

OFFICE OF PLANNING STAFF PRESENT:

ELISA VITALE

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, Esquire

The transcript constitutes the minutes from the
Public Hearing held on October 18, 2021.

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

OPENING STATEMENT:
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PRESENTATION:
 Case No. 21-10, Office of Planning, Text Amendment to
 Subtitle C, Chapter 7, Vehicle Parking; Chapter 8,
 Bicycle Parking; Chapter 9, Loading 6

COMMENTS AND QUESTIONS:
 Commissioners 8

ADJOURN:
 Anthony Hood 29

P R O C E E D I N G S

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller, Commissioner Shapiro, and Commissioner May.

We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, who is our secretary; and Mr. Paul Young, who will be handling all of our virtual operations. And we're also being joined by Ms. Lovick, who is our counsel.

Today's date is October the 18th, 2021. The subject of today's hearing is a proposed text amendment to Subtitle C, Chapters 7 through 9, we're dealing with vehicle parking, bicycle parking, and loading.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter. It's also webcast live, Webex and YouTube live. The video will be available on the Office of Zoning's website after the hearing.

Accordingly, all those listening on Webex or by phone be muted during the hearing, and those who have signed up to participate or testify will be unmuted at the appropriate time. Please state your name and home address before providing oral testimony on your presentation.

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1 | so that your microphone is no longer picking up sound or
2 | background noise. If you experience difficulty accessing Webex or
3 | with your telephone call in, then please call our OZ hotline
4 | number at 202-727-5471, and sign up, or to receive Webex login and
5 | call-in instructions.

6 | I would ask all those who are not speaking at the time,
7 | please make sure that you mute yourself. If you wish to file
8 | written testimony or additional supporting documents during the
9 | hearing, then please be prepared to describe and discuss it at the
10 | time of your testimony.

11 | Let me know if my voice fades. I'm trying to adjust it.
12 | One second. Okay.

13 | The hearing will be conducted in accordance with
14 | provisions of 11-Z DCMR Chapter 5, as follows: Preliminary
15 | matters; presentation, in this case the Office of Planning; report
16 | of other government agencies; report of the ANC; testimony of
17 | organizations and individuals; organizations will have five
18 | minutes and individuals three minutes, respectively.

19 | And again, the ANC, this is citywide, so that all ANC's
20 | are applicable to give us a report. And we'll hear in the order
21 | from those in support, opposition, or undeclared. While the
22 | Commission reserves the right to change the time limits for
23 | presentations if necessary, it intends to adhere to the time
24 | limits as strictly as possible, and notes that no time shall be
25 | ceded.

1 Again, any issues, please call the OZ hotline number at
2 202-727-5471.

3 At this time, the Commission will consider any
4 preliminary matters. Does the staff have any preliminary matters?

5 MS. SCHELLIN: Just to advise that Elisa Vitale from OP
6 will be giving the report, and we received an ANC report from, I
7 believe it was 6C, this afternoon, late this afternoon. And so it
8 has not been released in ZDOCS yet. Mr. Barron will be doing that
9 momentarily.

10 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin. I
11 believe we have the report. Unless I hear from others, we will
12 bring Ms. Vitale up, and she can start her presentation.

13 Ms. Vitale, the floor is yours.

14 MS. VITALE: Thank you. Good afternoon, Mr. Chair and
15 members of the Commission. Elisa Vitale with the Office of
16 Planning for Zoning Commission Case 21-10.

17 At its June 24th, 2021, public meeting, the Commission
18 voted to set down proposed text amendments to Subtitle C, Chapter
19 7, 8, and 9 for a public hearing. The proposed text amendment
20 would refine and clarify the regulations regarding vehicle and
21 bicycle parking, as well as loading.

22 The changes that were proposed were generally intended
23 to respond to concerns or issues raised by the District Department
24 of Transportation, the Office of the Zoning Administrator, as well
25 as items that had been identified by the Office of Attorney

1 General staff, based on some recent BZA cases.

2 Minor changes were made to improve clarity and ensure
3 consistency of the language across the Subtitle -- or across the
4 Chapters. However, no substantive changes had been made since set
5 down.

