

ZC Public Meeting
Oct. 17, 2016

1 Okay. Let's move right along. Zoning
2 Commission Case No. 04-33G, Campaign for Inclusionary
3 Zoning Text Amendment, Inclusionary Zoning. Ms.
4 Schellin.

5 MS. SCHELLIN: Yes, sir. As a preliminary
6 matter I just want to note that the amendment to
7 Subtitle C, Section 1001.6A was moved to Zoning
8 Commission Case No. 04-33H. And for this case
9 Exhibits 250 and 251 were public comments that were
10 received to the proposed rulemaking, and Exhibit 252
11 we have OP's review of those public comments as
12 requested by the Zoning Commission, would ask the
13 Commission to consider final action this evening.

14 CHAIRPERSON HOOD: Okay. Let me open that
15 up. Any other discussion on this?

16 → MR. MAY: I did have one question that came
17 up in the -- it was a comment from the Committee of
18 100 in the last round that had a question about,
19 which was the applicability of 10 percent as a
20 percentage, you know, with the difference between
21 something that's stick-built versus concrete
22 construction. And I'm wondering if what they're
23 suggesting is something that we should consider,
24 which is to drop the condition of the building being
25 less than 50 feet. In other words we can have stick-

1 built buildings that are above 50 feet now, quite
2 readily. And you know, why wouldn't they be subject
3 to the 10 percent if they're so much less expensive.
4 And maybe it's -- I'm actually curious to see whether
5 the Office of Planning thought that this proposal had
6 merit.

7 MR. ROGERS: So we did our economic analysis
8 with some of those same assumptions in mind. We used
9 an economic analysis was a one-story concrete, steel
10 and concrete level with stick above, which is the
11 type of form that you get now with that.

12 So, all our conclusions were based on that
13 economic analysis, and so it included that.

14 MR. MAY: So buildings that are built like
15 that, they're going to be 60 feet tall or 70 feet
16 tall, you still think should be subject to eight
17 percent rather than 10 percent.

18 MR. ROGERS: I don't think we came to a
19 definitive conclusion but based on the zones that we
20 modeled, we showed that the various impacts. We did
21 not test increasing the requirements from eight
22 percent to 10 percent.

23 MR. MAY: Okay. I don't know if this is
24 something that requires further study on our part. I
25 mean, we're at final action now, so I don't think

1 that we could suddenly make this change without
2 having to, you know, hear it again and all that.
3 But, you know, we have other things that we're
4 tweaking, continue to tweak on Inclusionary Zoning.
5 Maybe it's something that we need to revisit. I
6 don't know. What do my fellow commissioners think?


7 CHAIRPERSON HOOD: Vice Chair Miller?

8 MR. MILLER: Thank you, Mr. Chairman and
9 Commissioner May. I had the same question as you
10 when I saw the -- the paragraph of the Committee of
11 100. I had a note next to it saying, "Ask for OP
12 response."

13 So, I think we can ask for OP to run the
14 study, but I don't want to delay final action. This
15 case has been a long time coming and has some very
16 important components in it, which will increase the
17 supply of affordable housing targeting it at the
18 levels that are most in need for rental buildings.

19 So I wouldn't want to delay it but I think we
20 could ask them to look at it and if we have to do
21 another tweak, among many tweaks that we do up here,
22 we can do that later.

23 CHAIRPERSON HOOD: Okay. All right. I would
24 go along with Vice Chair Miller. Even I didn't have
25 a problem delaying it, sending it back. I think I



1 don't have a problem with holding off. Sometimes we
2 rush to rush to rush and I don't mind taking our time
3 but hopefully we can add this to our list, laundry
4 list of things, and this is something that we can
5 take up expeditiously, so I don't have a problem with
6 moving forward with what we have, but I think as
7 stated by Commissioner May, I think the Committee
8 brings up a good point and we need to fully exhaust
9 that.

10 So we need to add that to -- I would request,
11 formally request now that we add that to our list of
12 things that we're tweaking, even though we're moving
13 forward tonight. I would ask, as my colleagues have
14 stated, that we add that to our list.

15 Okay. Anything else?

16 MR. MILLER: Yes. Mr. Chairman, since this
17 is final action I think we need to make a
18 determination if we can, on an effective date
19 provision and I know we've been provided with a
20 number of options by both OP and OAG. I would just
21 suggest in terms of allowing time for implementation
22 for both the public sector community and the private
23 sector community, which may involve council
24 legislation, which may involve rulemaking, and just
25 to have a transition period where there's time for

1 people to get adjusted to the new requirements. I
2 would just, for discussion purposes, throw out a
3 specific date and that would be the first Monday in
4 June, which I believe is June 5th, 2016. I think
5 that's sufficient time to do all the things that need
6 to be done to get this important, I think,
7 modification to the program, implemented.

