

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

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THURSDAY

MAY 27, 2021

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

ZONING COMMISSION MEMBERS PRESENT:

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- ANTHONY J. HOOD, Chairperson
- ROBERT MILLER, Vice Chairperson
- PETER SHAPIRO, Commissioner
- PETER MAY, Commissioner
- MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

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

OFFICE OF PLANNING STAFF:

- JENNIFER STEINGASSER
- STEPHEN COCHRAN
- CRYSTAL MYERS
- STEPHEN MORDFIN

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

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MAXIMILIAN TONDRO, ESQ.
ALEXANDRIA CAIN, ESQ.

The transcript constitutes the minutes from the
Regular Public Meeting held on May 27, 2021.

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(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public meeting by video conferencing.

My name is Anthony Hood. Joining me are Vice Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, our secretary, and Mr. Paul Young, who handles all of our virtual operations. If we ask someone to speak, we will ask that you introduce yourselves at the appropriate time.

Copies of today's meeting agenda are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and is also webcast live, Webex and YouTube Live. The video will be available on the Office of Zoning's website after the meeting. Accordingly, all those listening on Webex or by phone will be muted during the meeting unless the Commission suggests otherwise.

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

Again, we do not take any public testimony at our meetings unless the Commission requests someone to speak.

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2 at 202-727-5471 for Webex log-in instructions, or call-in
3 instructions as well. Again, the telephone number is 202-727-
4 5471.

5 Okay. Again, good evening everyone. Ms. Schellin,
6 let's -- let me pull up the agenda, please. Okay. Ms. Schellin,
7 do we have any preliminary matters?

8 MS. SCHELLIN: Staff does not have any preliminary
9 matters.

10 CHAIRPERSON HOOD: Okay, I am going to move the agenda
11 around. I'm going to -- the only difference in the order of
12 procedure of the meeting this evening is that final action will
13 be last.

14 MS. SCHELLIN: Okay.

15 CHAIRPERSON HOOD: Okay? That's the only issue. Final
16 action will be last. So if you're waiting for final action, it
17 will be last. And I think we had two other cases that came off
18 because of some noticing issues. The NCPC, that's not on the
19 agenda, I believe, so we're good with that. All right.

20 MS. SCHELLIN: Yes.

21 CHAIRPERSON HOOD: Okay. Give me one more second,
22 please.

23 Okay. Consent calendar item, minor modification --
24 modification of consequence, determination of scheduling. Ms.
25 Schellin, could you call the first case?

1 MS. SCHELLIN: Yes, sir. The first case is Zoning
2 Commission Case Number 04-22B, LPF Senate Square, LLC, PUD
3 modification of consequence, at Square 751. The applicant is
4 seeking a modification of consequence to the previously approved
5 PUD to modify condition Number 3 of the order to change the
6 affordable units from "for sale" to "for rent" units. At Exhibit
7 4, you have an OP report that advises it does not object to the
8 request being considered as a modification of consequence and
9 recommends approval of the request. If the Commission does in
10 fact find this to be a modification of consequence, staff asks
11 that a schedule be set for submissions from the parties.

12 CHAIRPERSON HOOD: Okay, Commissioners, as stated by
13 Ms. Schellin, we have a request on Zoning Commission Case Number
14 04-22B, LPF Senate Square, LLC, PUD modification of consequence.
15 Does anyone believe that this should come off as a modification
16 of consequence?

17 Not seeing anyone. I would say, raise your hand, but
18 I didn't see anyone shake their head. So I will ask, Ms.
19 Schellin, could we do determination of scheduling?

20 Does anybody have any comments on this? Vice Chair
21 Miller.

22 VICE CHAIR MILLER: Thank you, Mr. Chairman. So the
23 only comment I have is that I appreciate the applicant trying to
24 basically legitimize what is happening at the at the site, which
25 is that it's been rental and not condo units, and so, I guess -

1 - the question I have is whether, you know, the inclusionary
2 zone, I know this is a case that predates our inclusionary zoning
3 regulations, however, and we're now considering a modification
4 of consequence and I appreciate the application coming forward.
5 Under our existing IZ, the rental units are required to be at
6 60 percent median family income or below, not at the 80 percent
7 and below that condos -- that ownership units are required to be,
8 so I don't want to penalize the applicant in any way from coming
9 forward to try to legitimize what's happening at this site, which
10 is -- and so but what I wanted -- I think there is a question
11 whether IZ gets triggered when you go for a modification of
12 consequence, even in a case that predated IZ originally, so we
13 have these 22 or whatever units out of the many hundreds that
14 are being offered -- that are being rented at 80 percent AMI. I
15 would like the applicant to submit as part of what they're going
16 to submit when we consider this. If they could -- if when they
17 those rental units become vacant in the future, if they could
18 commit somehow -- I don't even know how this would be enforceable.
19 I don't even how our current IZ is enforceable, but if they could
20 somehow commit that when these units become vacant -- rental
21 units become vacant through the tenants leaving of their own
22 volition in the future, that they could re-rent them at the 60
23 percent MFI level and below, because that's what the current IZ
24 requires. If the applicant can submit something on that subject
25 when we get to consider this in the future, I would appreciate

1 seeing that information. Thank you, Mr. Chairman.

2 CHAIRPERSON HOOD: Okay, thank you, anybody else?

3 And again, I just want to say what this case is about
4 is -- no one has -- we have not taken it off as a modification
5 of consequence. The application requested, as Ms. Schellin has
6 mentioned, to modify condition number 3 of the original order,
7 via Zoning Commission Order 04-22, that required 19,852 square
8 feet of building GFA be available for sale as affordable units
9 to 80 percent of -- well, it says AMI, but MFI, but I think that's
10 what Vice Chair was speaking of, so we would -- he's asking to
11 govern yourselves accordingly and to look at that, I believe. I
12 don't want to take anything away from what he has already said,
13 so. All right.

14 Ms. Schellin, do we need to do anything about the
15 determination of scheduling?

16 Commissioner Turnbull.

17 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I was just
18 going to say that I think the Vice Chair brings up a good point
19 and I think that the applicant should obviously meet with the
20 Office of Planning and go over exactly what he has been talking
21 about.

22 CHAIRPERSON HOOD: Okay. All right. Anything else on
23 this? Ms. Schellin, do you need to do the scheduling?

24 MS. SCHELLIN: Yes. So, if we could have those -- and
25 if this doesn't work for the doesn't work for the applicant, they

1 can contact me, and I can move it to July, but if they could make
2 their submission by 3 o'clock p.m. on June 10th, then the ANC
3 would have until 3 o'clock p.m. on June 17th to provide their
4 report and response if they need to, to what the applicant
5 submits. And then we can bring this back to the Commission at
6 the July -- June 24th public meeting.

7 COMMISSIONER SHAPIRO: Did we lose the chair?

8 VICE CHAIR MILLER: The Vice Chair is here but --

9 CHAIRPERSON HOOD: Vice Chair, I never left. I just -

10 -

11 VICE CHAIR MILLER: Okay, I'm glad.

12 CHAIRPERSON HOOD: I'm getting a few phone calls all
13 of a sudden. Okay. So excuse me. All right.

14 So, Mr. Turnbull, did you finish your point?

15 Okay, let's go to the next case. Give me one second.

16 Okay. The next case is Zoning Commission Case Number
17 19-19A, Terrace Manor Redevelopment, LP, PUD modification of
18 consequence. Ms. Schellin.

19 MS. SCHELLIN: Yes, sir. The applicant is seeking a
20 modification of consequence to modify exterior architectural
21 elements of the building and to the internal reconfiguration of
22 the mix of units. At Exhibit 6, you have an OP report advising
23 they do not object to the request to consider the use change as
24 a modification of consequence and recommending approval of the
25 request. Exhibit 7 is a letter from ANC 8E advising they

1 considered the request minor and would not take a formal position
2 on the application. I believe there's one other ANC that needs
3 to weigh in on this case. So if you find it to be a modification
4 of consequence, then we can set a schedule for this one also.

5 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin,
6 again. As stated, this application requests a modification to
7 the exterior architectural elements and the internal building
8 configuration including increase the building height for the PUD
9 from 47 feet, 7 inches to 51 feet, 3 inches; decrease the proposed
10 FAR from 1.296 FAR to 1.290 FAR; introduction of a service
11 elevator resulting in a change to the roof level; and internal
12 modifications resulting in a change to the mix of the unit types
13 as follows and as noted: one bedroom, two bedrooms, three
14 bedrooms, and have the totals of the approved PUD versus the
15 modified PUD, and it is in the record for the public if they
16 would like to see it. So, first, does anybody believe that this
17 should come off of the consent calendar item as a modification
18 of consequence? Okay, not hearing anything, Ms. Schellin, can
19 we do a determination in scheduling?

20 MS. SCHELLIN: Yes, sir. So the ANC will have until 3
21 o'clock p.m. on June 3rd to provide their report, that's one
22 week, if the applicant could work with the ANC and then we can
23 put this on for June 10th for deliberation.

24 CHAIRPERSON HOOD: Thank you, Ms. Schellin. All right,
25 the next case up for deliberations is Zoning Commission Case

1 Number 06-14H, Washington Gateway Three, LLC, & MRP Realty, PUD
2 modification of consequence at Square 3584. Ms. Schellin.

3 MS. SCHELLIN: Yes, the Commission, there's been no new
4 filing since the Commission decided this request was indeed a
5 modification of consequence. Just a reminder that this request
6 was contingent on the Commission approving a time extension that
7 was filed at the same time and the Commission did, in fact,
8 approve that time extension at the April 29th public meeting.
9 So, this case is now ready for the Commission to deliberate upon.

10 CHAIRPERSON HOOD: Thank you. Ms. Schellin, let me add
11 on to that. This, again, is an application seeking a modification
12 of Zoning Commission Order 16-14E to activate the outdoor space
13 of the South Tower site by permitting use of a temporary basis
14 for commercial, retail and cultural uses, i.e. Farmer's Market,
15 art festivals, etc. The proposed temporary use would not result
16 in any change to the use -- uses or design approved for the South
17 Tower, and it is noted that we did, counsel is the first time to
18 get a response from the ANC and I think, as Ms. Schellin
19 mentioned, we do have one ANC that did not -- did the ANC respond
20 in this case? I can't remember. But anyway, let me see. No -

21 -

22 COMMISSIONER SHAPIRO: I think there are three ANCs and
23 no reports.

24 CHAIRPERSON HILL: No responses, but we did the allow
25 -- let the record reflect that we did allow the two weeks. We

1 did reach out. We have done our due diligence. Obviously, there
2 are no issues because we haven't heard anything.

3 Commissioners, anything else? Any other comments? I
4 think it's pretty straightforward. Can I get -- Mr. Turnbull.

5 COMMISSIONER TURNBULL: I just had -- just going back
6 over the applicant's submittal and this should encourage
7 operating the uses at noise levels and during hours that would
8 not disturb nearby residents. I was (indiscernible) what noise
9 levels they were looking for. And I don't know if we need to
10 talk about hours, I mean what hours -- is this a restriction we
11 need to -- I'm just throwing that out. I mean, this is a one
12 story, temporary use, I believe it's one story anyways, it doesn't
13 really say that, but I'm assuming it's a stick-built, one story
14 temporary use to provide retail, I mean, all the little of things
15 that are -- the Office of Planning has listed on page 1 of its
16 report what they could have, so I'm assuming it's one story, I
17 don't know -- one story, two stories? Did anybody pick up on
18 anything that maybe I missed?

19 CHAIRPERSON HOOD: So I will say this, and we can do
20 this, let's see, Ms. Schellin let's bring somebody up from up
21 from the Office -- oh, Ms. Cain may be able to expound on it.
22 So, Ms. Cain?

23 MS. CAIN: Yes, Commissioner Turnbull, I believe that
24 the applicant is proposing, it's all going to be temporary
25 structures. So I don't even know, I mean, I assume it will be

1 about one story and there are not going to be structures of any
2 sort of substantial nature from minor (indiscernible).

3 COMMISSIONER TURBULL: That's what I thought. That was
4 my feeling. It's a one story, stick-built structure, and I didn't
5 know whether they talked about hours, but they didn't mention
6 what hours they were going to operate at or how long it would go
7 at night, 11 o'clock. I mean, if it is bars or whatever. So I
8 don't know, is there something we need to address, or do we just
9 let that go?

10 MS. CAIN: If the commissioner is concerned about the
11 potential adverse impacts of the use, then, yes, you would be
12 perfectly able to do impose conditions on hours or anything else.
13 Just to note that OP is also recommending certain conditions. So
14 you could add to those if you see fit.

15 COMMISSIONER SHAPIRO: Mr. Turnbull, if I may, my read
16 on it -- this may or may not be helpful -- but my read on it is
17 based upon the location, the only thing that's next to it that
18 could potentially be a noxious use to it is their own building -
19 -

20 COMMISSIONER TURNBULL: That's right, I know.

21 COMMISSIONER SHAPIRO: -- which is under construction
22 right now.

23 COMMISSIONER TURNBULL: Well, my only thing was that
24 they mentioned, as I said, they're going to operate IT at noise
25 levels, whatever that is, and during hours that would not disturb

1 any nearby residents, which is their own residents. So maybe
2 it's a moot point, but I just thought I'd mention that. It just
3 seemed unclear on the end there.

4 CHAIRPERSON HOOD: I do know, as we know in the city,
5 and I am sure everywhere else, there are decibels as far as noise
6 levels and there is another avenue within the D.C. area, I
7 believe, to deal with noise levels. So I don't know if we want
8 to expound on that or go by what's already in position with the
9 city.

10 COMMISSIONER TURNBULL: I'm fine with that. I'm fine
11 with that.

12 CHAIRPERSON HOOD: So we will go ahead and proceed, it
13 sounds like, but we will depend on regulations that we already
14 have in place here in the city with that. And I'm sure if there's
15 a problem, while the ANCs didn't respond here, they will
16 definitely respond there, if there are some problems.

17 Okay, anything else?

18 Okay, so any other comments? It doesn't seem like any.
19 Would somebody like to make a motion and second, so we can approve
20 this?

21 COMMISSIONER TURNBULL: Well, in light of my -- going
22 back on my concerns, I would move that we approve Application ZCO
23 06-14H, request for a modification of consequence to approve PUD
24 06-14 at New York and Florida Avenues, Northeast, for temporary
25 uses as discussed and with the conditions as listed in the Office

1 of Planning report.

