

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ZONING COMMISSION

VIRTUAL PUBLIC MEETING

VIA WEBEX

1591st MEETING SESSION

THURSDAY, APRIL 11, 2024

The Public Meeting of the District of Columbia Zoning Commission convened via videoconference pursuant to notice at 4:00 P.M. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson  
ROBERT MILLER, Vice Chairperson  
TAMMY STIDHAM, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

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

This transcript serves as the minutes from the Public Meeting held on April 11, 2024.

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## P R O C E E D I N G S

(4:00 p.m.)

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

My name is Anthony Hood. Joining me are Vice Chair Miller and Commissioner Stidham. We are also joined by the Office of Zoning Staff, Ms. Sharon Schellin, and Mr. Paul Young, who will be handling all of our virtual operations. Also our Office of Zoning Legal Division we have Ms. Lovick, Mr. Ritting and Mr. Liu.

I'll ask all others to introduce themselves at the appropriate time if needed.

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 it 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 Commissioner 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.

1           Again, we do not take any public testimony at our  
2 meetings unless the Commission requests someone to speak.  
3 If you experience difficulty accessing Webex or with your  
4 phone call in then please call our OZ hotline number at 202-  
5 727-0789 for Webex or login or call in instructions.

6           At this time, Ms. Schellin, do we have any  
7 preliminary matters? Ms. Schellin, I think you're on mute.

8           MS. SCHELLIN: No preliminary matters.

9           CHAIRPERSON HOOD: Okay, thank you.

10                           Case Number 22-25

11           All right, let's go to the final action, Zoning  
12 Commission Case Number 22-25, Office of Planning Text  
13 Amendment to Subtitle C, I, X, Y and Z, Downtown Zones and  
14 BZA and D.C. Rules of Practice and Procedures. Ms.  
15 Schellin.

16           MS. SCHELLIN: Yes, sir. So this is up for final  
17 action. Proposed -- the Notice of Proposed Rulemaking was  
18 published in January. There have been a few comments  
19 received to the Notice of Proposed Rulemaking. They came in  
20 at Exhibits 49, and 52 through 66. So this case is ready  
21 for the Commission to consider final action this evening.  
22 Thank you.

23           CHAIRPERSON HOOD: Thank you, Ms. Schellin.

24           As you know this Text Amendment that we've been  
25 working with for a while is supposed to improve our process,

1 especially dealing with the public, and dealing with the  
2 applicants, and also our whole process all around will be  
3 more efficient. This has been -- my tenure here on the  
4 Commission this is probably about the fourth time we've done  
5 this, and what I think we -- when I look at what's being  
6 proposed and what came in, and I know we went extensively  
7 when we did our proposal, what we talked about extensively,  
8 we went through extensively.

9 I looked a lot of the new exhibits from West End,  
10 ANC 3D, and probably C, and on and on, Hoffman, OAG Commons,  
11 Gordon McKinney, France Hills, the Committee of 100, Dupont  
12 Circle, N.W. Opportunity, and there's many more. I didn't  
13 name all of them, so believe me it was looked at.

14 What I found in most of these were either  
15 misinformation, not understanding the process, or thinking  
16 we're doing something to change something. Let me just say  
17 this. At no time -- well, I'm sure I can -- I threw my  
18 colleagues in. At no time would we take our public input.  
19 That's unheard of. I don't even think that's  
20 constitutional, but at no time will that ever -- it's not --  
21 it doesn't happen I don't think in this country for the most  
22 part. It might not go the way we want it to go, but at no  
23 time do we take our public input.

24 And what I'm -- what I'm concerned about is that,  
25 and I've noticed this in not just zoning but I noticed this

1 in a lot of things in the city and a lot of things even in  
2 the workplace, in your churches and every place, the  
3 misinformation seems to travel and get around better than  
4 the correct information, and I think that's something that  
5 we all as human beings need to work on. Because I looked  
6 and there's a lot of misinformation here, but then I also  
7 think on the other side of it is how we perceive it.

8 My colleagues and I might not always read  
9 something the same way, but it's how we perceive it. But  
10 I'm see a lot of misinformation in some of this. At no time  
11 will we take our public input. We're trying to simplify it  
12 for those who don't do zoning, zoning all the time.

13 So I think this is critical, I think this is a  
14 good start, and I am not in favor and have never been in  
15 favor of putting something in place that's going to make it  
16 worse than what we have it. I'm looking for stuff to make  
17 it better.

18 So those are my only statements on that. We can  
19 get into it, get into some of the new exhibits and the new  
20 issues that I don't think we have discussed.

21 But let me hear from others if anybody has  
22 anything else they might want to add just to start off with.  
23 Vice Chair Miller, do you have anything?

24 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,  
25 and I appreciate your opening remarks, which I agree with.

1           You know, a lot of what's being proposed -- what's  
2   been proposed, and I think I said this previously, apropos  
3   action and during the hearing, it's clarifying ambiguities  
4   and codifying existing practices, not reducing public  
5   participation, but just clarifying what the existing  
6   practices are in many cases.

7           So I think that's part of the misinformation  
8   that's being presented is that we're changing something,  
9   reducing public input, when in some cases the public input  
10   is encouraged, in other cases it's not changed from what the  
11   existing practice has been for a while. So I just thought  
12   I'd make that statement about the information that's out  
13   there and maybe we can try to do a better job of  
14   communicating what's -- what is and what is not existing  
15   practices and how it's -- we want to make -- we want to make  
16   the process work obviously for the public and for  
17   stakeholders, residents, businesses, ourselves, the agencies  
18   that testify before us, so ANCs particularly.

19           So that's my opening statement, Mr. Chairman. I  
20   generally agree with what you've said. I'm not sure how we  
21   combat the misinformation.

22           CHAIRPERSON HOOD: Okay. And Commissioner  
23   Stidham, do you have something you want to add? You have  
24   more of the newer lens as opposed to the rest of us.

25           COMMISSIONER STIDHAM: That is true, and having

1 not participated in the hearing I do want to be on the  
2 record that I've reviewed the entire record, including the  
3 materials from the previous hearing, and I have to say that  
4 at my small tenure here it's obvious how important the  
5 public is to this process and how much we iterate to  
6 everyone the importance of that in my short time here.

7           So hopefully that gets across to everyone, the  
8 importance of it and how we're not trying to exclude it, and  
9 that these changes are clarifications for the most part and  
10 helping make the process better, which I think is good for  
11 everyone.

12           CHAIRPERSON HOOD: Thank you. Well said, well  
13 said.

14           Let's go over the newer issues that came in. I  
15 know there were a lot more. Some of them were redundant,  
16 but some of the issues that -- with the assistance of -- and  
17 I want to thank our legal counsel. They always do a great  
18 job in prepping and making sure that we have all of it,  
19 especially the legal stuff in front of us. You know, no  
20 credit of mine, believe me. I appreciate them because they  
21 do a good job of what they do.

22           So Exhibit 49, this is from West End Citizens  
23 Association. Exhibit 49, there's two issues that were  
24 brought up, and one of the things they requested we thought  
25 was a new issue, it says, "Allow non-applicant parties to



1 provide responses to draft orders."

2 Let me respond like this. The Commission -- the  
3 Commission does not need non-parties to provide responses to  
4 draft orders. Our Office of Zoning Legal Division ensures  
5 that all factual errors and omissions are corrected in final  
6 orders. Then we have proofreading. We have a lot of checks  
7 and balances that go on, especially for legal sufficiency in  
8 the reading of it, and also check against the specific  
9 cases.

10 So I don't know what that would add to anything or  
11 how that will do what we set out to do, which is to improve  
12 the process. I don't -- I just don't see the relevance of  
13 it. I think what we have now is working and I think the  
14 Office of Zoning as well as our legal counsel have something  
15 in place that exact -- does exactly that. It's already  
16 being done.

