June 2, 2023

Zoning Commission of the District of Columbia
441 4th Street, NW – Suite 210
Washington, DC 20001

VIA IZIS

Re: Z.C. Case No. 22-25 of the Office of Planning and the Office of Zoning – Text Amendment

Dear Members of the Zoning Commission (the "ZC"):

The Equitable Land Use Section of the Office of the Attorney General ("OAG") respectfully submits these updated comments in response to the Office of Planning's ("OP") and the Office of Zoning's ("OZ" and collectively, "Petitioners") updated petition in Z.C. Case No. 22-25. OAG commends Petitioners' proposed amendments, which will bring greater clarity, transparency, and efficiency to the zoning approval process. In furtherance of these goals, OAG is proposing further amendments and recommendations.

First, OAG proposes to create a uniform application process for all cases before the ZC and Board of Zoning Adjustment ("BZA"). The revised processes will provide early substantive notice of cases to encourage early and widespread public participation, which in turn will allow for early resolution of potential opposition and decrease the risk of lengthy appeals. Specifically, the proposal will provide more information to the public and allow for more opportunities for those directly affected by zoning decisions, including tenants, to be notified and participate in the case by reducing procedural barriers to participation.

Second, OAG seeks to simplify the modification application process by requiring that all modifications undergo the uniform pre-hearing process, thereby allowing modifications which are determined to require a hearing to be immediately scheduled for a hearing without having to restart the process.

Third, OAG seeks to allow easier resolution of opposition to final orders by streamlining the rehearing and reconsideration process. OAG proposes opening the rehearing and reconsideration process to non-parties, extending the timeframe for filing such motions from 10 to 30 days, and removing the current prohibition against ZC or BZA action once an appeal has been filed. These changes would give the ZC and BZA the chance to address issues in final orders without forcing parties to resort to lengthy appeals.

Fourth, OAG suggests codifying the racial equity procedures in the Zoning Regulations to provide clarity about responsibilities and timing of the process. This codification would include

implementing the Comprehensive Plan's (Title 10A DCMR, the "CP") racial equity requirements by using neighborhood-level historic data to understand which communities have experienced disproportionate outcomes and for applicants/petitioners to engage those communities throughout the application process.

Finally, OAG urges the ZC to decline to adopt the proposed amendments to Subtitle Z § 500.1, as the current language would exempt OP and OZ text amendments from important public participation and transparency requirements. Specifically, those cases would not be required to be referred to affected ANCs or to have a public case record created. The ZC would also lose its ability to determine whether the case is a contested case and thus petitioners would be able to exclude parties from participating.

Collectively, OAG's proposals seek to build an even more democratic zoning process that encourages participation, equity, transparency, and efficient resolution of conflicts.

1) OAG'S PRE-HEARING PROCEDURES PROPOSAL

Building off of Z.C. Case No. 22-25's proposed changes to the pre-hearing procedures of Subtitles Y and Z, OAG offers additional amendments to further the goals of public participation, efficiency, and informed decision making. OAG proposes a single pre-hearing process for all contested cases and rulemakings before the ZC and a single pre-hearing process for all cases before the BZA. This will simplify the regulations and make it easier for the public to understand and participate in the zoning approval process. As part of the uniform process, OAG proposes three changes from the current regulations:

1) provide substantive notice to the general public at the time the application or petition is filed;
2) require the applicant/petitioner to meet with ANCs after the application or petition is filed; and
3) strengthen tenants' ability to participate when their homes are the subject of cases.

Together, these recommendations will increase transparency and early public awareness of cases to allow for more democratic participation and earlier resolution of potential opposition, thus avoiding lengthy appeals. The changes also aim to protect communities vulnerable to displacement by encouraging tenant engagement. Overall, OAG's proposal strives to create a more inclusive and democratic zoning process.