6 OP does note that comments were filed to the record by
7 ANC 6C. We have had the opportunity to review those comments and
8 can provide some OP feedback on those at this time.

9 With respect to the first item, and this regards a
10 change to the text that would allow the District Department of
11 Transportation to weigh in on special exception from the vehicle
12 -- minimum vehicle parking requirements, rather than deferring to
13 the Public Space Committee. ANC 6C had requested that the
14 language be left to refer to the Public Space Committee, rather
15 than DDOT. OP is not opposed to leaving the language as is and
16 not making the change to DDOT.

17 With respect to the second item, we would like the
18 opportunity to work with the Office of Zoning Legal Division to
19 refine this language. We think it could be made clear that a land
20 user, topographical characteristic or condition of the site could
21 make it practically difficult to provide loading, and that that
22 could be a basis for special exception relief from the loading
23 requirements.

24 I believe the ANC comments requested that that provision
25 be deleted. However, we would recommend that it remain, but we do

1 believe that some changes could be made to the text to clarify
2 that.

3 With respect to the third item, the ANC wanted to
4 eliminate the presence of a loading demand management plan, as a
5 form of mitigation and as a grounds for special exception relief
6 from the minimum loading requirements. We would like to keep this
7 in. Obviously, we'll take direction from the Commission this
8 evening. We would request flexibility to work with the Office of
9 Zoning Legal Division, should any changes to the proposed text
10 amendment be required. OP would request, however, that the
11 Commission approve the proposed text amendments, taking into
12 account, you know, the comments from ANC 6C and OP's response to
13 those.

14 This concludes my presentation. I'm available to answer
15 any questions that you might have. Thank you.

16 CHAIRPERSON HOOD: Thank you, Ms. Vitale. Let's see if
17 we have any questions or comments, and also any follow up
18 questions and comments on the ANC 6C letter. Commissioner May?

19 COMMISSIONER MAY: I was a little confused by the second
20 point, that the ANC had raises in terms of your response to it,
21 where you're suggesting that working with the OZLD, I guess, to
22 refine the language, so as to address complications arising from
23 topography and things like that, for loading.

24 I'm not -- I don't understand why that's sort of a
25 wording issue or a legal issue. I mean, it's not -- is there a --

1 maybe you need to just try to explain that to me again.

2 MS. VITALE: Sure. I may not have been clear. We were
3 trying to review these comments and respond quickly. The ANC said
4 they don't see any justification for the second or third proposed
5 additions.

6 The second addition was that one of the grounds for
7 loading relief could be that land use or topographical
8 characteristics of the neighborhood, minimized (audio
9 interference) for required loading. Our response to that is we do
10 think that needs to stay in, so we would disagree with the ANC 6C
11 comment, but we do note that that language could use some
12 rewording to make it clear.

13 One of the factors for loading special exception relief
14 would be that the land use or topographical characteristics of the
15 property would make providing loading onsite practically
16 difficult. I think my comment was just that we could tighten up
17 that language. I don't know that that would address ANC 6C's
18 concern.

19 COMMISSIONER MAY: Right. I mean, I think they're very
20 focused on the land use aspect of that, if there's a land use that
21 doesn't require the typical loading facilities. So that one, I
22 think they understood.

23 But the topography one, it's like they were tying this
24 issue to land use. Did I understand that correctly, or is that --
25 (audio interference).

1 MS. VITALE: I would need to read this more clearly.
2 With their comments, it's hard to see how topography and
3 characteristics of the surrounding area have any impact on the
4 loading demands. So again, I'm not sure, and we may have ANC 6C
5 representation here to speak to their comments more specifically.
6 I'm not sure I can respond to their issue with this. I would just
7 say we think (audio interference) this avenue for special
8 exception relief from the loading requirements, we think is valid
9 and we would like to keep it in, but we'd be happy to hear
10 comments directly from the ANC.

11 COMMISSIONER MAY: Sure, okay. Yeah, I do see
12 Commissioner Eckenwiler is listed as a participant so we can probe
13 that a little bit more with him. I think that's it for my
14 questions. Thank you.