2 COMMISSIONER SHAPIRO: Second.

3 CHAIRPERSON HOOD: Okay. It has been moved and properly
4 second with the conditions that have -- I think it's two or
5 however many it was, that was listed in the Office of Planning
6 report. Any further discussion?

7 COMMISSIONER TURNBULL: Well, I guess the only thing I
8 should say is that the Office of Planning is talking about that
9 the temporary use permission shall expire on May 4th, 2023.

10 CHAIRPERSON HOOD: Okay, thank you. Good catch. So
11 we -- I believe the seconded of the motion, we will accept that
12 added addition. Okay, it's been moved again and accepted.

13 Any further discussion?

14 Okay. Ms. Schellin, would you do a roll call vote,
15 please?

16

17 MS. SCHENILL: Yes, sir. Commissioner Turnbull?

18 COMMISSIONER TURNBULL: Yes.

19 MS. SCHELLIN: Commissioner Shapiro?

20 COMMISSIONER SHAPIRO: Yes.

21 MS. SCHELLIN: Commissioner Hood.

22 CHAIRPERSON HOOD: Yes.

23 MS. SCHELLIN: Commissioner May. Commissioner May --
24 - did we lose him? Oh, we can't hear him. I got a "thumbs up"
25 from him.

1 Commissioner Miller.

2 VICE CHAIR MILLER: Yes.

3 MS. SCHENILL: The vote is 5-0-0 to approve final action
4 in Zoning Commission Case Number 06-14H.

5 COMMISSIONER MAY: Can you hear me now?

6 MS. SCHELLIN: Yes.

7 COMMISSIONER MAY: Okay. It's that weird microphone
8 thing that happens to me every once in a while.

9 CHAIRPERSON HOOD: Okay, let's go to our proposed
10 action. Zoning Commission Case 21-02, Office of Planning, text
11 amendment; RE: Inclusionary Zoning XL. Ms. Schellin.

12 MS. SCHELLIN: Yes, sir. A new exhibit since the
13 hearing -- or since proposed action -- there's a letter in support
14 from DCBIA at Exhibit 12. Exhibit 13 is The Committee of 100,
15 well that was their hearing testimony. Actually, I don't know
16 that there's been anything new since proposed action, so this
17 case is ready. Not proposed action -- since the hearing, so this
18 case is ready for the Commission to consider proposed action.

19 CHAIRPERSON HOOD: Okay.

20 MS. SCHELLIN: A supplemental report, I'm sorry, is at
21 Exhibit 16 from OP about their meeting with the Anacostia Historic
22 Preservation Community and they -- and the proposed revisions of
23 the initial petition.

24 CHAIRPERSON HOOD: Okay, thank you. While I'm -- I'm
25 going to do the summary again, and I would ask Mr. Young if Ms.

1 Steingasser or somebody from OP who took this case, if they're
2 around I would like to know the results of the meeting I asked
3 about. If we can bring them up. I requested they come up. The
4 summary is the proposed text amendment would revise the IZ to
5 apply -- regular IZ to currently exempted zones revise a set
6 aside (indiscernible) to expand the applications required to set
7 aside ten percent of residential GFA -- GFA to 75 percent of
8 unutilized bonus density by raising the eligibility threshold to
9 zones with a by right height of 85 feet from the current threshold
10 of zones with a by right 50-foot height limit. So that's what
11 the subject is and I'm going to ask Ms. Steingasser -- Ms.
12 Steingasser, I will tell you if I missed it, I apologize, but I
13 didn't see anything -- it asked for something from Chairman Wilson
14 with the Anacostia Historic organization to let us know how the
15 meeting went, so I would ask you, did the explanation -- what
16 took place? Did the explanation get explained and is everybody
17 good? That's my question. You're on mute. You're on mute.

18 MS. STEINGASSER: We did attend the meeting and we're
19 available to answer questions. We were probably there for about
20 45 minutes. We explained the text amendment, what it was trying
21 to do, how it was applying the IZ regulations evenly and equitably
22 across the city. So there were a lot of questions. There was
23 some misunderstanding about how these regulations would be
24 implemented and if they would have an effect. And we tried to
25 explain that we actually haven't seen an inclusionary zoning

1 development in the R3 zone, which is most of the Historic
2 Anacostia that we were dealing with. So I think there was an
3 unease and anxiety over just the fact that the regulation had
4 gotten that far along, and they had not been contacted. We
5 apologize for that lack of communication. And that seemed to be
6 where -- we also informed them that if they wanted to represent
7 their own sense of the meeting, that they should feel free to
8 file a report to the Commission and that it would be accepted,
9 but that we would be reporting back. All in all, I think it was
10 a friendly meeting.

11 CHAIRPERSON HOOD: So your best recollection, I'm not
12 putting you on the spot and I'm not holding you to it, but I'm
13 just trying to -- so obviously, if we don't have anything, at
14 least I didn't see anything in the record, so I guess they're
15 fine with whatever took place in that meeting, and that's me
16 saying that because we don't have anything. So I don't have
17 anything to do on. Because I did request that they send something
18 to the Commission so we could kind of get a pulse of where they
19 were. But it sounds like, from what you said, that those that
20 misunderstood and there's some angst about, you know, something
21 new, it sounded like it was okay because we didn't get anything
22 so.

23 MS. STEINGASSER: Well, I don't want to represent them.

24 CHAIRPERSON HOOD: Right.

25 MS. STEINGASSER: We tried to answer the questions to

1 the best of our knowledge, Chairman. Charles Wilson was in
2 attendance and asked some questions, as was (audio interference).
3 You know, there were several members that you would be familiar
4 with. Yeah.

5 CHAIRPERSON HOOD: Okay. So I'm going to -- thank you,
6 Ms. Steingasser. And again, I'm not holding you to anything --
7 the record, like you said. You're not representing me. I'm
8 just taking what I have in front of me, which is -- and I
9 specifically asked for something to let me know where they stood
10 after you had the meeting. So I guess to clarify, I'm going to
11 go with the -- that the clarification was clear, they are fine
12 with it. While they may have still some questions, but, you
13 know, the track record gets started and the "rubber meets the
14 road," and I'm sure, as we've always done, if we need to change
15 something, I'm sure we will. So thank you, Ms. Steingasser.

16 Any other questions or anything while we have Ms.
17 Steingasser up? Well, she's gone now. Okay. All right. Well,
18 thank you all. Let's see. Any other questions or comments?
19 Okay. We're good, Ms. Steingasser, thank you.

20 Would somebody like to make a motion or -- do we approve
21 proposed action?

22 COMMISSIONER SHAPIRO: Mr. Chair, I would move that we
23 take proposed action on Zoning Commission Case Number 21-02,
24 Office of Planning text amendment regarding Inclusionary Zoning
25 XL and look for a second.

1 CHAIRPERSON HOOD: And that would also include the
2 vesting as well, right?

3 COMMISSIONER SHAPIRO: Yes.

4 CHAIRPERSON HOOD: Okay. The vesting and all that as
5 proposed. Thank you, Commissioner Shapiro. Is there a second?

6 COMMISSIONER TURNBULL: Second.

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

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

11 MS. SCHELLIN: Commissioner Shapiro.

12 COMMISSIONER SHAPIRO: Yes.

13 MS. SCHELLIN: Commissioner Turnbull.

14 COMMISSIONER TURNBULL: Yes.

15 MS. SCHELLIN: Commissioner Hood.

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: Commissioner May.

18 COMMISSIONER MAY: Yes.

19 MS. SCHELLIN: Commissioner Miller.

20 VICE CHAIR MILLER: Yes.

21 MS. SCHELLIN; The vote is 5-0-0 to approve proposed
22 action in Zoning Commission Case Number 21-02.

23 CHAIRPERSON HOOD: Okay. Again, we're now going to go
24 to hearing action, so we're going to need to bring up the Office
25 of Planning representatives for these cases. The first case is

1 Zoning Commission C Number 05-36, Toll DC II, LP, PUD modification
2 of significance at Square 749. Mr. Cochran.

3 MR. COCHRAN: Thank you, Mr. Chair. As you said, I'm
4 Steve Cochran, representing the Office of Planning in case 05-
5 36M. On April 29th of this year, you all determined pursuant to
6 Subtitle Z, Section 703.6 and 703.17(a) that the applicant's
7 request for a change of use for a portion of the PUD should be
8 considered as a Modification of Significance. You determine this
9 because the use is permitted only by special exception.

10 OP is looking at two things today. First, we are
11 supporting the applicant's waiver request for a set down of an
12 application for a public hearing to be considered today, which
13 is approximately two weeks from the date of the application's
14 filing when 35 days is more typically required. And that's
15 pursuant to Z 400.9. If that's accepted, we then would recommend
16 that the Commission set down the requested modification of
17 significance pursuant to Subtitle Z 704, this includes the
18 request for a special exception which the Zoning Commission may
19 hear under Z 303. The actual intent of the application is to
20 receive special exception permission to permit animal sales, care
21 and boarding uses of approximately 6,960 square feet of ground
22 floor space in the Phase II of the PUD. This space is at the
23 corner of 2nd and L Streets, Northeast. This permission could
24 be given by adding the use to the other uses permitted for the
25 13,000 plus square feet of ground floor, that condition number 2

1 of the original Order permits. And the language that OP is
2 suggesting is in our report. I'd be happy read it later if you
3 want me to. The PUD occupies about 90 percent of the square in
4 Northeast Washington K and L and 2nd and 3rd Northeast. It
5 includes a related map amendment to what's now MU-9. The
6 buildings are complete, or actually the building is complete,
7 and it was constructed in two phases. The space in question is
8 at the corner of 2nd and L in Phase II and Phase II began
9 residential occupancy in 2019. The proposed animal care use
10 would not be inconsistent with the comprehensive plan. Just two
11 examples of this lack of inconsistency. The land use element
12 promotes the efficient use of land resources to meet long-term
13 neighborhood needs, which this would be; the economic development
14 elements policy on neighborhood commercial vitality encourages
15 the attraction of new business and improving the mix of goods and
16 services available to residents. And then the requested use
17 would not be inconsistent with the intent of the approved PUD,
18 which you all approved as a primarily residential development
19 with a mix of ground floor uses. The request also seems to meet
20 the special exception requirements for animal care and sales, but
21 that analysis is included in our setdown report, and we would
22 testify to that if you set down the modification for a public
23 hearing. That concludes our setdown testimony. I'd be happy to
24 answer any questions.

25 CHAIRPERSON HOOD: Okay. Thank you, Mr. Cochran. I

1 think I could do first the waiver of 35 days by general consensus.
2 Any objections Commissioners? Not seeing any or hearing any.
3 Okay. Any questions? Any objections? Not hearing any objections
4 to the 35-day minimum waiting period. No objections to the waiver
5 of that.

6 Let's see if there are any questions for Mr. Cochran.
7 Okay, so we have a setdown request in front of, something that
8 we moved to the Modification of Significance, I believe, yes,
9 of significance. So would somebody like to make a motion that
10 we set this down?

11 COMMISSIONER SHAPIRO: Mr. Chair, I move that we set
12 down for a hearing in Zoning Commission Case Number 05-36M, Toll
13 DC II, LP, PUD Modification of Significance at Square 749. And
14 Mr. Chair, should that include the waiver request of the motion?

15 CHAIRPERSON HOOD: Oh, yeah, yeah, that'll be a cool
16 way of doing it. Yeah, let's put that in (audio interference).

17 COMMISSIONER SHAPIRO: Put in a waiver from the 35- day
18 period and set down a public hearing.

19 COMMISSIONER MAY: I'll 2nd that.

20 CHAIRPERSON HOOD: Okay. It's been moved and properly
21 seconded. Any further discussion? Not hearing any. Ms.
22 Schellin, would you do a roll call vote, please?

23 MS. SCHELLIN: Commissioner Shapiro.

24 COMMISSIONER SHAPIRO: Yes.

25 MS. SCHELLIN: Commissioner May.

1 COMMISSIONER MAY: Yes.

2 MS. SCHELLIN: Commissioner Hood.

3 CHAIRPERSON HOOD: Yes.

4 MS. SCHELLIN: Commissioner Miller.

5 VICE CHAIR MILLER: Yes.

6 MS. SCHELLIN: Commissioner Turnbull.

7 COMMISSIONER TURNBULL: Yes.

8 MS. SCHELLIN: The vote is 5-0-0 to set down Zoning
9 Commission Case Number 05-36M as a contested case, and that
10 includes granting the waiver of setting down the case less than
11 35 days from the date of filing.

12 CHAIRPERSON HOOD: Okay. Our next case is Zoning --
13 for hearing action in Zoning Commission Case Number 21-07. This
14 is the Institute of Urban Living, consolidated PUD and related
15 map amendment at Square 5876. Let's go to Mr. Mordfin.

16 MR. MORDFIN: Good afternoon, Chair, and members of the
17 Commission. The application is requesting a consolidated PUD
18 with PUD-related map amendment from the RA-1 to the RA-2 zone to
19 construct a 71-unit, four-story, multifamily building that
20 housed formerly homeless individuals with a mental health
21 diagnosis aged 55 and older at 30 and 50 percent AMI -- I'm sorry,
22 MFI. The subject property is a vacant mid-block through lot
23 fronting on T Streets, Bruce Place, and Stanton Road Southeast.
24 In addition to the individual apartments, the building would
25 include common areas for social integration and assistance,

1 including a clinic, and secure outdoor areas for the residents.

2 Two areas of flexibility are requested. One is to
3 provide less than the minimum one-acre lot size for PUDs in the
4 RA-2, and the second is to reduce the number of long-term bicycle
5 parking spaces provided on site. The proposal is for an all-
6 electric building designed to achieve Enterprise Green Community
7 Certification with solar wall and roof panels and a green roof
8 one-half mile from the Congress Heights Metro Rail station,
9 consistent with the future land use map, which designates the
10 site as moderate density residential and the generalized policy
11 map, it would further many of the citywide elements of the
12 comprehensive plan, including land use, housing, environmental
13 protection and urban design and the far southeast, southwest area
14 element. Should the Commission set the application down, OP
15 recommends the applicant provide additional detail regarding the
16 addition of foundation plantings to enhance the residential
17 appearance of the building and to improve the manner in which the
18 west wall of the building addresses the Stanton Road frontage.
19 OP recommends the Commission set the application down for a public
20 hearing and is available for questions. Thank you.