A. Substantive notice to the general public at the time of filing

First, OAG proposes increasing early public awareness by providing substantive notice to the wider public when an application is filed. Under the current regulations, there is a disconnect between when substantive information about a case becomes available to the public and when the public is notified of the case. This disconnect creates barriers to public participation and forces those who do participate to voice their concerns later in the process, increasing the likelihood of lengthy appeals.

Currently, the first public notice provided for most application types is a notice of intent ("NOI") to file the application, which is sent to the affected ANC and property owners within 200 feet of the project site.[1] (Subtitle Z §§ 300.7, 301.6, 302.6, 303.4, and 304.5). NOIs provide minimal project information and are usually a highly legalistic description of the flexibility requested. Average residents who are unfamiliar with zoning have difficulty understanding the NOI and its implications, a fact that is further complicated by the fact that there is not yet any publicly available information, or a case reference number, because the application has not yet been filed and the case record has not yet been created.

It is not until an application is filed that OZ assigns a case number and creates a publicly accessible case record containing the application/petition, project plans, a statement of the project's purpose and objective, and other relevant information. (Subtitle Z §§ 300.11, 301.10, 302.10, 303.8, 304.7). This information details the project's intended use in terms and graphics understandable to the average resident. While this information is technically available to the public once the application is filed, beyond the notice to the ANC, there is no real notification to the public that the case has been accepted and can be reviewed. Until the case is set down, the public hearing is scheduled, and notice is posted on the property, the case information is often difficult to locate and requires residents to know where and how to find this information on the OZ website and calendar or attend their ANC meetings to learn about new matters.

The result is a lack of substantive notice to the public prior to set down (ZC) or the first hearing (BZA), which forces the public to voice their concerns much later in the processes. By that point, an application or petition is often mostly finalized, and it is harder for the public to affect changes to it, resulting in greater opposition and, ultimately, delays and appeals.

OAG's proposed uniform procedures seek to increase early public awareness and participation by providing substantive notice to the wider public early in the process when the application is filed.

i. <u>Notice sent to the wider public</u>

In OAG's proposal, the first step of the ZC and BZA processes is the application filing accompanied by a Notice of Filing ("NOF") sent to the general public. OAG's proposal would require that the NOF be sent to ANCs, neighbors within 200 feet, and interested persons and organizations.[2] OAG's proposal includes a provision for an enhanced online notification system that would allow individual residents or community groups to sign up for notice of applications and petition filings.[3] This would increase the likelihood that those who wish to participate in

[1] Only campus plans, design reviews, contested case map amendments, PUDs, and air space developments have an NOI requirement. Notably, text amendments and rulemaking map amendments do not have an NOI requirement, so early notice is limited in those cases.

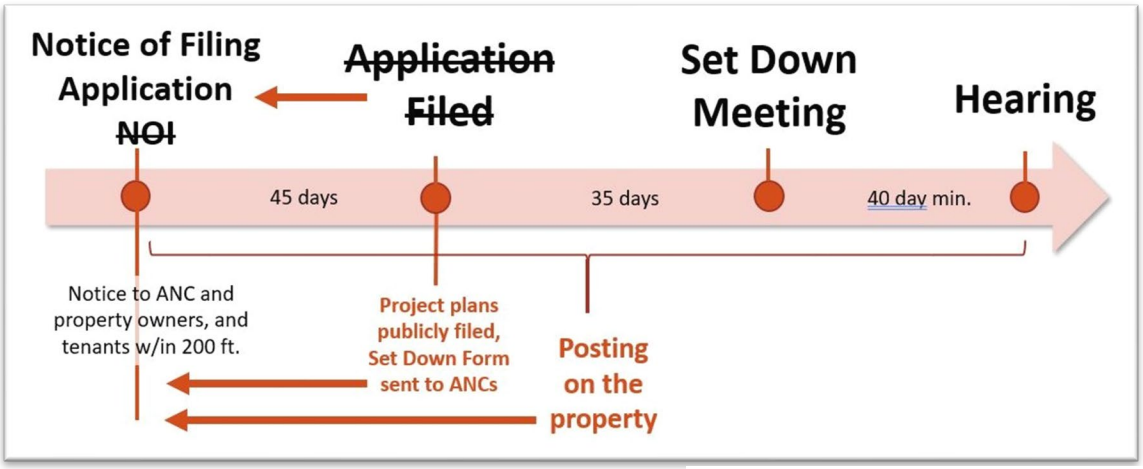
[2] OAG also proposes requiring that when notice is sent to property owners within 200 feet, it also be sent to those who lease from property owners within 200 feet. This will ensure those actually living near the project site are aware of the application, not just their landlords.