15 CHAIRPERSON HOOD: Thank you.

16 Commissioner Shapiro?

17 COMMISSIONER SHAPIRO: Good afternoon, Ms. Vitale. I
18 have questions about the ANC report. I think Ms. Vitale answered
19 them, and I think on that last point, it might be helpful to hear
20 from Commissioner Eckenwiler just to get clarity. That's all I
21 have Mr. Chair.

22 CHAIRPERSON HOOD: Thank you. Vice Chair Miller?

23 VICE CHAIR MILLER: No questions. Thank you, Ms.
24 Vitale, for your report.

25 CHAIRPERSON HOOD: I don't have any questions either. I

1 have not had a chance to exhaustively look through the ANC 6C's
2 report. But let me just ask everybody -- because I do get
3 feedback -- remember, we have to mute and unmute as we go along.

4 So I would ask that -- I know we have another vote as
5 well. And we can hear from Commissioner -- ANC 6C, I believe
6 Commissioner Eckenwiler, as already has been stated, he's on, so
7 we can hear a little more about what they're -- when I look at the
8 last part of it, Ms. Vitale, I do kind of agree with the --
9 especially where it says, "Second, we oppose this amendment
10 because DDOT is fallible. The collective experience of ANC 6C,
11 which spans several decades of District history, is that DDOT's
12 approved parking and loading plans may be well intentioned, but
13 they often fail in practice."

14 I just want to make sure we're not eliminating input,
15 but we can get to that point. We have a little more time, as you
16 stated, to digest ANC 6C's letter because I definitely don't want
17 to take input away from the residents. So that's all I have on
18 that.

19 Anything else, colleagues? Okay. Let's go to -- just a
20 second. Okay. Do we have any other reports? We did mention the
21 ANC report. Are there any other reports? We do know that this is
22 a collaborative effort I think, between DDOT, the Attorney
23 General's office at the time, and our legal division. And there
24 was another agency, I think Ms. Vitale mentioned in her comments.
25 I don't see it right now.

1 But anyway, those are -- in collaborations that she
2 mentioned already in her testimony -- cross -- trying to make sure
3 that everything is "in compliance across the board, I believe is
4 how she -- if I could restate it. Okay.

5 So report of the ANC, we do have an ANC report from ANC
6 6C. Let's bring up the representative. I believe it's
7 Commissioner Eckenwiler.

8 Ms. Schellin, do we have anyone else?

9 MS. SCHELLIN: That's the only person who signed up to
10 testify.

11 CHAIRPERSON HOOD: Okay.

12 MS. SCHELLIN: Is Commissioner Eckenwiler.

13 CHAIRPERSON HOOD: I hope Commissioner Eckenwiler is --
14 oh, he's not sitting in the hearing room. He's sitting somewhere
15 else today. All right, Commissioner Eckenwiler, you may begin.
16 Good afternoon.

17 COMMISSIONER ECKENWILER: Thank you, thank you, Mr.
18 Chairman. Can you hear me okay?

19 CHAIRPERSON HOOD: Yes, we hear you just fine.

20 COMMISSIONER ECKENWILER: All right, very good. Thank
21 you, sir. Good afternoon to you and members of the Commission.
22 Mark Eckenwiler on behalf of ANC 6C.

23 I just want to pause at the beginning here because I
24 think, if I understood Ms. Vitale correctly, the Office of
25 Planning has receded on the first point in our report, which had

1 to do with the bases for relief from parking minimums. That's
2 Section 11-C, like Charlie, 703.2. And since that's a fairly
3 lengthy section of the report, I'm happy just to skip that if
4 that's no longer an issue. Obviously, if the Commission would
5 like to hear on that point, I will speak to it, but if that's now
6 overtaken by events, then I'm just going to move right past it.
7 So now please tell me if you do want to hear.

8 Failing that, let me come to the second area. So the
9 second area in our comments had to do with the bases for special
10 exception relief from the loading requirements. And I want to
11 make clear here, because I think there was, there was a little
12 confusion in some of the language, so I just want to walk through
13 looking at OP's proposed wording in 909.2(a).

14 So this is all new language. The use or structure will
15 generate a lower loading demand than the minimum loading standards
16 of, et cetera, et cetera, as a result of one, the nature of the
17 use or structure. So that goes to the site itself. We've
18 interposed no objection to that addition.

