

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

+ + + + +

ZONING COMMISSION

+ + + + +

SPECIAL PUBLIC MEETING

+ + + + +

MONDAY

JUNE 30, 2008

+ + + + +

The Special Meeting of the District of Columbia Zoning Commission convened in Room 220 South, 441 4th Street, N.W., Washington, D.C., 20001, pursuant to notice at 5:45 p.m., Anthony J. Hood, Chairman, presiding.

ZONING COMMISSION MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- GREGORY N. JEFFRIES, Vice Chairman
- MICHAEL G. TURNBULL, FAIA, Commissioner (OAC)
- PETER G. MAY, Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- ESTHER BUSHMAN, General Counsel

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER

ARTHUR ROGERS

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.

The transcript constitutes the minutes from the Special Public Meeting held on June 30, 2008.

TABLE OF CONTENTS

Opening Remarks, Chairman Hood 4

Proposed Action

 Z.C. Case No. 04-33C (Office of Planning
 Text Amendment re: Inclusionary Zoning)
 5

Vote to dismiss 13

Meeting Adjourned, Chairman Hood

1 P-R-O-C-E-E-D-I-N-G-S

2 6:03 p.m.

3 CHAIRPERSON HOOD: This special
4 public meeting will please come to order.
5 Good evening, ladies and gentlemen. This is
6 the June 3, 2008, special public meeting of
7 the Zoning Commission of the District of
8 Columbia.

9 My name is Anthony J. Hood.
10 Joining me are Vice Chairman Jeffries,
11 Commissioner Turnbull, and also Commissioner
12 May.

13 We are also joined by Office of
14 Zoning staff, the Office of the Attorney
15 General staff, Mr. Bergstein, and Office of
16 Zoning Staff Ms. Schellin and Ms. Bushman and
17 Office of Planning staff to my right, Ms.
18 Steingasser and Mr. Rodgers.

19 Copies to day's meeting agenda are
20 available to you and are located in the bin
21 near the door. We do not accept any public
22 testimony at our meetings unless the

1 Commission request someone to come forward.

2 Please be advised that these
3 proceedings are being recorded by a court
4 reporter and is also webcast live.
5 Accordingly, we must ask you to refrain from
6 any disruptive noises or actions in the
7 hearing room. Please turn off all beepers and
8 cell phones.

9 Does the staff have any
10 preliminary matters?

11 MS. SCHELLIN: No, sir.

12 CHAIRMAN HOOD: Okay, colleagues.
13 This is a special public meeting, as I've
14 already stated. Just to give everyone a
15 fresher, this is a request by the Office of
16 Planning for a text amendment in Chapter 26 of
17 the Zoning Regulations to change the effective
18 date of our inclusionary zoning regulations.

19 At our hearing we were given
20 information that the schedule had been
21 published and I will ask before we start our
22 deliberations that Mr. Bergstein help us to

1 clarify that and clarify it for the record.

2 MR. BERGSTEIN: I will try. After
3 I was advised by the Office of Planning that
4 a schedule had been published, that turned out
5 to be the literal truth. A schedule had been
6 published but it had been published -- I went
7 back and looked it up on Lexus. A schedule
8 had been published as an Appendix A to the
9 notice of proposed rulemaking.

10 Under Appendix A it said "Draft
11 maximum rent and purchase price schedule"
12 which I personally don't think is the event
13 that was intended to trigger IZ, the language
14 that is in 2608.1, although there is an
15 emergency right now that changed to something
16 else.

17 But once the emergency expires if
18 the Commission doesn't adopt the text that is
19 before you, the language will revert to being
20 that various provisions of IZ shall become
21 effective upon publication of the first
22 purchase rental schedule in the D.C. Register.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 From my standpoint that appears
2 not to have happened and, therefore, unless it
3 does happen at some point in the future at the
4 point when it does happen, that's when IZ will
5 become effective which is what was originally
6 the intent of the Commission.

7 At this point the status quo is no
8 different than it was on the date the
9 Commission took emergency action and set down
10 this case for hearing.

11 No right price rental schedule has
12 been published and if no change is made to the
13 text, that will continue to be the triggering
14 even to the IZ regulations, the zoning
15 regulations, taking effect. I apologize for
16 the misunderstanding during the earlier
17 meeting.

18 CHAIRMAN HOOD: Okay. No problem.
19 Thank you, Mr. Bergstein, for putting us back
20 on the right track. What I would like to do
21 at this time is just open it up to my
22 colleagues and just hear the discussion

1 because we have a number of options.

2 We can leave it as is or do an
3 emergency action. There are a number of
4 options and I would just like to open it up
5 and see how my colleagues would like to deal
6 with this. Let's just start deliberation. I
7 can start it off.