[3] OAG understands this ability already exists on the OZ website, but that it does not always work as intended. OAG proposes adding a provision into the Zoning Regulations codifying the ability to register for notice in advance to ensure the OZ website sign-up process works as intended. OAG also recommends expanding the current system's notifications to include notice of applications and petitions, set down meetings, public hearings, government reports,

zoning cases receive actual notice of cases. In addition, OAG is proposing that posting on the subject property occurs with the NOF, thereby providing wider public notice of the pending zoning case.[4]

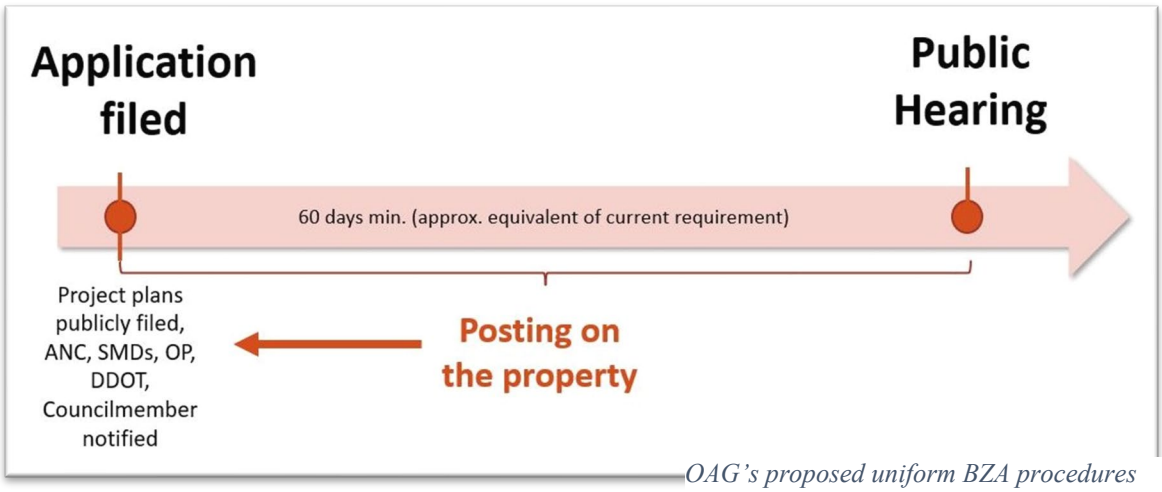
ii. <u>Notice sent early in the process</u>

While OAG wants to increase substantive notice, it is also concerned about lengthening the existing zoning process. As such, OAG proposes that the NOF be sent at or near the earliest moment in the existing processes. For all ZC cases, including rulemakings, the NOF will be sent when the NOI is currently sent, or a minimum of 80 days prior to the set down meeting.



OAG's proposed uniform ZC procedures

For BZA cases, the NOF will be sent 60 days prior to the hearing.[5]



OAG's proposed uniform BZA procedures

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and final orders by a specific case. It should also allow individuals or organizations to register for notice based on Ward or ANC.

[4] Under the current regulations the property is not posted until 40 days before a ZC hearing and 15 days before a BZA hearing. (Subtitle Y § 402.3 and Subtitle Z § 402.3).