19 Two, land use or topographical characteristics of the
20 neighborhood. Now, we read that as both land use of the
21 neighborhood, and topographical characteristics of the
22 neighborhood. So point two here does not go to the property
23 itself. It's talking about what's happening in the area around
24 the site. And as stated in our report, we question where that
25 really is an appropriate criterion for granting relief. The

1 example, you know, given in the report is, you know, you have an
2 apartment building, it has certain needs for move in, move out,
3 trash, and recycling. Mr. Chairman, you can probably imagine why
4 the, you know, because of recent experience before the Board, I
5 might have chosen this example. But you know, we think those are
6 going to be pretty inelastic. It doesn't really matter what's
7 going on in the area. You still need trash to be picked up. You
8 still need recycling to be collected. You're still going to have,
9 you know, service repair personnel coming in, move in and move
10 out. And so it just -- it didn't make a lot of sense to us to say
11 that it's particularly relevant as to what's going on off site.
12 Ms. Vitale may have a point about, you know, unusual conditions,
13 you know, with the site itself. But that's not what point two is
14 directed at.

15 And then the third issue here was this idea that a
16 loading demand management plan is somehow going to change things.
17 We are, based on our experience, really skeptical. One, that a
18 plan is going to change the actual need for a given use. More
19 importantly, it's unclear to us, what, you know, what's the
20 redress. When that doesn't work out, the building is already
21 built. If there's not compliance with that plan, we're unclear on
22 how exactly that gets addressed, and it's pointed out in our
23 report. If we go to the Zoning Administrator who has not been
24 responsive to complaints in the past about failure to comply with
25 BZA orders, and if he refuses, it's unclear whether we can even

1 take an appeal from that refusal, based on, you know, some
2 conflicting provisions in the zoning regulations cited in the
3 footnote.

4 So those are, in brief, the reasons that we are opposed
5 to these specific provisions. The rest of the proposed
6 rulemaking, the proposed text, I should say, is unobjectionable to
7 us. And let me just stop there. I'll conclude my testimony. If
8 you have any questions, I'm happy to try to answer them.

9 CHAIRPERSON HOOD: Okay. As always, thank you,
10 Commissioner Eckenwiler.

11 Let's see if we have any questions, and then we will try
12 to expand on Ms. Vitale, on what you mentioned earlier.

13 Commissioner May, any questions or comments, further
14 clarification? I think now you're on mute, Commissioner.

15 COMMISSIONER MAY: Okay. Commissioner Eckenwiler, so
16 the second point, land use or topographical characteristics of the
17 neighborhood. So I mean, do you think this is something where the
18 language could be changed? I mean, first of all, it seems to me
19 it would make sense to separate land use from topographical
20 characteristics. And that's -- I think that's kind of one of the
21 factors (audio interference). But then the topographical
22 characteristics, is that something that can be, you know, the
23 language can be massaged so that it is -- the basis for relief
24 would be basically, the loading of steeply sloped, and you can't
25 get a loading space or something like that. But it's -- the

1 requirement could be, you know, they'd be granted relief for it.
2 Do you think that that's a reasonable approach, and that the
3 language could be massaged to achieve that, the way the Office of
4 Planning has suggested they might?

5 COMMISSIONER ECKENWILER: Thank you for the question,
6 Commissioner May. So I think language can almost always be
7 massaged here. Part of the issue with this, it's not just the
8 wording of sub-item two itself. Keep in mind that all of these
9 problems, one, two, and three, are under new 909.2(a).

10 And remember, the frame in Sub A, is the use or
11 structure will generate a lower loading demand; not, it would be
12 impossible for practical reasons, you know, owing to, you know,
13 extreme slope on the property, what have you, to provide the
14 loading. This is saying, oh, the use will just have a lower
15 loading demand. And you know, having a steep slope on your lot
16 really is not determinative of what the need is going to be for
17 the use. So it seems (audio interference).