21 CHAIRPERSON HOOD: Thank you, Mr. Mordfin. Thank you
22 for your report. Before we go to questions of Mr. Mordfin, we
23 do have a letter from Director Donaldson from the DPHPCD -- the
24 Department of Housing and Community Development. And they're
25 asking typically, because of the affordability, which I think is

1 great from what I'm reading here, is zero percent to 50 percent
2 of the MFI, which I think is great. And I hope I'm reading that
3 right, because I've never seen anything in a letter that says
4 zero percent. So kudos to DHCD. But they're asking for a 100
5 percent hearing for a reduction of fees, which would total an
6 amount of 4,086 dollars. Hopefully, I have that right. So I
7 would -- let me see if there's any objection to that, and I'm
8 going to make a motion that we accept that, unless there's an
9 objection. No objection? Okay, I would move that we accept
10 Director Donaldson's letter with enthusiasm, but you don't have
11 to put that in the motion, as requested in this particular case,
12 Zoning Commission Case Number 16- -- no, that's the wrong case.

13 COMMISSIONER MAY: 21-07.

14 CHAIRPERSON HOOD: 21-07. I'm already looking at new
15 cases, so whoever that is, no, that's not for your case. Zoning
16 Commission Case Number 21-07. So that's my motion. Can I get a
17 second?

18 COMMISSIONER TURNBULL: Second.

19 CHAIRPERSON HOOD: Okay. It's been moved and properly
20 seconded. Any further discussion?

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

22 MS. SCHELLIN: Commissioner Hood.

23 COMMISSIONER HOOD: Yes.

24 MS. SCHELLIN: Commissioner Turnbull, I believe,
25 seconded it.

1 COMMISSIONER TURNBULL: Yes.

2 MS. SCHELLIN: Yes. Commissioner May.

3 COMMISSIONER MAY: Yes.

4 MS. SCHELLIN: Commissioner Shapiro.

5 COMMISSIONER SHAPIRO: Yes.

6 MS. SCHELLIN: Commissioner Miller.

7 VICE CHAIR MILLER: Yes.

8 MS. SCHELLIN: 5-0-0 to grant the waiver from the
9 hearing fee for the affordable housing portion of this case.

10 CHAIRPERSON HOOD: Okay. Let's see if we have any
11 questions on Mr. Mordfin. Commissioner May.

12 COMMISSIONER MAY: I do. Well, I mean, first of all,
13 let me say I agree with you on the conditions and the additional
14 information and design work needed, particularly the (audio
15 interference) road sign. I am a little confused about how the
16 zoning -- I'm sorry, the zoning -- how the loading will work.
17 It's been a long day; I can't even talk. How the loading will
18 work, how the vehicles will go in and out. So, you know, turning
19 diagrams and that sort of thing, I think will be necessary.

20 I will say that the exterior of the facades are a little
21 bit of a, you know, a mishmash. I, you know, some of the moves
22 I think are really interesting. The very, you know, the peaked
23 roof at the front, I think is a very interesting approach and a
24 way to make it feel more residential and not just like another
25 kind of dull apartment building. So it's got I mean, there's

1 definitely some visual interest to it, but I feel like a little
2 bit of refinement would be helpful in the further development of
3 it.

4 I do appreciate all the green features of it. I mean,
5 we don't see too many vertical solar panels. I think that's an
6 interesting thing.

7 I do have to question the relief on bike parking, and
8 I know that they could probably make the argument that the need
9 isn't necessarily there. But I -- you know, I kind of want to
10 challenge that because I feel like, you know, there's certainly
11 a benefit to having folks ride bicycles for transportation and
12 encouraging that, I think would be a good thing. And it doesn't
13 seem like there's such a shortage of space in the building that
14 it cannot be provided in that parking garage. So I just would
15 want the applicant to think very carefully about that and the
16 Office of Planning to examine it carefully, because, as you know,
17 I ride my bicycle. And as most people know, I am older than 55.
18 It doesn't put me into the same group, but I do find it a very -
19 - it's something that improves one's health to ride a bike to
20 get around. And, you know, the folks who live in this building
21 may benefit from that. So, again, I'm not challenging it. They
22 may have good reasons why it's not really necessary, but I do
23 feel like it's worth probing that issue. Thank you.

24 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

25 COMMISSIONER SHAPIRO: I have no questions, Mr. Chair.

1 Thank you.

2 CHAIRPERSON HOOD: Commissioner Turnbull.

3 COMMISSIONER TURNBULL: I would just echo Commissioner
4 May's comments. I think he made some very good points. The only
5 thing -- I would only add that I wish the drawings were just a
6 little defined more clearly. The drawing is just sort of a --
7 they're just a little vague on how they depict materials and
8 everything, so I just wish they were a little more defined so
9 you could really read them better and know what the materials are
10 really going to look like. They look just -- it's just hard to
11 tell really what they are. So I would like just maybe some better
12 drawings.

13 CHAIRPERSON HOOD: Vice Chair Miller. Any questions or
14 comments?

15 VICE CHAIR MILLER: No questions, Mr. Chairman. I
16 support setting this down for a public hearing. I think it's a
17 great project. It'd be great to see similar projects equitably
18 distributed throughout the city.

19 CHAIRPERSON HOOD: Okay, so it sounds like we're ready
20 to move forward with this. Can I get someone to make a motion
21 for set down, please? And thank you, Mr. Mordfin.

22 COMMISSIONER MAY: I would move that we set down
23 Zoning Commission Case Number 21-07, Institute of Urban Living
24 Consolidated, PUD and related map amendment at Square 5876.

25 CHAIRPERSON HOOD: Can I get a second, please?

1 COMMISSIONER SHAPIRO: Second.

2 CHAIRPERSON HOOD: Okay. It's been moved and properly
3 seconded. We got two, that's good. Any further discussion?
4 Okay.

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

6 MS. SCHELLIN: Commissioner May.

7 COMMISSIONER MAY: Yes.

8 MS. SCHELLIN: Commissioner Shapiro.

9 COMMISSIONER SHAPIRO: Yes.

10 MS. SCHELLIN: Commissioner Hood.

11 COMMISSIONER HOOD: Yes.

12 MS. SCHELLIN: Commissioner Miller.

13 COMMISSIONER MILLER: Yes.

14 MS. SCHELLIN: Commissioner Turnbull.

15 COMMISSIONER TURNBULL: Yes.

16 MS. SCHELLIN: The vote is 5-0-0 to set down Zoning
17 Commission Case Number 21-07 as a contested case.

18 CHAIRPERSON HOOD: Okay. Great. Next. Let's go to
19 Zoning Commission for hearing action on Zoning Commission Case
20 Number 21-08, Office of Planning text amendment to create the MU-
21 6A to MU-9A zones and the -- and to rename the MU-6 to MU-9 zones
22 to MU-6B to MU-9B. Ms. Myers. Is that -- yeah, that's your
23 case. Okay.

24 MS. MYERS: Crystal Myers from the Office of Planning.
25 I know Paul is pulling up my little presentation (indiscernible).

1 So, good afternoon, Commissioners. The Office of
2 Planning is pleased to bring forward this text amendment to MU-
3 6 to MU-9 zones. This amendment would create housing focused
4 mixed-use zones based on the existing medium to high-density
5 mixed-use zones. The new zones would have the same maximum total
6 density as the existing zones, but would have a maximum
7 nonresidential density of 1.0 FAR. This should encourage more
8 residential development. The new zones would be renamed -- or
9 the new homes would be named MU-6A, MU-7A, MU-8A, and MU-9A, and
10 the existing zones would be renamed MU-6B, MU-7B, MU-8B, and MU-
11 9B. OP recommends this text amendment 21-08 for setdown and
12 request flexibility to work with the Office of Attorney General
13 on refining the final version of the text. Thank you.

14 CHAIRPERSON HOOD: Okay, thank you, Ms. Myers. Let's
15 see if we have any questions or comments. Commissioner May.

16 COMMISSIONER MAY: (Negative head shake.)

17 CHAIRPERSON HOOD: Commissioner Shapiro.

18 COMMISSIONER SHAPIRO: (Negative head shake.)

19 CHAIRPERSON HOOD: Commissioner Turnbull.

20 COMMISSIONER TURNBULL: (Negative head shake.)

21 CHAIRPERSON HOOD: And Vice Chair Miller, if you just
22 want to say no or yes.

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

24 CHAIRPERSON HOOD: Did you have any comments or
25 questions?

1 VICE CHAIR MILLER: No, but thank you.

2 CHAIRPERSON HOOD: Okay. All right. So with that, can
3 I get a motion for setdown? Thank you, Ms. Myers.

4 COMMISSIONER TURNBULL: I would move that we set down
5 Zoning Case 21-08, proposed zoning text amendment to create the
6 MU-6A to MU-9A zones and to rename the current MU-6 to MU-9A
7 zones to MU-6B to MU-B, and look for a second.

8 COMMISSIONER SHAPIRO: Second

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

11 Okay. Ms. Schellin, could you do a roll call vote,
12 please?

13 MS. SCHELLIN: Commissioner Turnbull.

14 COMMISSIONER TURNBULL: Yes.

15 MS. SCHELLIN: Commissioner Shapiro.

16 COMMISSIONER SHAPIRO: Yes.

17 MS. SCHELLIN: Commissioner Hood.

18 CHAIRPERSON HOOD: Yes.

19 MS. SCHELLIN: Commissioner May.

20 COMMISSIONER MAY: Yes.

21 MS. SCHELLIN: Commissioner Miller.

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: This records the vote at 5-0-0 to set
24 down Zoning Commission Case Number 21-08 as a rulemaking case.

25 CHAIRPERSON HOOD: Okay. Ms. Schellin, let me just

1 ask, do we have anything else? I think we've covered the agenda
2 for tonight. Our only thing -- I mean, not -- the only thing we
3 have is the American University Campus Plan. That's all we have
4 left?

5 MS. SCHELLIN: Unless OP has a status report and
6 usually, they tell me ahead of time; I don't think they do. So
7 I think 20-31 is the only thing.

8 CHAIRPERSON HOOD: Okay. Let's take about a three-
9 minute break, rest our minds and we'll come back, and we'll get
10 right on that case.

11 (Whereupon, there was a brief recess.)

12 CHAIRPERSON HOOD: Okay. I think it's been about three
13 minutes. Is everyone back? I saw Mr. Turnbull, and I think our
14 Vice Chair is back, so.

15 Okay. Ms. Schellin, can you call the case for final
16 action that we're going to hear tonight, the only case that we
17 have left for final action.

18 MS. SCHELLIN: Yes, sir. The last case for
19 consideration and it's set for final action is Zoning Commission
20 Case Number 20-31, American University, the 2020/2030 Campus
21 Plan.

22 There's a couple preliminary matters. I you'll recall,
23 during I believe it was the last hearing or maybe even the one
24 before, but there was a motion filed by Spring Valley - Wesley
25 Heights at exhibits -- let me find that -- 31, 36. They were

1 asking for a motion to strike or redact Exhibit 78, which was
2 filed by ANC 3E, which was a motion that -- it was a document
3 filed by Commissioner McHugh and at the March 22nd hearing,
4 actually the Commission took testimony from ANC 3E and they wanted
5 portions of that either stricken or redacted. Ms. Cain can jump
6 if she needs to, but the Commission, I believe, said, we'll rule
7 on this at final action. I don't know if you want to take up
8 that now, or you want me to just tell you all three.

9 CHAIRPERSON HOOD: No, we will definitely get that
10 confused. Let's do one at a time. Let me just say at the start
11 of this. There are a lot of moving parts in this case. We're
12 prepared to take our time. I've even thought about depending on
13 how we go today. We just do a special meeting to continue to
14 talk to about this, but let's see how this goes. Let's try to
15 frame it. Let's try to see how this goes and we want to take
16 our time and talk through all the issues.

17 As Ms. Schellin has mentioned, Spring Valley - Wesley
18 Heights, the issue about the -- which I think was Exhibit 78, is
19 also Exhibit 136, will pertain to the issue about striking the
20 residency and some other issues there. As I mentioned at the
21 hearing, we would take it up later about striking. For me, and
22 I'll start the conversation and then hear from others -- for me,
23 residents or anybody has anything that they could put into the
24 record. And I know -- I don't necessarily think some things are
25 appropriate, but I think anybody can put into the record. I

1 think it is what the Commission does. We know what our
2 responsibilities are. We know what we are bound to do, what
3 we're supposed to deal with as far as zoning. Who lives where,
4 who doesn't live there -- we don't get into that. Who came to
5 the meeting, who doesn't come to the meeting. I think, to me,
6 that's far left. But I could put something in the record to say
7 to do that, but I don't have a -- I think to a certain degree
8 that's inappropriate because people represent people all over
9 this country. I've had people who represented people here in the
10 city who lived in Florida, when we were doing the Waterfront, so
11 some of those folks were calling in or flying in from Florida,
12 from Miami, and places of that nature. They might have had vested
13 property or vested interests. So that's kind of where I am at
14 Spring Valley - Wesley Heights, wanted whomever to -- and I don't
15 want to call names -- if they wanted whomever to represent them,
16 then that's their right. They can do that. I don't necessarily
17 know about striking it because people have a right to also put
18 what they believe in the record, but as far as I'm concerned,
19 from the zoning process, what they put in the record, to me it
20 has no merit, and we weigh that. It doesn't say how much density,
21 what traffic is at the campus. That is irrelevant as far as I'm
22 concerned. But they have a right. Let me open it up.
23 Commissioner May, questions or comments on that?

24 COMMISSIONER MAY: Sorry, I'm terribly slow. Yeah, I
25 mean, it's pretty straightforward. I didn't object to the

1 original submission going into the record and the concerns were
2 addressed by the party, who it was directed at. So as far as
3 I'm concerned, the issue was raised and resolved, and it doesn't
4 really bear on the on how we decide the case. So I don't see
5 any reason to take any action to strike any of these exhibits
6 for the record.

7 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

8 COMMISSIONER SHAPIRO: Yeah, I agree Mr. Chair. I am
9 not in favor of striking. The issue has been heard and resolved.

10 CHAIRPERSON HOOD: Okay. Commissioner Turnbull,
11 anything on that one?

12 COMMISSIONER TURNBULL: Yeah, Mr. Chair, I would agree
13 with both your comments and Commissioners May's. I see no need
14 to strike.

15 CHAIRPERSON HOOD: And Vice Chair Miller.

16 VICE CHAIR MILLER: I agree with my colleagues, no need
17 to strike, we've already resolved the issue and we can move on.

18 CHAIRPERSON HOOD: All right, so with that, I guess -
19 - and Ms. Cain, I guess we can make a motion to deny the motion
20 to strike. Let me just start it like that. I move that we deny
21 the motion presented by Spring Valley - Wesley Heights
22 Association, which my colleagues and I believe we've already
23 fully vetted.