17 But let me hear from others. Anybody else -- does  
18 that change anybody to kind of add that Exhibit 49 from  
19 WECA?

20 VICE CHAIRPERSON MILLER: Mr. Chairman.

21 CHAIRPERSON HOOD: Yes.

22 VICE CHAIRPERSON MILLER: Mr. Chairman, I thank  
23 you, and thank you for your comments, and thank West End  
24 Citizens Association for their submission and participation  
25 -- this submission and their participation in this and many

1 other cases.

2           Yeah, I -- the recommendation -- the suggestion  
3 from WECA is to allow non-applicant parties to provide  
4 responses to draft orders. I would just comment that while  
5 we ask the applicant to provide a draft order with findings  
6 of fact and conclusion of law in most cases, sometimes  
7 they're summary orders with a very simple case, but in most  
8 cases we ask for that draft order or we've asked for a draft  
9 summary order.

10           But we've asked -- we invite parties -- we don't  
11 -- we currently don't let parties respond even to what a  
12 draft order is. We sometimes invite a party, particularly a  
13 party in opposition, to submit their own draft order of  
14 findings and facts and conclusions of law at the same time  
15 that the applicant does so we have that information in front  
16 of us, and nothing is to prevent a person from submitting  
17 who is not a party, from submitting their own draft order if  
18 the record is still open.

19           But I agree that it's not necessary to allow non-  
20 parties to respond -- to provide responses. We don't even  
21 allow parties to provide specific responses to draft orders.  
22 They can submit their own draft order and so can persons if  
23 the record is open.

24           So I would just make that comment. Thank you, Mr.  
25 Chairman.

1           CHAIRPERSON HOOD: Thank you. Commissioner  
2 Stidham, do you have anything add on that?

3           COMMISSIONER STIDHAM: No, sir, I think you both  
4 have covered it well.

5           CHAIRPERSON HOOD: Okay, great. All right, let's  
6 go -- there was another recommendation in the submission,  
7 again Exhibit 79. They mentioned that BZA should not be  
8 allowed to waive Y300.15, 300.16, and permit modifications  
9 of the application at a public hearing. They believe that  
10 doing so is unfair to parties who have not had an  
11 opportunity to review the modification and it is unclear  
12 what good cause means.

13           Anyway, the Board has waiver rights under line  
14 modifications at a hearing for good cause. The good cause  
15 has always been the two words that have been in regulations  
16 that I've seen since I've been -- not just here in the  
17 Zoning Code, but in a lot of different legal places. And  
18 I'm sure Vice Chair Miller you probably could help me with  
19 that, but good cause is always shown at the different  
20 places.

21           And what -- one of the things that this -- this  
22 office have heard over the years is people want things  
23 expedited, and this is one of the ways of expediting the  
24 application review process, and that's -- that -- this is  
25 something that residents have asked for. So sometimes we

1 have to refresh your memories.

2 And again as we know the term good cause appears  
3 several times in the regulations and the Board is already  
4 familiar, has been familiar, with how it applies that  
5 standard. So -- and I'm not sure, there may be case law  
6 dealing with good cause, I'm pretty sure there is, and I'm  
7 just guessing. I haven't read any, but I'm pretty sure  
8 there is.

9 But I don't believe that recommendation needs to  
10 be tinkered with as well, so I'll just leave it at that.  
11 Let me hear from others. Vice Chair Miller.

12 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.  
13 I agree with you and appreciate the WECA submission, but I'm  
14 not really aware that it's been a problem when -- if someone  
15 has modified the application at hearing. In terms -- it has  
16 been a problem in terms of giving other persons and  
17 interested stakeholders an opportunity to comment on that  
18 modification at the hearing and subsequently. The record is  
19 if someone says they need time to review the modification  
20 and provide more thoughtful comments, I can't think of a  
21 case where we might have said no, we won't leave the record  
22 open so you can comment on this at some point.

23 So I'm not sure where this -- that it's -- that  
24 it's been a problem, but maybe someone can correct me. But  
25 that -- but I agree that our good cause does appear

1 throughout the zoning regulations. I think we exercise our  
2 judgment as judiciously as possible, and I think we will  
3 continue to do so. Thank you.

4 CHAIRPERSON HOOD: Thank you. Commissioner  
5 Stidham any additional comments?

6 COMMISSIONER STIDHAM: No, sir. No, sir. I think  
7 you guys covered that as well.

8 CHAIRPERSON HOOD: Okay, thank you.

9 All right, let's go to -- now we'll go to the  
10 Committee 100, which was Exhibit 60, and the Committee says  
11 -- has suggested we change X 303.1B to clarify that any non-  
12 committee uses that is approved as part of the PUD's  
13 ancillary to the principal use of the PUD and is compatible  
14 with the PUD.

15 That proposed text already requires the Commission  
16 to determine that the non-permitted uses are compatible with  
17 the PUD, and adding a new standard that the non-permitted  
18 uses needs to be ancillary. How do you pronounce that? I  
19 can't even pronounce that word. But anyway, ancillary,  
20 sorry, to the principal uses presumes that the non-permitted  
21 uses can never be permissible.

22 Again this is not necessarily true and it's a  
23 determination the Commission will make in evaluating the  
24 compatibility of the use with the PUD. And that's what we  
25 do, we evaluate a lot of what's going on. So I don't think

1 this -- to me again when we start tinkering with things and,  
2 you know, we already have it so the Commission, the  
3 applicant, the residents, we're kind of understanding the  
4 process. When we start muddying the waters then that's  
5 where the confusion starts, and then that leaves it open for  
6 more confusion, and then we have a big disconnect among  
7 everyone.

8 But those are my comments. Let me hear from  
9 others. Vice Chair Miller.

10 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman.  
11 Yeah, I agree with your points and especially the first  
12 point that the proposed text already requires the Commission  
13 to determine that the non-permitted uses are compatible with  
14 the PUD. So whether it's principal or ancillary I'm not  
15 sure if that's the primary consideration. It's the  
16 compatibility with the PUD, and then it's our obligation  
17 under the law to make sure that the uses are not  
18 inconsistent with the comprehensive plan, that zoning is not  
19 inconsistent with the comprehensive plan, and I think those  
20 safeguards are the most important ones in this kind of  
21 situation.

22 CHAIRPERSON HOOD: Okay, thank you. Commissioner  
23 Stidham, anything to add?

24 COMMISSIONER STIDHAM: No, sir.

25 CHAIRPERSON HOOD: Okay. All right. So we will

1 continue that.

2 Now the last one, and then I'm going to bring up  
3 one -- one or two that I had, and I just want to throw it  
4 out there for a quick discussion because I know some of this  
5 and I've had a chance to digest a little more of this, but  
6 just to kind of see where -- well, anyway, before I got  
7 there let me finish this last one.

8 Office of Attorney General, which is at Exhibit  
9 56, they mentioned to remove new language from Z 500.9,  
10 which allows variances to special exceptions to be granted  
11 as part of rulemaking. Variances and special exceptions are  
12 contested matters, not rulemaking proceedings.

13 Just to note our legal counsel determined that  
14 this is actually a typo, which will be removed and a notice  
15 of final rulemaking. So I think that will be -- that will  
16 rectify the issue which OAG Exhibit Number -- Exhibit Number  
17 56 has mentioned.

18 Anybody else comment on that? Okay, just  
19 correcting a typo. Vice Chair Miller or Commissioner  
20 Stidham?

21 COMMISSIONER STIDHAM: No.

22 CHAIRPERSON HOOD: All right. So what I have is,  
23 and I may have missed this, this whole thing about -- and we  
24 may have talked about this. Forgive me if we have. We have  
25 a lot of things going, so if I'm getting it all confused

1 then -- and I can't remember. I just didn't remember three  
2 items which was in Exhibit 53, which is the Empower D.C.  
3 letter, the new -- the new letter, which is Exhibit 53.