[5] The current Zoning Regulations require no less than 40 days' notice before the public hearing (Subtitle Y § 402.1), but OZ has 5 days to review the application (Subtitle Y § 400.1) and it takes 10 for notice to be published in the D.C. Register. In fact, most applications do not reach a hearing until at least 60 days after it is filed.

This will provide for longer public review before the set down meeting (ZC) or hearing (BZA) and more opportunities for the public to voice their opinions to their ANCs before their ANCs vote on whether to support the application/petition. This in turn will enable ANCs and the public to provide meaningful and informed feedback to the ZC and BZA at either set down or the public hearing. Consequently, the ZC and BZA will have more information available when deciding whether the application/petition is ready to advance to a hearing or a vote and/or if additional information or modifications are required. Further, by using the existing start date under the current regulations, OAG's proposal will not significantly lengthen the overall zoning process as most cases are not scheduled for a set down meeting (ZC) or hearing (BZA) until at least 3 months after they are filed.

iii. Notice includes substantive information

OAG proposes that the NOF include the assigned case number and information on how to access the full application package. Access to this substantive case information will allow ANCs and the public to independently consider the full application package in the public record and not limit them to exclusive reliance on whatever information applicants/petitioners present prior to filing. It will give the public the opportunity to review the case and voice concerns to their ANCs prior to set down so that ANCs may take those concerns into account when voting on a case.

Together, these amendments would increase public participation, informed decision making, and efficiency by encouraging early resolution of concerns and avoiding lengthy appeals.

B. Applicant/petitioner meetings with ANCs after filing

Second, OAG proposes to improve engagement with ANCs by requiring applicants and petitioners to meet with ANCs prior to set down meetings (ZC) or hearings (BZA) but after project plans have been publicly filed.[6] This provides the opportunity for ANCs and their constituents to ask questions of the applicant/petitioner when the full application package is available for public review but before the ANC weighs in on the application.

OAG proposes that this requirement apply to *all* applications and petitions before the ZC or BZA. Currently, petitioners of rulemaking map amendments and text amendments are not required to meet with ANCs prior to set down. (*See*, Subtitle Z §304.6 and § 305). Applicants for PUDs, design review, campus plans, air space, and contested case map amendments are only required to "make all reasonable efforts" to attend an ANC meeting in the 45-day NOI (pre-filing) period. (Subtitle Z § 300.9, 301.8, 302.8, 303.6, 304.6). Similarly, applicants before the BZA are not explicitly required to meet with ANCs, although they are required to state their efforts to "apprise the affected ANC and other individuals and community groups concerning the application, if any." (Subtitle Y § 300.8(l)). OAG's proposal will encourage greater engagement with ANCs and their constituents early in the process by establishing a clear baseline requirement for engagement. This engagement is particularly important in rulemaking cases, which by definition "affect large

[6] Because not all ANCs may be open or available to meet with applicants/petitioners, OAG includes a provision in its proposal allowing the Commission to waive this requirement if applicant/petitioner demonstrates that it made good faith efforts to meet with the ANC in the prescribed timeframe. Additionally, if applications or petitions affect more than 5 ANCs, this requirement may be satisfied by holding a meeting for all affected ANCs hosted by the Office of ANCs.

numbers of persons or property." (Subtitle Z § 201.5). If the effects of a petition are widespread, then ANCs should receive more, not less, notice and opportunity to engage with the petitioners and offer feedback.

C. Tenant participation

Third, OAG proposes strengthening the notice and participation rules for tenants living on a property that is the subject of an application/petition. Tenant participation will heighten transparency surrounding redevelopment and relocation plans and reduce the risk of displacement. First and foremost, OAG proposes that tenants have automatic party status in order to reduce procedural barriers for those most likely to be affected. Tenants of a building that is the subject of an application/petition would almost certainly qualify for party status under the current rules because they have an "interest [that] would likely be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than those of other persons in the general public." (Subtitle Z § 404.14). Allowing tenants to have automatic party status would simply eliminate the administrative barriers to participation such as the two-week party status filing deadline and other requirements which can often be unduly burdensome on tenants.