18 CHAIRPERSON HOOD: Mr. Eckenwiler, you're on mute.
19 You're on mute. You muted yourself.

20 COMMISSIONER ECKENWILER: Is that better?

21 CHAIRPERSON HOOD: There we go. Yeah.

22 COMMISSIONER ECKENWILER: I did not do anything, but I'm
23 sorry, tell me where you lost me, and I'll try to go back.

24 CHAIRPERSON HOOD: Just start with the last two
25 sentences.

1 COMMISSIONER ECKENWILER: Okay. So the point is that
2 there is a mismatch between the language of A, saying there will
3 be, you know, relief is justified because this particular
4 operation is going to have less loading demand. But when we talk
5 about topographical characteristics, that goes more to, you know,
6 say a practical difficulty. I can't provide a loading dock, you
7 know, here because of extreme slope or, you know, the shape of a
8 lot, you know, those kinds of factors.

9 So I don't think those two things really go together.
10 So yes, you could certainly rewrite this language, but I don't
11 think it's simply a matter of changing item two to say, relating
12 to the property as opposed to relating to the surrounding area.

13 COMMISSIONER MAY: Okay. I understand that. All right.
14 Well, the Office of Planning seems to be interested in rewording
15 that to address the concerns, I think, and maybe they'll find a
16 way to do that.

17 And when it comes to the loading demand management plan,
18 do you think that this is a -- I mean, I know this is an ongoing
19 issue in your ANC, and I imagine if it's happening in your ANC,
20 it's happening in others. Although I'm not sure that every ANC
21 has a zoning administrator watchdog, as capable as you are.

22 But I mean, is it really a zoning administrator thing,
23 Or is it the plans are not well conceived when DDOT approves them?
24 Or is it both?

25 COMMISSIONER ECKENWILER: I would say, in a nutshell,

1 | it's both. Because if the planning is unreliable, and again,
2 | obviously, DDOT acts with the best of intentions. But our
3 | experience is that the way that they think things will turn out,
4 | in reality, are often not aligned with what actually happens.

5 | But the problem is, you know, they come up with a plan.
6 | That gets imbedded into the operation, and you know, in many
7 | cases, the built structure, and then if there are no consequences
8 | for failure to comply, then we've just got a mess. And as I noted
9 | in the report, it's unclear what we can do about it when we come
10 | to that pass. Maybe we can take an appeal to the Board, but I
11 | will tell you that DCRA will fight that language from, I think it
12 | was Section 300. They'll throw that right back at us. And we
13 | say, well, you know, the zoning administrator refused to do
14 | anything about the failure to comply with the plan, and they'll
15 | say, oh, well, you know, you can't appeal that. Get lost.

16 | And so it feels like that's, you know, we basically are
17 | rendered completely powerless to do anything about it, even though
18 | we and our constituents are the ones who have to live with the
19 | consequences of these, you know, potentially bad decisions.

20 | COMMISSIONER MAY: And is your experience specific to
21 | cases where there has been relief granted by the BZA to some
22 | voting requirement? Or is it -- or Zoning Commission (audio
23 | interference) cases where there's been relief? What's the
24 | universe of problems?

25 | COMMISSIONER ECKENWILER: So speaking generally, you

1 know, it doesn't just have to do with DDOT and loading, but I'm
2 thinking of multiple locations in our ANC, in particular, the
3 Giant in the 300 block of H Street Northeast, where the loading --
4 they were granted relief. They provided less loading than was
5 required by the regulations at the time. And it is proven to be
6 wholly inadequate. And part of that is the practice, basically,
7 the management of the space and you know, whether it's actually
8 used for loading or for other things. And part of the problem is
9 that the zoning administrator has declined to get involved. You
10 know, you might have a loading bay that's occupied, you know,
11 permanently by, you know, a parked vehicle, you know, some object,
12 and you know, his view has consistently been, well, as long as
13 it's potentially usable for loading, then, you know, he's not
14 going to get himself involved in the issue. The problem is there
15 are real practical consequences when there's no place for the
16 trucks to pull in and unload.

17 COMMISSIONER MAY: All right. Thank you.

18 CHAIRPERSON HOOD: Okay. Commissioner Shapiro, any
19 questions or comments?

20 COMMISSIONER SHAPIRO: No questions. I guess my only
21 comment is thank you, Commissioner Eckenwiler, for the time and
22 effort you put into this. And I think we can see that you've
23 already helped to improve this. So I appreciate it as always.

