

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Public Hearing
Case No. 04-33G [Amendments to Chapter 26,
Inclusionary Zoning]

6:30 p.m. to 7:21 p.m.
Thursday, January 28, 2016

Jerrily R. Kress Memorial Hearing Room
441 4th Street, N.W., Suite 220 South
Washington, D.C. 20001

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Board Members:

ANTHONY HOOD, Chairperson

MARCIE COHEN, VICE CHAIR

PETER MAY, Commissioner

ROBERT MILLER, Commissioner

MICHAEL TURNBULL, Commissioner

Office of Zoning:

SHARON SCHELLIN, Secretary

Office of Planning:

JENNIFER STEINGASSER

JOEL LAWSON

JONATHAN ROGERS

Other:

CHERYL CORT

P R O C E E D I N G S

CHAIRPERSON HOOD: Good evening, ladies and gentlemen. This is the public hearing of the Zoning Commission for the District of Columbia. Today's date is January 28th, 2016. We're located in the Jerrily R. Kress Memorial Hearing Room.

My name is Anthony Hood. Joining me are Vice Chair Cohen, Commissioner Miller, Commissioner May, and Commissioner Turnbull. We're also joined by the Office of Zoning staff, Ms. Sharon Schellin, also the Office of Planning, Ms. Steingasser, Mr. Rogers, and Mr. Lawson.

This proceeding is recorded by a court reporter. It's also webcast live. Accordingly, we must ask you to refrain from any disruptive noises or actions in the hearing room, including display of any signs or objects.

Notice of today's hearing was published in the D.C. Register and copies of that announcement are available to my left on the wall near the door.

The hearing will be conducted in accordance with provisions of 11 DCMR 3021 as follows:
Preliminary matters, presentation by the petitioner, reports of the office -- other government agencies, report of the ANC, organizations and persons in

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support, organizations and persons in opposition. And this will be inclusive of all ANCs city-wide.

The petitioner has 60 minutes in this case. Organizations have five minutes, individuals have three minutes. All persons appearing before the Commission are to fill out two witness cards. These cards are located on the table near the door.

When you are finished speaking please turn your microphone off so that your microphone is no longer picking up sound or background noise. The staff will be available throughout the hearing to discuss procedural questions.

Please turn off all beepers and cell phones at this time so not to disrupt these proceedings. At this time the Commissioner will consider any preliminary matters. Does the staff have any preliminary matters?

MS. SCHELLIN: Yes, sir. Before the Commission there is a request from DMPED asking the Commission to reschedule this evening's hearing. That is at Exhibit 31 for the Commission to consider as a preliminary matter.

CHAIRPERSON HOOD: Okay. We have a request. What exhibit is that, 21?

MS. SCHELLIN: Thirty-one.

CHAIRPERSON HOOD: Thirty-one. I'm sorry, Exhibit 31. And that is from Deputy Mayor Kenner. We have read that request. Commissioners, what is your pleasure?

MS. COHEN: Mr. Chairman.

CHAIRPERSON HOOD: Vice Chair Cohen.

MS. COHEN: Mr. Chairman and colleagues, I came to this meeting tonight to attend a public hearing. I find the Deputy Mayor for Economic Development's request rather puzzling, as the venue for public vetting and input is in this room and at this time when the hearing was advertised.

The time to have met with stakeholders by OP and other agencies was in preparation of setdown and subsequently. Additional discussion must be open and transparent, not behind closed doors. The stakeholders are not just two advocacy and professional organizations, but many other citizens who take affordable and workforce housing seriously.

We have not received any statement from the applicant that agrees to a postponement to this hearing. The request by DMPED to postpone this meeting, this public hearing, and to meet with stakeholders prior to the Zoning Commission's vetting is troublesome to me.

The Zoning Commission appreciates all input from OP, but we use it as an advisory tool, not a fait accompli. We do not rubber stamp recommendations, but make decisions based on the entire record. The postponement request challenges this assumption.

Finally, there has been displeasure and disappointment in the IZ program, not all of it warranted. But it's time to take a deep breath and take a new look at its achievements and its possible failures. I fear that any desire to postpone our work compromises the urgency that many people in this city believe must be taken when it comes to providing housing for the many people who are cost burdened and/or under-housed, and poorly housed.

I am also quite aware that IZ does not address the larger crisis of housing, those most in need. But I do believe we should have the hearing tonight.

CHAIRPERSON HOOD: Okay. Commissioner Miller.

MR. MILLER: Thank you, Mr. Chairman. I would like to associate myself with the Vice Chair's very thoughtful remarks. I would just add that the petitioners filed this IZ case almost a year ago. I

think it's a year ago next week. The setdown was in July. We had a setdown report in early July, I believe, from the Office of Planning. And then we had a postponement request from, I think it was from DMPED as well, from the administration, back when we were supposed to have the hearing in October. I mean November.

Almost since the time that I've been on this Commission, which is over three years, but certainly for the last two years this Commission has been asking for OP to bring forward a case to strengthen the Inclusionary Zoning Program because we saw the need in the city and the need for deeper affordability levels and for greater set-asides.