8 MR. MAY: So that's seven and a half months
9 from now. Is that what you were intending, seven and
10 a half months?

11 MR. MILLER: Yes.

12 MR. MAY: Okay. Because I was thinking more
13 like six months, but I am definitely in favor of a
14 specific date.

15 MR. MILLER: I would go with an earlier, if
16 we have --

17 MR. MAY: The first Monday in May, which
18 would be six and a half.

19 MR. MILLER: That's fine with me.

20 CHAIRPERSON HOOD: I kind of like -- I yield
21 to the experience. I kind of like Mr. Miller, his
22 previous light --

23 MR. MAY: That's fine. I can go that way
24 too. I'm fine with that.

25 CHAIRPERSON HOOD: You want to lean on that

1 June 5th, or whatever that date was, I can understand
2 why you might want May. But it's supposed to be
3 funny, but anyway, but seriously, I think Vice Chair
4 Miller has factored in all those pieces and one of
5 the concerns that I have when I looked at the DHC, it
6 was all those things that need to be implemented and
7 I think with your experience and expertise, I think
8 that is a good date. June 5th.

9 I know you want it sooner than later, so you
10 didn't have a problem with May. But I think June
11 5th. Are we okay with that, Commissioner May?

12 MR. MAY: Uh-huh.

13 CHAIRPERSON HOOD: Okay. So anything else on
14 this? Someone want to make a motion?

15 MR. MILLER: The only other comment I wanted
16 to make, Mr. Chairman, before we vote on it, was that
17 -- is that I want to make sure that -- I don't think
18 it's what we're doing in the -- in our rulemaking,
19 but in what the council does and what DHCD and DMPED
20 do in their administrative rulemaking, is that we
21 don't have the problem that we've encountered in the
22 past year. So, where people have proffered,
23 applicants have proffered deeper affordability level
24 than the 50 or the 80, and the administration or the
25 executive has said that they had trouble implementing

1 because they only had two price schedules, rent
2 schedules, whatever, published. I think that a
3 number of -- that multiple rent schedules should be
4 published so that if someone wants to proffer
5 something that's less -- deeper in affordability, we
6 ought to be able, as a government, to implement that
7 and accept that deeper affordability level.

8 So, I don't know. I don't know if it's in
9 our own rulemaking that we need to do something
10 there. Ask OP to look at that. But -- and OAG. But
11 if it's in the council legislation, which I'm sure OP
12 and OAG will be involved with, as well as the
13 administrative rulemaking, to at least do it there if
14 not in our own Zoning Commission rulemaking.

15 CHAIRPERSON HOOD: So, I actually would agree
16 with that. I'm not sure how we get to that
17 conclusion but I would agree. I don't know if we add
18 that to the list too, but we don't want to hear some
19 of the testimony we've heard where we can't
20 administer something if it's a deeper affordability.
21 I don't know what the fix is. Maybe we can as I
22 think you've already formally asked OP to look at
23 that, and OAG to look at that together and let's see
24 if, if it's satisfied here, which I don't think it
25 is. Or do we need to do some more advertisements so

1 if somebody comes with deeper affordability then we
2 won't have to say, well, we can't administer it
3 because the program doesn't have that. So, you know,
4 we want to get away from that.

5 And I would agree with you 100 percent. Any
6 further comments?

7 Okay. Someone like to make a motion?

8 MR. MILLER: Yes, Mr. Chairman, I would be --

9 MR. BERGSTEIN: Not to interrupt but I want
10 to clarify with the Commission, are you including the
11 new proposed condition C-10005.6, which was actually
12 not included in the notice of proposed rulemaking in
13 your action?

14 MR. MAY: Well, I think that that's new
15 enough that we need to actually have a separate
16 notice of proposed rulemaking for that, right?

17 MR. BERGSTEIN: So I would assume that your
18 motion would include that as well.

19 MR. MAY: As a separate notice of proposed
20 and we'll have to take final later on.

21 MR. BERGSTEIN: That's correct, right. Yeah.
22 Thank you very much.

23 MR. MILLER: With that understanding and with
24 the effective date that we discussed of the first
25 Monday in June I would move that the Zoning

1 Commission take final action on Zoning Commission
2 Case No. 04-33G, Campaign for Inclusionary Zoning,
3 Text Amendment Regarding Inclusionary Zoning, and ask
4 for a second.

5 MR. MAY: Second.

6 CHAIRPERSON HOOD: It's moved and properly
7 seconded. Any further discussion?

8 [Vote taken.]

9 CHAIRPERSON HOOD: Ms. Schellin, would you
10 record the vote and absentee?

11 MS. SCHELLIN: Yes. Staff records the vote
12 four to zero to one to approve final action in Zoning
13 Commission Case No. 04-33G, Commissioner Miller
14 moving, Commissioner May seconding, Commissioners
15 Hood in support, Commissioner Turnbull in support by
16 absentee ballot, and third mayoral appointee position
17 vacant, not voting.

18 CHAIRPERSON HOOD: Okay, next, let's go to
19 Zoning Commission Case No. 09-03C, Skyland Holdings,
20 LLC., one-year PUD time extension at Square 5633.
21 Ms. Schellin.

22 MS. SCHELLIN: The applicant is asking for a
23 one-year PUD time extension to September 10th, 2017
24 to start construction of the building located on
25 block two. They stated the delay was due to DCRA not