24 CHAIRPERSON HOOD: All right. Vice Chair Miller?

25 VICE CHAIR MILLER: No. Thank you, Commissioner

1 Eckenwiler.

2 CHAIRPERSON HOOD: So, Ms. Vitale, let's have an
3 exchange with Commissioner Eckenwiler and yourself. I think you
4 mentioned earlier that one of the -- and I don't want to speak for
5 you. I was trying to read the letter myself.

6 One of the issues that Commissioner Eckenwiler brought
7 up, OP had kind of backed off and you all agree with Commissioner
8 Eckenwiler. Is that a fair assessment? Could you just repeat
9 that, what you started when you started off in your OP?

10 MS. VITALE: Yes, certainly. I indicated that the first
11 change that had to do with a revision to -- defer to the District
12 Department of Transportation in lieu of the Public Space
13 Committee. We're not opposed to leaving that Public Space
14 Committee reference in and not changing it to DDOT.

15 That change was made, I can give some background. We
16 proposed that change because DDOT indicated that applicants can
17 only go to the BZA before they go to Public Space Committee. So
18 that by giving DDOT the ability to make that call, it just was
19 more of a timing issue in terms of how the review process plays
20 out. But we're not opposed to leaving the reference to the
21 Public Space Committee in there. It was just to kind of change
22 that, you know, threshold in terms of who would deny the curb cut
23 and knowing that that Public Space Committee review often happens
24 much later after an applicant has already gone to the BZA. So it
25 had to do with timing, but we're not opposed to leaving the Public

1 | Space Committee in. That's how the language has read, you know,
2 | that's how it is in there now. So we're not opposed to that
3 | change, or not opposed to not making that change. Sorry.

4 | CHAIRPERSON HOOD: All right. And you've heard the
5 | discussion. I don't know if we -- the discussion with
6 | Commissioner May and Commissioner Eckenwiler, and I also know that
7 | -- as has already been stated, I value what Commissioner
8 | Eckenwiler always does. Because when I look at some of these
9 | issues, they hit home true for me too, personally. So I'm trying
10 | to figure out how do we not exacerbate or create problems. And I
11 | always appreciate his input because those are real life situations
12 | that residents deal with. And I'm always skeptical, and I know
13 | pretty much a case recently, I think you participated in. And it
14 | was very frustrating to basically tell me that whether I voted for
15 | it or not, to find the -- to find a way it would work. And it was
16 | like there was no way, you know, you get in a box, and there was
17 | no way out. So I kind of get that. Those are the things that
18 | residents experience and that we feel. And I think this needs to
19 | have some more thought. I'm not sure where my other colleagues
20 | are. Especially with points two and three, I think. Ms. Vitale,
21 | if we could just have some more thought. You've heard the
22 | discussion. I'm not going to necessarily say I have all the
23 | answers, but I just know that a lot of times some of the decisions
24 | that we make actually, well, we had those unintended consequences
25 | what come up. And as Commissioner Eckenwiler and the residents of

1 the city, we feel it. So I don't know how -- I don't have the
2 answers. I need more time to think about it. But I would ask
3 that we -- let's go back and look at those two or three. I don't
4 know if my other colleagues are inclined to go along with me on
5 that, but let me go to Commissioner Eckenwiler, since I'm citing
6 his, and then I'll come to you, Commissioner Shapiro.

7 COMMISSIONER ECKENWILER: Thank you, Mr. Chairman. Just
8 one really quick point to piggyback on what Ms. Vitale said. Just
9 on that first issue, which goes to relief from the parking
10 minimums.

11 There are two different changes going on in that single
12 section of text. So I just, I think it's useful to unpack it a
13 little bit. The current text says that one of the grounds for
14 relief from the parking minimum is if DDOT, that's the way it's
15 worded currently, "if DDOT is denied a curb cut."

16 So the first change is, OP is completely appropriately
17 changing that to the "Public Space Committee has denied a curb
18 cut." But then the second revision was to say or DDOT itself is
19 opposed to the access requiring a curb cut. That's what we
20 oppose, and that's what I understand OP to be receding on. That's
21 all.

