time for the ANC to waive (audio
21 interference).

22 CHAIRMAN HOOD: Okay.

23 Is there anything else in this case that we need to see?
24 And I would agree with Commissioner Shapiro that we may need to
25 (audio interference)? We're not asking for anything (audio

1 interference) in the ANC waiver. Just the ANC waiver.

2 COMMISSIONER TURNBULL: But I think the main thing was
3 on the gross floor area -- a little bit better explanation on the
4 changes to the gross floor area, the calculations.

5 CHAIRMAN HOOD: Okay. This is a modification to our
6 original order. I think what confused me originally, I was going
7 to recommend that we had a limited-scope hearing, but I don't
8 think we need that now. I don't think we need that. That's
9 probably what got me all mixed up.

10 All right. So, Ms. Schellin, other than the ANC report
11 and the additional information on the -- what was it? -- the FAR
12 -- was it the FAR, Mr. Turnbull, that you asked about? Or the
13 gross floor area?

14 COMMISSIONER TURNBULL: I think that may come into play,
15 but I think it was -- yeah. It's the gross floor area, GFA.

16 CHAIRMAN HOOD: Okay. So those are the only two things
17 that we're asking for. Before (audio interference), can you give
18 us the scheduling?

19 MS. SCHELLIN: Okay. The -- just to make sure, Mr.
20 Turnbull, they did provide some additional information in Exhibit
21 5. So I take it that did not provide the answer you wanted
22 because they did do some clarifying there. But if that doesn't
23 clarify it for you, do you guys want to move it to the next
24 meeting, January 28th?

25 CHAIRMAN HOOD: Yeah. I think January 28th, unless I

1 see anything else, is fine.

2 MS. SCHELLIN: Okay. So we can allow the ANC to provide
3 their report up until that day? I mean, are you guys okay with
4 that? And if the applicant wants to respond to it, they could
5 submit their submission that same day, or do you want to get it in
6 before then? I'm trying to give the ANC as much time as possible.

7 CHAIRMAN HOOD: Okay. With ANC, we can get it the day
8 of, as long as we get it before we start the hearing, so we can
9 have a few moments to (audio interference) through it.

10 The other information, Colleagues, I don't know what do
11 you all think? I mean, I don't know what your schedules look
12 like, but I could probably do it the day of as well.

13 COMMISSIONER SHAPIRO: You know, it's nice to get it the
14 day before.

15 MS. SCHELLIN: The day before. Okay. So, yeah, if the
16 applicant could -- I think that's something the applicant could
17 provide actually by say January 25th, that Monday.

18 COMMISSIONER MAY: Yeah. I mean, they need to provide
19 it to the ANC anyway.

20 MS. SCHELLIN: Right. But, you know, I'm sure they've
21 already got it.

22 COMMISSIONER MAY: Okay.

23 MS. SCHELLIN: Okay. That sounds good.

24 CHAIRMAN HOOD: All right.

25 MS. SCHELLIN: And I've (audio interference) for the

1 28th.

2 CHAIRMAN HOOD: Okay. So let's go to B under
3 modification of consequence, which is for determination and
4 scheduling. The Zoning Commission Case Number 15-21C, Kenilworth
5 Revitalization I JV, LLC and DCHA - PUD Modification of
6 Consequence to Modify Condition D(3) at Squares 5113, 5114, and
7 5116.

8 Ms. Schellin.

9 MS. SCHELLIN: Yes, sir. Initially, the applicant was
10 asking to change orders 15-21B/21A as a modification of
11 consequence to change the validity of the first stage PUD and to
12 set deadline for filing the second-stage approvals, and I believe
13 that that's been changed from a modification of consequence to a
14 time extension; and the applicant submitted that letter at Exhibit
15 5 stating that, after consulting with ONG, they're actually asking
16 for the time extension and submitted how they meet that criteria,
17 along with a request asking for a waiver of limiting the second
18 request for a time extension to one year.

19 So that is what they are now asking for; and in this
20 case, we do not have a report from the ANC. It would be the same
21 ANC, of course. And so it asked the Commission to either consider
22 action or defer along with the other case.

23 CHAIRMAN HOOD: So again, Commissioners, I believe -- I
24 would just say that this is a time extension request as noted. I
25 believe that this is like a hand and glove with the case that we

1 just spoke about. I think it would be good if we give the ANC
2 time to weigh in on this one as well, whether or not they agree to
3 the time extension or if they have any fundamental problems with
4 it.

5 So I would recommend that we put this on the 28th along
6 with the companion case but let me hear from others. Any
7 objections to that?

8 Commissioner May?

9 COMMISSIONER SHAPIRO: You're on mute, Commissioner May.

10 COMMISSIONER MAY: Dang. I was -- all day long I was
11 good. I was hitting the mute button and unmuting at the right
12 time, but my run is over.

13 The -- I'm -- you know, the -- we got this exhibit
14 supporting the time extension pretty late, and I just glanced
15 through it, and I noticed it did not include an affidavit like we
16 would typically get on a time extension. And what I don't recall
17 is whether that's just sort of common practice, or whether we
18 actually require that for a time extension.

19 MS. SCHELLIN: I believe we require it.

20 COMMISSIONER MAY: Yeah. So we would need that before
21 we take this up at the next meeting, if we take it up as a time
22 extension, which I do think is the right thing.

23 MS. SCHELLIN: Okay.

24 COMMISSIONER MAY: I don't see why would treat this any
25 different because it's really about the time. So --

1 MS. SCHELLIN: Okay. All right. Thank you.

2 CHAIRMAN HOOD: Okay. Anything else? Any other
3 comments?

4 MS. SCHELLIN: No.

5 CHAIRMAN HOOD: So, Ms. Schellin, we'll reschedule that
6 along. Mr. Turnbull, did you have something?

7 COMMISSIONER TURNBULL: No. I was just (audio
8 interference) --

9 CHAIRMAN HOOD: Ms. Schellin, can you (audio
10 interference)?

11 COMMISSIONER TURNBULL: I agree with Commissioner May
12 wholeheartedly that we do need the affidavit.

13 CHAIRMAN HOOD: Okay.

14 So, Ms. Schellin, if everything else is in order, can we
15 schedule this along with the other companion case as well?

16 MS. SCHELLIN: I will.

17 CHAIRMAN HOOD: Okay. All right. Let's keep moving.

18 MS. SCHELLIN: Okay. Sounds good.

19 CHAIRMAN HOOD: Zoning Commission Case Number 1701 H
20 Street Washington, LLC - PUD Modification of Consequence in
21 Square 4507.

22 Ms. Schellin.

23 MS. SCHELLIN: Yes.

24 In this case, the applicant seeks to eliminate 16 of the
25 balconies on the eastern facade due to privacy concerns. OP filed

1 a report at Exhibit 4 in support of the request as a modification
2 of consequence and of the relief requested.

3 There has been no ANC report received as of yet. So if
4 the Commission indeed finds this as a modification of consequence,
5 then staff requests that a schedule be set to get the ANC report
6 in.