In many cases, individual cases, we've been pressing the developers to do just that and often they have proffered the deeper affordability levels which we've appreciated. But it was only because we never got the case from OP, and we had all that testimony during the ZRR hearings, that the petitioners came forward themselves, and there's been a council resolution that was -- that was last year, that also endorsed this case going forward.

So there are a number of people down here tonight. I think we probably should go forward with

the hearing with those who are here tonight. We're at a disadvantage because we don't have the Office of Planning's final report, or their AFF (phonetic) report. Their setdown report in July talked about how they would be doing a lot of analysis, which I'm sure they have been doing since that time and would have further recommendations. But it's very unusual for us to have a hearing and not have a final report or an interim report or a supplemental report, or some kind of report from the Office of Planning. I guess that's because DMPED there, their immediate superior has asked for the postponement.

I assume there is a draft of such a report that's internally available to them, and maybe at DMPED, but that's where I think the Vice Chair's remarks about transparency and openness also play here. So I'd be inclined to go forward with who we have here, and we're obviously going to have to continue the hearing, though, because we don't have an Office of Planning recommendation. I guess we could go forward without it. Maybe that's one way we'll get it.

But I understand that it's March that the -- is the request. Maybe Office of Planning can say when there will be a report available that will be

filed for this case beyond the setdown report. Can the Office of Planning answer? Is it okay, Mr. Chairman, through you to ask the Office of Planning that question?

CHAIRPERSON HOOD: If they have an answer at this time. If not, we can put that in abeyance.

MR. MILLER: Okay.

MS. STEINGASSER: Well, our understanding, the Deputy Mayor had requested a postponement so they could continue to work with the stakeholders, both the petitioner and the development community to fully understand the economics. We think there is great value in that conversation and it's not that it's not transparent, it's that it hasn't been fully complete. And so the administration hasn't completely vetted their position.

From my understanding the request for postponement was until sometime in March, and we would be ready at that time to provide a hearing. When the inclusionary zoning case was first brought before the Zoning Commission the public hearing was held without OP having taken a position because we got feedback and we incorporated that feedback into our report so that it's not unprecedented to have a hearing and then have OP file its report.

MR. MILLER: And then if -- if I may, Mr. Chairman? In that case, I just don't remember it, after you filed the report was there another hearing?

MS. STEINGASSER: I think there were multiple hearings.

MR. MILLER: Yeah. Okay.

MS. STEINGASSER: Yeah, it was a very protracted, long exercise.

MR. MILLER: Okay. Thank you.

CHAIRPERSON HOOD: Okay. Mr. Turnbull.

MR. TURNBULL: Yeah, Mr. Chair. Yeah. I agree with my colleagues. I would say that we need to go forward with this hearing. My only concern is it's not just the OP report, it is -- my concern is on the higher level that we don't have the ANC input that I would have liked to have seen. We only have two ANC reports. We have one in favor, one opposed. We have a couple of return PHNs from ANCs that I don't know why they don't -- haven't got them, but that's disturbing in that some of the ANCs either don't know about it or haven't looked, having gotten involved with it. And I would really like -- we're going to either have another continued hearing or multiple hearings on this because we really do need the ANC input on those.

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I mean, this is a city-wide initiative and I think it's -- the impact has to be heard from everybody. I think we're going to need that. So I don't know how, if OP is going to reach out to the ANC, or somehow the Office of Planning -- I mean, OZ is going to reach out and get the -- but we definitely need the ANCs' reports on these things, and their response sitting at the table at a hearing like this also.

So, you know, I'm in favor of going on and starting it but we are going to have to come back to the table and hear from the ANCs.

CHAIRPERSON HOOD: Okay. Commissioner May, you want to weigh in?

MR. MAY: I agree with everything. Agree with everything that I've heard so far. You know, I -- and even with the Office of Planning has had to say, and I would be in favor of having the hearing tonight and then continuing to a date in March and then proceeding with the input of the Office of Planning and the Deputy Mayor's office. And hopefully greater attention from the ANCs. I think Mr. Turnbull brings up an excellent point that this is a very important issue and if it was the subject of multiple hearings last time around, I imagine

there was substantial input from ANCs and neighborhood groups and so far what we've seen is relatively little of that. So, thanks.

CHAIRPERSON HOOD: I think this is -- this Commission gets dinged all the time. And I would wholeheartedly agree with Mr. Turnbull. The ANCs, I just don't see the outpouring of the elected leaders. While I appreciate the groups, Smarter Grove, bringing this to the Commission, the petition, I appreciate what the petitioner is doing. I think it's time for us to move forward. I would agree.

But my concern is having a hearing tonight for me is half-baked, because there may be some changes. I think in his letter, Deputy Mayor Kenner's letter, he's asking to be able to sit down with the stakeholders. I actually wanted to include that list and know what the format is of Deputy Mayor Kenner's, to make sure he includes, not just of the petitioner, but of others who want to be involved with this. I think we have some other groups in the record who have asked to be a part of it, who actually support the delay.

I don't have a problem with moving forward tonight. But I think that we do ourselves a disservice as we move forward because those -- it's

always better when the groups have a chance to talk. And for me a big missing piece as has already been stated is our grass root elected leaders, which this body commission -- or this body is entitled, is supposed to give them the great weight that is accorded. That's the law. That's in the administrative procedures. That is the law.