22 CHAIRPERSON HOOD: Okay. Let me make sure. Ms. Vitale,
23 you heard Commissioner Eckenwiler's comments. Is that the -- is
24 that what's taking place? We've unpacked it? Is that what's
25 taking place?

1 MS. VITALE: Yes, that's correct.

2 CHAIRPERSON HOOD: Okay. So we can take that off the
3 tale.

4 Commissioner Shapiro?

5 COMMISSIONER SHAPIRO: No, that answered my question,
6 Mr. Chair.

7 CHAIRPERSON HOOD: Okay. So I know we have a -- you
8 know, any other questions or comments for Commissioner Eckenwiler?
9 I don't necessarily have any questions or comments. I think at
10 some point we will discuss this, because I do have concerns with
11 bullet points two and three, as stated.

12 Ms. Schellin, do we have anyone else?

13 MS. SCHELLIN: No, sir, that was it.

14 CHAIRPERSON HOOD: Okay. So let's just leave
15 Commissioner Eckenwiler up. And let me open it up, Commissioners.
16 Let the record reflect we have no one else to testify on this, all
17 right.

18 And unfortunately, Mr. Eckenwiler, I didn't have really
19 a chance to digest -- because the last time I looked, I didn't see
20 this letter. I didn't have a chance to digest it until we
21 actually opened the hearing. I opened it back up and there it
22 was. But either way, it is what it is. But we appreciate, as we
23 already stated, all your comments and your involvement, because
24 you also help us to get what the real live situation actually is
25 going on. And that to me, is more than sitting here trying to

1 write regulations. What is actually happening, so I appreciate
2 that.

3 So with that, let me open it up for questions and
4 comments on how to proceed. I have a way I would recommend, but
5 let me hear from others.

6 Commissioner May, we'll start with you, I guess.

7 COMMISSIONER MAY: Mr. Chairman, it seemed you were
8 hinting at just having the Office of Planning do that bit of
9 tweaking that they discussed, and make the changes, at least
10 partially, in response to what the ANC has already suggested and
11 continuing to work with Commissioner Eckenwiler about however the
12 language might be tweaked.

13 I mean it seems to me that we're not, we're really not
14 in a super rush to do this. I would be very happy to have that
15 work continue, and then we can consider updated language before we
16 take the proposed action at a future meeting.

17 CHAIRPERSON HOOD: Okay. Thank you, Commissioner, May.
18 Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: I'm perfectly happy to take
20 proposed action tonight, Mr. Chair. I think that the changes that
21 are recommended, and even based on Commissioner Eckenwiler's
22 comments -- the stance, ANC 6 C's comments, and the way that OP
23 has responded to it with the tweaks in language feels appropriate
24 to me. So I'll certainly see where we go as a body, but I have no
25 concerns with taking proposed action tonight.

1 CHAIRPERSON HOOD: Okay. Vice Chair Miller?

2 VICE CHAIR MILLER: Thank you, Mr. Chairman. I would
3 agree with Commissioner Shapiro that we can take proposed action
4 tonight and do any tweaking that needs to be done between proposed
5 and final, and Commissioner Eckenwiler can comment further, as
6 well as any member of the public, between that period of time
7 because that's -- I think this has put out for public comment, the
8 text amendment.

9 This is a case, I believe, this is the case that I
10 almost wanted the Commission to take emergency action on, I think
11 at the end of the summer -- the beginning of the summer, because
12 there was a BZA case I was sitting on where a variance was
13 required from the center line parking access requirements in that
14 particular -- from the alley in that particular case. DDOT didn't
15 have a problem with it; the ANC in that case, didn't have a
16 problem with it. Nobody had a problem with it except our
17 regulation had a problem with it, and it was our variance bar, our
18 variance high standard that the applicant, you know, tried to make
19 a case, which was arguable whether it was made or not. It meant
20 that -- anyway, I think that there is some reason to move forward
21 and not delay this any further, and we can work on any fine-tuning
22 or changing, we can change the language between proposed and
23 final, or not even go to final. So I don't want to -- I would
24 like to move forward with proposed action this evening. But I
25 realize we are only at four for the Commission, and there may not

1 | be three members who want to do that.