7 CHAIRMAN HOOD: Thank you, Ms. Schellin.

8 Does anyone believe that 17 -- I'm sorry -- the 15-31A
9 is not a modification of consequence? Okay.

10 So we (audio interference) this a modification of
11 consequence. This -- I guess the ANC will have -- this ANC will
12 have time on -- as you do the determination of schedules, Ms.
13 Schellin.

14 MS. SCHELLIN: I think we could do the same schedule.
15 Have them be able to file up until the day of the meeting and have
16 this set for January 28th also.

17 CHAIRMAN HOOD: Okay.

18 Does anybody need to see anything on this one other than
19 the ANC report? Okay.

20 COMMISSIONER MAY: Mr. Chairman.

21 CHAIRMAN HOOD: Commissioner May.

22 COMMISSIONER MAY: Yeah. I found the drawings to be
23 really limited and difficult to understand, and I think that's an
24 understatement, so drawings that better describe what has changed.
25 You know, there are aspects of the new condition that are, like,

1 | totally inconsistent with the existing condition. We just need
2 | good consistent drawings, say of the same quality and the same
3 | scale that show "This is what it looked like before, and this is
4 | what it's going to look like now," and that's just really hard to
5 | figure out from those drawings. So I mean, they're just --
6 | they're not sufficient.

7 | VICE CHAIR MILLER: Mr. Chairman.

8 | CHAIRMAN HOOD: Okay. (audio interference).

9 | Commissioner Turnbull, you're not coming in, Vice Chair.
10 | Commissioner Turnbull.

11 | COMMISSIONER TURNBULL: I was just going to say, I would
12 | concur with Commissioner May that the drawings are -- to say that
13 | they're unclear is -- would be putting it lightly. I think there
14 | are some things that both parts of the drawings are totally
15 | different. There is parts of their drawing that are smaller and
16 | bigger. It's like there's two different buildings almost going on
17 | here. It's -- they really need to, as Commissioner May was
18 | saying, put together a good package of drawings that we can
19 | actually look at: the one that was originally proposed, then what
20 | they're going to change to, and make sure that they're consistent
21 | in the quality of the design drawings that they're presenting.

22 | I would also like to see where the impact on these
23 | balconies is coming from. I'd like to know -- like to either
24 | have, like, a line of view drawings showing arrows that would
25 | point why they want these balconies removed. Where is the impact

1 coming on the building that they are so concerned about because we
2 fight hard for balconies, and the vice chair fights hard for
3 balconies. And I think that, to do this, they really need to
4 explain better why these are impacting the units that they're
5 talking about. But they really need -- but as Commissioner May
6 has already said, the drawings are terrible. They really neglect
7 clarity. They need to be better. They've got to go back and give
8 us some better drawings.

9 Thank you.

10 CHAIRMAN HOOD: Okay. Thank you, Commissioner Turnbull.

11 Vice Chair Miller.

12 VICE CHAIR MILLER: Thank you.

13 I would agree with my colleagues, and I think that the
14 improved drawings will help us to understand the proposed
15 reduction in balconies for privacy concerns. They then reduce
16 additional balconies because of aesthetic concerns. I guess
17 that's in the eye of the beholder.

18 So I'd like to see -- I'd like to behold the look of
19 that and maybe not go for the aesthetic reasons to eliminate
20 unless it really looks horrendous. I appreciate Mr. Turnbull
21 raising the issue of the balconies on my behalf and on behalf of
22 all occupants of multi-family buildings who need that outdoor
23 private space more desperately than ever now, but always.

24 Thank you.

25 CHAIRMAN HOOD: Okay. Thank you, Vice Chair.

1 Commissioner Shapiro, I saw you doing this (gesturing).
2 Did you have something add (audio interference)?

3 COMMISSIONER SHAPIRO: I was just commenting on the
4 small nature of the balcony drawings. So -- no. I have nothing
5 further to add.

6 CHAIRMAN HOOD: Okay. Thank you.

7 All right. So we -- Ms. Schellin, I think that the
8 applicant is heard. Can we do a determination, I mean, a
9 schedule?

10 MS. SCHELLIN: Yeah. We can have the applicant provide
11 those drawings or the submissions that you guys have asked for by
12 three o'clock on January 25th, but if for some reason they contact
13 me tomorrow and say that they cannot submit them by then, then I
14 can move them to the February 11th meeting if they submit the
15 drawings by three o'clock p.m. on the 8th. I just want to put
16 that option out there just in case they can't make that deadline
17 in time.

18 So it's up to them if they don't -- if they contact me
19 tomorrow and say, "We can't make the January 25th deadline," then
20 I'll move them to the next meeting if that's okay?

21 CHAIRMAN HOOD: Okay. All right.

22 So we will move in that fashion, and then we will stick
23 to the schedule as according to the response that Ms. Schellin
24 gets.

25 Any objections? Not seeing any.

1 Let's move right on. Let's go to final action.

2 Zoning Commission Case Number 20-14. This is the VNO
3 South Capitol, LLC, and Three Lots in Square 649, LLC - Design
4 Review at Square 649.

5 Ms. Schellin.

6 MS. SCHELLIN: Yes, sir.

7 Exhibits 60 through 61C have the applicants' post-
8 hearing submissions. Exhibit 62 and 63 are letters from
9 Councilmember Allen, and 1101 South Capitol, LLC, withdrawing
10 their opposition. Exhibit 64 is the ANC 6D report in opposition.
11 Exhibits 65 and 65A, the applicants' draft order. Exhibit 66, an
12 OP supplemental report. And Exhibit 67, a DDOT supplemental
13 report. This case is presented to you for final action
14 consideration.

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

16 Commissioners, we've had a lot of discussion,
17 especially, about design review on this case.

18 There are some other things that have been brought up
19 that I think that we asked for the Office of Planning at some
20 point. So we can go back and look at -- or there was talk or
21 mention of us going back to look at some of our design review
22 guidelines and some things how we can better it because we did
23 this some years ago; especially, when we talk about housing,
24 whether that component should be there or should not be there.
25 Right now, it's not there.

1 So there are some things I think that we were talking
2 about and looking at, and I would ask the Office of Planning if
3 they wish to continue to keep that on the laundry list of things
4 that we are asking they would look at and evaluate because we need
5 to start hopefully pressing those forward and whether or not it is
6 something that we can realize.

7 Let me open it up for questions or comments on this
8 case.

9 Commissioner May, would you like start or somebody?

10 Commissioner May.

11 COMMISSIONER MAY: Thank you.

12 So, you know, design-wise, I would have to say that I am
13 sympathetic to many of the ANC's comments about this. I'm always
14 concerned about projects where the, you know, it's too much of a
15 jumble. I don't think this is too bad in that way. So I don't
16 think that this is a -- I forget what the term they use -- an
17 incoherent design, or something like that. I don't think it's
18 quite like that.

19 I also recognize that this is a something of a
20 transitional building because, you know, on one side of the street
21 you have the Navy Yard area which is a much more industrial kind
22 of look to the buildings, as opposed to Southwest and the -- with
23 the, you know, the particular design style of Southwest.