24 VICE CHAIR MILLER: Do we really have to even consider
25 it? I've moved. We've heard the argument; we saw that they were

1 a party. Do we have to really deny the motion? I would support
2 denying the motion to strike because we heard the argument, but
3 it's kind of moot. It seems like we don't even need to even deal
4 with it. I don't know. I'm sorry, (audio interference).

5 CHAIRPERSON HOOD: No, that's fine. Hey, I can -- I am
6 --

7 COMMISSIONER SHAPIRO: Can we hear from Ms. Cain?

8 CHAIRPERSON HOOD: A real Philadelphia lawyer. So let
9 me hear from Ms. Cain.

10 MS. CAIN: So the motion is a request for the Board to
11 take action. So I think you do need to take an action either to
12 deny or approve, and you can do so on the basis that you have
13 found it to be moot based on the discussion that you just had.

14 COMMISSIONER SHAPIRO: The motion is to deny then.

15 CHAIRPERSON HOOD: The Commission will be -- the motion
16 will be to deny. So let me let me try to come back to that.

17 So I would move that we deny the Spring Valley - Wesley
18 Heights motion in Exhibit 78, that is the one they wanted to
19 strike. I would move that we deny the motion to strike as asked
20 for by Spring Valley - Wesley Heights and ask for a second.

21 COMMISSIONER SHAPIRO: Second.

22 CHAIRPERSON HOOD: It's been moved and properly second.
23 Before I carry this motion, Ms. Cain has appeared again. Ms.
24 Cain.

25 MS. CAIN: I just wanted to clarify for the record, the

1 motion from Spring Valley was actually at 136. The exhibits they
2 were seeking to strike are at Exhibit 78.

3 CHAIRPERSON HOOD: Thank you for the clarification.
4 The motion is 136, the Exhibit was 78. I just moved 78; it seems
5 to keep coming up in this case. So as specified, the motion of
6 Exhibit 136 to strike Exhibit 78 as stated. Thank you, Ms. Cain.
7 I would move that we strike that, and I think Commissioner Shapiro
8 you second.

9 COMMISSIONER SHAPIRO: Yes, I second.

10 CHAIRPERSON HOOD: So it's been moved and properly
11 second. Any further discussion? (Audio interference) with the
12 discussion we had, so I'm hoping that that was heard by every
13 (indiscernible). Any further discussion?

14 All right. Ms. Schellin, would do you a roll call
15 vote, please?

16 MS. SCHELLIN: Commissioner Hood.

17 CHAIRPERSON HOOD: Yes.

18 MS. SCHELLIN: Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: Yes.

20 MS. SCHELLIN: Commissioner Miller. Commissioner
21 Miller.

22 VICE CHAIR MILLER: Yes.

23 MS. SCHELLIN: Commissioner Turnbull.

24 COMMISSIONER TURNBULL: Yes.

25 MS. SCHELLIN: Commissioner May.

1 COMMISSIONER MAY: Yes.

2 MS. SCHELLIN: The vote is 5-0-0 to deny Spring Valley
3 - Wesley Heights motion to strike at Exhibit 136.

4 So the next motion is also a motion to strike. It is
5 at Exhibit 160 and 160A filed by the Herzstein/Gerson party. If
6 the Commission would consider that.

7 CHAIRPERSON HOOD: Okay, as stated, we have a motion
8 against the strike from the Herzstein/Gerson party, Exhibit 150
9 and 160A, as Ms. Schellin has already mentioned. I think some
10 of this is what we asked for, but I want to make sure that I know
11 the whole issue about the Jacobs Field, and the fields have been
12 an issue and I think some of this is what we have asked for. It
13 feels -- it looks as though the Herzstein/Gerson party believes
14 that the applicant has went a little too far since the
15 (indiscernible) initial request. They had an initial request to
16 strike previously, I think it's in our record as well. So let
17 me open it up and see what others think on this.

18 Commissioner May, any thoughts?

19 COMMISSIONER MAYS: Mr. Chairman, I mean, I think that
20 what they have submitted is responsive to what we have requested,
21 and the Herzstein/Gerson has had the opportunity to respond to
22 that. It's not -- I mean, I don't think it was intended to be
23 an intense scientific examination of the data and how it was
24 taken. It was just -- they said that they had done some readings.
25 We asked for those readings, and they provided them. So I think

1 it's a pretty straightforward matter. And I would not be in
2 favor of striking those from the record, because I think it is -
3 - it's informative. But, you know, we have to take it for what
4 it is. It's not necessarily as, you know, scientific as the
5 party would like. But I, you know, again, it's something we
6 asked for and it's informative.

7 CHAIRPERSON HOOD: Commissioner Mr. Shapiro.

8 COMMISSIONER SHAPIRO: I agree with Commissioner May,
9 and I would be in support of denying the motion to strike.

10 CHAIRPERSON HOOD: Commissioner Turnbull.

11 COMMISSIONER TURNBULL: I would agree with all the
12 comments made and I would not want to approve the motion. I deny
13 the motion to strike.

14 CHAIRPERSON HOOD: And Vice Chair Miller.

15 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yes, I
16 agree with the comments of Commissioners May and Shapiro. And I
17 have to gratuitously say that I don't like motions to strike.
18 And that's for future reference for -- people -- parties that may
19 be listening. I don't think it's necessary. You have your
20 opportunity to (audio interference). Anyway. I would gratuitous
21 -- I support -- I do not support the motion to strike.

22 CHAIRPERSON HOOD: Okay, so with that, would somebody
23 like to make a motion in the Herzstein/Gerson motion to strike?

24 COMMISSIONER SHAPIRO: I don't know how specific we
25 need to be, but I'm happy to make the motion that we deny the

1 motion to strike exhibits -- or the information in the
2 University's submission regarding sound data as requested by the
3 Herzstein/Gerson party. Is that good enough?

4 CHAIRPERSON HOOD: Yeah, that's good, I think. And
5 then I will second that, but just say the -- and that's Exhibits
6 160 and 160A. Okay. All right. I learned from the first thing.
7 Okay. So any further discussion. Okay.

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

9 MS. SCHELLIN: Commissioner May.

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: Commissioner Hood.

12 CHAIRPERSON HOOD: Yes.

13 MS. SCHELLIN: Commissioner Miller.

14 VICE CHAIR MILLER: 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 5-0-0 to deny the
20 Herzstein/Gerson's motion to strike -- motion to strike filed at
21 Exhibits 160 and 160A.

22 So the third motion for the Commission to consider as
23 a preliminary matter is at Exhibits 161 and 161A. This is filed
24 by NLC, Neighbors -- I believe it's Neighbors for a Livable
25 Community. They are objecting to the testimony of the applicant

1 at the April 28th public hearing and Exhibit 137A which outlined
2 that testimony with regard to the landscape buffer between
3 buildings three through five and University Avenue. Thank you.

4 CHAIRPERSON HOOD: Yeah, I believe on advice given -
5 - and I don't know if this is timely but let me let me open this
6 up first. I don't believe this is timely, and I believe that
7 there was an opportunity to discuss this because there was
8 (indiscernible) talk about screening the buffer. But we asked for
9 filings on April 28th. This could have been discussed at the
10 hearing. The specifics of the screening buffer were discussed at
11 that time and that's in the transcript at 11, 56-58 on April
12 28th. But the issue for me is whether it is timely or not; if
13 there was sufficient enough time to be able to respond. So I
14 will not be voting in favor of this one either as a motion to
15 strike. Again, as we stated earlier, we weigh all evidence and
16 submissions. It depends on how much weight we give it in our
17 deliberations, in our conversation, but we basically look at our
18 regulations. So I know that sounds very convoluted, but that's
19 just the way it is. Any further comments, Commissioner May.

20 COMMISSIONER MAY: No, I agree with you, Mr. Chairman.
21 It's not timely and so I'm in favor of denying the motion.

22 CHAIRPERSON HOOD: Okay. Commissioner Shapiro, I see
23 you nodding your head. Okay. Commissioner Turnbull.

24 COMMISSIONER TURNBULL: I would concur with my
25 colleagues and also vote to deny the strike motion.

1 CHAIRPERSON HOOD: And Vice Chair Miller.

2 VICE CHAIR MILLER: (Negative head shake.)

3 CHAIRPERSON HOOD: Okay. So I would move that we --
4 let me see if I can get this right. I would move that we -- we
5 deny exhibits 161 and 161A on timeliness, first of all. And
6 also, there was ample opportunity to be able to respond to the
7 buffers as noted in our dialogue, I mean in our transcript on
8 04/28. And that's my motion that we deny this -- deny Exhibit
9 161 and 161A to strike and ask for a second.

10 COMMISSIONER MAY: Mr. Chair, I second the motion to
11 deny -- I second to deny the motion to strike as untimely.

12 CHAIRPERSON HOOD: Okay. All right. Moved and properly
13 second. Any further discussion? Okay, not hearing any. Ms.
14 Schellin, would you do a roll call vote, please?

15 MS. SCHELLIN: Sorry, I forgot it is on mute.

16 Commissioner Hood.

17 CHAIRPERSON HOOD: YES.

18 MS. SCHELLIN: Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: Yes.

20 MS. SCHELLIN: Commissioner Miller.

21 VICE CHAIR MILLER: Yes.

22 MS. SCHELLIN: Commissioner Turnbull.

23 COMMISSIONER TURNBULL: Yes.

24 MS. SCHELLIN: And Commissioner May.

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: The vote is 5-0-0 to deny NLC's motion
2 to strike at Exhibits 161 and 161A, as being untimely.

3 And I believe, Chairman Hood, that is all of the
4 preliminary matters that staff has.

5 I did forget to mention, I'm sorry, at 162, the
6 applicant did provide opposition to those last two motions. At
7 162, I'm sorry.

8 COMMISSIONER SHAPIRO: You're on mute, Mr. Chair.

9 CHAIRPERSON HOOD: Oh, I got to repeat all that again?
10 Okay. I just want to give (indiscernible) a review of the
11 satisfaction -- the satisfaction of what we're looking at under
12 Subtitle X, 101.1 through 101.8, and the satisfaction of it. And
13 also, Subtitle Z, 302.10. American University has provided an
14 outline of how the application satisfies the various filing
15 requirements, what cites the specific exhibits in the record, and
16 I think that's Exhibit 145. We do have responses from those in
17 opposition of issues, but one of the things that we really need
18 to look at, and I am going to ask a series of questions and I
19 would like for the Commission -- of what we're supposed to look
20 at from a broad sampling. If the Commission remembers, when we
21 were having the hearing, a lot of -- and I understand that a lot
22 of the opposition's predictability is one of the issues. And
23 there was a big discussion about what we should actually be
24 looking at, what we should not be looking at. And to me, a lot
25 of it overran into -- from further processing, which all ran into

1 our proceedings of a general campus plan. So the application
2 before the Commission, I believe, is one of overall the Campus
3 Plan approval. We have done a few, which means that the
4 Commission has taken like a 30,000-foot Eagle's eye view of the
5 campus as a whole. Does anybody object to that? I mean, anybody
6 want to discuss that? Anybody object to what we're supposed to
7 be looking at? We're looking at the campus as a whole, not sight
8 15, sight 12, we're looking at it as a whole. So are we in
9 agreeance with that?

10 COMMISSIONER MAY: Mr. Chairman, if I could add?

11 CHAIRPERSON HOOD: Sure.

12 COMMISSIONER MAY: I frankly found it a relief working
13 on this Campus Plan and not having to think about the further
14 processing. Too often in the past, we've had complex campus
15 plans that were tied to these bits of further processing. And I
16 just think it's -- you know, I'm so glad that that change was
17 made in the zoning regulations so that we, you know, prevented
18 that from happening in circumstances like this. And I just --
19 I'm -- it's clear to me that that was the right thing to do. And
20 we were looking at it at the right level of detail at this moment
21 and that we will be able to dig into the details of any further
22 future processing and take appropriate action at that time. Thank
23 you.

24 CHAIRPERSON HOOD: Okay. So, again, as stated, we're
25 looking at the wholistic thing. But let me see -- wholistic

1 campus, the whole campus. Commissioner Shapiro.

2 COMMISSIONER SHAPIRO: I associate myself with the
3 remarks, with your remarks and the remarks of Commissioner May,
4 and I think we are looking at this -- we were looking at this at
5 the right level.

6 CHAIRPERSON HOOD: So you all let me know. I'm going
7 to go to everybody each time, but you let me know if you want to
8 do it differently. I have no problems; I'm open to suggestions.
9 Commissioner Turnbull.

10 COMMISSIONER TURNBULL: I concur with everything you
11 said, Mr. Chair.

12 CHAIRPERSON HOOD: And Vice Chair Miller.

13 VICE CHAIR MILLER: I concur with everything
14 Commissioner Turnbull just said.

15 (Laughter.)

16 CHAIRPERSON HOOD: The next issue is that what was
17 presented to us, and I'm thinking (indiscernible) from very
18 general, cause for those listening, I am going to get to the
19 predictability, which I think is a concern. So hold tight. Don't
20 get upset with me yet, because I am sure you will, but don't get
21 upset with me yet. Give the Commission a chance as we do what
22 we're supposed to do. So I'm asking that up front.

23 So considering the general outline of the Campus -- and
24 I'm asking these questions to my colleagues. So example, do we
25 think that the University's presentation was generally planning

1 new buildings and locations? Does it make sense to do it in a
2 format -- does it make sense to do it in the format that was
3 presented? Did the new development seem adequate to address
4 projected enrollment increases and the traffic? When we talk
5 about traffic -- and these are very general questions. Did the
6 University generate as a whole additional traffic? Has the
7 University presented strategies, policies to address known areas
8 of concern, and et cetera? And I want to know from each
9 Commissioner's perspective were some of those things -- what was
10 presented to us? Now I know there's concerns about some of this.
11 But what was presented to us, does that feel like the university
12 presented -- while some of it may need to be worked on -- but
13 does -- from a general perspective, does anybody have an issue
14 that the university did not do that? Commissioner May.