Furthermore, to ensure tenants are aware of plans to redevelop their homes and their rights in the process, OAG proposes requiring applicants/petitioners to hold a meeting with tenants living on the property after filing the application/petition but before set down (ZC) or the hearing (BZA). Similar to the requirement to meet with the ANC, this will ensure that those who are most directly affected by the zoning action are informed of its existence. OAG also seeks to require that all notices sent to tenants include a description of tenants' rights, language access information, and reference to the Office of Tenant Advocate.

Overall, OAG's proposal seeks to simplify the pre-hearing process by having one model for all applications and petitions, which is easier to understand and easier to participate in. It also encourages public participation early in the process, allowing for earlier resolution of concerns, and potentially avoiding appeals. These changes would benefit community members seeking to get involved in the zoning process, ANCs, and applicants/petitioners who seek fewer appeals.

2) MODIFICATIONS

OAG commends the amendments in Z.C. Case No. 22-25 that seek to bring further clarity to the regulations, including the change of language from modifications of "significance" or "consequence" to modifications "with a hearing" or "without a hearing." OAG proposes to build upon these changes by requiring all modifications to go through the uniform procedures described above and include clear standards and examples to describe modifications with and without a hearing. OAG greatly appreciates the petitioners' amendments to include standards and examples of modifications without a hearing, although it is concerned that the current proposed language would allow for serious modifications without public input and therefore recommends further revisions to the proposed text.

Continuing its focus on uniform requirements, OAG recommends that all applications for modifications go through the process outlined in OAG's pre-hearing proposal, discussed above, and that the public be allowed to comment on modification cases. All modifications should have a substantive notice requirement prior to set down (ZC) or the public meeting (BZA) at which the ZC or BZA decides whether a hearing is required. This would provide public notice of all modifications (which is not currently required for modifications of consequence) and would provide the public an opportunity to review modifications and weigh in on how the proposed modification would impact the community, if at all, and thus allow the ZC and BZA to make an informed decision about whether a hearing is required. This notice period would also allow the ZC or BZA, if it determines a modification case requires a hearing, to immediately set down the case for a hearing without requiring the applicant to refile and start the process from scratch in order to meet the notice requirements.

OAG also recommends expanding and clarifying the standards governing which modifications require a hearing. As written in the updated text amendment, serious changes to ZC final orders, including a "change in use, change to proffered public benefits and amenities, change in required covenants, or additional relief or flexibility from the zoning regulations not previously approved" could pass without a hearing. (Notice of Rescheduled Public Hearing at 34, Subtitle Z §703.6). These are issues that require analysis and consideration by either the ZC or BZA and are often the result of extensive negotiations with the community; they should not be changed without notice and the opportunity for the community to be heard.

3) REHEARINGS AND RECONSIDERATIONS

OAG urges the ZC to decline to adopt the proposed amendments to Subtitle Z § 700 and Subtitle Y § 700, which would significantly restrict the reconsideration and rehearing process. The proposed amendments prohibit non-parties from filing for leave to file a request for reconsideration or re-hearing. It also automatically dismisses any motion for rehearing or reconsideration filed after a notice of appeal has been filed with the D.C. Court of Appeals ("DCCA"). This has the effect of forcing issues to be resolved at the DCCA, following a lengthy appeals process, rather than at the ZC or BZA level.

In the alternative, OAG proposes a more expeditious process for conflict resolution in zoning cases by:

1) allowing non-parties to file motions for rehearing and reconsideration;
2) extending the time in which these motions may be filed; and
3) allowing all motions for rehearing and reconsideration to be decided by the ZC or BZA, regardless of the filing of an appeal.