4 And I actually -- I actually wanted to pause  
5 because I thought some of that is right in line with -- I  
6 agree with it, but from a legal standpoint I was not at all  
7 sure of how to get it done. So let me -- let me -- I'm  
8 going to pull up their letter. Give me one moment, so I  
9 won't get anything wrong. I might pull it up and still get  
10 it wrong, but I'm going to pull it up.

11 All right. Now in their letter they had number  
12 one -- I -- I don't necessarily agree with that, and I think  
13 this was mentioned previously. It says, "Require applicant  
14 to meet with the ANC prior to set down."

15 I think -- I think the Commission may have  
16 mentioned this previously about that's a missed opportunity,  
17 so I'm not necessarily -- I'm not necessarily hard fast to  
18 that, but I would probably leave leeway for either OP or --  
19 I don't know if we -- I think we would put in our  
20 regulations, but it may be on our website and our  
21 regulations are very select, but they start engaging -- and  
22 that's what this whole engagement is about.

23 Now I agree with it, but I'm not sure how to get  
24 it done. To start engaging early, and when I say early I  
25 mean real early, I mean even -- even before they -- before



1 they set it down. I don't know, I don't know, I don't know.  
2 I'm just talking, I'm just talking out loud so -- and that's  
3 what I want my colleagues to help me with.

4           What I'm -- what I'm trying to get them to do, and  
5 we all have been trying to get them to do, we talk about  
6 engagement, do they notify residents that they're planning  
7 on doing a project normally before they do the project, or  
8 do they file and get everything together and then come  
9 present a project? Let's -- let's talk through that, let's  
10 just talk through that.

11           COMMISSIONER STIDHAM: So I think it varies,  
12 right. I think we've seen different situations. I think  
13 we've seen situations, at least in my short time, where an  
14 applicant comes in and they've been working on -- this may  
15 be our first introduction to it, to whatever they're asking  
16 for, but they've spent two years or more in conversations  
17 with the community about what they're trying to achieve.

18           I think we've seen others that sort of sprang this  
19 on the community late, and I say late, like, a year before  
20 they come to us, which in a complicated case is not enough  
21 most likely.

22           So I think what you're -- what I hear you trying  
23 to say, and I think I would agree, is that applicants should  
24 be doing meaningful engagement at the very beginning of  
25 their project. And that's going to be different for each

1 applicant, but it is -- I think it's our hope that as they  
2 start to go down the road and consider what they want to do  
3 that they're having those conversations well in advance and  
4 are working with the communities before it comes here, and  
5 they have worked through the issues and concerns as much as  
6 possible, but without a requirement to do so.

7           It's just a good way to do things. They should be  
8 well informing the people that they are going to be  
9 affecting in the area they're choosing to do work. Does  
10 that make sense?

11           CHAIRPERSON HOOD: It makes sense, and I agree  
12 with you 100 percent. I'm just trying to figure out -- I  
13 guess what I'm -- I guess I'm asking now y'all's opinion on  
14 it. I got your opinion.

15           Now how do we place what you just said,  
16 Commissioner Stidham? Where do we place -- do we place that  
17 in the regulations, do we not place that, or is that going  
18 to cause a problem, going to cause a staffing issue?

19           COMMISSIONER STIDHAM: Yeah, I -- I don't know.

20           CHAIRPERSON HOOD: Where do we put it? Where do  
21 we put it other than us going around talking about it and  
22 telling everybody all the time this is what they should be  
23 doing?

24           Vice Chair, you got any -- or maybe you -- maybe  
25 you all -- maybe Vice Chair you think I shouldn't even be

1 bringing that up, it's fine the way it is. I don't know,  
2 I'm just curious.

3 VICE CHAIRPERSON MILLER: No, I would never say  
4 that you should never bring up something even if I strongly  
5 disagreed with it, which I have in the past. I don't think  
6 I've disagreed with you bringing it up.

7 Yeah, I agree totally with what Commissioner  
8 Stidham has said. Of course it should be -- there should be  
9 meaningful community engagement from the outset. That's  
10 what will lead to a smoother process for the applicant, and  
11 that should be encouraged.

12 I don't think it should be required for the ANC --  
13 for the applicant to meet with the ANC prior to set down. I  
14 think they should receive -- maybe they should receive  
15 notice of all -- of all amendments prior to set down, which  
16 I think is a later recommendation, although I -- although  
17 they may already receive notice in circumstances.

18 But requiring a meeting between the ANC and the  
19 applicant I am concerned, I would be concerned if that were  
20 a regulation, that that could be used as a way for an ANC to  
21 block the set down process from going -- from going -- from  
22 a hearing, from being scheduled on something we might want  
23 to hear a hearing about just because the ANC doesn't want to  
24 meet with them, or is not interested, or can't meet with  
25 them.

1           I don't think it should be a regulation or a  
2 regulatory requirement, but it certainly should be  
3 encouraged at the early and continuous meeting community  
4 engagement throughout the zoning amendment process.

5           We can't hear you, Mr. Chairman.

6           CHAIRPERSON HOOD: That might have been better if  
7 you heard what I was just saying because I was really  
8 thinking out loud just now.

9           What I was saying, though, I was trying -- maybe  
10 I'll just leave it alone because I don't know where, where  
11 it would go. Some kind of way I just want us to signify  
12 that we strongly encourage -- strongly encourage -- I don't  
13 -- I know it shouldn't go in the regulations I don't think,  
14 but I wanted to strongly encourage applicants to start  
15 working with the community, not necessarily the ANCs, the  
16 leadership of a community, especially those who are affected  
17 as soon as feasibly possible.

18           I guess -- but -- but if --

19           COMMISSIONER STIDHAM: As soon as practicable  
20 maybe.

21           CHAIRPERSON HOOD: Yeah, but where would something  
22 like that go? Because it can't go in our regulations.

23           COMMISSIONER STIDHAM: No. I think it's something  
24 we're just going to have to continue to encourage and see if  
25 it catches. I don't feel like the regulation is the right

1 place for that.

2 VICE CHAIRPERSON MILLER: And I would just add  
3 that the applicant should be incentivized to do that because  
4 it will make for a smoother hearing and a more expeditious  
5 application process. They -- we've seen it where they  
6 haven't done the engagement. The ANC comes in or the party  
7 in opposition and said they -- or within 200 feet they  
8 didn't know about it, and it delays the process because they  
9 have to be engaged suddenly when they -- when they could  
10 have been engaged previously.

11 So I think that the built in incentive if you've  
12 gone through cases where that hasn't been -- early  
13 engagement hasn't happened that case will not go smoothly or  
14 quickly.

15 COMMISSIONER STIDHAM: I think that they already  
16 are incentivized, right? They should be. Let them sit  
17 through five nights of hearings and make them sit through  
18 five nights of hearings if they don't feel incentivized by  
19 that. I mean, they need to understand that that's the  
20 results of not doing what you need to do before you come  
21 here.

22 CHAIRPERSON HOOD: And Commissioner Stidham, you  
23 hit it right on. That's why I'm trying to figure out how to  
24 put that in place so not only they don't have to sit through  
25 five nights of hearings, so we don't have to, and then we

1 stay on topic. So that's what I'm trying to figure out.

2 But maybe, as you all have both -- maybe -- maybe  
3 what we have is fine. Maybe it doesn't need anything.  
4 Maybe we just -- I don't know if we can put it on our  
5 website. But anyway, I will leave that up to our staff and  
6 our legal counsel to help me figure it out.

