



**Statement of Alexandra Cain
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Before the Zoning Commission for the District of Columbia

**Hearing on
Office of Planning Text Amendment – Z.C. Case No. 22-01
Permitting Matter of Right Office to Residential Conversions in Downtown,
Mixed-Use, and Neighborhood Mixed-Use Zones**

**Thursday, July 16, 2022
4:00 p.m.**

Virtual Hearing via Webex

6/16/22

Good afternoon Chairman Hood and members of the Commission. My name is Alexandra Cain, and with me is my colleague, Lily Bullitt. We serve in the Equitable Land Use Section of the Office of the Attorney General for the District of Columbia (OAG). We are pleased to be here today to present OAG’s testimony on the Office of Planning’s text amendment in Z.C. Case No. 22-01, which would permit, as a matter of right, office-to-residential conversions in certain Downtown, Mixed Use, and Neighborhood Mixed use zones.

This text amendment responds to the profound changes in office space needs stemming from increased telework, which have been exacerbated by the COVID-19 pandemic. Converting unused office space to residential use in desirable, centrally located, and amenity rich areas of the District is a sensible solution to this problem. But in allowing these conversions, we can—and must—do more to protect our residents. The amendment as drafted provides a boon to property owners without substantively addressing the District’s affordable housing crisis. It gives significant benefits to property owners and developers—allowing increased density and an expedited development process—without requiring additional Inclusionary Zoning set-aside to increase affordable housing. Instead, the conversions will be subject only to the applicable baseline IZ requirements.

OP contends that this amendment will increase the number of residential units and thereby decrease housing prices across the board, but it has not provided any concrete data or estimates as to how much housing this amendment will generate. Rather, the available data suggests that this text amendment will not increase affordable housing and will likely exacerbate existing economic and racial disparities. Indeed, OP’s own 2020 Assessment on Conversions—which it cited to support its theory—noted that there are a limited number of property owners and developers that will choose to convert non-residential buildings to residential use because of the difference in land value between commercial and residential properties¹. Further, the areas where conversions are anticipated, particularly Central and Northwest Washington,² are the same areas of the District that, as OP has recognized, historically have been subject to policy choices that caused displacement of black and brown families and furthered the patterns of racial and economic segregation.³ Given this analysis, it is unlikely that the amendment will dramatically increase the supply of overall housing and the increased housing that does result will predominately be luxury housing, which the minimum IZ requirements do little to offset. These factors create a profound risk that this amendment will serve mainly as a windfall for property owners by allowing them to convert unused offices into primarily luxury housing accessible to only a privileged few. Without ensuring additional set asides for more affordable housing, the amendment will exacerbate racial inequity by, at best, producing a scant number of affordable units and, at worst, creating wealthy, predominantly white enclaves in desirable areas of the District.

OAG therefore proposed two revisions to the petitions that would require an additional IZ set-aside for properties that would be able to convert by right under the amendment depending on whether the converted Gross Floor Area (GFA) complies with the applicable development

¹ See D.C. Off. Plan., *Assessment of Commercial to Residential Conversion in the District of Columbia* 12-13 (2020) (“2020 Assessment on Conversions”).

² *Id.* at 13-14.

³ See Jamie P. Chandler & Joy Phillips, *Racial, Economic, Education & Income Segregation in the District of Columbia* 16 (Nov. 2020).

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standards. If the GFA complies with standards, OAG proposed a 2% additional IZ set-aside to reflect that the cost of conversion is less than the cost of building a new building. If the GFA does not comply with the applicable development standards, OAG proposed a 20% set-aside to reflect that this square footage would not be permitted under the Zoning Regulations for a new building.

This additional set-aside is reasonable in light of the flexibility being provided to property owners and is consistent with the Comprehensive Plan’s focus on addressing the housing crisis. The Comprehensive Plan specifically supports expanding the IZ program, noting that it is a particularly important affordable housing tool because it generates permanently affordable housing units and provides them in high-amenity, high-cost neighborhoods, leading to a more diverse and inclusive city. Additionally, the Comprehensive Plan specifically acknowledges the need to consider “greater IZ requirements when zoning actions permit greater density or change in use.”

OAG understands the concerns that have been frequently expressed by OP and the Commission about the economic impacts on property owners and developers resulting from changes to the IZ requirements, and the not infrequent claim from developers that additional IZ requirements will “kill” projects. However, OP and the Commission have recognized in other cases that IZ requirements are not overburdening developers⁴ and that it is possible for them to provide more affordable housing and still be financially viable. For example, in the recent Dance Lofts PUD, the developer has proposed to not only dedicate a significantly higher portion of building gross floor area for IZ units than required by the regulations but is also proposing that a substantial number of those units will be available at deeper affordability levels than required by the regulations. The Zoning Regulations should not place socially responsible developers, who seek to provide higher levels of critically needed affordable housing, at a competitive disadvantage to developers who provide the bare minimum of affordable units.

Nevertheless, to address this concern, OAG also proposed that the petition authorize special exception relief from the additional IZ set-aside where a property owner demonstrates that the additional IZ set-aside renders the conversion financially unviable despite the owner’s best efforts to obtain financial subsidy for the additional IZ set-aside. This exception will provide flexibility to property owners who need it, and the shift of the evidentiary burden to property owners and developers will provide the Commission and OP with economic data and information about the availability of affordable housing subsidies, which they can use to make further amendments to regulations if needed.

Patterns of development and particularly housing, are the result of policy choices. And while encouraging new development, and adaptive reuse of existing buildings are commendable goals in and of themselves, they also represent unique opportunities to go farther and to do more for affordable and inclusive housing. As a city, we must all work to achieve the kind of inclusive and equitable development envisioned by the Comprehensive Plan, and the Commission is critical to that effort. We therefore respectfully ask that you consider the comments and suggestions of OAG in your deliberations. Thank you.

⁴ See Z.C. Case No. 21-05, Supplemental Report No. 2 (Exhibit 17), at 6 (Oct. 4, 2021).