And here we go again, and we're going to get dinged on it, just like with the ZRR, even though I know we went through as much for eight years trying to get that done, but I think that here we have the administration asking to be able to talk to the petitioner and other parties who are involved. And maybe, I don't know what the reach out is to ANCs, but I think we need to really, really tighten that piece up.

I don't have a problem with going forward tonight, but then the question I would ask, well, the people testify tonight, will they be testifying at the next hearing? Because I see another hearing either way. And I know, you know, if people who come tonight, are they going to testify at the next hearing, and will anything change in that stakeholders' meeting? Well, they may all come down here holding hands so, you know, I can go either way.

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But at the end of the day I think that I would like to see something fully baked. I would love to see everybody holding hands for the betterment of the city. I do think something needs to be done. I agree.

But one more month, and we been waiting all this time, or two months, I don't see where it's -- I don't see the urgency. When I hear from -- and I'm going to use Ms. Cort because I know her, I can do that. When I hear from her I like to have known that she's had those discussions so I know I'm getting the full cooked testimony that she's already had the discussion with Deputy Mayor Kenner.

Now, if she comes tonight I don't -- you know, what am I getting? I mean, would her mind change? Or will she have something to add to improve it after her discussions? I mean, you know, we can go down this road. I've been here before. But I think when everything is complete and we complete the sentence, it's better than a sentence that has all these different curves and, you know, just using an analogy, that all these different curves and other ways of going. But that's just my opinion. We can always put it for a vote. If you want to move forward, fine. But I can see us having another

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hearing and it may not happen in March.

Anything not rebutting anything I said, but anything you want to add?

MS. COHEN: Yes.

CHAIRPERSON HOOD: Anything different?

MS. COHEN: Yeah.

CHAIRPERSON HOOD: Vice Chair Cohen.

MS. COHEN: Thank you, Mr. Chairman. I concur that the ANCs must be included. I mean, it is the law. But one of the things that we have, you know, people who came out tonight who actually read the advertisement and the proposed zoning changes, and I think they're entitled to be heard. They may or may not come out again, but this forum can inform OP and DD -- the Deputy Mayor's Office.

So I honestly believe that people have had sufficient time. The setdown report was extremely complete. I thought it was well done and OP said they would come back and do additional analysis, which is justified because the market changes after a year. So I have no problem, though, in hearing people who have made it out tonight. And if things change that's all for the better as far as I'm concerned. And yes, we do need more time to get the ANCs engaged.

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CHAIRPERSON HOOD: Well, let me say this, I appreciate those who came down tonight. This would not be the first time the Zoning Commission, and I hate to say this, this room was a lot more people than this and we have cancelled a hearing. Matter of fact it was standing room only. So I don't want us to use that as the basis of not -- of why we won't postpone.

While I appreciate who came down tonight, but I don't want to lose sight of a case that we did in Ward 8 that we did postpone. So I want to make sure the record is clear, it's not like this is something the Zoning Commission has never done before.

Commissioner Miller.

MR. MILLER: Well, I think we're all frustrated by the original delays and implementing the Inclusionary Zoning Program, which this Commission passed in 2006, and the council passed in 2006. The implementing regulations by DHCD, it didn't get done until after that building boom cycle went bust. We're in another building boom cycle and it eventually will go bust. I hope it doesn't but that's the nature of this.

So that's the urgency, Mr. Chairman. So the thing you said, I can -- I'd like to hear if the

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petitioner wants to go forward, but I think you did bring up a good point. I think they would have to speak; speak again, because there's going to be new information in the Office of Planning's report. At least the petitioner, and maybe everybody should be able to testify.

But I'd like to hear from them. But the last thing you said, which it may not be in March, I would only be willing to go forward and agree that it's a little half-baked to go forward tonight, if we set a date in March. And that's what the first line of the Deputy Mayor letter says, "To an available date in March." So I'd be willing to go along with you and postpone so we don't have this -- everybody having to come back again and maybe repeat -- to change their testimony or repeat the testimony. But only if we set a date in March tonight.

CHAIRPERSON HOOD: Well, my problem with March is, personally, I may not be here and I know some other people have some schedules. And for me I think it would be better served on the city as a whole. So, you know, I don't know how fast this thing can move. I do, like everyone else, do have another life. Just --

MR. MILLER: How about a date that you're

available and other people are available in March?

CHAIRPERSON HOOD: Well, I'm not available. I don't know the -- I know the dates I'm not available. I don't want to put nobody else's schedule out there. But just think at some point in time that we will not have a full commission. I think it's going to be some days in March. I'm not sure that needs to be worked out.

But I also want to make sure, even before we get to March, that we deal with these ANCs; these ANCs. Now, I know I already know the dates. I've been in constant contact. I know the issues. I know what the issues are live. This is not like a -- I do my homework kind of before I get out here, so I kind of already know what the issues are. And I do know what we have up here on this dais if we don't move forward tonight. If we move forward.

But here's the thing, I'm not going to spend a lot more time on that discussion because I don't necessarily have a problem with hearing from those who are here tonight. I just think for me, when I'm absorbing information, I like to get it how it's supposed to be presented. Not a piece of it here in January, another piece over here may have changed. And I use Ms. Cort. I hope she doesn't mind.