15 COMMISSIONER MAY: No.

16 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

17 COMMISSIONER SHAPIRO: (Negative head shake.)

18 CHAIRPERSON HOOD: Commissioner Turnbull.

19 COMMISSIONER TURNBULL: (Negative head shake.)

20 CHAIRPERSON HOOD: And Vice Chair Miller.

21 VICE CHAIR MILLER: (Negative head shake.)

22 CHAIRPERSON HOOD: Okay. All right. So let me ask this
23 question as well. Do we believe -- does the Commission believe,
24 or us believe that the AU's general plans for future development
25 of the campus, (indiscernible) enrollment counts, general

1 proposed building locations, scale and use overall TDM -- and I
2 mentioned this -- meet the special exception standards and will
3 not result in any objectional impacts of the surrounding
4 residential areas that are not capable of being mitigated? Do
5 we believe that -- now, I'm not saying that everything -- there
6 are no adverse impacts. What I'm saying is, do we believe that
7 through, again, community participation and what we're doing, do
8 we believe it could be mitigated? Commissioner May.

9 COMMISSIONER MAY: Yeah, I mean, I think the -- there's
10 a little bit of work to be done, I think in the mitigation arena,
11 particularly with regard to the sound barrier and the impacts on
12 the Herzstein/Gerson property. But I think certainly we have all
13 of the raw material that's necessary for us to address any of
14 those concerns. So, yeah, I mean, I agree that, you know, they
15 meet the special exceptional standards. We have the necessary
16 information, and that we will be able to see that any adverse
17 conditions are capable of being mitigated. CHAIRPERSON

18 HOOD: Okay. Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: I agree, Mr. Chair. I have
20 nothing further to add.

21 CHAIRPERSON HOOD: Okay. Commissioner Turnbull,
22 anything?

23 COMMISSIONER TURNBULL: I would echo Commissioner May's
24 comments and just -- the only thing I would also add is that,
25 the buffers, the landscape at certain areas that are adjacent to

1 housing, I think there's -- more work needs to be done. I think
2 they do. I think we've had a discussion. I think even the
3 applicant noted that they needed to do more work. So I think
4 the landscaping needs to be improved. And I think the other key
5 element to all this is maintained. And I think although there
6 has been maintenance, I think there needs to be maybe a better
7 plan to be able to maintain that. But other than that, I would
8 agree that they are proceeding at a good pace.

9 CHAIRPERSON HOOD: And Vice Chair Miller.

10 VICE CHAIR MILLER: Thank you, Mr. Chairman. I would
11 agree with my colleagues. You know, how many nights, evening
12 (indiscernible) hearings did we have? Five, Mr. Chairman? Twenty
13 hours? I didn't count it up, but it seems like five and 20 hours.

14 CHAIRPERSON HOOD: Right. It was quite a bit.

15 VICE CHAIR MILLER: But after all -- we got a lot of
16 information about how to mitigate potentially objectionable
17 conditions and we're considering them. The applicant, AU in this
18 case, has agreed to many of them. We may go beyond that and go
19 with others that are in the record. There's a lot of information
20 here. So, yes, I think we have enough information, enough
21 mitigating condition -- conditions to mitigate potentially
22 objectionable conditions to proceed, if that was the question you
23 were asking.

24 CHAIRPERSON HOOD: That was it. That was it.

25 So the next thing -- the next question for us to have

1 a general discussion is about further processing. And we heard
2 a lot about that. And that's predictability. That's when we're
3 supposed to look at a lot of these things more specifically and
4 details in the further processing. There was argument that we
5 should be looking at some of that now. And I understand the
6 concern. I understand the predictability, but what I got out of
7 this Campus Plan overall general was that citizens and residents
8 who live close by don't trust American University. And I am
9 being frankly honest. They don't trust -- and to some degree,
10 they may not trust us. But -- and I take that very -- I don't
11 take that lightly, because I believe we do the best we can. But
12 I think I heard that loud and clear. But I want to make sure,
13 and I believe that they can trust us. You might not always get
14 your outcome. I sit here and don't always get the outcomes. So,
15 again, and I'm going to throw this out there also for discussion,
16 further processing -- do we believe -- the Commission -- that
17 Commission, that we will review and determine whether the design
18 of specific buildings is appropriate or whether sufficient
19 mitigations are being proposed to address any potential adverse
20 impacts of the building, such as building specific screening,
21 traffic demand management and parking plans, et cetera. And I
22 think that's where a lot of the crux is, because it's like do it
23 now, you have another bite at the apple. They are -- there is
24 going to be another bite at the apple, but it's like, do it now.
25 And I can understand the uncertainty. I can understand the --

1 discomfort. Because when you put people on promised land and it
2 doesn't happen, then that becomes a problem. So anyway, let me
3 -- Commissioner Miller, anything on that note? I'm sorry,
4 Commissioner May. I must be getting tired.

5 COMMISSIONER MAY: No, nothing further.

6 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

7 COMMISSIONER SHAPIRO: Nothing yet.

8 CHAIRPERSON HOOD: Commissioner Turnbull.

9 COMMISSIONER TURNBULL: I'm good.

10 CHAIRPERSON HOOD: And Vice Chair Miller.

11 VICE CHAIR MILLER: I agree with you, Mr. Chairman,
12 that we have enough information to do mitigating conditions. And
13 I think we need to acknowledge at some point all the work that
14 has been done by all parties, in support and in opposition in
15 this case in suggesting mitigating conditions which have been
16 incorporated into the application by the neighborhood
17 partnerships, all the work that they did, and the two ANCs that
18 are affected that support this application, the Office of
19 Planning and DDOT. And the parties in opposition which have
20 suggested conditions, many of which have been accepted, and we
21 may go beyond those that have been accepted. So, yes.

22 CHAIRPERSON HOOD: Unless we finish going through your
23 outline that we have, that I have that I'm trying to go through,
24 I have -- I'm sure we all have. I've looked at every letter,
25 and I'm going to take every -- this is how serious I am about

1 this. I'm going to take every submission and open it up and walk
2 through it. So that's why we're going to take our time. So just
3 bear with me, because I've read a lot of information and when I
4 read -- when you read it all together, there's no trust,
5 uncertainty, and no predictability. That's what I came away
6 with. And I've reviewed it again this evening and took some
7 notes, quite a bit of notes. But I'm not going to go through
8 all that today. But I think --- and you're right, and I'm glad
9 Vice Chair you mentioned that because ANC 3D said it was adequate
10 and it was satisfying. And they outlined how they thought that
11 American University, from a general perspective, addressed the -
12 - addressed the issues with which we're bound to go by. Dr. Troy
13 Kravitz, also in his letter, the AU Neighborhood Partnership.
14 And I know you and I've had a discussion Vice Chair about, the
15 Partnership specifically, and I had to acquiesce on what you
16 said, that as long as it's working for the neighborhood, that it
17 worked. I still have a question mark with that, and I'll be
18 frankly honest. But I don't want to go too far from my notes.
19 So let's talk about the proposed enrollment counts. Let somebody
20 -- does anybody have something they want to -- in line with what
21 we talked about thus far that they want to interject? I don't
22 want to leave anything out. Just stop me. Okay. What I was
23 saying, does anybody have any -- Commissioner May, you look
24 puzzled. I was saying if anybody had anything about what we
25 talked about thus far that you wanted to add.

1 COMMISSIONER MAY: No, no. Maybe hold on to enrollment.

2 CHAIRPERSON HOOD: Okay. Let's go to enrollment. Who
3 would like to start off? Commissioner May, he'd like to start
4 off on enrollment and what you think.

5 COMMISSIONER MAY: Yeah, I mean this is -- it's a bit
6 different the way the university approached it this time around.
7 And I think that the overall enrollment cap was a response to
8 the concerns that were raised by members of the community and
9 specifically the ANCs. And certainly, you know, the party support
10 was helpful in this discussion. And I agree with that. The
11 important thing is, you know, in terms of enrollment caps is the
12 extent to which they are, you know, tied to a mitigation of any
13 kind of adverse conditions. And I think that in this
14 circumstance, I think it's the ANC or maybe both ANCs, I can't
15 remember which one, but, you know, the focus really was on the
16 adverse impacts. And so rather than say, well, we've got to have
17 a specific limit on undergraduate students versus graduate
18 students or law students, they were more focused on, you know,
19 how do we mitigate the conditions of having this large, you know,
20 student body in our midst? And I mean, I think that they have
21 the right attitude about it. I didn't see evidence in the record
22 or didn't agree with evidence that may have been offered in the
23 exhibits from the various parties to change that. I think this
24 is the -- you know, this is a reasonable approach and I'm fully
25 supportive of an overall enrollment cap as opposed to trying to

1 introduce, you know, specific caps based on, you know, what part
2 of the student body it is.

3 CHAIRPERSON HOOD: Okay. Commissioner Shapiro.

4 COMMISSIONER SHAPIRO: Yeah, I agree with Commissioner
5 May again. And, you know, I don't -- I think that there's lots
6 of evidence that came after the hearings that I agree with that
7 lead me to believe that a cap on undergraduate enrollment is not
8 necessary. You know, again, the real issue is how do you mitigate
9 negative impacts to student population? So this is about
10 university policies. So I'm fine with the direction that they
11 took Mr. Chair.

12 CHAIRPERSON HOOD: Okay. Commissioner Turnbull.

13 COMMISSIONER TURNBULL: Yeah, Mr. Chair. I would agree
14 also that I think that the enrollment cap is necessary. I think
15 that it does offer the community a sense of reassurance that the
16 university is thinking of their -- of how they fit into the
17 neighborhood. And I think they're trying to mitigate the impacts
18 of that enrollment and doing the best that they can. So I think
19 that they're proceeding the way they should. I think it's --
20 it's -- I have to give hats off to them that they're really trying
21 to be a good partner in the community.

22 CHAIRPERSON HOOD: Vice Chair Miller.

23 VICE CHAIR MILLER: Thank you, Mr. Chairman. I would
24 agree with Commissioner May and my other colleagues' comments.
25 You know, they do have the percent requirement of beds for

1 freshmen and sophomores that gets -- tries to get at the same
2 kind of potential adverse impact. You know, we will see as we
3 go through the further processing cases what the history is with
4 the way it is working. We will have real data, real complaints
5 as to what -- if there are any, as to whether it is not working
6 -- whether the potential adverse impacts are not being mitigated
7 and addressed, so. Yeah, I'll let it at that. Thank you, Mr.
8 Chair.

9 CHAIRPERSON HOOD: Okay. So I think I heard -- and let
10 me go back to Commissioner May, because you believe that there
11 should be enrollment caps, right?

12 COMMISSIONER MAY: The overall cap, yes,

13 CHAIRPERSON HOOD: The overall cap. Is that the same
14 thing that you believe is welcome as well, Commissioner Shapiro?
15 I'm just trying to make sure I understand.

16 COMMISSIONER SHAPIRO: I thought part of the question
17 for us is whether there should be a specific undergraduate
18 enrollment cap.

19 CHAIRPERSON HOOD: Okay. Is that -- Commissioner May,
20 is that --

21 COMMISSIONER MAY: Yeah, no, I mean, I think what's
22 proposed is, is the cap on the entire student body as opposed to
23 a separate cap -- in addition to the separate cap on
24 undergraduates. And I'm not in favor of that.

25 CHAIRPERSON HOOD: Yeah, so, okay. Well, I just wanted

1 to make sure because we left our undergraduates. Some of us may
2 have left, including myself. I do agree with the overall cap
3 and I believe in the submissions. If not, this is one thing I
4 wanted too - if they could point out to me, because this is
5 voluminous -- a lot of information, a lot of stuff we read, I
6 would like for them to tell me again how they're going to -- and
7 I'm sure (indiscernible) just pull it back out for me and show
8 me where it is about how you're going to deal with the enrollment
9 cap that we're going to propose that's going to be put in place
10 and make sure -- how are you going to carry it out? That's kind
11 of where I am. I'm sure it is in there somewhere, but just pull
12 it back out again. I don't know how others feel, but I don't
13 feel inclined of taking any action tonight. I don't what others
14 feel, but I think from a general perspective, there are a few
15 things that I want to look at. And now that we're trying to
16 narrow it down to the general case. But, you know, I want to
17 hear from others as well.

18 Okay. So let's talk about traffic impacts. Who would
19 like to start us off? Let's talk about traffic impacts. Do you
20 thing -- well, let me just -- 'll say this. I think the closer
21 we get to further processing, as we do even in other cases, the
22 more that we can start really specifying impacts, we'll know what
23 the impacts of traffic will bounce off of each other. That's
24 the way I look at it now. I know people may disagree with me.
25 But the overall traffic plan, I think they have a traffic, you

1 may not agree with it. But I think specifically you drill down
2 as we specified in further processing. But let me open it up to
3 others. Commissioner May.

4 COMMISSIONER MAY: You know, I -- in consideration of
5 all the testimony that we've had about traffic impacts, actually,
6 frankly, it never rose to be a big concern from my perspective.
7 They're not talking about such, you know, the type of expansion
8 that's going to drive a lot more vehicles. If anything, the
9 number of vehicles are going to go down. Utilization right now
10 is relatively low. And I don't mean right now because of COVID,
11 but I think, you know, even previously, the utilization of their
12 parking facilities was less than capacity. And so I just -- I
13 don't see that the traffic considerations are, you know, require
14 any further action from what the University has proposed. You
15 know, DDOT is in support of the TDM plan. So I think that, you
16 know, it's all -- it's adequate from my perspective. I don't
17 see any issues with traffic.

18 CHAIRPERSON HOOD: Commissioner Shapiro.

19 COMMISSIONER SHAPIRO: Nothing further on that, Mr.
20 Chair, I agree.

21 CHAIRPERSON HOOD: Okay. Commissioner Turnbull.

22 COMMISSIONER TURNBULL: Mr. Chair, I think we've always
23 had disagreements between the community and the university about
24 traffic and the impacts of traffic, but I thought that the -- I
25 thought that the University's consultant, Mr. Banks, Iain Banks,

1 I think it was, I thought he gave a pretty good presentation
2 about how he looked at the traffic in the area and his analysis
3 of it. I thought he tried to be as thorough as he could. There
4 were some pretty tough questions that were put to him by some of
5 the neighbors. And I thought he was very responsive, and I think
6 he gave a good presentation. So I would agree that -- with
7 Commissioner May, that -- we'll have to see as we get into further
8 processing, but I think as of right now, the plan that they have,
9 the TDM looks like it's going to satisfy the needs of what the
10 University will encounter. So I'm -- I have no concerns right
11 now about the traffic. So that's it.

12 CHAIRPERSON HOOD: And Vice Chair Miller.

13 VICE CHAIR MILLER: Thank you, Mr. Chair. No, I have
14 nothing further to add to what my colleagues have said, which I
15 support.