7 COMMISSIONER STIDHAM: Maybe if it's a message OP  
8 as they work with the applicant before set down and further  
9 -- just to remind them of the advantages and the incentives  
10 of doing so early in the process.

11 CHAIRPERSON HOOD: Well, yeah, maybe we can ask  
12 OP. But I know some years ago I was trying to get OP or one  
13 of the agencies to do something and they explained to me how  
14 the District work, that we can't tell another agency what to  
15 do. We can ask. Maybe I can ask. Maybe they'll be nice  
16 enough and I can -- we can ask as a Commission.

17 So let's -- let's -- last time I asked as a  
18 Commissioner I got -- I had letters sent to the City  
19 Council, so I -- I'll figure -- we'll -- let's work together  
20 and figure that out, how we can get to that. So I think we  
21 all agree, it's just how to deal with it.

22 Did you have something you wanted to add? I saw  
23 you turned your camera on.

24 VICE CHAIRPERSON MILLER: Mr. Chairman, I would  
25 just add that our -- our racial equity analysis tool already

1 does encourage applicants to meaningfully and early engage  
2 with the community. That is particularly true when OP is  
3 the applicant, and they have the resources to do community  
4 engagement.

5 I think we've seen cases, without getting into  
6 specifics, where that has fallen short, and that's on --  
7 that is on all of us as part of the District Government to  
8 make sure that that doesn't -- that that doesn't fall short.  
9 It's -- it's -- the Office of Planning has the resources and  
10 should be doing as much community engagement early on as  
11 possible with the surrounding communities and ANCs.

12 CHAIRPERSON HOOD: And I can tell -- you know, I  
13 know that a lot of thought was put into residents who -- I  
14 mean, organizations and residents who submitted it, and I  
15 just -- it just -- some of the things that empower D.C. it  
16 kind of captured my eye, because I'm looking at some of the  
17 things that -- now I will tell you the tenant issue I think  
18 -- I think -- I think when I analyzed that that's a staffing  
19 issue. It's a staffing issue and I think it's the owner's  
20 responsibility, and I'm learning this too, the owner is  
21 responsible for certain things in a -- in a project, or if  
22 you have an apartment, you're the owner, then you have  
23 somebody that leases it from you, the owner has certain  
24 responsibilities to the tenant.

25 So we don't want to pass ourselves on to have

1 responsibilities to the tenant. It's up to that owner to  
2 let the tenant know if they don't that something is going  
3 on. So I think after I looked at what they wrote and I  
4 thought about that, I think it's really up to the owner, so  
5 I disagree with them on that one.

6 But it's up to that owner to tell the tenants, not  
7 the -- not the Office of Zoning or not even the City. They  
8 go to the owners because tenants can pack up and move across  
9 the street, or down the street, or somewhere else all the  
10 time.

11 Now the racial equity, our racial equity is fine.  
12 The issue I know that some organizations have with us is  
13 that we didn't -- we don't have it into our regulations.  
14 I'm wondering if not to put it in the regulations because  
15 that thing is where I believe that's going to change. As  
16 soon as we get enough information we're going to make some  
17 tweaks to it.

18 And they say, oh, well, you can just -- I do see  
19 in their letter they say you can just amend the regulations.  
20 But sometimes -- then you got to have a hearing, then it's  
21 going to take use another 40 days for this. We want that to  
22 be immediate, because while we're having the hearings and  
23 trying to put something in place applications are coming in,  
24 and things are going right on by, and we -- that's why we  
25 left that out and I still believe we should leave it out.



1           My only question is do we signify in our  
2 regulations that we have a racial equity tool. That's the  
3 question for anybody who wants to answer. You may disagree  
4 or it may not be legally sufficient, but I'm asking.

5           VICE CHAIRPERSON MILLER: Can you restate the  
6 question again? I'm sorry.

7           CHAIRPERSON HOOD: My question is do we put in our  
8 regulations that we have a racial equity tool, not the --  
9 not the tool, but we point to where it could be found, or  
10 did we discuss that before? But I see Ms. Lovick has turned  
11 her camera on. Maybe she can set me straight. It won't be  
12 the first time but --

13          MS. LOVICK: Yeah, I --

14          CHAIRPERSON HOOD: Or was she laughing?

15          MS. LOVICK: So I just wanted to confirm. So  
16 these amendments, the 22, 25 amendments, they specifically  
17 reference the racial equity tool and the requirement to  
18 submit filings that comply with the tool that is the current  
19 tool on the OZ website.

20          CHAIRPERSON HOOD: So -- so -- okay, I missed  
21 that. So good, maybe this is a question I don't have to  
22 ask. So it will say the current -- it's going to be in our  
23 regulations, the current tool?

24          MS. LOVICK: Correct. It makes reference to the  
25 racial equity tool, but it -- I mean, of course it does not

1 codify the contents of the tool, but it makes reference to  
2 the tool itself.

3 CHAIRPERSON HOOD: Excellent, excellent. I missed  
4 that. Thank you, Ms. Lovick. Any other questions? Let's  
5 move on.

6 Anybody have anything else? All right. Thank you  
7 all. Great job everybody.

8 I think we've covered everything that we need to.  
9 We have exhausted ourselves previously, but those are just  
10 some of the things I wanted to hit. And again I'm hoping  
11 the right information gets out there because, you know, at  
12 the end of the day, you know, we live here too. We have a  
13 part in this city too. It's not like we come in and do  
14 regulations and then go somewhere else. We're here too. So  
15 anyway, we have a vested interest as well.

16 All right. So with that somebody like to make a  
17 motion? This is final -- final action.

18 COMMISSIONER STIDHAM: I can make a motion.

19 CHAIRPERSON HOOD: Okay, sure.

20 COMMISSIONER STIDHAM: This is for final action,  
21 correct?

22 CHAIRPERSON HOOD: Yes, final action.

23 COMMISSIONER STIDHAM: So I make the motion to  
24 approve Zoning Case Number 22-25, Office of Planning Text  
25 Amendments to subtitles C, I, X, Y and Z, Downtown Zoning

1 and BZA, and D.C. Rules Practice and Procedures.

2 VICE CHAIRPERSON MILLER: Second.

3 CHAIRPERSON HOOD: Okay, it's been moved and  
4 properly seconded. Any further discussion?

5 Not hearing any, Ms. Schellin, would you do a roll  
6 call vote please.

7 (Roll call vote.)

8 MS. SCHELLIN: Yes, Commissioner May -- I'm sorry,  
9 Commissioner Miller, wow. Was he here when we did propose?  
10 Maybe that's why I --

11 COMMISSIONER STIDHAM: He was. And the funny  
12 thing is I think Anthon, when I was reviewing the video I  
13 think Anthony was wearing the same shirt during the  
14 conversation. So I found it funny that you said  
15 Commissioner May.

16 MS. SCHELLIN: Oh, yeah, goodness gracious. Sorry  
17 about that. Commissioner May must be talking about me.  
18 That's what my momma would say.

19 So Commissioner Miller.

20 VICE CHAIRPERSON MILLER: Yes.

21 MS. SCHELLIN: Commissioner Stidham.

22 COMMISSIONER STIDHAM: Yes.

23 MS. SCHELLIN: Commissioner Hood.

24 CHAIRPERSON HOOD: The same shirt. That's --  
25 that's -- yes.

1           MS. SCHELLIN: And I have an absentee ballot from  
2 Commissioner Imamura that's stated approved with such  
3 changes as the Commission approves. So staff records the  
4 vote four to zero to one to approve proposed -- I'm sorry,  
5 final action in Case Number 22-25 as discussed on the dais.