Something may change, and if it changes I like to -- when I get ready to decide. That's just me. That's just the way I like to do things.

But, you know, I don't have a problem with hearing from folks tonight. But again, do they come back and testify again? I mean, if we're going to have the petitioner we've got to have everybody else. So what we wind up having is three to four to maybe five hearings. Which is fine. I mean, that's -- I don't have a problem with hearings. I mean, I think we have already set that in our track record with the ZRR. I'll hear them for eight years. I don't know if we have that much time because we want to get this done. I don't have a problem with hearing from the residents of the city because we're the ones who are trying to make this work for others and for the best interest of the city.

So I mean, that's just my thought on it. I've always been that way. I like to get everything complete, ready for us to roll out with it, but if we've got to get it in pieces and however it comes, if this Commission, if all of you all want to move forward tonight, either way.

And then about the issue in March, that's something that we need to work out because we need to

see how fast they're going to move with meeting with the stakeholders. That's my issue. Anybody else? Anybody else?

MS. COHEN: Maybe there is a definition of stakeholders that we're not aware of because as far as -- I'm just not sure if they're including ANCs as stakeholders. Maybe we can get a response to that.

CHAIRPERSON HOOD: Is there anyone here representing the Deputy Mayor's Office?

[No audible response.]

CHAIRPERSON HOOD: Okay. All right. Okay.
So --

MR. MAY: Mr. Chairman.

CHAIRPERSON HOOD: Yes.

MR. MAY: You know, I feel like this is -- you know, this has been going on for some time period and it's rather disappointing to hear two weeks before the hearing from the Deputy Mayor's Office saying that they're simply not ready when this has been -- you know, the petition was submitted almost a year ago and it was set down many months ago. And so, you know, now we can't go ahead because they haven't had a meeting with the petitioner.

I am not -- we're not going to be able to change that at this moment, but I also think that we

have the opportunity to make sure that the meetings that have to happen do in fact happen. And so I would, you know -- I'm fine with going ahead tonight and I know we're going to have to continue in order to get the views of the Office of Planning, and the Deputy Mayor, and potentially more ANCs.

I also would be fine with simply postponing the hearing to a date certain in March, and I believe there are some dates in March when we could go ahead. And since that was the specific request, I mean, I'd at least like to find out whether we can find a date that we can all be here, rather than speculate on who may or may not be here and when.

CHAIRPERSON HOOD: I appreciate that, Commissioner May. I've actually already had that conversation.

MR. MAY: So can you share that with us? Which dates are available?

CHAIRPERSON HOOD: We have March the 3rd, and I think the 31st.

MS. SCHELLIN: No.

CHAIRPERSON HOOD: Yeah. Okay. I knew it was one. Okay.

MS. SCHELLIN: Yeah, 31st.

CHAIRPERSON HOOD: March the 3rd. But for me

March the 3rd --

MR. MAY: March 3rd.

CHAIRPERSON HOOD: March the 3rd is running tight for what I need to do. And I don't think we have anything --

MS. SCHELLIN: March 7th.

CHAIRPERSON HOOD: We have March the --

MS. SCHELLIN: Which I think Commissioner May --

CHAIRPERSON HOOD: That's definitely tight.

MS. SCHELLIN: -- was a problem, for him.

CHAIRPERSON HOOD: See that?

MR. MAY: I'm going to make March 7th work. That's fine.

CHAIRPERSON HOOD: Okay. But March 7th probably won't work for me. So that's the issues.

Now March the 3rd is going to cut it close, but you know, March 3rd is really going to cut it close. So I had done my homework. I already knew March was bad for us as a full Commission. Now if you want to do four, that's fine. If I'm not available or somebody else is not available --

MS. SCHELLIN: The only other --

MR. TURNBULL: Can we -- since this is important, can we have a special hearing on a

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Wednesday night? I mean, I'd be willing to do that. I mean, we've got to get this thing going. I'd be willing to have, I mean, a special hearing where we come in on a Wednesday and get this thing -- get this thing moving. I don't know if my colleagues would agree with that.

CHAIRPERSON HOOD: What date is the 16th?

MR. MILLER: I'm fine.

CHAIRPERSON HOOD: What date is March the 16th on?

MS. SCHELLIN: A Wednesday, but isn't that --

CHAIRPERSON HOOD: I should be back Monday. Oh.

[Discussion off the record.]

MS. COHEN: Wait, can I make a suggestion that we -- can we vote before we agree to go to March, because I really don't know if we have the votes one way or the other, Mr. Chairman.

CHAIRPERSON HOOD: When you say vote, what do you mean?

MS. COHEN: Well, I'm not sure that everybody is in favor of pushing it away instead of hearing it tonight.

CHAIRPERSON HOOD: Well, here is where I am. I think --

MS. COHEN: I mean, I know you like to, you know, consensus --

CHAIRPERSON HOOD: I think, from what I'm hearing, is that we want to hear from what we have tonight, and then we follow back up in March. That's what I'm hearing. That's what I'm hearing.

MR. MAY: I thought Commissioner Miller had suggested that we do a complete postponement until March, so long as we had a date certain in March.