16 CHAIRPERSON HOOD: So, again, let me go back to
17 Commissioner May.

18 COMMISSIONER MAY: Yeah, I did want to add one thing,
19 which is that I think there is a bit of a question about the
20 exact location of parking facilities, where they would be placed
21 and how the flow in and out of vehicles is managed and, you know,
22 in particular with what happens on the West Campus. So I -- but
23 I'm very confident that when we get to further processing that
24 we will be able to address any such concerns. Sorry, it's very
25 loud right outside my door at the moment. Some motorcycles or

1 something. Anyway. Yeah, it's -- I think it will be manageable
2 at further processing. And I think it's that sort of finer grain
3 traffic impacts that will be, you know, will be something we need
4 to be careful about in the future. But I do think that it is
5 completely manageable.

6 CHAIRPERSON HOOD: I will tell you that while -- and I
7 know people think we are kicking it down the road, but no, that's
8 our process of further processing, where we're going to drill
9 down. But I will tell you that -- again, I have in my notes,
10 slide 19, again, I'm not sure if Mr. Banks really satisfied the
11 question that Spring Valley had, I think particularly Tom Smith
12 had versus me. I'm not really satisfied with that answer. I
13 know he did try to expand, and I think I piggybacked on it as
14 well. I'm not satisfied; but those are the kind of things and
15 I'm hoping that Mr. Fisher -- I'm sure Mr. Fisher and the
16 applicant are listening. If you put it somewhere and I missed
17 it, forgive me, because it's a lot of stuff to read. But I will
18 tell you that those are the kind of answers where I think the
19 community -- and I'm saying this particularly for Mr. Fisher,
20 that the community would have a little more trust, that we make
21 sure we can answer exactly why we're doing it. And then here's
22 the thing. If you tell me something in one week about an issue,
23 if I ask you about it in another month, that answer shouldn't
24 change. It should (indiscernible) -- it should be the same
25 answer. Now, what it should do is improve the process. And I'm

1 not saying I'm not casting aspersion. I'm just saying, again,
2 what I -- like I said, I've heard a lot of distrust,
3 unpredictability, and that's what I got from those in opposition.
4 But hopefully with the addition of Mr. Fisher and others, will
5 help to try to mitigate that and bring some of that closer
6 together. I mean, there are always going to be adverse impacts.
7 I think the Commission is -- we know that, but the question is,
8 are they going to be mitigated and how they're going to be
9 mitigated? So that's all I am going to say on that. And this
10 next one, I'm just not going to -- anything else on traffic?

11 Okay. This next one, I'm definitely not going to start
12 off, because I really am -- I really am so tossed on this, Jacobs
13 Field. I really don't know what to do. I that there is a plan
14 on one of the fields to put the wall. I mean, if I had a
15 (indiscernible) field. I know this just keeps coming up. I
16 don't even know if the wall is going to work. That's an issue
17 for me. Whether we keep the previous conditions in place. Those
18 are some of the things that we've heard. But let me open it up.
19 Maybe I can go to somebody else, but it looks like Commissioner
20 May is always ready to go first, so I'll just go to Commissioner
21 May.

22 COMMISSIONER MAY: I don't know, you know, I met -- I'd
23 be happy to kick it to somebody who really wants to talk first
24 on this one. Everybody seems to be looking away.

25 CHAIRPERSON HOOD: That's (indiscernible) to start off

1 wrong, so I better not go first.

2 COMMISSIONER MAY: Yeah. So this is the part of the
3 case that I have -- that I find really disappointing. I mean,
4 there are other aspects of the case that I find are disappointing,
5 but this is the part that's most disappointing about the
6 University's case, because this was such an important issue the
7 last time around, and it's just so disappointing that this issue
8 is still before us. I would have expected that if -- the sounds
9 coming from this field were still causing a significant impact
10 to the Herzstein/Gerson residence that it would have been
11 addressed and that the wall would be up because that's what we
12 allowed for last time around, but it has not been addressed. And
13 I mean, I think that we're closer to getting it addressed. And
14 I think that, you know, there is certainly progress in the
15 discussion of conditions between the University and the party.
16 And I've, you know, I've read through the conditions sort of back
17 and forth and what they agree on and what they don't agree on.
18 There is still some ground to be made up between them and I mean,
19 I almost, well, I would like to see a higher level of resolution
20 between the University and the party and if it's possible for
21 them to continue to talk and come back with agreed upon conditions
22 or as close as they can possibly get, because I feel like they're
23 making progress. The only other thing I would say is that this
24 situation does not reflect well on the University's efforts. I
25 appreciate that they have been working hard. But, you know, the

1 fact that we still have this issue, you know, really is really
2 problematic. And, you know, I mean, even last time around, that
3 was the that was the second time, right? You had already dealt
4 with it once before, Mr. Chairman. I'd only dealt with this --
5 I mean, this is your third time around, this is my second. So I
6 don't think it reflects well on the University. And I think that
7 they should be bending over backwards to address this in every
8 way that they can. And I mean, I almost -- you know, going into
9 this reading and preparing for this case, I was almost thinking
10 that, you know what, I don't even want to decide this Campus Plan
11 case until that issue is resolved. And I mean that the wall is
12 built. I'm not sure I'd really want to go that far, but that's
13 what I was toying with, because building a wall is something that
14 could be done as a further processing on the existing case. And,
15 you know, I'd kind of like -- I mean, part of me wants to put
16 off deciding on the whole thing for six months until we see that
17 further processing. Then again, that means that in six months,
18 I'd have to read everything again, so maybe that's not the
19 smartest strategy, but it's you know, that was sort of my
20 reaction. It's like I just want real action. I want this
21 resolved, so. I'm very happy to hear what others have to say.

22 CHAIRPERSON HOOD: Okay. Thank you. Commissioner
23 Shapiro.

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. Yeah, you
25 know, I don't have the history that Commissioner Mayor has and

1 that you all have. So I don't have that same sort of more
2 visceral reaction to it, though I hear you and I trust your
3 experience around this. And clearly, there's a lot of history
4 to it.

5 What I'm looking at is two parties that are actually
6 quite close with a number of conditions -- most of the conditions
7 the parties agree on. And there's some that are still
8 outstanding. And I'm trying to think through our own process,
9 whether it merits us going through these conditions ourselves or
10 to Commissioner's May point, is there -- are we looking to put
11 the parties back together to take it that that last, you know,
12 the last few yards because they're close? And I'm not sure. I
13 mean, I'm very appreciative of all the work that I've see that
14 has been done between the parties. So I guess I have more of a
15 question around that. I'm curious to see where my colleagues
16 are.

17 CHAIRPERSON HOOD: Okay. Commissioner Turnbull.

18 COMMISSIONER TURNBULL: Thank you, Mr. Chair. Well,
19 Commissioner Shapiro you missed knowing, Mr. Herzstein. He was
20 a tough cookie, and he was very hard on the University in the
21 hearings trying to make them understand. And I thought we got
22 to a point where maybe the University did, but obviously they
23 didn't. This is, I think, Mr. Chair, this could be -- this was
24 going to be the first processing, I think, of the University. I
25 think they were going to go at it within six months after getting

1 approval by the Zoning Commission. This could be the breaking
2 point for the University, that they may not get to further
3 processing after that because they may not be able to make what
4 they think they can do and I think being "kumbaya," I think they
5 want to be partners and share and get together and try to do
6 everything. This is a tough nut to crack. I think you can look
7 at the scientific evidence, you can look at all your -- bring in
8 all your engineers and set this thing up, but there is always
9 the unpredictable aspect of when you get it done, is it going to
10 really meet your expectations? Does it? And I think that this
11 is -- if you put in the wall and you have the landscaping to
12 help it, hopefully it's going to do it. But there's a degree of
13 uncertainty in any kind of a thing like this. I mean, they've
14 built these sound walls all across these highways that we've got
15 around here. 95, 66, you've got sound walls. And do they always
16 work? Well, I don't know. To an extent, they do, but you're
17 dealing with the air quality, the humidity, the wind, there's so
18 many factors involved in trying to mitigate sounds that are
19 generated on the other side. I hope -- I think if it's approached
20 and they meet and they can go through this and don't set standards
21 unremarkable that they can't meet them, I think you've got to
22 expect that there's going to -- there may be some, but I don't
23 know, and I'm not sure what the expectations are of the
24 Herzstein/Gerson family, what they think they can -- what they're
25 expecting. If they're expecting total quiet, that may not be

1 exactly what the University thinks that they can provide. So I
2 think there's the expectation and then there's the performance
3 of the wall that they're going to be things that they're going
4 to -- we won't know. So it's going to be, I think it's going to
5 be, I think, goodwill on both sides and people working hard to
6 do it. But I think the University, I think as Commissioner May
7 has said, I think they fell down in the years following. They
8 didn't really monitor the field as well as they could. And I
9 think that's what -- the reports we're hearing now, is that
10 they've -- we've got these guidelines that say here's what the
11 sound can be, here's what you can do. But I don't know if the
12 University is totally monitoring the way that it should be
13 monitored. And so there's always that unexpected. Unexpected
14 things will happen on the field. Somebody is going to show up
15 and yell and do something different that's not allowed. So that
16 could happen. But I think in the best of all worlds, they're
17 going to go at this thing with a reasonable scientific approach
18 and try to get it done. But I think this could be the test for
19 the University, is getting this project to a point that at least
20 is going to be satisfactory to the Herzstein - to Ms. Herzstein.
21 She's lived through it with her father. I mean, it's just a
22 difficult -- it's -- she knows what it's like. And I think
23 getting the University to understand that and totally appreciate
24 it is maybe -- because they don't -- they're not on that side of
25 the of a field. So I don't know. I'm hoping -- I think as

1 Commissioner May, this is going to be a big test. This will be
2 a very big test for them, for the University to accomplish. And
3 hopefully they can do it.

4 CHAIRPERSON HOOD: Okay. Thank you. Vice Chair Miller.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman. I'm not
6 sure I have anything to add to what my colleagues have said. I
7 generally concur with -- I mean, Mr. Shapiro, I didn't know you
8 weren't here for the earlier. I think the earlier case -- I
9 think the comments you've made. The University has agreed to
10 most of the conditions. I there's some that they're still working
11 on, and I think this sound wall, it all -- waiting for the sound
12 wall forever. So now there is a deadline and we're going to
13 see what -- and there are new conditions that have been agreed
14 to, and other conditions that maybe I think we're still waiting
15 for the University to respond to. But in many cases, they have
16 agreed to them. So we will see if there has been progress in
17 this area of the objectionable noise. So I think there's a good
18 faith effort at this point to try to work this out and I would
19 like to try to be optimistic, even after all this time that it
20 will be worked out. There is a deadline, which I think will be
21 in our order in terms of the sound wall. And things won't happen
22 unless this happens. But that's where I am -- I'm trying to be
23 optimistic about that, Mr. Chairman.

24 CHAIRPERSON HOOD: So where I am on this, and that's
25 why I didn't really want to start, I've been thinking about this

1 Jacobs Field issue for a while as Commissioner May. I think it
2 has been three times and three times is supposed to be the charm.
3 This is not a charm. I almost feel like I'm in the same place I
4 was in 2001 or whatever year it was. One of the things that I
5 thought about, and I know this is crazy, but I thought about
6 having a roundtable and have Herzstein/Gerson and then have the
7 university, we facilitate the negotiations, but I don't think I
8 can do that. But I don't know if I could do it in a roundtable.
9 I was going to ask Mr. Tondro, because after three times and all
10 these years, we should have something -- and I agree they're
11 coming closer, but we should not still be talking the same thing.
12 But I also want to make sure -- I'm not putting it all on American
13 University and I never have -- but I also want to make sure that
14 students -- because I also want residents to know that most of
15 the -- we were students too. I was a young person too. So the
16 young fellow out here with his Nerf football or even his
17 basketball, he takes his back and hits my car, I'll say something
18 to him. But I also was a kid, too, and we got to realize we were
19 college students too. And we want to play sports. We want to
20 excel in sports. And I said this last time, there has to be a
21 give and take. Yes, we're getting closer, I'm not putting it
22 all on the University. The horn sounds -- I don't even know what
23 year -- how long that has been a field. How long the University
24 has been there; I think they've been there since the early 1900s?
25 I'm not even sure what -- how long they've been a university

1 there, but sports has always been a part of college, and we
2 understand that. And if you go to some universities, they
3 wouldn't even think of doing what American University is trying
4 to do here. But my only other issue is the wall. We keep talking
5 about the wall. If we put the wall up and some other measures,
6 is that going to solve the problem? Probably not. I don't think
7 it will. I think we'll still be here for the 5th generation of
8 the Zoning Commissioners talking about the same thing there.
9 It's going to be generation, generation. So I think we need to
10 fix it now. We need to come to some resolution now. We're
11 getting close to it. And I am particularly ready, not necessarily
12 wait for six months, I don't think it should take six months. I
13 would like for them -- instead of us going through conditions
14 (indiscernible) for two neighbors, whether it be a AU or the
15 neighbors who are going to be living there, because none of us
16 are going to be here. I'm going to probably come to the game,
17 which I'm not, well, never says what you're not going to do --
18 but I will be one of those that are out there at the game, if I
19 was to go. But I want to make sure that we balance this. I want
20 to make sure that the Herzstein/Gerson and Ms. Horvitz, that they
21 work it out with the University, and I believe with Mr. Fisher,
22 a little more time because he's still new to it, but I believe
23 he's true to it, because I've watched the work he's done in this
24 city and other places and other avenues that he's been involved
25 with. I believe it will happen. And I would also ask Ms.

1 Herzstein and Gerson as well. It's give and take. You can't
2 get it all, you can't -- not to (indiscernible). Come on, it
3 doesn't -- we live in the city, it's not going to work that way.
4 So, Commissioners, I will tell you, this is the one issue for
5 me. I would like to see it resolved now. And that's kind of
6 where I am, I would like to see it -- I don't want to wait six
7 months. The longest I would want to wait is one month. Okay?
8 That's kind of where I am. Commissioner Shapiro.

9 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. I'm just
10 trying to figure out practically if what we're looking for, where
11 the sense of this body is, what we're looking for is that we want
12 the parties to come back to us with conclusions on the conditions
13 because they're almost there. But there's a few where there's
14 still some work to do. And I don't know whether we feel like
15 that's our work to clean that up or whether we send them back to
16 clean that up for us.