24 So, you know, I think they do a pretty good job of
25 mediating between those two areas, and I do think that the design

1 has improved. They got rid of the weird sort of slanted windows,
2 and the hung balconies, and things like that.

3 They made -- you know, they came to agreement with the
4 party in opposition, so that opposition is withdrawn. So I think
5 that's all very positive.

6 You know, they -- I think we can recognize the fact that
7 they have offered to include some affordable units, even though
8 that's not required, and it is not part of our review. So I mean,
9 you know, we can acknowledge it, but it should not be a condition
10 of our decision.

11 You know, all that boils down to the fact that I'm -- I
12 am, you know, okay with supporting this as it has been designed,
13 and I really do appreciate the extent to which the ANC is sort of
14 emphatically pursuing their own concerns about the design.

15 I don't happen to completely agree with the concerns
16 that they have, but I -- you know, I do appreciate that. There
17 are not many ANCs across the city that are weighing in with the
18 level of sophistication I think that we see from this ANC when it
19 comes to the design.

20 So like I said, I do appreciate it. I don't necessarily
21 agree with all of it. And our, you know, the extent of our review
22 on these design cases is fairly limited. So I think that what
23 we're seeing here is acceptable.

24 I can't think of anything in particular that I have
25 further concerns about.

1 Oh, I would also note that the -- we have a new letter
2 from Councilmember Allen withdrawing his opposition.

3 So I think we're -- yeah. I don't think I have anything
4 else that I'd want to add to that.

5 So thank you.

6 CHAIRMAN HOOD: Okay. Thank you, Commissioner May.

7 Commissioner Shapiro, do you have anything?

8 COMMISSIONER SHAPIRO: I don't really, Mr. Chairman. I
9 think Commissioner May articulated that quite well. It's
10 impressive how much ANC has put into this, you know, and I think
11 this a reasonable transition design given its location.

12 And also, I agree that the -- while I support the goals
13 around the affordable housing and getting this up to IZ standards,
14 you know, this is design review case. And it is not within our
15 purview on a case like this.

16 So, you know, I'm glad that there is some movement from
17 the developer but, you know, and I think we should note it, but
18 it's not a condition.

19 So -- and I'll leave it at that, Mr. Chair.

20 CHAIRMAN HOOD: Okay. Thank you, Commissioner Shapiro.

21 Commissioner Turnbull.

22 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

23 I would agree with the comments of both Commissioner
24 Shapiro and Commissioner May. I think, you know, we've had any
25 number of cases dealing with the ANC 6D, and Mr. Litsky,

1 Commissioner Litsky, is always very insightful as to a design
2 issue, and he's very good at expressing the concerns of the ANC.

3 So -- and I think he makes a lot of good points, but as
4 Commissioner May had pointed out, this whole process is sort of
5 the give-and-take, and I think they -- the applicant made a lot of
6 changes that the ANC pointed out. They made a change going from
7 the white brick through the concrete eco-structure of the
8 building, the framing of the building, which I think fits in
9 better with the neighborhood. So they did add more balconies. I
10 know that the ANC wanted more, and they wanted them a little bit
11 separated. They wanted to set them back more -- the building.

12 But overall, I think I would agree with Commissioner
13 May's analysis from that standpoint in that the design overall is
14 -- it's successful for what it's trying to do. It may not be as
15 successful or hit the points that the ANC is wanting, but I think,
16 for us as a body looking at it, it does meet the design review
17 standards that we have to look at.

18 So I appreciate the ANC's comments. I think they do a
19 good deal for the (audio interference) for the ANC, for the
20 neighborhood, but I would be voting in favor of the project.

21 Thank you.

22 CHAIRMAN HOOD: Thank you, Mr. Turnbull.

23 Vice Chair Miller.

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

25 There's been a lot of public testimony on this case.

1 | There's been a lot of commentary by us with -- and interaction by
2 | us with the applicant and the public on this case in the record.
3 | And there's been a lot of work that's been done to improve the
4 | project in my view. And I think the ANC, although they are still
5 | opposed, I think they acknowledge the movements that have been
6 | made in the direction that they persistently and steadfastly were
7 | trying to get this project to achieve, both on the design aspects
8 | and compatibility with the Southwest neighborhood, and on
9 | affordable housing aspects, which are not required except for the
10 | -- I think, the one IZ, inclusionary zoning unit that was
11 | triggered by penthouse space.

12 | Our zoning affordable housing requirements and
13 | inclusionary zoning or elsewhere don't apply to this case because
14 | it's design review. And I think, you know, there's a -- but that
15 | there's -- because of the advocacy for affordable housing in such
16 | a large project -- well, let me just say, the lack of affordable
17 | housing, it's on us. It's on us that our regulations do not
18 | require affordable housing, and there is a reason why it didn't in
19 | this particular area, which I think this is part of the downtown
20 | zone, and there were legal and other arguments given as to why you
21 | couldn't achieve additional density to require the affordable
22 | housing which the density and the affordable housing balance was
23 | seen as the tradeoff in that whole inclusionary zoning scheme.

24 | Nonetheless, it's on us why our -- we did not, in this
25 | zone in this type of design review -- and in this type of design

1 review case, require affordable housing. And we're -- as the
2 Chairman noted, we're looking at expanding the application of
3 inclusionary zoning to a lot of other areas where it doesn't
4 currently apply. So that might change in the future, and I hope
5 we get a lot of public testimony about that which I'm sure we will
6 on both -- on all sides of that issue.

7 You know, I would like to, you know, they -- so the
8 applicant has made improvements to the extent that the adjacent
9 property owner, which was in opposition, is no longer a party in
10 opposition.

11 The Ward 6 Councilmember, Charles Allen, is no longer in
12 opposition, and so that's significant.

13 And the ANC acknowledges certain other design and other
14 improvements which my colleagues have referenced.

15 So there's 19 additional non-required affordable housing
16 units that are being provided in this project as a result of the
17 ANC's advocacy, and community advocacy, and our advocacy. It's
18 not enough. And they've gone further than they originally were
19 going in that direction in terms of the number. They've gone
20 further than they originally were going in terms of the median
21 family income level. They're now at the 60 percent MFI. I think
22 it was 80 percent before. They're now agreeing that the -- it'll
23 be in the proportion of size of units and the design and finishes
24 of units as the other market rate units in the project.

25 All of those commitments that have been made, I would

1 | like to see them, personally, as a condition of the order. I
2 | realize the legal arguments that have been made against that. But
3 | since -- and I realize that we will be, at a minimum, referencing
4 | all those commitments in our findings of fact -- the number of
5 | units that they've agreed -- affordable housing they've agreed to
6 | and at what median family income levels and so forth, and the
7 | proportionality of them with the market rate units in terms of
8 | size of units -- three bedrooms, two bedrooms, one bedroom -- and
9 | the finishes.