MR. MILLER: I did say that.

CHAIRPERSON HOOD: Oh.

MR. MAY: Yeah.

MS. SCHELLIN: What I heard from the two of them was that if it was postponed to March, and I thought Commissioner May too, then they were willing to do a total postponement to March, but not later than March.

CHAIRPERSON HOOD: Okay. March 3rd. Does March 3rd work for everybody?

MR. MAY: Yes.

CHAIRPERSON HOOD: Is that what everybody wants to do, March the 3rd?

MR. TURNBULL: I'll agree to that as long as DMPED gets their act together and meets and does what they're supposed to do, and that all of the ANCs get

notified. I mean, this has got to happen. We just can't keep postponing it. I'm willing to do it this one time, and if they're not here we're going ahead.

MS. COHEN: Mr. Chairman, this is something new that I have to say. I believe strongly that housing in the City of Washington D.C. is a crisis. IZ will not settle the issue, but I think it's important to demonstrate to everyone in the city that it's very important to us, that we did advertise, that we did have a thorough setdown report, and that we want to move this along. I mean, if DMPED is not prepared and they want to still negotiate, fine, they'll get more information tonight.

But I think we need to demonstrate to the public that housing is in the forefront of the agenda and we respect that. I think there are mixed signals coming out of the Mayor's office and I would like to put that to rest and say, no, it is a very, very important need in the city and we're going to push it and get DMPED and OP on board at a later day, with their refinements.

But I think we have enough to go by to have a meaningful hearing tonight.

CHAIRPERSON HOOD: Ms. Schellin, and I think March 3rd is, that's on a Wednesday. When is our

oversight --

MS. SCHELLIN: No, it's actually Thursday.

CHAIRPERSON HOOD: It's a Thursday?

MS. SCHELLIN: Yeah, it's a regular hearing.

CHAIRPERSON HOOD: Okay. So our oversight hearing is March the 2nd. So we can say we're having it on the 3rd. Okay. So that's what you all -- that's --

MS. SCHELLIN: And, Chairman Hood, if I may? Regarding the ANCs --

CHAIRPERSON HOOD: I think, I think, why don't we do this since everybody is here and I don't want to -- why don't we do a -- we're going to do a continuation. We'll hear from you tonight and we're going to do a continuation. I don't know, let me ask Ms. Cort, the petitioner, if you can come forward. I mean, you know, you've heard us go back and forth and around so I'd just like to hear from you.

We threw out a number of scenarios which are all over the place, but, Ms. Cort, if you can introduce yourself and let us know kind of how you feel? And you've heard us, our conversation.

MS. CORT: Thank you, Chairman. I'm Cheryl Cort. I'm with the Coalition for Smarter Growth, but I'm representing the D.C. Campaign for Inclusionary

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Zoning. We are disappointed that DMPED has asked for a second postponement based on the argument that they wanted to convene a meeting with us. I was reached out to a couple of days ago to set a meeting for next week and DMPED has participated in the stakeholder meetings. We've had about five of them with the development industry that OP conducted. And that I think what happened is that we were working with stakeholders with OP and then that sort of got kicked up to the DMPED level with others, I think on the other side, talking to DMPED about their views on the work going on to an economic analysis at the DMPED level. I think -- or at the OP level.

I think at this point we have some basic kind of policy disagreements about how to look at some of the bonus density and some of the ways we're looking at compensation for reaching some of the proposals that Office of Planning has put forth in their setdown report.

So we're -- I mean, obviously we're prepared to go forward tonight. We're frustrated that there's been a request for an additional postponement since we have done a lot of work with stakeholders and DMPED has been participating in those stakeholder workgroups. But we also, we would agree to a

postponement but we'd be extremely disappointed and we would defer to the Zoning Commission in terms of your interest in sort of correcting some of the shortfall that we all kind of recognize in a program that you created many years ago.

CHAIRPERSON HOOD: Ms. Cort, let me ask you. Do you think there's some hope? You heard our discussion about March the 3rd, and I guess you all are going to be convening next week? The Deputy Mayor --

MS. CORT: I haven't received a confirmation. It was just a date. We did not hear -- we repeatedly requested for the first postponement, we repeatedly requested to schedule a meeting with DMPED when they postponed from the November -- that hearing date when they postponed that, saying they wanted to meet with us and meet with all the stakeholders before we went forward. So we were like, when are we going to meet, when are we going to meet? We never received any request for a meeting at that point.

CHAIRPERSON HOOD: Let me -- give me a moment. Let me ask you this. Do you think the signal coming from us that we want to proceed on March the 3rd, which is a question for some of us, do you think that that will help with those meetings and

would the coalition and the campaign be agreeable to that?

MS. CORT: You know, again, we're disappointed with this request for a delay. We don't think that we've sort of had quite the diligence in putting together these extra meetings outside of the many stakeholder meetings that we've already had with all the sides related to this matter. We certainly are concerned about perpetual delay of having a hearing. We recognize that Office of Planning hasn't provided its final recommendations but we actually have a lot of good work that's gone in to all of the work groups with stakeholder workgroups and included that building industry.