17 CHAIRPERSON HOOD: Let me just say, Commissioner
18 Shapiro, I like -- I thought your suggestion was to send it to
19 them. I'd rather for them to do it. They're the ones who is
20 going to have to live with it, instead of me doing it, because
21 it might not favor one way or the other, you know, it won't favor
22 one way or the other, but it's always better. The good neighbor
23 policy is always good when neighbors can work things out in groups
24 that don't necessarily live there. I'm not saying all of us. I
25 don't live in the neighborhood. So I would like for the people

1 who will be most affected to get -- COMMISSIONER

2 SHAPIRO: Yeah, that works for me.

3 CHAIRPERSON HOOD: Commissioner May, you have
4 something?

5 COMMISSIONER MAY: Well, maybe I did, but it sort of
6 got away from me. But I agree with what you're proposing that
7 we put it back on them and we come to an agreement.

8 I guess I did I did have a question for you, Mr.
9 Chairman, which is that you want to get it resolved now. I'm
10 not sure what you mean by resolved now, because we're not going
11 to solve the sound problem now. What we can hope for is agreement
12 on conditions between the University and the party, and then, you
13 know, have a clear path forward. And I agree, as soon as possible
14 on the further processing, but I think it will take them six
15 months to be ready to submit that. And you were suggesting, I
16 think maybe something shorter.

17 CHAIRPERSON HOOD: Yeah, what I was pretty much
18 suggesting, and thanks for the clarification, asking me for
19 clarification. I was not suggesting about the wall, because I
20 can tell you right now, I don't believe the wall is going to
21 work. I think that, to me, that the Herzstein/Gerson party
22 should realize that they're going to hear a little noise and
23 let's try to work it out. We're going to hear a little noise.
24 We're going to hear some noise, but also the University should
25 try to help them minimize the noise, the impacts, and the wall

1 may not -- maybe sometimes that you do stuff. In the summertime,
2 nobody wants to be out there -- well, I'm not saying, I shouldn't
3 say this. Nobody wants to be out playing soccer -- well, I
4 shouldn't say that either because I don't play soccer -- at 12:00,
5 when it's 100 degrees. I guess they do play it at 100 degrees.
6 But when you get a certain age, you play at -- well, I don't play
7 at 100 degrees. I play basketball. I'm back in at about 9:30,
8 10 o'clock before it gets hot. So if they start at 8 o'clock in
9 training and something, I don't see anything wrong with that.
10 Now, I don't live there. That's why it's better for them to work
11 it out. They may say 9:30. So it's better for them to work it
12 out as opposed to (indiscernible).

13 COMMISSIONER SHAPIRO: It sounds fine to me, Mr. Chair.

14 CHAIRPERSON HOOD: Yeah.

15 COMMISSIONER SHAPIRO: Yeah, it sounds like you're
16 saying that it's more about the conditions than about the wall.
17 And I think that makes a lot of sense, particularly since we're
18 not going to have the wall for a little while anyway. So let's
19 get to an agreement on the conditions and then let them build
20 the wall and then let's see whether, you know, there are
21 conditions that can be modified subsequent to that. But again,
22 with agreement from the party.

23 CHAIRPERSON HOOD: So let me just say this too. I
24 don't have a problem, if they can't come to an agreement, then
25 we'll make the decision and I want to give them the caveat -- we

1 don't live there. So our decision will not be as fulfilling to
2 either party because we don't live there. So I'm asking you all,
3 please don't come back with what we've been coming back with.
4 Let's come back with a more unified, cohesive agreement to a
5 point. Commissioner Turnbull.

6 COMMISSIONER TURNBULL: Mr. Chair, I would just add
7 that I would agree with or go along with Commissioner -- with
8 the Vice Chair, in that he's optimistic. I think the wall --
9 putting up the sound wall is a recognized technique for mitigating
10 sound. It does work. But question is, I think the engineer for
11 the University and the engineer for the party, they're going to
12 have to get together and come to a recognized level of what they
13 think is going to -- what they will accept. That's going to be
14 the hard part. That's when -- getting back to what you're saying.
15 It has to go back between the University and the party, working
16 it out, coming to terms with what is going to be an acceptable
17 level and how then -- then you go on from there. But it's again,
18 it's the conditions, how you meet, how you set it up. But I'm
19 optimistic that something can be done. But to what extent?
20 That's the unknown that we're not going to know until it's
21 actually built.

22 CHAIRPERSON HOOD: And with that, we're going to have
23 to come back -- when they do come back. I am not against the
24 wall, but I'm just -- and I appreciate everybody being optimistic,
25 but the way things have been going, I do know that you do hear

1 some sounds beyond the walls, and I stand to be corrected, that's
2 not my expertise. But I just don't want them to think, oh,
3 anybody being on promised land thinking it is going to take care
4 of the problem 100 percent because it's not. And I realize that.
5 And I'm sure that -- I don't want AU or the Herzstein/Gerson
6 going into this saying the wall is going to take care of
7 everything and then we'll be good. Now, if it does take care of
8 everything, that's great. But the way things have been going
9 over the years, I don't even think that -- I don't want to put
10 all of it in the wall. I want them to come up with some
11 concessions on both sides. I'd rather see some concessions on
12 both sides. That's kind of where I am. Commissioner Shapiro.

13 COMMISSIONER SHAPIRO: I just want to -- I'm with you.
14 I mean, I heard the neighbors in opposition. I heard them
15 understanding this not as a zero-sum game, not as black or white.
16 I heard them understanding that, you know, that they live next
17 to fields. So for what it's worth, from my perspective, coming
18 to this newer, that it seems like they get that, what you're
19 saying. And all I would say is I think -- it sounds like we're
20 on the same page. Let them get to the end of these conditions
21 and then the wall is separate and let's make that happen.

22 CHAIRPERSON HOOD: Okay. I've harped enough on Jacobs
23 Field and the wall and everything else. Anybody have anything
24 else on that? So we know we're going to send that back, so we
25 won't go through conditions, I don't believe unless I hear

1 otherwise. We will send that back and let the people who are
2 going to be most affected. I do have them noticed that -- I want
3 to go back to something that Commissioner Turnbull mentioned. I
4 want to make sure that the applicants are really focused on the
5 landscape screening when they bring their future processing
6 application. So I think, Mr. Turnbull, you alluded to that. And
7 we want to make sure that they get that. When they come back
8 for further processing, really focus on the landscaping. I think
9 you mentioned that earlier. So, it's been noted to mention that
10 as well.

11 All right. Let's see where we are in this outline.
12 AU's request for flexibility. Let me open that up. You know
13 that request that they've asked for and then it goes again. Well,
14 let me let somebody else start off. Commissioner May.

15 COMMISSIONER MAY: Sure, Mr. Chairman. I -- this is a
16 little bit odd because I don't recall how we have handled this
17 in past campus plans. And I do appreciate the need of the
18 University to be able to take certain actions to make improvements
19 on the campus without coming to us for every little thing. The
20 question is, how do you determine what's so little that it doesn't
21 require a further processing review? And I would suggest that
22 we could and, you know, we could allow that flexibility, but we
23 would have to put limits on it. And I would suggest that those
24 limits be ones where, you know, basically that does not involve
25 a substantial alteration of any visible feature of a building.

1 So basically interior work only, you know, or replacement in kind
2 of existing features. So replacing windows and things like that.

3 And then that -- in addition to, you know, not changing
4 the physical appearance, that it -- that there not be changes in
5 use going -- that go with this that could potentially cause
6 adverse impacts. So we wouldn't want them to, you know, take an
7 administrative building and renovate it on the inside and make
8 it into a dormitory without a further processing. But if they
9 want to go into that same building and modify the restrooms to
10 make them handicapped accessible, then that makes perfect sense.
11 So I think that that's -- that's the way the rules should be
12 written. And I wouldn't have any objection to that. I also
13 wouldn't have any objection to, you know, handling this as we
14 would with other campus plans. But I haven't taken any time to
15 look at what we have done in the past. Maybe we could ask the
16 Office of the Attorney General just to look into that question.

17 CHAIRPERSON HOOD: So, Commissioner May, basically,
18 you're saying come with a -- I guess an outline of criteria, what
19 we would allow flexibility for. Is that a correct assessment?

20 COMMISSIONER MAY: Yeah, I mean, it's flexibility, but
21 it's within limits. There'd just have to be some limits on what
22 they would, you know, what they could do. We just we don't want
23 them to cause an adverse impact and we don't want them to, you
24 know, make really noticeable changes to the building so it looks
25 very different, you know, and it's massing or, you know,

1 fenestration of buildings or things like that.

2 CHAIRPERSON HOOD: Okay. All right. Commissioner
3 Shapiro, you have anything to add to that?

4 COMMISSIONER SHAPIRO: (Negative head shake.)

5 CHAIRPERSON HOOD: Okay. Commissioner Turnbull.

6 COMMISSIONER TURNBULL: I would just agree with what
7 Commissioner May said. I think if they're doing just strictly
8 interior renovations, nothing that would affect the exterior
9 windows or whatever, if they're doing a bathroom renovation,
10 that's fine. Even if maybe a classroom or a laboratory that's
11 being upgraded, that's one thing. But maybe once you start,
12 maybe -- I don't know if you could put in a square foot level
13 in. I don't know if that makes sense. But start getting over a
14 thousand square feet or what. Maybe that's too hard to define.
15 But I think once you get into a major renovation, where it's a
16 change of use, then we might have an issue with that, so. But
17 other than that, I think, I wouldn't want to grant total
18 flexibility of doing anything that they wanted.

19 CHAIRPERSON HOOD: Okay. Vice Chair Miller.

20 VICE CHAIR MILLER: Thank you, Mr. Chairman. I have
21 nothing to add beyond what my colleagues have said in terms of
22 the flexibility. And just -- (indiscernible) to our previous
23 discussion about Jacobs Field and the wall. I think that an
24 analogy or a metaphor or whatever you want to call it can be
25 made, you know, I think it's (audio interference), just like in

1 the Jacobs Field with the wall, and then there are 14 other
2 conditions that many of which are being agreed to by the American
3 University and others which are maybe being still worked on, I
4 see those as (audio interference). And just to a wall -- (audio
5 interference). Communication that goes back and forth between
6 the ANCs and the partnership and the parties in opposition about
7 what's going on and what's being asked for in specific cases.
8 Communication is just so important and it's things that don't
9 happen without, you know, by surprise and that just can avoid a
10 lot of (audio interference) angst and build that trust that you're
11 talking about. Rebuild the trust, which I think Ed Fisher and
12 the current leadership at AU is --has been working hard to try
13 to rebuild. So. I went beyond your question about flexibility,
14 but I agree with my colleague's comments about what the limits
15 are along that in terms of order -- a Zoning Order, but all of
16 this relies upon healthy communication between neighbors,
17 American University and its neighbors, which I think has happened
18 in a much more improved way in this process and there's always
19 room for improvement.

20 CHAIRPERSON HOOD: Okay. Let me back up to two things
21 on the advice of -- I think Commissioner May, in, concert with
22 what you were saying. I think what we will do is, we will ask
23 AU to propose the limits of flexibility, since is their case, and
24 then we will make a decision on that and maybe add or subtract
25 or whatever, and I am sure others will probably have a chance to

1 respond, but I will think we will ask them of that first.

2 All right. The next thing, we would ask AU to consider
3 to look at the Herzstein and Gerson proposal, and I would ask AU
4 to propose final conditions with Herzstein and Gerson to respond
5 with an explanation as to why AU's conditions need to be revised.
6 So I'm asking of that now. Hopefully -- something else too. Let
7 me just say this. There's something else that we need to make
8 sure that we are capturing, is things that we ask for, we need
9 to make sure we capture it because it has been explained to me
10 that sometimes it gets confusing. I've heard that as late as
11 today. So we want to make sure things that we're asking for is
12 noted. I know it's in the transcript, but we probably need to
13 start making sure we put those things in the record. And I'll
14 be talking to Ms. Schellin about that and working with the
15 applicant, so I'm hoping that the applicant took their notes and
16 I think -- we used to do it, but we need to go -- I think we need
17 to go back to doing it. And I'm just saying that, not just for
18 this case, but every case, because so everybody -- if they want
19 to see what's asked for, what we got coming, they can go into
20 the record and see that. Commissioner May.

21 COMMISSIONER MAY: Yeah, I think the only other thing
22 that we talked about needing further information on is that you
23 were looking for something further on the University's response
24 to the Spring Valley - Wesley Heights Citizens Association
25 comments or questioning on the traffic impacts.

1 CHAIRPERSON HOOD: Yeah, I was. I think -- I know Mr.
2 Banks answered it, but I was (indiscernible) while he was
3 answering, but maybe -- the best answer, that's what it is. And
4 I do know that DDOT were the experts, not Anthony Hood, endorsed
5 the traffic plan but I just -- I kind of agree with them, so
6 hopefully they're listening and if it's in there somewhat, we can
7 go back -- they can pull it out and just point to them. Now,
8 we're not asking -- let me just make this known to the opposition.
9 We're not asking for a full-fledged record. The things that we
10 asked for -- or just what we asked for, so we can fine-tune. We
11 have discussed everything else.

12 I had one more action I would like to do unless there's
13 something else that I may have missed that we should be talking
14 about. Commissioner May.

15 COMMISSIONER MAY: Yeah, do we want to talk any more
16 specifically about the specific building sites that were proposed
17 or was your comment about landscaping and further processing sort
18 of -- you know, the specifics about that. I don't have a lot to
19 say on it, because I'm okay with what's proposed, I just didn't
20 know if you wanted to -- if you would have --

21 CHAIRPERSON HOOD: What I had planned on doing, I wanted
22 us to take a few moments and look at each letter. I know this
23 may be old school or whatever, because I did that again today.
24 I don't if you (audio interference) are doing that, but I want
25 to take a look at each letter. I made a few notes about each

1 letter in opposition and support. It wasn't all opposition
2 because I looked at -- for example, I looked at ANV 3D, and I
3 think I mentioned this. They thought that Subtitle X 101.1
4 through 101.6 and others, Chairman Elkins, in his support letter,
5 he thought that American University has met the prerequisites and
6 the requirements of a campus plan approval. Now, he basically
7 said -- one of the words he used was "adequacy" and "satisfying."
8 And I think I wrote that down correctly. Then Doctor -- and I
9 mentioned this earlier, Dr. Kravitz from the AU Neighborhood
10 Partnership, and I always go back to (indiscernible) Vice Chair
11 Miller, specifically is Exhibit 141, he mentioned that it was
12 balancing trade-offs. So everybody's letter -- I just didn't
13 look at support, I went to NLC, and NLC -- and that's where I
14 got the concerns from on predictability when I looked at their
15 letter. The concerned citizens of Nebraska Avenue -- I think
16 it's their Exhibits 155 and 157, I think this is further
17 processing. Their issue with 11 and 12 are 200 feet from their
18 homes. That's -- I think for me, and I understand it, in the
19 Campus Plan, I think for me, that's where we go to further
20 processing. That's where we really drill down in it. Do we do
21 200 feet? And I can't really talk about it now because nothing
22 has been proposed. And then Spring Valley, their Exhibits 150
23 and 151. We've talked a lot about the Herzstein/Gerson, and
24 Westover. Westover. You know, they have their concerns as well.
25 So to me, I think theirs was Building 15; I may have that wrong.