2 | CHAIRPERSON HOOD: Well, Vice Chair Miller, I'm glad you
3 | know that there's not three members that want to do that. I think
4 | -- it seems like this is starting to be a regular occurrence. So
5 | I think I'm inclined -- we don't have the votes to carry anything.
6 | It's two to two. So I think for me, Commissioner Mays' suggestion
7 | is the rule of the day, or what's the word they use? Is the house
8 | rule for the day because we don't have, we don't have the votes to
9 | go either way. And I'm not going to say where's the AOC person
10 | anymore because I'm not going to mention that. We're going to
11 | have to deal with it the way we deal with it. I think that we'll
12 | get there, but I just want Ms. Vitale and them to look at points
13 | two and three, that Mr. Eckenwiler has looked at and do their
14 | analysis as Commissioner May has mentioned. So I don't know how
15 | much more I can say, because it's already two to two, and I think
16 | that -- I think we'll get it as opposed to approving it. That's
17 | my two cents. So we don't have the votes to approve it. We don't
18 | have three. It's two to two, unless somebody's willing to change
19 | their mind.

20 | All right. So any further questions or comments?

21 | Ms. Vitale, do you know what we're asking for?

22 | MS. VITALE: Yes. And we will work with Commissioner
23 | Eckenwiler to, you know, refine this language. I will note that
24 | it sounds like OP and the ANC may not agree on point three. We're
25 | happy to work on point two.

1 And we'll, I guess, bring this back to the Commission.
2 I'm not sure if you want to set a date or just let us bring it
3 back when it's ready.

4 CHAIRPERSON HOOD: Let me say this. While you may not
5 agree with three, I still would suggest that you all have a
6 conversation because I know, many times, Mr. Eckenwiler and the
7 ANC 6C has been very helpful. Mr. Lawson has said that a number
8 of times. And I think we'll still have the discussion
9 because, you know, hopefully -- we're not taking sides or trying
10 to say -- we're trying to get the best outcome for the best
11 interest of the city. That's kind of where I am.

12 And I think Mr. Eckenwiler has real life circumstances,
13 the Planning Office has the planning, so I think together, we're
14 going to get a better outcome. Just watch what I tell you.

15 So you all work together on number three, two as well,
16 if you could, Ms. Vitale. I would appreciate it.

17 MS. VITALE: Yes.

18 CHAIRPERSON HOOD: All right. Ms. Schellin, what do we
19 have to do? Do we have to --

20 MS. SCHELLIN: Yeah, we need to -- I think just to keep
21 this case alive, if we could set a date. I think next week's
22 meeting is way too soon to allow Ms. Vitale and Mr. Eckenwiler to
23 work together, and so our next meeting would be November 18th.
24 And that would allow OP to submit a supplemental report by
25 November 8th.

1 And other than that, the record would be closed, and the
2 Commission could take this up at their November 18th public
3 meeting.

4 CHAIRPERSON HOOD: Thank you, Ms. Schellin. I was just
5 thinking about what was mentioned to me at another hearing the
6 other day. What would Commissioner Turnbull -- I was thinking
7 about what would Commissioner Turnbull do? I think he would
8 probably go along with Commissioner May and myself. So I just
9 said that, he might not -- but anyway.

10 All right. So anything else, colleagues?

11 All right. So I will close this and Ms. Schellin, we
12 can close the record other than what Ms. Vitale and Mr.
13 Eckenwiler. I want to thank both of you all for continuing to
14 work, and all the work that you all do. We will close that and
15 proceed with the schedule as laid out by Ms. Schellin. I want to
16 close that -- this hearing.

17 Let me just say that the Zoning Commission will meet
18 again tomorrow night on Zoning Commission Case No. 16-11. This is
19 the Park View Community and the District of Columbia case that was
20 -- there were some issues that were remanded back to us, so we
21 will meet tomorrow night at 4 p.m. on this same platform.

22 Anything else, colleagues? With that, I want to thank
23 everyone for their participation tonight, and this hearing is
24 adjourned, and I'll see you all tomorrow night.

25 (Whereupon, the above-entitled matter went off the

1 record at 4:43 p.m.)
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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCZC

Date: 10-18-21

Place: Teleconference

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