10 | I, personally though, would like to see them as a
11 | condition. I understand the challenge with doing that, and I
12 | don't know if there is support for doing that. But it seems to
13 | me, if the applicants agreed to it, that it should be a condition,
14 | and I would encourage our counsel to work with the applicants'
15 | counsel to maybe change that from a reference to a condition if
16 | that's possible to do.

17 | So I guess that's where I am, Mr. Chairman. I was a
18 | little longwinded and articulate, and I apologize for taking so
19 | much time, but I'm ready to move forward with those caveats that
20 | I've mentioned.

21 | CHAIRMAN HOOD: Okay. So let me make sure I understand
22 | Vice Chairman. You're ready to move forward, but you want to see
23 | something. So did I catch all that? You want to see some
24 | additional balconies, or you want to see something additional?

25 | VICE CHAIR MILLER: No. I was saying that I,

1 personally, would want the conditions that the commitments that
2 the applicant has made on the non-required, admittedly non-
3 required, affordable housing units to be conditions of the order.
4 I think that was a significant commitment that's been made as part
5 of this project.

6 I realize that it's not the directly related to the
7 design review standards. I realize that, when we created this
8 design review in this zone, we made a determination that the --
9 that that zoning without the affordable housing was consistent or
10 at least not inconsistent with the comprehensive plan; but we
11 still do have all of the comprehensive plan, high civic priorities
12 of affordable housing. And that, to me, factors into the process
13 that we're considering here. That it's not just a discretionary
14 review. I mean, it's not just a -- it is a discretionary review.
15 Otherwise, we wouldn't be here with this case. It's not just --
16 if you check all the design review standards, you get the -- you
17 automatically get the approval. If that were the case, you
18 wouldn't need a five-member commission up here making a decision.

19 So all I was saying that I think that the comprehensive
20 plan's overarching policies in favor of supporting affordable
21 housing as a civic priority and factoring into the fact that this
22 is a special exception which considers (audio interference) impact
23 on the neighborhood, on the city, on the -- generally, that we can
24 try to put those commitments that the applicants now agreed to on
25 affordable housing. You know, they're much less than what the

1 inclusionary zoning would require. They're much more than where
2 this project was at the outset due to advocacy by the community
3 and the ANC.

4 So I would like to see them as conditions, personally,
5 and that's all. I was just saying that the conditions -- the
6 affordable housing commitments on the number, the median family
7 income -- I would like to see them as conditions of the order. I
8 realize the challenges of that and maybe the concerns about that,
9 but that's where I am.

10 CHAIRMAN HOOD: Okay. I hear you. Let me just check
11 with Mr. -- Counsel.

12 Mr. Tondro, if you can come up please, real quick.

13 Here's -- while he's coming -- okay. This is what I'm
14 thinking, Vice Chair. Is why I know -- I don't know if we can
15 make it a (audio interference) of our regulations. I would agree.
16 I guess we -- I want to do that too. Matter of fact, I want it
17 include it, period; but it's not in our regulations. So I don't
18 know if we can make it a condition, or can we point to it in the
19 order if it's not a condition.

20 So I don't know. Maybe we can leave that up to counsel
21 at a later time. I don't know if I want to ask him now. I think
22 -- I don't know if anybody has an objection to leaving that up to
23 counsel at this point or something to weigh in on.

24 Commissioner May.

25 COMMISSIONER MAY: Yeah. (audio interference). Yeah.

1 I got it.

2 I absolutely am opposed to including it as a condition
3 because of the legal considerations of this. I think that, you
4 know, it's not within the bounds of our review on this; and for us
5 to take it into consideration opens the door for us having to
6 consider all manner of things that might be comp plan consistency
7 issues on cases, not just affordable housing.

8 I think we need to stay consistent with the rules that
9 we have set for ourselves. We have taken the right steps to try
10 to look at the rule that prevented us from making it a condition
11 in this circumstance, and the applicant has made this gesture, and
12 we can point to it in the order. I think that's sufficient, and I
13 would not be in favor of approving this with that as a condition
14 for those reasons.

15 CHAIRMAN HOOD: Okay. Thank you, Commissioner May.

16 Commissioner Shapiro.

17 COMMISSIONER SHAPIRO: Yeah, I agree with Commissioner
18 May. And I agree with the intent of Commissioner Miller -- Vice
19 Chair Miller. But I, too, feel like this is not -- you know, if
20 we bring in comp plan consistency on this issue, you know, there's
21 nothing stopping us from bringing us in on any issue. Even if
22 this is personally a priority for me, as it is, I think with all
23 of us, that's just not the point on this one.

24 So I think we can note it -- that this agreement is
25 there without having it be a condition of the order. And I agree

1 with Commissioner May. I wouldn't want to support this if it had
2 this as a condition.

3 CHAIRMAN HOOD: Okay.

4 Mr. Turnbull, you had something to add.

5 COMMISSIONER TURNBULL: Well, I automatically like the
6 -- love the way the Vice Chair thinks and wants to go about and do
7 things, and I would back him a hundred percent on some of these
8 things; but I think, in this particular case, I would leave it up
9 to the general counsel -- to our counsel -- to go through and look
10 at this because I think Commissioner May and Commissioner Shapiro
11 are bringing up very good points about what our responsibilities
12 are and what's covered by what we can actually do. But I would --
13 I love the way the Vice Chair thinks. And I would really --
14 hopefully, we can get to the point where we can do that in the
15 future, but I would ask Mr. Tondro to go through it, and look at
16 it carefully, and give us a better response. But I think that
17 both Commissioner May and Commissioner Shapiro are right in that
18 it's without -- it's beyond our purview to be able to do it.

19 But the only other thing that I wanted to point out,
20 though, that in the OP report, they asked the applicant to note
21 for the record that there would be at least one three-bedroom unit
22 among the 60 percent median family income, non-IZ units, and that
23 the applicant needs to provide. So I think that needs to be
24 somehow in our record in the order.

25 And those are my comments, Mr. Chair.

1 CHAIRMAN HOOD: Okay. Thank you.

2 Let me, first, backup because I haven't had a chance to
3 opine on this case. (audio interference). I don't agree with
4 everything. I was glad to see the Councilmember withdrew his
5 opposition, but it's -- out of all this case for me, Chairman
6 Litsky, in his last -- next to the last paragraph or the last
7 paragraph. It says:

8 "ANC 6D calls upon the Office of Planning and the
9 Zoning Commission to revisit regulations that allow
10 developers, their zoning attorneys, and their lobbyists who
11 consistently undercut the District's goal of adding
12 significant affordable housing of which is now available.
13 If the District is truly serious about its commitment to
14 affordable housing, that call must extend beyond election
15 day."

16 For me, that is the driver -- for us to look at these
17 regulations as we started off early on. I understand what the
18 Vice Chair is saying. I actually agree with him, as I stated.
19 That's why I had Mr. Tondro to come up, but I -- after I thought
20 about it, I would rather for Mr. Tondro to have time to be able to
21 reflect and think because, at the end of the day, it's Mr. Tondro
22 who's going to keep us within our regulations and who's going to
23 keep us out of court.