6           Thank you. The minus one being the third mayoral  
7 appointee seat.

8           CHAIRPERSON HOOD: All right, I want to thank all  
9 of my colleagues and everybody who had some -- the zoning,  
10 legal division, and everybody on that. That has not been  
11 easy. Our staff, OP, the residents, everybody. That has  
12 not been easy and I'm sure once we get it into place we'll  
13 probably find stuff maybe five years from now, for who is  
14 around, and probably have to tweak it again a little more.  
15 But anyway, I think we're going to be better served and I  
16 just -- let's let it work and see what happens. So thanks  
17 everybody.

18           All right.

19           VICE CHAIRPERSON MILLER: Mr. Chairman, I agree  
20 with your -- I agree with your comments. The zoning is a  
21 living -- our zoning regulations are a living document that  
22 we need -- that we amend as situations evolve as we see, as  
23 experienced, that we have with the -- and that the public  
24 has, and we obviously can amend it any time.

25           CHAIRPERSON HOOD: But you know what, I'm just

1 going to put it out there. You know what bothers me the  
2 most when I read -- when I read -- what really bothers me  
3 the most reading this, and people don't think we take this  
4 stuff to heart. I would not be on anything that took our  
5 public participation. I wouldn't even bother with it. Why?

6 I mean, really, I don't believe in taking our  
7 public. Now even when I participate you might not always  
8 agree with me, but you're going to be heard. Nobody can say  
9 they have not been heard on this Zoning Commission because  
10 you're going to be heard. So anyway, all right.

11 Let's move on. Are we ready to move on? Okay.

12 All right, let's go to Zoning Commission Case  
13 Number 22-31, SIM Development, LLC Map Amendment at Square  
14 5868. Ms. Schellin.

15 Case No. 22-31

16 MS. SCHELLIN: Sorry. This case we have the  
17 Applicant's Draft Order at Exhibit 33, an NCPC Report at  
18 Exhibit 34. The staff filed the letter stating that the  
19 proposal falls under an exception of NCPC's guidelines and  
20 therefore is exempt from their review.

21 So this case is ready for the Commission to rule  
22 on final action. Thank you.

23 CHAIRPERSON HOOD: Okay, let me turn it over to  
24 Commissioner Stidham. I believe she may have read the  
25 record.

1           COMMISSIONER STIDHAM: Yes, sir. While I didn't  
2 participate in the hearing I have gone through the record  
3 and am prepared to participate.

4           CHAIRPERSON HOOD: All right, I think this is --  
5 for me is pretty straightforward. I do know we did have a  
6 letter or two of opposition. We did have a letter from the  
7 Councilmember in support. I know they've tried to work with  
8 ANC, the ANC as a full commission a couple of times, and I  
9 think that one of the things that I want to continue to -- I  
10 guess this is the start of it, continue to encourage the  
11 Applicants is to make sure if you're doing a Map Amendment  
12 you don't talk about a project, even though -- because I  
13 look at one of the letters in opposition, and even though  
14 they talked about the -- it's obviously talking about  
15 whatever the project was so -- or potential project, because  
16 as we all know it could possibly be done or it might not be  
17 done.

18           But let me open it up to others. Commissioner  
19 Stidham, you have anything you want to add?

20           COMMISSIONER STIDHAM: No, sir, I have nothing to  
21 add.

22           CHAIRPERSON HOOD: And Vice Chair Miller?

23           VICE CHAIRPERSON MILLER: No, I have no comments  
24 beyond those that you've already made, and we made at the  
25 proposed action.

1           CHAIRPERSON HOOD: Right, okay. Yeah, I think --  
2 yeah, I think we did discuss most of this, so I'm sorry if I  
3 -- some of it is starting to run together. I want to make  
4 sure.

5           But anyway, in that case I would move that we  
6 approve Zoning Commission Case Number 22-31, SIM Development  
7 as captioned and as proposed and asked for a second.

8           VICE CHAIRPERSON MILLER: Second.

9           COMMISSIONER STIDHAM: Second.

10          CHAIRPERSON HOOD: So it's been moved and properly  
11 seconded. Any further discussion?

12          Not hearing, Ms. Schellin, would you do a roll  
13 call vote, please.

14          (Roll call vote.)

15          MS. SCHELLIN: Commissioner Hood.

16          CHAIRPERSON HOOD: Yes.

17          MS. SCHELLIN: Commissioner Miller.

18          VICE CHAIRPERSON MILLER: Yes.

19          MS. SCHELLIN: Commissioner Stidham.

20          COMMISSIONER STIDHAM: Yes.

21          MS. SCHELLIN: And once again I have an approval  
22 absentee ballot from Commissioner Imamura to approve with  
23 any changes, any such changes the Commission may approve.  
24 And so that makes the vote four to zero to one to approve  
25 final action Zoning Commission Case Number 22-31, the minus

1 one being the third mayoral appointee seat. Thank you.

2 CHAIRPERSON HOOD: And I think next we have  
3 Hearing Action. This is Zoning Commission Case Number 24-  
4 02, WMATA Map Amendment at Squares 5123 and 5170, and Parcel  
5 0184/0100. Mr. Ron Barron

6 Case No. 24-02

7 MR. LAWSON: Good evening, Mr. Chair. Joel Lawson  
8 here from the Office of Planning.

9 CHAIRPERSON HOOD: Okay.

10 MR. LAWSON: I'm just going to do a brief  
11 introduction. I think this is Ron's first case before the  
12 Zoning Commission. I know that he's familiar to many of you  
13 through his kind of previous work and through his work on  
14 the Board of Zoning Adjustment.

15 But just for the sake of the audience, Ron is a  
16 new member of the Development Review Team. We're really  
17 happy to have him. He has great experience, interesting and  
18 varied experience, including with the Office of Zoning and  
19 with the OP Neighborhood Planning Team. Before that he has  
20 some really interesting zoning and land use planning  
21 experience when he was living in Massachusetts.

22 But I'm going to turn it over to Ron to present  
23 the case to you and will be available for questions. Thank  
24 you.

25 CHAIRPERSON HOOD: Thank you. Ron, Mr. Barron,



1 before I get started congratulations on your new role. I  
2 thought you had been here before. I guess I saw you on the  
3 BZA a couple of times. So this is -- I'm understanding from  
4 Mr. Lawson, and thank you Mr. Lawson, this is your first  
5 time on the Zoning Commission, in that role to the Zoning  
6 Commission in the District of Columbia.

7 But I do have a standard question I ask everybody,  
8 and you now have been in both places. Which is your  
9 favorite, the Zoning Commission or the BZA?

10 MR. BARRON: Well, I have a -- as much as I like  
11 the BZA my prior work with the Zoning Commission means I  
12 have a preference so --

13 CHAIRPERSON HOOD: I like your --

14 MR. BARRON: I definitely -- I definitely have  
15 missed our little chats, Chairman Hood so --

16 CHAIRPERSON HOOD: Okay. Mr. Barron, I appreciate  
17 your answer and may begin.

18 MR. BARRON: Thank you very much. And I'd just  
19 like to say it's good to see everybody, Sharon and  
20 Commissioner Miller and everyone.

21 So good evening. Thank you, Mr. Chairman, and  
22 members of the Commission. For the record my name is Ron  
23 Barron, Development Review Specialist with the D.C. Office  
24 of Planning.

25 OP recommends set down of the proposed Map

1 Amendment to MU-5B. The Amendment would not be inconsistent  
2 with the Comprehensive Plan, the Future Land Use Map, the  
3 Generalized Policy Map, and the Deanwood Strategic  
4 Development Plan, including when viewed through a racial  
5 equity lens.

6 The MU-5B Zone would allow for a maximum height of  
7 75 feet, maximum FAR of 3.5, lot occupancy of 80 percent.  
8 It would allow for residential, commercial and institutional  
9 uses.