The current regulations allow parties[7] to file motions for reconsideration, rehearing, or re-argument within 10 days of a final order.[8] (Subtitle Z § 700.3 and Subtitle 7 § 700.2). The petitioners' proposed amendments seek to clarify that non-parties are not allowed to bring these motions. (Proposed amendment to Subtitle Z § 700.3, PHN at 26-27). However, non-parties may bring appeals to the DCCA, meaning that under the proposed language, if a non-party wishes to contest a final order, its only recourse is to appeal to the DCCA, which can delay a project by several years. OAG proposes allowing non-parties to file motions for rehearing and reconsideration, which would provide non-parties with an alternative path for resolution without being forced to resort to the DCCA. This will benefit opponents, applicants, and the ZC or BZA, by allowing the ZC or BZA the opportunity to promptly correct errors, oversights, or other issues that the ZC or BZA determine to have merit.

OAG also proposes to extend the timeframe in which a party or non-party may file a motion for rehearing or reconsideration from 10 to 30 days.[9] Expanding the time in which these motions may be filed would encourage parties and non-parties to file motions for rehearing or reconsideration and thereby increase the likelihood that any defects in a ZC or BZA decision can be resolved at the ZC or BZA level. The proposal also advances equity because those in opposition frequently do not have legal representation and are not as experienced with the zoning process as applicants. An additional twenty days to prepare and file a motion for rehearing or reconsideration would significantly ease the burden on inexperienced parties without significantly burdening applicants.

Finally, OAG applauds the updates to Z.C. Case No. 22-25 that clarify the standards for motions for reconsiderations and rehearings.

4) RACIAL EQUITY PROCEDURES

OAG commends the addition of racial equity analysis requirements proposed in Z.C. Case No. 22-25. To further clarify the process required and to ensure consistency with the Comprehensive Plan, OAG proposes to fully codify the racial equity analysis procedures in the Zoning Regulations. In addition, OAG proposes three clarifications to the racial equity process:

1) Applicants and petitioners should retrieve data from the OP Community Planning Division prior to filing their applications or petitions, so that the data can help identify the communities likely to be impacted by the case and direct community engagement at those communities;
2) OP should provide data from census tracts within ¼ mile, dating back to 2000; and
3) OP should explain any inconsistencies in the data and historical events that shaped the data.

[7] Parties are individuals or groups whose "interests would likely be more significantly, distinctly, or uniquely affected" by the proposed zoning action. (Subtitle Z § 404.14). Parties are not automatically granted party status; they must petition the Commission to receive party status.
[8] Z.C. Case No. 22-25 seeks to eliminate the ability of any party to bring a motion for re-argument. (See PHN at 26). OAG has no opposition to this, but requests that all references to re-arguments be deleted from Subtitle Z Chapter 7, so that it is clear that motions for re-argument no longer exist.
[9] The DCCA rules allow for appeals to be filed within 30 days of notice of the Commission's final order and states that the 30 days does not start until all motions for reconsideration or rehearing have been denied. (D.C.C.A Rule 15(a)(2) and 15(b)).

The Comprehensive Plan requires the ZC to prepare and implement a "*process to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis*." (CP § 2501.8). In elaborating on the definition of "racial equity lens," the CP states:

> *"The intent is for District agencies to develop processes and tools tailored to various programs, activities, and decisions, that center and account for the needs of residents of color, to achieve these outcomes:*
>
> *• Identify and consider past and current systemic racial inequities;*
> *• Identify who benefits or is burdened from a decision;*
> *• Disaggregate data by race, and analyze data considering different impacts and outcomes by race; and*
> *• Evaluate the program, activity or decisions to identify measures, such as policies, plans, or requirements, that reduce systemic racial inequities, eliminate race as a predictor of results, and promote equitable development outcomes*." (CP § 2501.4)

The CP states further that "*implementation strategies should be targeted in proportion to the historical trauma and disproportionate outcomes experienced by those communities. This can best be accomplished by disaggregating data to track and analyze specific outcomes for each racial and ethnic group.*" (CP § 2501.5).