24 So my thing is, Vice Chair, while I agree with you
25 wholeheartedly; and I would get right on that, I think it's up to

1 us as you, I think you've already stated, for us to change our
2 regulations; and I'm hoping that -- and I said -- I read that
3 because I would like for the Office of Planning -- let's do that.
4 I can tell you we have a lot of things on our list, but I don't
5 want to stay too long on this.

6 Let's move forward unless the Vice Chairman wants to add
7 something else. I think you heard from everyone. I don't think
8 the votes are there. I think we can point to what you said. I
9 don't think we can condition it. That's just where I am, but I'll
10 wait and leave that part up to OAG as they get ready to formulate
11 the order.

12 All right. Anybody have any other comments or
13 questions?

14 But it's up to us to get the regulations taken care of,
15 but let's revisit. That's where I am.

16 All right.

17 COMMISSIONER MAY: Mr. Chairman, I'm confused. I
18 thought you were suggesting that we could not make it a condition
19 that we could point to it, but that you would leave it up to --
20 you're now saying that you would leave it up to OAG to decide?

21 CHAIRMAN HOOD: Well, here's what I did not want to do.
22 I did not -- now, I already know it can't be a condition. Okay?
23 But I would like for it to be -- I already know -- my whole thing
24 is to point to it. I didn't want to bring (audio interference).
25 I thought about it after I asked Mr. Tondro to come up. I did not

1 want him to come up and answer no questions. So I kind of cut
2 that off and hopefully Mr. Tondro understands that. (Audio
3 interference) if he wants to. But, no, we have to point to it,
4 and I wanted to leave all the legal stuff up to Mr. Tondro, but I
5 didn't want him to give me that information now.

6 COMMISSIONER MAY: So how it actually is mentioned in
7 the order would be up to Mr. Tondro's drafting and our review?

8 CHAIRMAN HOOD: Exactly. Exactly because (audio
9 interference) --

10 COMMISSIONER SHAPIRO: As long as it's not a condition.
11 As long as it's not a condition, right?

12 CHAIRMAN HOOD: Well, I don't think we can make it a
13 condition. (Audio interference).

14 COMMISSIONER MAY: You and I and Mr. Shapiro very
15 clearly agree with that.

16 CHAIRMAN HOOD: But again, I want it to be a condition,
17 but I can't do it in this case because the regulations don't point
18 to that. So -- and I think we're all on the same page.

19 VICE CHAIR MILLER: Mr. Chairman. I don't want to
20 prolong this, but -- and I wasn't very good at math, but I can
21 count; and even though I may be the only lawyer on this
22 Commission, I may not be very good at law either because we have
23 advice from a lot of legal counsel that this would be beyond our
24 purview.

25 But we've had a lot of courts tell us that we didn't

1 exercise our purview enough in cases. I wouldn't mind this being
2 tested personally. But I understand where the legal concerns and
3 challenges -- I understand it's on us to change our regulations if
4 we feel that they're not in -- not consistent with the
5 comprehensive plan and don't provide enough affordable housing.
6 And we're on that path to try to do it, and what we do with
7 affordable housing is really a very small component of what needs
8 to be done in this city as we all know. There are a lot of other
9 things in that toolbox that need to be done.

10 But this is our one shot, on this one case to try to
11 make a difference; and I would encourage, even though there might
12 be some dissent among my colleagues, our counsel at least to
13 continue to have a conversation with the applicants' counsel since
14 they have committed in writing to the ANC, to this public record,
15 to the councilmember who represents that ward that they are going
16 to meet those certain affordable minimum housing commitments.

17 I would ask -- I would encourage our counsel to work
18 with the applicants' counsel to make this as much an enforceable
19 condition in the order as possible. And if they -- if -- and --
20 if just encourage (audio interference). And with that, I could
21 vote for it.

22 If my colleagues are going to insist that our counsel
23 can't even have that conversation with the applicants' lawyer,
24 then I'll have to vote no. But I think that we should try to push
25 this envelope as far as we can.

1 CHAIRMAN HOOD: Does anyone object in moving forward
2 with the comments that the vice chair just mentioned -- at least
3 have the conversation. We -- I pretty much know where it's going
4 to fall. I think we're wasting a lot of time on it right now. I
5 would really like to put (audio interference). While the vice
6 chair said he was the only lawyer. I'm going to correct him. I'm
7 a Philadelphia lawyer. So -- and that gets us in trouble. So
8 that's kind of why I wanted to kick it to the counsel to help us
9 work through this.

10 So let me ask, does anybody have a issue with what the
11 vice chair just said? I don't.

12 COMMISSIONER MAY: Yes, I do.

13 I don't think that -- I mean, because what he's -- what
14 I -- if I understand correctly, what the vice chair is saying is
15 that he wants to make it as enforceable a condition as possible.
16 I do not believe it is an enforceable condition and -- nor should
17 we put it that way. I think that puts us in legal jeopardy.

18 If you want to have -- allow him flexibility to have
19 some further conversation and come up with some language that we
20 can all discuss, that's fine. But that means putting off this
21 decision until we have that language.

22 CHAIRMAN HOOD: Let's do that.

23 Any objections to Commissioner Shapiro? I like that.
24 Let's do that.

25 COMMISSIONER MAY: I don't mind putting it off for two

1 weeks to see if there's a conversation that can be had about how
2 it is entered -- how it is mentioned in the order, but I am
3 steadfastly opposed to it being a condition.

4 CHAIRMAN HOOD: Okay.

5 Commissioner Shapiro.

6 COMMISSIONER SHAPIRO: Yeah. I actually don't see the
7 value of putting this off, and I agree with where Vice Chair
8 Miller when he said that the real trick here is for us, OP, for us
9 to change our rules. You know, for us to -- we're -- essentially,
10 we're challenging ourselves, if we go down this road, and that
11 doesn't make any sense to me.

12 I think we all a hundred percent agree around the
13 intent, but the regs are crystal clear; and for us to check -- to
14 challenge them is just, again, it's just challenging ourselves.
15 So, you know, I am clear about this not being a condition, and I
16 don't understand what there is to gain from a delay.

17 CHAIRMAN HOOD: Okay.

18 Commissioner Turnbull, did I see you?

19 COMMISSIONER TURNBULL: I can go either way. I can do
20 the extra two weeks to give Mr. Tondro some opportunity to look at
21 this, or if it's -- if that's not going to be the case, then I
22 will vote that it not be included.

23 CHAIRMAN HOOD: Okay. For the sake of pushing the
24 envelope -- and I appreciate Commissioner May -- I would say two
25 weeks ain't going to hurt us. I don't want to ask Mr. Tondro on

1 the spot. So I would like for him to look into it, and then, as
2 Commissioner May said, come back with some language.

3 I do agree, to a certain point, that we should push
4 things because, as the courts have told me, and I say this all the
5 time, got a whole lot of flexibility. When I was dealing with
6 (audio interference), I was told I couldn't. They came back and
7 said, "Oh, you -- why don't y'all consider that?"