And so, you know, I'd defer to the Zoning Commission about that decision. We were prepared to go forward tonight, but we defer to you and you know, we can agree to the delay but we certainly are prepared to go forward tonight and we're anxious to share our views of where we think we are and the opportunities that we have to strengthen inclusionary zoning.

CHAIRPERSON HOOD: Let me ask, does anybody in the room, colleagues or maybe Office of Planning, or maybe you, Ms. Cort, know the outreach to the

elected -- the ground floor, or the grassroot ANC elected officials? Do you know of any -- have they been involved with those stakeholder meetings?

MS. CORT: No, it was more sort of a workgroup. Actually it was about pretty technical -- it was to review the performance of the program and sort of what kind of administrative changes have taken place that have really improve the performance of the program. And then based on that look at things like, where are kind of the problems in terms of 80 percent AMI are the slowest to move, and looking at the reasons for that. And so it was sort of more a -- and then refining a residual -- a land value model to calibrate how we can use bonus density to pay for increased affordability.

So it was more getting sort of checking in with the key stakeholders like D.C. Building Industry Association and other developers who have been involved in us and nonprofit developers and CNHED and you know, those sort of the -- so not electeds, but more like the kind of housing stakeholders across the city from for-profit to nonprofit, to advocacy.

CHAIRPERSON HOOD: Okay. Vice Chair.

MS. COHEN: Thank you, Mr. Chairman. Who else is part of this Inclusionary Zoning Coalition?

MS. CORT: So the Campaign for Inclusionary Zoning includes some for-profit developers, nonprofit developers, D.C. Fiscal Policy Institute, Jews United for Justice, AFLCIO, Labor Council. I'm trying to remember who else. It's the names on the list that we've submitted to you in our filings.

MS. COHEN: So my position being that this hearing could be very helpful and maybe get more people engaged for your meetings and get them more aware. Not that they're going to necessarily watch tonight or go for the record. But how can we get more people engaged in this?

MS. CORT: You know, it has been a very confusing thing because we basically put forward essentially something of a strawman in terms of our zoning text amendment because nothing was happening. We had asked, you had asked, the council -- the Commission had asked, and asked, and asked, when are we going to revisit inclusionary zoning? When, when, when? And the answer from Office of Planning is, oh, we're going to -- we're just about to get to that.

And so when everything -- you know, when we still didn't have any progress whatsoever, we submitted a zoning text amendment as a starting point and then we got a response. Then we got Office of

Planning to respond with their proposals. And now we' have something to work with.

Now when you look at the note, the hearing notice, it's this like 14-page, you know, notice. It's very confusing. And so I think that that's actually what's discouraged participation on the part of ANCs because it is confusing, because I'm trying to explain to people, we're actually not really talking about what we originally proposed. We're actually talking about what the setdown report says. And we want to see 1B to bring all rental units to 60 percent AMI. That is our goal, basically. And we get that out of the setdown report, and we're working towards the economic analysis that has been developed by Office of Planning to do that.

And we would like to better inform and educate ANCs and others about that that's really what we're talking about here. Not all this like really complicated, you know, like off-site and you know, there's a lot of details that people don't -- unless they really want to get into the weeds, they don't need to know about.

What they need to know about is what's really at stake here is those 80 percent AMI units, the rental levels simply don't help us. They're too

close to market. They don't move well in the lottery process. And it's really getting those rentals to 60 percent AMI. That is really what we can do to make - - to really have IZ really accomplish something for the city.

CHAIRPERSON HOOD: And just what you just said there, if we had -- we do a one-pager. We've got a great staff. Ms. Barton and this gentleman, we've got a great staff. We can send that out today. It won't be that 30-pager or whatever, 14, or however many pages. And then the ANCs -- this is where -- I'm thinking this as I go along. Then the ANCs can hear your presentation. You've done a lot of work. What you just explained, a lot of people need to hear that.

The unfortunate side of going with it tonight is they won't hear that. And I can go back. Most people don't go and stream us and I don't think. Does anybody go back and look at our past hearings, unless they can't go to sleep. Oh, when you all can't go to sleep you go back and look at it. But I think that information is very important. I mean, that's just my view.

But you know, what? At this point I -- does anybody see that view the same way I do? Ms.

Schellin, I know you all can -- you and Ms. Barton can work on that one-pager for me.

MR. TURNBULL: Well, no. And I think Ms. Cort, as she's ready to go, but I think as she did say that part of the issue is maybe some of the stuff that the Office of Zoning has put out that makes it unclear, and that people don't understand where we are. And that's what I'm afraid of with the ANCs, that we don't get the response back. And I think we need to do the due diligence to make sure that the ANCs understand what they've put out and what they, you know, what they've got.

And maybe we need to -- I mean, we've got one month to get this thing done. And it's got to happen really quickly and efficiently.

CHAIRPERSON HOOD: A one-pager with soundbites would get everyone's attention. Then when the petitioner come down, or petitioners come down and they do their presentation, a lot of times a lot of the audience is educated when our applicants come, petitioners come, they're educated in that scene, that form.

MR. TURNBULL: Well, and I think maybe they've got to be invited to some of these stakeholder meetings.