10 Next slide please.

11 The Future Land Use Map designation for this site  
12 was changed in 2021 from moderate density residential and  
13 low density commercial to medium density residential, low  
14 density commercial and local public facilities. The  
15 Generalized Policy Map designates the subject property as a  
16 neighborhood enhancement area. The proposed change to MU-5B  
17 would not be inconsistent with these designations.

18 Next slide please.

19 OP does not recommend an IZ Plus requirement for  
20 this case. The site is located in the far Northeast and  
21 Southeast Planning Area. This area already has a  
22 disproportionate number of affordable units, and according  
23 to the most recent data from DMPED the planning area has  
24 reached 224.7 percent of the area's production goals for new  
25 affordable units. Standard IZ requirements would of course

1 still apply.

2 Next slide please.

3 In evaluating the proposal through a racial equity  
4 lens OP finds the proposed Map Amendment would be unlikely  
5 to result in any direct or indirect displacement, either  
6 residential or commercial. New housing with direct access  
7 to the Metro would improve the overall stock of housing as  
8 well as the physical character along Minnesota Avenue. The  
9 proposal would also facilitate the creation of new retail  
10 space and the siting of a new neighborhood library, both of  
11 which were amenities requested by community members.

12 In summary, the proposed MU-5B Zone would not be  
13 inconsistent with the goals and policies of the  
14 Comprehensive Plan, the FLUM, the GPM or the SAP. The  
15 Office of Planning recommends the case be set down for a  
16 public hearing.

17 Thank you for your time and I'm happy to answer  
18 any questions you may have.

19 CHAIRPERSON HOOD: Thank you, Mr. Barron. Let's  
20 see if we have any questions. Vice Chair Miller, any  
21 questions of OP?

22 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,  
23 and thank you, Mr. Barron, for your report and work on this  
24 case and for all of your previous work for the Zoning  
25 Commission, Office of Zoning and BZA, and before the BZA,

1 and we're happy to have you here in this forum.

2 I guess one question would be or one things we  
3 would ask you to ask, WMATA is the Petitioner in this case;  
4 is that correct?

5 MR. BARRON: Correct, yes.

6 VICE CHAIRPERSON MILLER: Yeah. So maybe Office  
7 of Planning should reach out to the Applicant WMATA and  
8 maybe OP should reach out itself to the ANC prior to the  
9 public hearing if that hasn't already been done, which it  
10 might have been done, to clarify that this is a Map  
11 Amendment Application and not a PUD Application, and  
12 therefore the Commission will be evaluating the project with  
13 -- would not be evaluating the project with community  
14 benefits as a part of the public -- part of the zoning  
15 order.

16 So I think that just needs to be clarified since I  
17 think the ANC has asked for a community benefits agreement,  
18 which maybe they should get, they probably should get, but  
19 not part of necessarily -- it's not part of our process with  
20 a Map Amendment.

21 So if you could confer with WMATA and make sure  
22 that someone has clarified whether OP or WMATA directly with  
23 the ANC to make that clear, that there's a particular  
24 project before us.

25 And maybe -- I guess we would -- I would want

1 WMATA to tell us at the hearing, or you all, what the public  
2 participation process might be in any future disposition of  
3 the property by WMATA. I know they have, like, the District  
4 Government has, public disposition procedures that involve  
5 public participation. So I think that it's important for  
6 the public to know that there will be opportunities to  
7 comment on the disposal of this property by WMATA and what  
8 -- and what the actual future uses would be.

9 Do you have any comment on that, Mr. Barron?

10 MR. BARRON: Yeah, I agree. The -- I'm happy to  
11 pass that comment along. And I would note that I got an  
12 update from -- from WMATA before this hearing, their  
13 community outreach, and they've now met with the ANC twice,  
14 and they've met with the Deanwood Civic Association since  
15 they submitted their paperwork. I don't know if they have  
16 -- if they updated that in the record yet or not, though,  
17 but I wanted to say it for the record that they have, and  
18 I'm happy to pass that comment along to them.

19 VICE CHAIRPERSON MILLER: Okay. Well, thank you,  
20 thank you very much. That's it for now, Mr. Chairman.  
21 Thank you very much.

22 CHAIRPERSON HOOD: Thank you. Commissioner  
23 Stidham, any comments?

24 COMMISSIONER STIDHAM: I guess just a couple of  
25 things. Are you aware of any -- Mr. Barron, are you aware

1 of any opposition to this case?

2 MR. BARRON: I have not heard of any opposition to  
3 the case yet. Both the -- I believe the Civic Association  
4 submitted a letter of support, as did the ANC, and those --  
5 and I haven't heard of any opposition from any other groups  
6 so far.

7 COMMISSIONER STIDHAM: Okay. And I think the last  
8 thing, and I don't think Commissioner Miller touched on  
9 this, is that the Applicant should be prepared to address  
10 any inconsistencies with the Comp Plan when they come  
11 forward after -- for the hearing and make sure they're  
12 prepared to address that.

13 MR. BARRON: Yes, absolutely, I will make sure  
14 that they are aware of that.

15 COMMISSIONER STIDHAM: And I think that is it for  
16 me. Chair, back to you.

17 CHAIRPERSON HOOD: Thank you both. I don't think  
18 I have -- I don't have anything to add. You all have  
19 covered it all. I'm looking forward to the hearing. I  
20 believe we can set this down.

21 So I'll see -- who would like to make a motion?  
22 Commissioner Stidham, would you like to make a motion?

23 COMMISSIONER STIDHAM: Sure. I would like to move  
24 set down of Zoning Case Number -- oh, I scrolled down, hang  
25 on, Zoning Case Number 24-02, WMATA Map Amendment at Squares

1 5123 and 5170, and Parcel 0184, 0100.

2 CHAIRPERSON HOOD: Okay, and I'll second that.  
3 It's been moved and properly seconded. Any further  
4 discussion? Not hearing any, Ms. Schellin, would you do a  
5 roll call vote please.

6 (Roll call vote.)

7 MS. SCHELLIN: Yes, sir. Commissioner Stidham.

8 COMMISSIONER STIDHAM: Yes.

9 MS. SCHELLIN: Commissioner Hood.

10 CHAIRPERSON HOOD: Yes.

11 MS. SCHELLIN: Commissioner Miller.

12 VICE CHAIRPERSON MILLER: Yes.

13 MS. SCHELLIN: The vote is three to zero to two to  
14 set down Zoning Commission Case Number 24-02 as a contested  
15 case.

16 The minus two being the third mayoral appointee  
17 seat which is vacant and Commissioner Imamura who is not  
18 present. Thank you.

19 CHAIRPERSON HOOD: Thank you, and thank you Mr.  
20 Barron for your report. We appreciate it.

21 Let's move right on, Zoning Commission Number 24-  
22 04, NL 1271 5th ST., LLC, and Map Amendment at Square 3591.  
23 Mr. Beamon.

24 Case No. 24-04

25 MR. BEAMON: Good afternoon, Commissioners.

1 Shepard Beamon with the Office of Planning. This is Zoning  
2 Case 24-04, and the Office of Planning recommends the Zoning  
3 Commission set down this proposed Map Amendment by  
4 Applicants NL 1271 5th ST., LLC, to amend the Zoning Map  
5 from PDR to MU-8B, located at 1271 5th Street, N.E.

6 Next slide.

7 All right. The property is the only lot on the  
8 Square 3591 that has not been rezoned from the underlying  
9 PDR 1. The Zoning Commission previously approved Order 1605  
10 and 1524 B as shown on the maps there, which amended the  
11 surrounding properties to C3C Zone District, with an  
12 associated PUD.

13 The Applicant has opted not to pursue a PUD  
14 Application as they seek height and density less than the  
15 maximum suggested in the Future Land Use Map and the Small  
16 Area Plan. Although there are no confirmed plans for this  
17 site the Applicant has stated that they intend to use the  
18 site for lodging and food and drinking purposes.