8 So those are the kind of things that I like to start
9 looking at. I'm not trying to close the door. I'm just trying to
10 be fair and make sure that we can have as much information as
11 possible as we move forward on this vote.

12 So I, too, am inclined to see what our legal -- the
13 language our legal counsel come back to us with in two weeks.

14 I do think, Commissioner Shapiro, that sometimes we got
15 to push it. And I agree with everything everybody's saying, but
16 I'm just trying to figure out how to balance this so we can have
17 that discussion. And sometimes, we have to do, for me, a textbook
18 exercise to see what it comes back to.

19 So I think, for me, unless someone objects, that I'd
20 like to leave this for two weeks. He may come back with strong
21 language. I think that's what -- really what the vice chair was
22 mentioning, Colleagues, with strong language (audio interference)
23 point -- a strong point -- not necessarily a condition, but a
24 strong point. But I think, to satisfy to everybody, I'd like to
25 see that strong language -- strongly encouraged in bold letters

1 and a large font.

2 So I think, you know, those things actually make a
3 difference that makes a difference.

4 Anybody else on this case? We're going to put this off,
5 I guess, to two weeks. I hope everybody's happy on this one. And
6 let's just see what we come back with.

7 Is that okay, Mr. Tondro -- you can come back with
8 something?

9 MR. TONDRO: (Shaking head affirmatively.).

10 CHAIRMAN HOOD: Anybody have any follow-up questions?

11 Mr. Shapiro, are you happy on this? No. Okay. All
12 right. We're good.

13 All right. Ms. Schellin, let's move to the next -- are
14 we going to put this for two? Do we have a meeting in two weeks?

15 MS. SCHELLIN: We have a meeting on January 28th.
16 That's exactly --

17 CHAIRMAN HOOD: Okay.

18 MS. SCHELLIN: -- two weeks.

19 CHAIRMAN HOOD: So can we put this for the 28th for this
20 specific language.

21 MS. SCHELLIN: Okay. And that's coming from OAG or OP?

22 CHAIRMAN HOOD: It's coming from OAG.

23 MS. SCHELLIN: Okay. All right.

24 CHAIRMAN HOOD: Okay. So is my --

25 MS. SCHELLIN: Are they --

1 CHAIRMAN HOOD: -- (audio interference) case. Give me
2 one second please.

3 MS. SCHELLIN: 19-30 is next.

4 CHAIRMAN HOOD: Yeah. I had to wait for my computer to
5 come back up. My computer went to sleep.

6 Let's go to Case Number -- Zoning Commission Case Number
7 19-30, ANC 5D - Map Amendment -- and we need to probably speed it
8 up -- Squares 4494, 4495, 4506, and 4507, and Parcels 160/22 and
9 160/38.

10 Ms. Schellin.

11 MS. SCHELLIN: Yes, sir.

12 NCPC provided a letter at Exhibit 40 stating this case
13 was exempt from their review per their guidelines. No other
14 submissions were received.

15 CHAIRMAN HOOD: Okay.

16 Commissioners, any questions or comments? Okay.

17 So with that, I think this is pretty straightforward. I
18 would move that we approve Zoning Commission Case Number 19-30 ANC
19 5D Map Amendment as far as 4494, 4495, 4506, and 4507, and Parcels
20 160/22 and 160/38 and ask for a second.

21 COMMISSIONER SHAPIRO: Second.

22 CHAIRMAN HOOD: Been moved and properly seconded. Any
23 further discussion?

24 Ms. Schellin, could you do a roll call please?

25 MS. SCHELLIN: Commissioner Hood.

1 CHAIRMAN HOOD: Yes.

2 MS. SCHELLIN: Commissioner Miller.

3 VICE CHAIR MILLER: Yes.

4 MS. SCHELLIN: Commissioner May.

5 COMMISSIONER MAY: Yes.

6 MS. SCHELLIN: Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Yes.

8 MS. SCHELLIN: Commissioner Turnbull.

9 COMMISSIONER TURNBULL: Yes.

10 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve final
11 actions Zoning Commission Case Number 19-30.

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

13 Our next case is Zoning Commission Case Number 20-20,
14 Office of Planning - Text Amendment re: Animal Care.

15 Ms. Schellin.

16 MS. SCHELLIN: At Exhibit 11, you have an NCPC report
17 advising that they would not have any issues with this case. No
18 other comments received.

19 CHAIRMAN HOOD: Again, Commissioners, I think this one
20 is pretty straightforward unless I hear anything. I'm going to go
21 ahead, since I'm unmuted, and make a motion. I move that we --
22 Zoning Commission Case 20-20, Office of Planning - Text Amendment
23 to Animal Care and ask for a second.

24 VICE CHAIR MILLER: Second.

25 CHAIRMAN HOOD: Been moved and properly seconded. Any

1 further discussion? Not hearing anything.

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

3 MS. SCHELLIN: Commissioner Hood.

4 CHAIRMAN HOOD: Yes.

5 MS. SCHELLIN: Commissioner Turnbull.

6 COMMISSIONER TURNBULL: Yes.

7 MS. SCHELLIN: Commissioner May.

8 COMMISSIONER MAY: Yes.

9 MS. SCHELLIN: Commissioner Miller.

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner Shapiro.

12 COMMISSIONER SHAPIRO: Yes.

13 MS. SCHELLIN: The vote is 5 to 0 to 0 to approve final
14 action in Zoning Commission Case Number 20-20.

15 CHAIRMAN HOOD: Okay.

16 Next, under hearing action, Zoning Commission Case
17 Number 20-23, LDP Acquisitions, LLC, and 525 Rhode Island Avenue,
18 LP - Map Amendment at Square 3623, Lots 1 and 2; and Parcels
19 131/94, 131/146, 131/147, 131/155, 131/161, 131/162, and 131/217.

20 Ms. Fothergill.

21 MS. FOTHERGILL: Good afternoon, Chairman Hood and
22 members of the Commission. I'm Anne Fothergill from the Office of
23 Planning, and Mr. Young is going to share a map with you all.

24 Thank you for that.

25 The petitioner has requested a map amendment for the

1 subject properties on Rhode Island Avenue Northeast from the PR-2
2 Zone to the MU-10 Zone.

3 The Office of Planning finds the proposal is not
4 inconsistent with the comprehensive plan and small-area plan and
5 recommends that the Zoning Commission set down the map amendment
6 for a public hearing.

7 In the comprehensive plan, the future land-use map
8 (audio interference) the properties are striped for mixed use of
9 high-density residential and medium-density commercial uses.

10 There is no purple stripe on the map designating
11 industrial uses for these properties.

12 The generalized policy map shows the properties and
13 their neighboring conservation area with a small part of the
14 eastern end in a land-use change area.

15 The 2011 small-area plan Rhode Island Avenue Diamond in
16 the District specifically calls out this area of Rhode Island
17 Avenue for transit-oriented development at medium to high density.

18 The small-area plan recommends pushing industrial uses
19 off Rhode Island Avenue and re-zoning this area to allow increased
20 density up to 6.0 FAR and 90 feet in height with mixed uses
21 including housing.