CHAIRPERSON HOOD: Well, do you know what? Even if they didn't go -- now we really doing this on the cuff. But even if --

MR. TURNBULL: I know. I know that this is --

CHAIRPERSON HOOD: -- they didn't go to the stakeholder meetings, if they came to the hearing on the 3rd --

MR. TURNBULL: Yes.

CHAIRPERSON HOOD: -- we may end up with the same result.

MR. TURNBULL: Right.

CHAIRPERSON HOOD: But when Ms. Cort and her group do their presentation that will be an education.

MR. TURNBULL: They'll know.

CHAIRPERSON HOOD: Right.

MR. TURNBULL: Okay.

CHAIRPERSON HOOD: So first we've got to do the one-pager, and not the -- how many pages was it?

MS. CORT: I actually don't think the government is in the position to do that. I mean, we want to implement Option 1B, right? There's an Option 1A that we don't think is as good, and that's among seven recommendations coming out of the setdown

report. So I mean, we did a briefing with activists and we've done a lot of follow-up briefings. But you know, I think that this is really -- there's some pretty technical questions about how we are accomplishing compensation in terms of the bonus density, and that that's really where the crux of why this was kicked up to DMPED's level rather than the stakeholder workgroups that we were dealing with at the Office of Planning level.

CHAIRPERSON HOOD: Okay. We're going to -- let me hear from my colleagues again. I threw another way we probably could proceed. But, you know, let me hear from you all because what's going to wind up happening, we're going to spend more time on this and we could have had a first of the first of the hearing. So let me hear from everybody. The last -- let's do a summation. Commissioner May, you can start.

MR. MAY: Okay. So the more I hear about the substance of it and where we think it might be heading, the more I am inclined to simply postpone entirely until a date certain, preferably March 3rd, in the hopes that we get, you know, whatever meeting DMPED wants to have can happen. But I really am looking for a more thorough analysis and

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understanding of the issues that have -- that are, you know, that we're currently trying to address. And as they are -- you know, they've been explained in the public hearing notice. I mean, I found the public hearing notice very confusing too. And so, I mean, I'd like to see some side by side comparisons between what was originally proposed by the petitioner and what was, you know, what was also set down, which was the OP language. And to get some understanding of what the issues are that people have raised in association with some of those proposed changes. So, you know, what the concerns are with various compensation schemes and so on.

So, I mean, I just, I am often a proponent of postponing hearings when I feel like the material that we're evaluating is half-baked. And as we sit here and discuss it I'm getting the feeling that this is still half-baked. But that doesn't mean that I want to leave it in the oven for another six months. It means that, you know, we need to put pressure on to make sure that it happens in five weeks.

CHAIRPERSON HOOD: Okay. Vice Chair, comments? Final.

MS. COHEN: Mr. Chairman, I'm still of the position of having a -- as advertised, a public

hearing that is open and transparent. I think it can be used to inform the so-called stakeholders' meeting, which I don't want to say isn't important. This is all about -- I was in the business of financing affordable housing for many, many, many years. And this is about economics. And I think there are assumptions that have to be questioned and evaluated. I know OP did quite a bit of that on the setdown report. I have additional questions on that report and other reports. But I would still think that it is important when people come out to -- and expect a hearing, we need to hold it and begin the discussion so that people who are not engaged, become engaged.

CHAIRPERSON HOOD: Okay. Commissioner Miller, closing.

MR. MILLER: Well, as I said, it's very frustrating and disappointing that we're in this position. I can go either way. My actual preference would be to have the hearing tonight and vote on Option 1B at the original level that you had, which was 50 percent for rental and 70 percent for for sale. But I'll go with the 60 and 80 if that's what the petitioner has come to.

So that's where I am. I think there is an

urgency. I think five weeks is not unreasonable on top of the two months, on top of the six months after setdown, on top of the two years after we were asking before the petitioners finally came forward. So it's very frustrating.

But I can -- the people are here. I can go either way. I don't think the Option 1B is half-baked, though. I want to make that clear. I think it's -- we've heard in all of the cases that we've had, how much the rental need, affordability needed to be below that 80 percent and it just wasn't producing the affordability level that we wanted. And I thought that's what we -- that's mostly what we were asking for when we were asking for that case to come forward. And it did come forward almost a year ago.

So I can go either way, Mr. Chairman.

CHAIRPERSON HOOD: Okay. Mr. Turnbull.

MR. TURNBULL: Mr. Chair, I would echo the concerns of my colleagues. I'm very frustrated with this. I think the petitioner has done a lot of work getting this out on the table and I'd love to see this go ahead. But I also see the frustration that we've also got that we don't have some of the participation of the ANCs. And I really feel that

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that's a -- that is something we need to have.

So if we have a date certain and it's going to be March 3rd, I think I would agree with Commissioner Miller that it's not that far out, but it's got -- I mean, DMPED has got to do their damn homework and get this -- and OP hopefully will push them to do this. And I'd be willing to put it to March 3rd. But it's got to be March 3rd. We're not going past March 3rd. It's going to happen no matter what. But it's got to be March 3rd or -- if they're not here, they're not here. We're starting this.