1 But I went through each letter, and I hope I didn't leave anybody
2 out, but I went through each opposition letter and pointed out
3 everything, and that's why I came back with trust,
4 predictability, and I think with Mr. Fisher, and Mr. Fisher, I'm
5 putting this on you -- not that the neighborhood is going to get
6 everything, but there needs to be coexistence and it needs to be
7 a good neighborhood, neighbor policy on both sides. So I don't
8 know if we need to go through that because I just went through
9 that, unless somebody else wants to go back through all that.

10 COMMISSIONER MAY: (Indiscernible) excellent way of
11 hitting the high points, and I don't necessarily see the value
12 in, you know, going through every submission in detail since
13 we've already all done that individually. And, you know, we've
14 talked about the big topics at a high level. But I do appreciate
15 your comments on some of those neighborhood specific ones. And
16 I agree with you that some of these things will be resolved at
17 further processing. And I also agree that we need to get to that
18 place of trust between the university and its surrounding
19 neighbors.

20 CHAIRPERSON HOOD: I don't know what else to add, unless
21 I'm just trying to be creative, but I'm not, I think that we're
22 not necessarily kicking it down the road and I don't want any
23 people who are in opposition (indiscernible). But here's the
24 other thing, when I look at this case, there is a lot of garnered
25 support for the University in the way they're moving. There's a

1 lot of support and I don't want to overlook that. But there is
2 some opposition and there is some on predictability. Oh,
3 Commissioner Shapiro, and I'm done.

4 COMMISSIONER SHAPIRO: Thank you, Mr. Chair. You know,
5 it's -- allow me the reaction. But when you suggest that we are
6 being accused of "kicking it down the road." I have a reaction
7 to that, which is we're actually following our rules and regs and
8 I think we're doing a good job at following our rules and regs.
9 And I think we know and, you know, having done this longer than
10 me, it's impossible to make everybody happy in our role. And I
11 feel confident that we're following our rules and regs through
12 this process, determining what's in the Campus Plan, what's
13 further processing. I think even hearing the conversation that
14 we have tonight, I feel quite confident that we're approaching
15 this in the right way. And I commend you for your leadership in
16 running it through with us this way, too. That's all I wanted
17 to say.

18 CHAIRPERSON HOOD: Okay, thank you. On that, I'm
19 through, I'm finished. I don't know if anybody -- I don't think
20 we need to come after that. And I agree with you, Commissioner
21 Shapiro, I don't disagree. It's just that I'm trying to head
22 off all the negative stuff that usually comes. But, you know,
23 my shoulders are broad (audio interference.)

24 COMMISSIONER SHAPIRO: (Indiscernible), right.

25 CHAIRPERSON HOOD: I can handle it. I'm used to it.

1 And here's the thing. I was born and raised in this city, I like
2 what I do, I enjoy it, making a contribution. It might not be -
3 - some people don't like; some people love it. So, you know,
4 that's just the way all of us are. We live here. We live here,
5 too. So anyway.

6 All right. So what do we need to do now -- I was about
7 to say Commissioner Schellin -- Ms. Schellin.

8 MS. SCHELLIN: Don't promote me or demote me; I'm not
9 sure which.

10 (Laughter.)

11 MS. SCHELLIN: So it sounds like you guys might want
12 to schedule a special public meeting for just this case. Is that
13 what I'm hearing or not? I mean, we need to schedule a date for
14 submissions, and I'll do that based on what you guys tell me you
15 what to do. Do you want to just schedule this for one of the
16 regularly scheduled meetings or a special public meeting of, say,
17 30 minutes?

18 CHAIRPERSON HOOD: So before -- let me -- before we go
19 to that, I've been advised that we need to go through everything
20 that we've asked for so we can make sure it's clear. And Ms.
21 Schellin, you and I will talk offline about how we're going to -
22 -

23 MS. SCHELLIN: And we'll send the parties -- we can
24 send the parties a list to the fact. Yes, like we did last time.

25 CHAIRPERSON HOOD: Take it easy on those who help us

1 pull all this together. And I want to thank all those who help
2 frame the discussion for us in an organized manner. I really
3 appreciate OAG. The residents, I really appreciate the
4 submissions because reading through it really helped me come to
5 the conclusions that I came to. And I really appreciate those
6 who were in opposition, those who were in support. The American
7 University. And I want to make sure I name everybody. All those
8 who were support, those who were in opposition, the parties in
9 support and opposition. The ANCs. Our own staff, OZ, OAG, OP
10 for the work and analysis they did. Who am I leaving out? I
11 don't want to leave any -- and I want to thank my colleagues.
12 This is a lot of information.

13 MS. SCHELLIN: DDOT.

14 CHAIRPERSON HOOD: A lot, and it ain't easy trying to
15 remember everything. So anyway. I think I thanked everybody.
16 If I missed some, let me know and I'll thank you the next time,
17 if I missed you. All right, so -- can we go over the list?

18 MS. SCHELLIN: I think it might -- could staff work
19 with OAG in the list and send that to the parties tomorrow or -
20 - because I did not keep a list because staff doesn't keep a list
21 anymore because, you know, it's in the transcript and that's part
22 of the record.

23 CHAIRPERSON HOOD: But we're going to start back. We're
24 going to start back. We'll figure out how to get that done this
25 time because I think this is really important. Ms. Cain showed

1 up. Ms. Cain.

2 MS. CAIN: I was going to say if the Commission could
3 just run through everyone one last time, just so that we're clear
4 on what is being requested from which parties.

5 CHAIRPERSON HOOD: Okay.

6 COMMISSIONER MAY: I try to keep a list.

7 CHAIRPERSON HOOD: I'm sorry, Commissioner May.

8 COMMISSIONER MAY: Yeah, I always try to keep a list.

9 CHAIRPERSON HOOD: Oh, my man, go right ahead.

10 COMMISSIONER MAY: But I only have three things on it.
11 I have the traffic issue that you mentioned; that we would need
12 a further response from the university and, of course, you know,
13 response to the parties after we get that; the limits on
14 flexibility; and then the proposed final conditions regarding the
15 sound mitigations from Jacobs Field. And hopefully those will
16 be final conditions and be agreed to by the Herzstein/Gerson
17 party, or if not, we'll see their final concerns about that, but
18 those that's all I had. And again, I do try to keep lists, you
19 know, as we hear these cases or as we deliberate.

20 CHAIRPERSON HOOD: Commissioner Turnbull, did you have
21 anything to add?

22 COMMISSIONER TURNBULL: Yeah, Mr. Chair, the only other
23 thing, and maybe I'm drilling into the weeds too much here, maybe
24 it's too soon, but the applicant -- the University submitted
25 Exhibit number 141, which is a Campus Plan Post Hearing

1 Submission, which they were modifying the conditions of the other
2 -- of the old Order and making some changes to it. I don't know
3 -- we haven't responded to that or looked at that. I know OAG
4 has made some -- that there's some things that ought to be
5 changed. So, I don't know how that fits into our next step or
6 steps.

7 CHAIRPERSON HOOD: I do remember seeing that and I'm
8 glad you brought it up. I would like for us to discuss that --

9 COMMISSIONER SHAPIRO: Mr. Chair.

10 CHAIRPERSON HOOD: -- with a fresh mind.

11 Commissioner Shapiro.

12 COMMISSIONER SHAPIRO: Yeah, my read on that is, it's
13 -- and I appreciate Commissioner Turnbull bringing that up. My
14 read on that is that's very much the topic that we're talking
15 about. That's the back and forth around the conditions. And so
16 if we get final conditions from AU and then we get the response
17 from the parties in opposition, then I think it addresses
18 Commissioner Turnbull's issue.

19 COMMISSIONER TURNBULL: What -- are you talking about
20 the conditions for the wall?

21 COMMISSIONER SHAPIRO: It's the general sound
22 mitigation condition, it's not just the all.

23 COMMISSIONER TURNBULL: Well, the conditions I'm
24 talking about, the conditions of the original Order that cover -
25 - I guess it's, it's a little bit of everything, I think.

1 COMMISSIONER SHAPIRO: Yes, it's all the conditions

2 CHAIRPERSON HOOD: All conditions, like 25. Let's go
3 to Ms. Cain. Ms. Cain, can you help us clarify some of this?

4 MS. CAIN. Yes. So there are 15 conditions that were
5 proposed by the party in opposition, which is what I think most
6 of the conversation has been about tonight. But there are also
7 changes to conditions in the prior Campus Plan approval, which
8 is Z.C. Order 11-07, which they are also -- the party in
9 opposition is recommending be carried over into this new Order
10 with some changes in language. So I think whatever you would
11 want the applicant and that party to submit should address both
12 these new conditions and the carryover conditions from the old
13 Order.

14 CHAIRPERSON HOOD: So, Ms. Cain, let me ask you -- I
15 guess the parties in opposition and support, all of them would
16 be able to weigh in as well. Some of them, I think have weighed
17 in. Some of them don't want us to change. So some of them have
18 weighed in, I believe.

19 MS. CAIN: I think, at this point, and I'll look to Mr.
20 Tondro if he has any other thoughts on this, that because this
21 is a very limited issue that's really only impacting the
22 Herzstein/Gerson's property, that the submissions, at least in
23 terms of these conditions, can probably be limited to them. If
24 you wanted comments from other parties on the traffic issue that's
25 been brought up, that might be something that you could open up.

1 But I think in terms of the conditions, it is a very limited,
2 very specific impact that's being addressed.

3 CHAIRPERSON HOOD: Okay, so --

4 COMMISSIONER TURNBULL: Mr. Chair, I just would want to
5 agree that Commissioner Shapiro was right. A lot of the issues
6 we are talking about are in that exhibit -- the conditions.

7 CHAIRPERSON HOOD: Okay, you mean the exhibit that you
8 just referenced? Okay. That's why I was trying to read it
9 right quick again to see. Okay.

10 So we will go on that. So I think we've kicked that
11 back, I think, so I think we're good on that.

12 COMMISSIONER TURNBULL: Some of those goes a lot beyond
13 what we were talking about. There's other issues that become
14 involved and --

15 CHAIRPERSON HOOD: Yeah. Give me one moment.

16 So, again, I think the thing is -- we'll stick with our
17 original plan, and if we need to do something else, we'll do
18 something else. But for right now -- I think we have noted
19 everything that we need unless somebody has something that we may
20 have missed. Not hearing anything.

21 Okay. Ms. Schellin.

22 MS. SCHELLIN: Okay, so it doesn't sound like there's
23 a whole lot, but it might take a while to prepare that information
24 and then to get a response, especially to the fact that you want
25 them to firm up the conditions on Jacobs Field, although it sounds

1 like they're pretty close.

2 So, again, do you guys want to schedule a special public
3 meeting of 30 minutes, an hour, or do you want this just to be
4 added to a meeting that's already scheduled and, if so --

5 CHAIRPERSON HOOD: So lately, when I -- let me be frank
6 and honest. I've got it wrong, so let me hear from one of the
7 Commissioners, so I can blame you for it.

8 COMMISSIONER MAY: You know, I don't mind this being a
9 part of a regular meeting agenda. I mean, we spent what - two
10 hours on this already, and you know, I don't want to do another
11 two hours, but I don't think it is a two-hour discussion. I
12 think it's a -- you know, it would be less than an hour, so I
13 think that's manageable with a normal meeting workload.

14 MS. SCHELLIN: Okay. Do you want to do that --

15 CHAIRPERSON HOOD: We need to do it before we take our
16 August break, because coming back in September, we will have
17 forgotten everything.

18 MS. SCHELLIN: Do you think it should be punted to July
19 then, to allow them time to meet, or do you think this is
20 something they can do in June?

21 CHAIRPERSON HOOD: So let me ask others. Is everybody
22 going to be here in July?

23 COMMISSIONER MAY: Well, what's the date?

24 MS. SCHELLIN: We have July 8th and July 26.

25 COMMISSIONER MAY: I would not want to push it off to

1 the 26th. I think the 8th, would be the latest I would go, just
2 in case there are any loose ends, we would want to clear those
3 up and have another week or so to do that if we go to the
4 (indiscernible) vote.

5 CHAIRPERSON HOOD: Yeah, okay.

6 MS. SCHELLIN: All right. That's --

7 CHAIRPERSON HOOD: We will put this on for July 8th.
8 I don't what we have on the meeting schedule, but I know --
9 usually our last meeting in July is usually pretty packed.

10 MS. SCHELLIN: That one is pretty packed. Okay, so then
11 going with that, let's give -- give the applicant until June 17th
12 to make their submissions and the parties until June 24th to
13 respond, only the Herzstein/Gerson will be responding to the
14 Jacobs Field issue, and then that will allow the Commission and
15 OAG time to review what comes in and we'll put this on for July
16 8th at 4 o'clock p.m.

17 CHAIRPERSON HOOD: Okay. So do we have anything else
18 that we need for the AU Campus Plan? We have the (indiscernible).
19 Okay. All right. Ms. Schellin, do we have anything else for
20 this meeting?

21 MS. SCHELLIN: No, sir.

22 CHAIRPERSON HOOD: Okay. Again, I want to --
23 Commissioner May, did you have? Oh, okay.

24 Again, I want to thank everyone for their participation
25 in this meeting tonight and hopefully, as we continue to move

1 forward, you'll continue to stay safe. The Zoning Commission
2 will be meeting again, I think it's June -- hold on one second -
3 - the Zoning Commission will have a meeting on June 3rd with the
4 Zoning Commission Case Number 21-06. The FC 111 N Street
5 Southeast, LLC. We will be here at 4:00 p.m., same platform. So
6 with that, I want to thank everyone for their participation this
7 evening and their hard work. And with that, this meeting is
8 adjourned. Good night.

9 (Whereupon, the above-entitled matter went off the
10 record at 6:41 p.m.)

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C E R T I F I C A T E

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This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 05-27-21

Place: Teleconference

was duly recorded and accurately transcribed under my
direction; further, that said transcript is a true and
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GARY EUELL