22 The proposed MU-10 Zone permits a maximum FAR of 6.0 and
23 a height of 90 feet with additional height and density permitted
24 for IZ developments which is consistent with the small-area plan
25 guidance and the future land-use map.

1 The current PDR-2 Zoning does not allow for multi-family
2 residential use which is not consistent with the future land-use
3 map or the small-area plan.

4 The proposed map amendment would not be inconsistent
5 with the maps and policies and the comprehensive plan including
6 the citywide elements of land-use, housing, transportation,
7 economic development, environmental protection, urban design, and
8 the upper northeast area element, as well as the supplemental
9 guidance provided in the small-area plan.

10 We recommend that the Commission set down this
11 application, and I'm happy to take any questions.

12 CHAIRMAN HOOD: Thank you, Ms. Fothergill.

13 Let me start off. Ms. Fothergill, does the Greater
14 Mount Calvary Holy Church -- do they own all of this property?

15 MS. FOTHERGILL: They are -- I believe so, yes. They
16 have assembled the property, yes. That's my understanding.

17 CHAIRMAN HOOD: I think they do own all the property. I
18 just wanted to put that on the record.

19 Let me open up and see if we any questions or comments.

20 Mr. Turnbull.

21 COMMISSIONER TURNBULL: Ms. Fothergill, I've just got a
22 question. Looking at the map, is that a alley down the center of
23 the site, or a road, or an alley?

24 MS. FOTHERGILL: It's one of the parcels that has been
25 assembled, but I don't know if it is an alley. I don't believe so

1 | because it's a parcel that's part of this assemblage.

2 | COMMISSIONER TURNBULL: It's got the tail that kind of
3 | extends into adjacent property too. It's just kind of a strange
4 | configuration. I mean, would -- I -- well, I guess we'll wait
5 | until the hearing to find out how that little piece, the tail,
6 | would be incorporated.

7 | But thank you.

8 | CHAIRMAN HOOD: Any other questions or comments?

9 | Mr. (audio interference), you know we have before us the
10 | question about why there's contested -- the rulemaking. My
11 | question to Ms. Fothergill was did Greater Mount Calvary own all
12 | the property, and which they do.

13 | One of the things that this city has been doing real
14 | hard, and we're pushing a lot of churches out. This church has
15 | made significant -- you hear me say this about Greater Mount
16 | Calvary all the time -- this church has made significant impacts
17 | on the lives of our residents (audio interference) and in the BMB
18 | (phonetic); and to put a extra issue on them, I don't have a
19 | problem.

20 | This just goes back to, like, the last case. We're
21 | trying to look at something and I think we need to push the
22 | envelope. I think the Office of Planning concurs with this being a
23 | rulemaking and so do I.

24 | Any objections to that? Okay.

25 | We'll set this down as a rulemaking, and I will move

1 that we set down Zoning Commission Case Number 20-23 and thank Ms.
2 Fothergill for her report and ask for a second.

3 VICE CHAIR MILLER: Second.

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

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

7 MS. SCHELLIN: Yes, sir.

8 Commissioner Hood.

9 CHAIRMAN HOOD: Yes.

10 MS. SCHELLIN: Commissioner Miller.

11 VICE CHAIR MILLER: Yes.

12 MS. SCHELLIN: Commissioner May.

13 COMMISSIONER MAY: Yes.

14 MS. SCHELLIN: Commissioner Shapiro.

15 COMMISSIONER SHAPIRO: Yes.

16 MS. SCHELLIN: Commissioner Turnbull.

17 COMMISSIONER TURNBULL: Yes.

18 MS. SCHELLIN: This case, the applicant actually filed
19 this one as a contested case. It's the next one that was
20 different, but that's okay. There might have been some confusion.

21 CHAIRMAN HOOD: Okay. Hold on. Let me see.

22 MS. SCHELLIN: I believe the applicant actually filed
23 this, I'm pretty sure, as a contested case. I'll double-check.

24 CHAIRMAN HOOD: Okay. Well, my note here -- I have a
25 note. I believe this qualifies as a contested case. Yeah. I

1 think it was this one. But anyway --

2 MS. SCHELLIN: I'll double-check. Let me check.

3 CHAIRMAN HOOD: It's a rulemaking. We'll set it down as
4 a rulemaking either way. So --

5 MS. SCHELLIN: Okay. That's fine. I'll just change it.

6 CHAIRMAN HOOD: We may have to -- the case we just did,
7 let me just see. The case we just did was 19-30, correct?

8 MS. SCHELLIN: Yeah. Jennifer would like to be brought
9 in. If Paul could bring her in real quick. 20-23 is the one we
10 just brought in.

11 CHAIRMAN HOOD: Yeah, 20-23. And my note says -- okay.
12 Anyway.

13 Ms. Steingasser.

14 MS. SCHELLIN: Ms. Steingasser would like to be brought
15 in. If we could bring her in.

16 MS. STEINGASSER: Yes, sir. Thank you.

17 The applicant did file that case as a contested case,
18 though they requested it be considered a rulemaking. They felt -
19 --

20 MS. SCHELLIN: Okay.

21 MS. STEINGASSER: -- sufficient argument to be a
22 rulemaking; however, they filed as a contested case. And the next
23 case that OP initiated was also filed as a contested case.

24 CHAIRMAN HOOD: So they filed as a contested case, and I
25 was reading the notes that I have from counsel. But let me ask

1 Mr. Tondro, I see that he is ready to opine on this. Did you have
2 something you want to add?

3 MR. TONDRO: Yes. I believe -- so yeah. Sorry.
4 Problems with the mute button. I think, as a contested case, I
5 think it meets the category of a contested case. And since they
6 filed it as such, I think that would make sense as such.

7 CHAIRMAN HOOD: Well, if they filed it as a contested
8 case, where did the rulemaking come into my notes on my discovery?
9 Where did rulemaking come up?

10 So, Ms. Steingasser, did the applicant, Ms. Foster,
11 consider this a rulemaking? And first of all, they (audio
12 interference).

13 MS. STEINGASSER: They filed as a contested case. They
14 made the statement within their application that they felt there
15 was arguable reason to be a rulemaking case; however, they filed
16 as a contested case.

17 The confusion is the reference in the very first tab
18 line where it says, "Petition." And I think that has confused
19 people. It should say, "Application." Petition goes to
20 rulemaking, and application goes to contested case, and I think
21 just the presence of that word has people confused.

22 CHAIRMAN HOOD: Thank you.

23 MS. STEINGASSER: (Audio interference). But it is a --
24 it is filed as a contested case.

25 CHAIRMAN HOOD: Okay. So let me withdraw my motion for

1 Zoning Commission Case Number 20-23 as set down as a rule -- I
2 don't need to do a motion. I can just do a general consensus that
3 we will just set this down as a contested case as asked for.