8 Mr. Turnbull.

9 COMMISSIONER TURNBULL: Thank you,
10 Mr. Chair. I guess this has been a confusing
11 set of rules and regulations to understand.
12 My feeling is not do the change and let it
13 stand the way it is. That was our original
14 intent and I don't know how far we have to go
15 into making the changes to all this to get
16 across what we wanted to get across in the
17 first place.

18 CHAIRMAN HOOD: Commissioner May.

19 COMMISSIONER MAY: Yeah. I would
20 tend to agree that we not take any action.
21 It's not going to trigger the start-up of
22 inclusionary zoning any faster by doing that

1 but it certainly isn't going to slow it down
2 in and of itself.

3 I mean, I just don't see a reason
4 to try to reconcile the regulations with this
5 particular issue so that there is some better
6 coordination between the publication and the
7 schedule and the rules.

8 I mean, the Deputy Mayor ought to
9 be able to coordinate that in a way that makes
10 sense for them and hopefully that will be very
11 prompt. I don't see that what we do here
12 today has any real effect on how quickly
13 anything gets published anyway so there is no
14 real reason to make a change.

15 CHAIRMAN HOOD: Thank you.

16 Vice-Chair.

17 VICE-CHAIR JEFFRIES: Well, I
18 would agree with Commissioner Turnbull. This
19 has been somewhat confusing and very
20 complicated but I, too, like the whole notion
21 of really revisiting our original intent in
22 terms of making certain that IZ got started

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 tying it to final rulemaking action.

2 It's interesting that the panel
3 talked about making certain that we do not
4 revisit our regs in terms of what our original
5 intention is. I think effectively that was a
6 compelling argument and I'm sort of feeling
7 that is how we should go forward.

8 Secondly, I'm just really not
9 comfortable with this Commission getting
10 involved too much with the administrative
11 aspects of IZ and dates and things of that
12 sort. It seems as if we pretty much done our
13 job in terms of really putting forward IZ
14 legislation.

15 For administrative aspect I really
16 just would like to pass that on to the group
17 or the agency that is going to really be
18 administering it. I don't think this
19 Commission should really be in the middle of
20 any of that.

21 CHAIRMAN HOOD: I would also agree
22 with everything that I have heard. When we

1 dealt with IZ our original intent was the way
2 it was and I understand this petition and
3 trying to make things work simultaneously.

4 I don't know if it's going to make
5 anything move any faster but I think this
6 Commission has already spoken on the way they
7 would like us to proceed, the price schedule
8 being published. I just think that we get
9 into a fine line. I have to agree with Vice
10 Chair Jeffries.

11 When we started taking language
12 issues and trying to make it administrative,
13 I think we had done all we could within the IZ
14 scope of the IZ. First of all, providing some
15 regulations to deal with IZ.

16 We specifically mentioned how we
17 wanted it to trigger. I think to try to move
18 this way or move that way now to make anything
19 move any faster, I just don't see the
20 relevance.

21 I think we need to stick to what
22 we -- I don't want to use the words stick to

1 our guns not in this day and time but I think
2 we need to stick to what was our original
3 intent. Any other comments? With that let me
4 ask, Mr. Bergstein, do we need to deny or
5 dismiss?

6 MR. BERGSTEIN: I think the
7 appropriate thing is to dismiss it if you're
8 not going to take proposed action.

9 CHAIRMAN HOOD: Dismiss it.

10 MR. BERGSTEIN: It's still a
11 petition. It's not a contested case that you
12 would deny or grant. The petition has been
13 placed before you and you own it and you can
14 decide not to take action on it and that would
15 have the affect of dismissal.

16 VICE-CHAIR JEFFRIES: Do we need
17 to vote on it?

18 MR. BERGSTEIN: Oh, yes.

19 CHAIRMAN HOOD: All right. With
20 that I would move that we -- let me get it in
21 front of me -- we dismiss Zoning Commission
22 Case No. 04-33C for all the above reasons that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 were stated previously by my colleagues in
2 this discussion and ask for a second.

3 COMMISSIONER MAY: Second.

4 CHAIRMAN HOOD: Moved and properly
5 seconded. Any further discussion? Any
6 further discussion? All those in favor.

7 ALL: Aye.

8 CHAIRMAN HOOD: Any opposition?
9 Staff, would you record the vote.

10 MS. SCHELLIN: Staff records the
11 vote four to zero to one to dismiss Zoning
12 Commission Case No. 04-33C. Commissioner Hood
13 moving, Commissioner May seconding,
14 Commissioners Jeffries and Turnbull in support
15 of dismissal, Commissioner Etherly not present
16 and not voting.

17 CHAIRMAN HOOD: Okay, Ms.
18 Schellin. Do we have anything else before us?

19 MS. SCHELLIN: No, sir.

20 CHAIRMAN HOOD: Okay. I want to
21 thank you, everyone, for your participation
22 and discussion in the meeting. We shall be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

1 back for our hearing tonight in about 15
2 minutes.

3 (Whereupon, at 6:12 the special
4 public meeting was adjourned.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22