OZ's current Racial Equity Tool contains four parts (OZ Racial Equity Tool) that respond to the Comprehensive Plan's direction, e.g. noting that OZ expects "disaggregated race and ethnicity data from the Office of Planning in *every* racial equity analysis submission that analyzes a zoning action through a racial equity lens," and indicating that applicants/petitioners submitting a racial equity analysis must include data from OP. However, it does not clarify how exactly the racial equity analysis fits into the overall timeline and procedures of the zoning process. To ensure the Comprehensive Plan requirement is met, OAG recommends fully codifying the racial equity process into the regulations. OAG recommends creating a new Chapter 15 within Subtitle Z entitled "Racial Equity Analysis" that states who is responsible for each part of the Tool and at which point in the zoning approval process each part must be completed. The creation of a separate chapter would underscore the importance of the racial equity analysis and also ensure that applicants/petitioners and the public are adequately apprised of the racial equity analysis requirements.

OAG proposes that the new Subtitle Z Chapter 15 require applicants and petitioners to retrieve a report from the OP Community Planning Division early in the project's development and prior to filing the application. By requiring applicants/petitioners to retrieve community data early in the process, it ensures that the data is used to identify and target outreach to communities that have experienced "*historical trauma and disproportionate outcomes*"(CP § 2501.5). Further, it will allow applicants and petitioners to engage with a truly representative cross section of the community and thus understand and "identify who benefits or is burdened from a decision" and how the proposed project/amendment can *"reduce systemic racial inequities, eliminate race as a predictor of results, and promote equitable development outcomes*." (CP § 2501.4).

The CP also requires that a racial equity analysis "*identify and consider past and current systemic racial inequities."* (CP § 2501.4). To ensure past systemic racial inequities are captured in the

racial equity analysis, OAG suggests that OP provide data dating back to the census year 2000 and from all census tracts within ¼ mile of the subject site. This will provide an applicant/petitioner insight into changes in the community and allow for more targeted engagement. For example, localized community data since 2000 may show a steady decrease in the working-class Black population, which could indicate that those residents are at risk of displacement. Knowing this, applicants and petitioners could make a directed effort to engage with that population and understand the effects their proposed project would have on that population. The existing requirement that OP provide only current data, based on Planning Area, will not reveal such trends.

To further ensure "*past and current systemic racial inequities"* are identified, OAG recommends that a pre-filing report from OP Community Planning Division include a narrative of the data provided. This narrative would explain any inconsistencies in the data and provide a plain-language explanation of the data. For example, if the data shows a steep increase in the white population, the narrative would explain whether this was the result of a change in the census tract borders, or if the white population moved into the tract due to a new residential development. The narrative would also include historical policies that shaped current demographics, such as redlining or the prevalence of racial covenants. These explanations would deepen applicants' and petitioners' understanding of the neighborhood in which they plan to build and thus help them engage the community in a way that advances racial equity.

Finally, OAG urges the OZ and OP to consider how it will apply the Comprehensive Plan's racial equity analysis requirement to the zoning actions taken by the BZA.

5) OP AND OZ TEXT AMENDMENTS

OAG recommends the ZC not adopt the proposed text amendments to Subtitle Z § 500.1 because they will create barriers to participation for ANCs and the public. The proposed amendments would exempt OP and OZ text amendments from the requirement to place a petition into the public record, a step that is vital to ensuring the public's ability to participate and should be required for all cases, regardless of the petitioner. (*See* proposed changes to Subtitle Z § 500.1, PHN at 27 and Subtitle Z § 500.3).

The proposal would also exempt OP and OZ text amendments from the requirements of Subtitle Z §§ 500.7 – 500.9, which set out OZ's responsibility to refer a petition to the affected ANC, the ANC's requirement to file the Setdown Form within 40 days, and the ZC's requirement to consider the ANC Setdown Form. OAG is particularly concerned that eliminating notice to affected ANCs and consideration of ANC Setdown Forms conflicts with the notice and great weight requirements of the ANC Act. (D.C. Code § 1-309.10(b) and (d)(3)(A)).