19 Under the requested MU-8B Zone the maximum lot --  
20 the maximum building height is 70 feet, which would allow a  
21 building that would be compatible with the height and  
22 development of the existing buildings to the south and north  
23 -- or, sorry, with the existing building to the south and  
24 any future buildings to the north.

25 Next slide.



1           The requested Map Amendment would not be  
2 inconsistent with the Comprehensive Maps. The Future Land  
3 Use Map indicates that the site is appropriate for a mix of  
4 high density commercial, medium density residential, and PDR  
5 land uses. The General Policy Map shows that is appropriate  
6 for a multi neighborhood center, which would support a  
7 variety of uses. And the site is within the Florida Avenue  
8 Market Small Area Plan, which classifies the site as medium  
9 to high density zoning and intensity of use, which also  
10 allows a 70 foot building height as a matter of right.

11           The site is located on the edge of the central  
12 employment area, which should include a great -- which  
13 should include the greatest concentration of high density  
14 mixed use, including commercial, retail and hotel uses,  
15 which the -- which the request supports.

16           The proposed zoning increases the possibility for  
17 density on currently under utilized land and a matter of --  
18 and in a manner compatible with the surrounding multi-  
19 neighborhood center, and the medium to high density scale of  
20 the Florida Avenue Market District.

21           Potential Comprehensive Plan inconsistencies  
22 include a loss of future PDR uses, which the Upper Northeast  
23 Element discourages, and policies related to housing.  
24 However, there is a significant amount of new housing in the  
25 immediate vicinity and non-residential use, such as lodging,

1 would provide employment opportunities in the area.

2 OP also recommends that the Map Amendment be  
3 subject to IZ Plus requirements in the case residential uses  
4 are placed on the site in the future.

5 When evaluated through a racial equity lens the  
6 proposal would not be inconsistent with the Comprehensive  
7 Plan and would uphold several relevant policies. The  
8 project advances policies related to racial equity as it  
9 would advance opportunities for new commercial  
10 opportunities, jobs, amenities in the Ward 5 Area, and also  
11 would not result in the direct or indirect displacement of  
12 residents or prevailing community culture as none currently  
13 reside on the property.

14 And with that I'm going to conclude OP's testimony  
15 and I'm happy to take any questions. Thank you.

16 CHAIRPERSON HOOD: As always, thank you, Mr.  
17 Beamon. We appreciate your report. Let's see if we have  
18 any questions or comments. Vice Chair Miller.

19 VICE CHAIRPERSON MILLER: Thank you, Mr. Chairman,  
20 and thank you, Mr. Beamon, for your thorough report and for  
21 all your work on this case and all the other cases that  
22 you're involved with.

23 So, yeah, I support setting this down for a public  
24 hearing. Mr. Beamon noted the potential inconsistencies  
25 that were noted by the Applicant and by OP in its report,

1 primarily dealing with the policies that encourage the  
2 retention and support for PDR uses because we have a  
3 dwindling amount of industrial zone land and there's concern  
4 that there be sufficient amount of industrial zone land for  
5 -- for those types of uses, which a municipality needs.

6           However, we do have the Comprehensive Plan Map as  
7 you pointed out that has the striping with the residential  
8 and the commercial in addition to the PDR. But if the  
9 Applicant could just provide more information on -- on the  
10 PDR, potential inconsistency issue, how they're reserving  
11 space for PDR type of uses as has been done in other areas  
12 in the Union Market, that would be helpful I think at the  
13 time of the hearing.

14           There also was mentioned the potential  
15 inconsistency with the housing element because we've been  
16 told -- there's not a project before us in this case, but  
17 we've been told by the Applicant that there are -- someone  
18 has been told in the record that there's an intent to do a  
19 hotel with lodging use with eating and drinking  
20 establishment. So I guess the potential inconsistency was  
21 there is a residential being -- it might not be residential  
22 built on this site.

23           We're not -- the project is not -- there is no  
24 project before us, it's a Map Amendment. This will allow  
25 for the first time housing to be built on the site or zoning

1 to be made inconsistent with the Comp Plan Land Use Map  
2 Designation, which calls for the -- is it high density  
3 residential or medium? Is it -- is it high density  
4 residential?

5 MR. BEAMON: I believe it's high density  
6 commercial, medium density residential but --

7 VICE CHAIRPERSON MILLER: Medium density  
8 residential, high density commercial, and the continuation  
9 of the PDR uses. So with that new striking of the  
10 residential housing would be -- and if the zoning is done  
11 consistent with this proposal, residential would be allowed  
12 for the first -- permitted for the first time. So I think  
13 that potential inconsistency is taken care of by the -- by  
14 the proposed zoning since we don't have a project before us.

15 I guess that's my only comments, Mr. Chairman. If  
16 the Applicant can address the potential inconsistency of the  
17 PD of the -- of the PDR -- with the PDR policies, what  
18 they're doing to preserve space for PDR types of uses that  
19 are in our regulations. There may be something -- I know  
20 there's existing -- I think this is the case where there's  
21 an existing -- it's just an existing commercial, two story  
22 commercial structure with a fitness center and maybe some  
23 other limited uses.

24 Of course there will be a lot more retail uses  
25 allowed with this zoning, with this proposed zoning, so --

1 but if the Applicant can address where the -- if the -- if  
2 the existing commercial retail uses can have an opportunity  
3 to relocate somewhere within Union Market, I'm sure there's  
4 some vacant space there, or back in this building once it's  
5 redeveloped with the -- with much more retail and commercial  
6 space then currently is there now. So that would be helpful  
7 also if the Applicant can just address that at the hearing.  
8 That's it, Mr. Chairman. That -- thank you very much.

9 CHAIRPERSON HOOD: Thank you, Vice Chair.

10 Commissioner Stidham, any questions or comments?

11 COMMISSIONER STIDHAM: Just one. Are you aware of  
12 any opposition already to this?

13 MR. BEAMON: To my knowledge, no.

14 COMMISSIONER STIDHAM: Okay, thank you. Nothing  
15 further, Chair.

16 CHAIRPERSON HOOD: Okay, thank you. And thank  
17 you, Mr. Beamon. I don't have any questions of you. Thank  
18 you again for your report, we appreciate it.

19 Colleagues, I think this is -- from what I heard  
20 this is ready to be set down. So with that I will move --  
21 let me scroll up now, or do I need to scroll down. Let me  
22 see where I'm at. Let me scroll up. Unless somebody else  
23 has it quickly.

24 COMMISSIONER STIDHAM: I have it.

25 CHAIRPERSON HOOD: Okay, Commissioner Stidham.

1           COMMISSIONER STIDHAM: I would like to make a  
2 motion to propose we set down Zoning Case Number 24-04, 1271  
3 5th ST., LLC, Map Amendment at Square 3591.

4           VICE CHAIRPERSON MILLER: Second.

5           CHAIRPERSON HOOD: Okay, it's been moved and  
6 properly seconded -- I'd like for everybody to participate  
7 in the motion process. Okay, it's been moved and properly  
8 seconded. Any further discussion? Not hearing any, Ms.  
9 Schellin, would you do a roll call vote please.

10           (Roll call vote.)

11           MS. SCHELLIN: Yes. Commission Stidham.

12           COMMISSIONER STIDHAM: Yes.

13           MS. SCHELLIN: Commissioner Miller.

14           VICE CHAIRPERSON MILLER: Yes.

15           MS. SCHELLIN: Commissioner Hood.

16           CHAIRPERSON HOOD: Yes.

17           MS. SCHELLIN: The vote is three to zero to two to  
18 set down Zoning Commission Case Number 24-04 as a contested  
19 case. The minus two being Commissioner Imamura who is not  
20 present, not voting, and the third mayoral appointee seat,  
21 which is vacant.