CHAIRPERSON HOOD: Okay. All right. So March 3rd is the date. We're going to -- unless we need to do a vote I think I've heard enough here to postpone it to March the 3rd. And if we don't have a full Commission we'll just operate on four. And I want to put that out there in front so we'll know, up front, that one of us may not be here. So if we don't, that's fine. March 3rd is fine.

But here's the other thing, I want to make sure we've got a plan going forward. You know, whether I'm here or not I want to make sure that there's a plan going forward. I'm going to do what I can to be here, but -- because it's not just about me. This is about -- this is a city issue and I

don't want to delay. I don't want to be any more parts of any more delays.

But I will tell you that we need to make sure that we have that one-pager that I'm looking for. I keep talking about the one-pager. I talked about that last week. I guess at the appropriate time Office of Planning will be able to have a report. I'm hoping that meeting happens, that we need to make sure that we memorialize something to the Deputy Mayor's Office that their actions, that they may be watching us on stream tonight. But we need to make sure that they understand the severity of moving forward on March the 3rd. If I need to have a conversation, I will.

But we need to -- March 3rd is what the Commission is saying. Those stakeholder meetings need to happen. But I'm more concerned about the ANC. I want us to do a one-pager, and at least -- even if it's not getting to the specifics of what's being proposed because even the people tuning in, or if they come down here and listen to what's being proposed. To me, I'm very concerned about that.

Did I leave anything out?

MS. SCHELLIN: Chairman Hood, I would like to just speak to the ANC with regard to the return

notices. Whenever we get a return notice from an ANC we do investigate the address. We check with Gottlieb Simon's office, and even while sitting up here on the dais I did check the four or five notices that came back, and checked the ANC's website and the addresses that they have listed for their mailing addresses are the addresses that we have. And so we'll do what we can. We will investigate again, make some phone calls, see if maybe they have an alternative that's no -- you know, the one that's on their website is no longer working. And obviously what we're getting from Gottlieb Simon's office is no longer good and we may just have to contact the ANCs directly.

But we'll do what we can to make sure that they all are getting the notices.

CHAIRPERSON HOOD: But understand, I know that we had two or three returned.

MS. SCHELLIN: There was four or five.

CHAIRPERSON HOOD: Okay. Four or five. But how many ANCs do we have? It used to be 37. I'm sure it's --

MS. SCHELLIN: It's --

CHAIRPERSON HOOD: What is it?

MS. SCHELLIN: Yeah.

CHAIRPERSON HOOD: It's more than that now, I'm sure.

MS. SCHELLIN: Yeah.

CHAIRPERSON HOOD: Because Ward 5, we expanded. So what I'm saying is four or five that came back, to have not seen what I think one commissioner -- I know we have one commissioner in the audience. Do we have any other commissioners in the audience? Okay. Two commissioners. Maybe I don't know all the commissioners. We have two commissioners in the audience and a former Civic Association President. So I do recognize that. But that concerns me, same as it did with penthouses. I get concerned when I see that.

So March 3rd is the date. Hopefully we've got a plan going forward and Ms. Barton and Ms. Schellin can come up with a one-pager. I don't know how --

MS. SCHELLIN: And maybe we can send that out separate from the notice so that way they won't toss our notice, maybe.

CHAIRPERSON HOOD: Right. Toss them in the - - and ask them to at least be in attendance or at least stream us. You all can work that out.

MS. SCHELLIN: Yes. Yes, we will.

CHAIRPERSON HOOD: And we're going to probably have a report from the Office of Planning by then?

MS. STEINGASSER: Yes, sir.

CHAIRPERSON HOOD: Okay. And they're going to probably have a couple of meetings in the Month of February?

MS. CORT: We hope so. I mean, I would just -- I appreciate Commissioner Turnbull's comments. I think that we have enough information to actually confidently go forward with or without DMPED. They have been playing catch up and haven't caught up yet. It seems like we've been waiting for them for a long time.

CHAIRPERSON HOOD: Okay. So --

MR. TURNBULL: Well, we're not going to wait past the 3rd.

CHAIRPERSON HOOD: Okay. So do we have anything else, colleagues, going forward?

[No audible response.]

CHAIRPERSON HOOD: All right. So this rulemaking case, this case is going to be delayed to March the 3rd at 6:30. And with the plan going forward.

Now, Ms. Schellin, are we going to -- how are

we going to -- how can we get the word to the Deputy Mayor's Office that somebody with Office of Planning --

MS. SCHELLIN: I'll call, but we've --

CHAIRPERSON HOOD: Oh, do I need to call Mr. Kenner?

MS. SCHELLIN: I'll call.

CHAIRPERSON HOOD: Maybe I might bump into him.

MS. CORT: We'll be happy to send them an e-mail and --

CHAIRPERSON HOOD: Okay. Great. Okay. All right. So that's the plan. Again, and let me say this, I apologize for those who did come out tonight. I know I've heard the comments, but this is not our first time postponing. But hopefully as we move forward we can bridge some of the gap. If not we will move forward as stated by my colleagues, on March the 3rd.

Okay. Anything else, Ms. Schellin?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: Colleagues, any other comments?

[No audible response.]

CHAIRPERSON HOOD: Okay. With that this is

not adjourned. This is going to be postponed to
March the 3rd at 6:30 p.m.

[Hearing adjourned at 7:21 p.m.]