Finally, the proposal removes the ZC's ability to determine whether OP and OZ text amendments are rulemakings or contested cases. (*See* proposed changes to Subtitle Z § 500.1, PHN at 27 and Subtitle Z § 500.4). In the past, some text amendments have been written so that they affect a specific, bounded area. In such circumstances, the ZC has been able to hear the matter as a contested case and thus allow impacted individuals to participate as parties, with the privileges that accompany party status. Taking away the ZC's ability to determine that a petition is a

contested case removes the ability of the ZC to determine how a text amendment should be treated and thus, in appropriate circumstances, ensure that specifically impacted individuals can participate as parties in cases that directly and uniquely impact them.

Text amendments are important actions with long-term and widespread impacts. As such, OAG believes that it is critical that all text amendments undergo the same process and be subject to clear and uniform requirements to ensure that the public understands the changes proposed and can fully participate.

6) FURTHER COMMENTS ON Z.C. CASE NO. 22-25

OAG notes further comments on the proposed text amendments below.

a) Subtitle X Chapter 3 Planned Unit Developments

OAG suggests moving the last sentence of proposed language in Subtitle X §303.14 to §303.1 and expressly noting that "the Zoning Commission shall weigh any development flexibility granted under this section against the benefits of the PUD." This will ensure that all flexibility and development incentives are taken into the ZC's consideration as intended by Subtitle X § 304.3 ("In deciding a PUD application, the Zoning Commission shall judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.")

b) Notice to government agencies

The proposed amendments to Subtitle Z §504.3 require all District agencies to file reports at least ten days in advance of the public hearing. (proposed changes to Subtitle Z § 504.3, PHN at 29). To ensure all agencies have equal time to review cases, OAG proposes all agencies receive notice of application filings at the same time, under Subtitle Z §§ 400.3 and 500.3 as well as Subtitle Y §§ 400.4 and 500.4.

c) Electronic filing

The proposed amendments to Subtitle Y §§ 300.8, 301.5, 302.12, 303.4, 703.9, 704.2 and Subtitle Z §§ 300.11, 300.12, 301.10, 302.10, 303.8, 304.7, 305.5, and 703.10 (proposed 703.8) eliminate the possibility for participants to submit applications via mail. OAG recommends the ZC decline to accept these amendments because it limits participation to those with a computer. The zoning process should be accessible to all District residents, regardless of their access to a computer and the internet.

d) Notice to condominium and cooperative owners

The proposed amendments allow notice to condominium or cooperative owners living within 200 feet of a subject property to be replaced with notice to the condominium or cooperative board of

directors. (See proposed changes to Subtitle Y §§ 300.8(g), 301.5(e), 704.2(c) and Subtitle Z §§ 300.7, 300.11(h) (proposed 300.11(i)), 300.12(k) (proposed 300.12(l)), 301.6, 301.10(m), 302.6, 302.10(m) (proposed 302.10(n)), 303.4, 303.8(m) (proposed 303.8(n)), 304.5, 304.7(f) (proposed 304.7(g))). Notice should be sent to all residents who are likely to be affected by the zoning action, regardless of the number of units in their building.

e) <u>BZA statement of public outreach efforts</u>

OAG suggests changing the language in Subtitle Y § 300.8(l) to "A statement of the efforts that have been made to apprise the affected ANC and other individuals and community groups concerning the application, ~~**if any**~~ **and** ~~**a statement of**~~ the public outreach efforts the applicant plans to undertake accompanied by a pledge to supplement the record regarding any outreach efforts at least twenty-one (21) days before the public hearing" This will ensure the applicant includes all community engagement efforts in its statement to the BZA.

Respectfully submitted,

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