4 COMMISSIONER MAY: Yes.

5 CHAIRMAN HOOD: Okay. And there was no objections, so
6 that's what we'll do.

7 COMMISSIONER MAY: No objections.

8 CHAIRMAN HOOD: (Audio interference) came from.

9 So anyway, let's move to the next case, Zoning
10 Commission Case Number 21-01, Office of Planning - Map Amendment
11 at Parcels 131/216 and 131/44.

12 Ms. Fothergill.

13 MS. FOTHERGILL: Good afternoon.

14 Again, for the record, I'm Anne Fothergill from the
15 Office of Planning for Zoning Commission 21-01.

16 The Office of Planning, on behalf of the City, is
17 proposing a rezoning for two District-owned parcels located at 501
18 to 513 Rhode Island Avenue Northeast for the PDR-2 Zone to MU-10
19 Zone.

20 OP finds this is not inconsistent with the comprehensive
21 plan and small-area plan and recommends that the Zoning Commission
22 set down that amendment for a public hearing.

23 And the comprehensive plan and the future land-use map
24 shows the properties as striped for mixed use high-density
25 residential and medium-density commercial uses. There is no

1 purple stripe on the map designating industrial uses for these
2 parcels.

3 The generalized policy map shows the property in a
4 neighboring conservation area.

5 The 2011 small-area plan Rhode Island Avenue Diamond of
6 the District specifically calls out this area of the Avenue for
7 transit-oriented development at medium to high density.

8 The small-area plan refers specifically to the subject
9 property twice in terms of the fire station's preservation
10 relocation and redevelopment, and the proposed rezoning would not
11 preclude any of these options.

12 The small-area plan recommends pushing industrial uses
13 off Rhode Island Avenue, and rezoning this area to allow increased
14 density up to 6.0 FAR and 90 feet in building height with mixed
15 uses including housing.

16 The proposed MU-10 Zone permits a maximum FAR of 6.0 and
17 height of 90 feet with additional height and density permitted for
18 IZ developments which is consistent with the small-area plan
19 guidance and the future land-use map.

20 The current PDR-2 Zone does not allow for multi-family
21 residential use which is not consistent with the future land-use
22 map or small-area plan.

23 The proposed map amendment would not be -- would be not
24 inconsistent with the maps and policies and the comprehensive
25 plan, the city-wide elements, land-use housing, transportation,

1 environmental protection, urban design in the upper northeast area
2 element, as well as the supplemental guidance provided in the
3 small-area plan.

4 We recommend that the Commission set down this
5 application, and we would ask that this map amendment would -- we
6 would ask that this map amendment and the previous case Zoning
7 Commission Case 20-23 be scheduled for a public hearing on the
8 same date if possible, and I'm happy to take any questions.

9 CHAIRMAN HOOD: Thank you, Ms. Fothergill.

10 (Audio interference), which I expected. So if it keeps
11 doing that, just let me know. I hope to have my equipment
12 straight eventually -- soon, pretty soon.

13 But anyway, so you heard the request of Ms. Fothergill.

14 Ms. Schellin, if we could hear these cases -- I don't
15 know which one will go first, but if we could hear them maybe the
16 same night, that would be great.

17 Any questions or comments, Commissioners, for Ms.
18 Fothergill? Okay. I'm not seeing any.

19 Let's move right on. Again, I would move, unless
20 somebody else wants to make a motion, to set this down. Then
21 we'll set this one down as a contested case as well.

22 Okay. So (audio interference) -- can y'all hear me?

23 VICE CHAIR MILLER: Yes.

24 CHAIRMAN HOOD: Oh, okay. Did somebody want to make a
25 motion?

1 VICE CHAIR MILLER: Yeah. I will. Mr. Chairman, I will
2 move that the Zoning Commission set down Case Number 21-01 Office
3 of Planning - map amendment at Parcels 131/216 and 131/44 as a
4 contested case and ask for a second.

5 COMMISSIONER MAY: Second.

6 CHAIRMAN HOOD: Being moved and properly seconded, any
7 further discussion? Not hearing any, Ms. Schellin, could you do a
8 roll call vote?

9 MS. SCHELLIN: Commissioner Miller.

10 VICE CHAIR MILLER: Yes.

11 MS. SCHELLIN: Commissioner May.

12 COMMISSIONER MAY: Yes.

13 MS. SCHELLIN: Commissioner Hood.

14 CHAIRMAN HOOD: Yes.

15 MS. SCHELLIN: Commissioner Shapiro.

16 COMMISSIONER SHAPIRO: Yes.

17 MS. SCHELLIN: Commissioner Turnbull.

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: The vote is 5 to 0 to 0 to set down
20 Zoning Commission Case Number 21-01 as a contested case.

21 CHAIRMAN HOOD: Okay. And I want to thank Ms.
22 Fothergill for her work on those last two cases and her work in
23 providing this information to me, and also, Ms. Steingasser and
24 Mr. Tondro as well.

25 Ms. Schellin, do we have anything else?

1 MS. SCHELLIN: Staff has nothing further.

2 CHAIRMAN HOOD: Okay. So with that, we --

3 MS. SCHELLIN: And I don't believe OP had a report.

4 CHAIRMAN HOOD: Does the Office of Planning have a
5 report?

6 MS. STEINGASSER: (No audible response.)

7 CHAIRMAN HOOD: Then I'll tell you what I'll do. I
8 would like for us to kind of get a laundry list of everything that
9 we can put in the parking lot that we're supposed to be working on
10 because I know that list is growing and growing even if they don't
11 have it for the next time, we -- at our next meeting. But that's
12 something we're going to need at least the next two months because
13 I know that list has gotten pretty large.

14 COMMISSIONER SHAPIRO: It's -- Mr. Chair, it's no longer
15 a parking lot. It's more like a three-story garage.

16 CHAIRMAN HOOD: Well, the three-story garage and the
17 parking lot.

18 MS. SCHELLIN: We're underground. We don't do above-
19 ground parking.

20 CHAIRMAN HOOD: So the Zoning Commission will meet again
21 January the 21st, 2021. This is the Office of Planning text
22 amendment, re: penthouse regulations -- text amendment to the
23 penthouse (audio interference).

24 So with that -- and that's January 21st, 2021 at 4 p.m.
25 the same, Webex.

1 So with that, unless there is anything else, I want to
2 thank everyone for their participation in this meeting.

3 Ms. Schellin has one thing.

4 MS. SCHELLIN: Just one thing. I just want to publicly
5 announce that the Case Number 20-08, the hearing for Howard
6 University that was scheduled for January 25th has been
7 rescheduled for April 5th, just in case anybody is listening,
8 because those hearing notices to the 200 voters will not go out
9 until later because of the anticipated -- I'm not going to say
10 anticipated riots next week -- just the anticipated influx of
11 people next week into the District.

12 CHAIRMAN HOOD: Okay. So thank you. That's so noted.

13 And with that, this meeting is adjourned, and everyone
14 stay safe.

15 Thank you.

16 (Whereupon, the above-entitled matter went off the
17 record at 5:13 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 01-14-21

Place: Webex

was duly recorded and accurately transcribed under my
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