22           CHAIRPERSON HOOD: Okay, thank you, Ms. Schellin.  
23 I think that's it, correct?

24           MS. SCHELLIN: I have one more thing that just  
25 came up late this afternoon for the Commission to rule on,

1 and that is in another case that's coming up, I believe it's  
2 May 9th, and that is Case Number 23-02.

3 Mr. Hanlan along -- it's a joint motion, so it's  
4 not just him. It's the block neighbors and I can't remember  
5 the others, I know DCCA.

6 But they have filed -- they had filed -- let me  
7 back up a little bit. They've filed for an extension for  
8 the responses to be due and for a limited scope hearing.

9 And I replied to them saying that the deadline for  
10 the due dates of the documents would not be changed and that  
11 the Commission would rule on the limited scope hearing after  
12 you received everything that you requested at the end of the  
13 hearing, which included their responses, so the dates would  
14 not be changed for that, and when the meeting date came that  
15 you scheduled this for once you reviewed everything that  
16 came in and at that time you could -- you would review their  
17 motion for a limited scope hearing and decide based on what  
18 came in the record whether you think a limited scope hearing  
19 was necessary or not.

20 And so that was that. And so now they -- they  
21 have filed a joint motion to extend the deadline for the  
22 draft findings of facts, conclusions of law. It states  
23 basically that they could not do a draft order without  
24 having the limited scope hearing happen first, which I'm  
25 going to just leave it at that.

1                   CHAIRPERSON HOOD:   So --

2                   MS. SCHELLIN:    So Chairman Hood --

3                   CHAIRPERSON HOOD:   That -- first of all that's not  
4 on our agenda for this evening, is it Ms. Schellin?

5                   MS. SCHELLIN:    No, but the deadline is Monday and  
6 so they want an answer because the deadline is Monday and  
7 there's nothing else -- no other time to bring it up.

8                   CHAIRPERSON HOOD:   So I'm really confused.   I am  
9 really confused.   You know, we talk about engagement,  
10 engagement goes both ways.   If that was an issue they knew  
11 that before, before now and before this hearing.

12                   I'm just -- I'm hearing all the comments that come  
13 out.   It's like two law books.   I want you to operate out of  
14 this law book and I can operate out of the law book I want  
15 to do, and I'm having some problems with this because we did  
16 not say that we were going to have a limited scope hearing.  
17 We haven't even got to that point yet.

18                   So -- but yet I'm hearing about all these letters  
19 that are coming down to me, which is fine, I don't mind if  
20 you write letters, but I'm hearing about all these letters,  
21 and I believe in being fair across the board, and some of  
22 the requests are not fair across the board.   I'm starting to  
23 have some issues with every point -- pointing out everything  
24 that we do wrong and then we take up every last minute  
25 suggestion and request.



1           So -- and I'm sure I'll probably get -- you'll  
2 probably get another letter about this, but I can just tell  
3 you that, you know, we got to be -- we got to work together,  
4 and we have to be congenial to people and stop pointing out  
5 every little, small thing that somebody else does. This is  
6 a due process, and if anybody knows due process it's the  
7 lawyer. I'm not going to call nobody's name, but the  
8 lawyers know.

9           I'm not a lawyer, but they should know due  
10 process. We did not say we were going to have a limited  
11 scope. If we do decide to have a limited scope we will, but  
12 right now that is not the case. And I will just say that if  
13 we have a limited scope hearing in this order, then the  
14 drafting findings of facts, conclusions of law can be  
15 revised, and a date will be set at that time. We haven't  
16 even got there.

17           So just be patient, but also understand this, and  
18 I don't know if my colleagues agree, so I'm just saying this  
19 on my own. You got to balance it. We -- everything can't  
20 always be the Zoning Commission did this or we're doing  
21 that, we're running afoul, and then you turn around and make  
22 a request at the last minute, a day before the deadline, and  
23 we haven't said we were having a limited scope. We don't  
24 know if we're having a limited scope or not.

25           So all I'm saying is, you know, let's have an

1 apples to apples hearing and stop making apples to oranges,  
2 and I'll leave it at that.

3 Anybody else want to comment on that? Okay.

4 All right, Ms. Schellin, anything else?

5 MS. SCHELLIN: So the Commission is denying the  
6 extension. They can -- I just want to be able to report  
7 back. So you're denying the time for the extension on the  
8 draft findings of facts, conclusions of law. Is it okay to  
9 say that they can file it and if there is a limited scope  
10 hearing they can submit a revised draft findings of facts,  
11 conclusions of law? Obviously if you have one.

12 CHAIRPERSON HOOD: Let me ask you -- let me ask my  
13 colleagues. Did we say we were having a -- we said there's  
14 a possibility we're going to have a limited scope.

15 MS. SCHELLIN: Right. If there was new  
16 information, and they've -- they feel there's new  
17 information, but you guys haven't gotten to that point. So  
18 that's the thing. So if there is one then they could submit  
19 a revised version if a limited scope hearing is held,  
20 correct?

21 CHAIRPERSON HOOD: Well, let me just say -- let me  
22 just say this to the people who have uncertainty. If  
23 there's a -- if we feel like there's new information, yes,  
24 it will be extended.

25 MS. SCHELLIN: Okay.

1           CHAIRPERSON HOOD: I'm pretty -- that -- we  
2 already knew -- I mean, that's -- that's a given with us, it  
3 was going to be extended because we are fair. So I would  
4 say --

5           MS. SCHELLIN: They should still submit based on  
6 the deadlines given --

7           CHAIRPERSON HOOD: Submit what they're supposed to  
8 submit.

9           MS. SCHELLIN: -- and revisions, revised copies can  
10 -- draft can be submitted if necessary.

11          CHAIRPERSON HOOD: If -- yeah, if it's called for  
12 we will make an adjustment, but right now stay where we are.

13          MS. SCHELLIN: Okay, all right. I just want to be  
14 able to report back correctly. Thank you.

15          CHAIRPERSON HOOD: All right, thank you. Do my  
16 colleagues disagree with any of that or are we fine? All  
17 right.

18                I'm just asking for -- you know, be fair. You  
19 know, we're all human and we make mistakes. We might not do  
20 everything correctly, but it's always pointed out when we  
21 don't. But when others don't it's give me some leniency,  
22 all right. That's not the way this works. We're supposed  
23 to be balanced and we're supposed to be fair, and I'll it at  
24 that.

25                Anything else, Ms. Schellin?

1 MS. SCHELLIN: That's all staff has.

2 CHAIRPERSON HOOD: Okay, all right. Well, I want  
3 to thank everyone. Let me see when we meet again. I think  
4 we have a day off.

5 MS. SCHELLIN: You do, actually. I think I gave  
6 you a whole week off if I'm not mistaken, on the calendar.

7 CHAIRPERSON HOOD: Okay. We come back on the  
8 22nd, correct?

9 MS. SCHELLIN: I believe you are correct, if that  
10 is a Monday.

11 CHAIRPERSON HOOD: Okay. So the Zoning Commission  
12 will be back on these platforms on -- for Zoning Commission  
13 Case 0611Z and 0612Z, George Washington University, on  
14 Monday, August -- I mean, April. I was about to say August.  
15 Monday, April 22, 2024, on these same platforms.

16 I want to thank all my colleagues, the Office of  
17 Zoning Legal Division, Office of Zoning staff, everybody,  
18 residents, everybody for always helping us in these  
19 hearings. So with that this meeting is adjourned. Good  
20 night everyone.

21 (Whereupon, the meeting was adjourned at 5:09  
22 p.m.)

23 \* \* \* \* \*

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REPORTER CERTIFICATE

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In the matter of: Public Meeting

Before: DC Zoning Commission

Date: 04-11-2024

Place: Teleconference

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Gary Euell