GOVERNMENT OF THE DISTRICT OF COLUMBIA

Zoning Commission

Public Hearing

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

6:32 p.m. to 8:58 p.m.

Wednesday, July 13, 2016

Jerrily R. Kress Memorial Hearing Room

441 4th Street, N.W., Suite 220 South

Washington, D.C. 20001

Board Members:

ANTHONY HOOD, Chairman
MARCIE COHEN, Vice Chair
PETER MAY, Commissioner
ROBERT MILLER, Commissioner
MICHAEL TURNBULL, Commissioner

Office of Zoning:

SHARON SCHELLIN, Secretary

Office of Planning:

JOEL LAWSON
ARTHUR ROGERS

P R O C E E D I N G S

CHAIRPERSON HOOD: Okay. Good evening, ladies and gentlemen, we're ready to get started.

This is a further public hearing on designated issues of the Zoning Commission for the District of Columbia for Wednesday, July the 13th, 2018, on Zoning Commission Case No. 04-33G, Inclusionary Zoning.

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

This proceeding is being recorded by a court reporter and is also webcast live. Accordingly we must ask you to refrain from any disruptive noises or actions in the hearing room, including the display of any signs of 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. This hearing will be conducted in accordance with provisions of 11-DCMR-3021 as follows; preliminary matters. We will have 15 minute presentations by the petitioner and the DCBIA. We have a request of the order of that, and we could talk about that further after I finish the opening statement.

Reports of government agencies, reports of advisory neighborhood commission, or commissions, organizations and persons in support, organizations and persons in opposition. The following time constraints will be maintained in this meeting. Organizations five minutes, individuals three minutes. The commission intends to adhere to the time limits as strictly as possible in order to hear the case in a reasonable period of time. The Commission reserves the right to change the time limits for presentations if necessary, and notes that at no time shall be exceeded.

Further, the Commission reserves the right to pose questions to the Office of Planning at any time during the hearing in following the completion of the testimony.

The presentations and testimony from organizations and individuals this evening are to be limited to the five decision points and the options listed under each point as advertised in the public hearing notice.

All persons wishing to testify before the

Commission in this evening's case, this evening's hearing, are asked to sign up to the witness kiosk to my left and fill out two witness cards. These cards are located to my left on the table near the door.

Upon coming forward to speak to the commission, please give both cards to the reporter sitting to my right before taking a seat at the table. When presenting information to the Commission, please turn on and speak into the microphone, first stating your name and home address. 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 electronic devices at this time so not to disrupt these proceedings. At this time the Commission will consider any preliminary matters. Does the staff have any preliminary matters?

MS. SCHELLIN: No other matters other than the one that you mentioned that the petitioner has requested that DCBIA do their 15-minute presentation before they go, just to switch that order.

CHAIRPERSON HOOD: Okay. Commissioners, we have a request and I think it's a very viable request to let the petitioners go after so they can make comments on whatever we're presented by DCBIA's walkthrough as we call it. So any objections to that?

Okay. Not seeing any, we will go in that order. Ms. Schellin, we have anything else?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: I will ask that the first group come up. Bill Alsup, Bryan Moll and Buwa Binitie. Or whoever is with the group, you can just come on up. I was given a list of names. And this will be DCBIA's presentation.

So what I'll ask you to do is if you can -- everybody can identify yourselves, and you all may begin. Whoever wants to go first. Just everybody identify yourselves, then you all can go.

Oh, I'm sorry. It's off up here. Okay. Thank you.

MR. ALSUP: There we go. Bill Alsup. I'm with Hines Interest Limited Partnership. I'm here representing DCBIA.

MR. MOLL: Bryan Moll with the JBG Companies. I'm a principle with JBG.

MR. LEPINE: Ryan Lepine. I am representing WC Smith and also speaking on behalf of Buwa Binitie.

CHAIRPERSON HOOD: Your name again is Bryan?

MR. LEPINE: Ryan.

CHAIRPERSON HOOD: Ryan. What's your last name?

MR. LEPINE: Lepine.

CHAIRPERSON HOOD: Lepine.

MR. LEPINE: L-E-P-I-N-E.

MR. MOLL: It's our understanding that Buwa is stuck at an ANC meeting, I believe.

CHAIRPERSON HOOD: Okay. All right. So you all may begin. You have 15 minutes.

MR. ALSUP: Thank you. Good evening, Chairperson Hood, Members of the Zoning Commission, and staff. I am Bill Alsup, senior managing director of Hines. I'm also a past president of the D.C. Building Industry Association. Currently serve on its board of directors, and serve as a co-chair of the Inclusionary Zoning Committee.

I'm joined by Bryan Moll of the JBG Companies, and now Ryan of William C. Smith Companies, substituting for Buwa Binitie.

Bryan is also a member of the Board of Directors of DCBIA. Bryan and Ryan will provide specific feedback to each of the five decision points we have been requested to discuss at this hearing.

As you know, and some of the commissioners stated in the June 13 hearing, the importance of understanding and taking into account the impact to land value for Inclusionary Zoning projects cannot be over emphasized. A developer who is building a residential project, or really any investment grade project, must ensure that the project is financial viable for both the equity investment requirement and the debt financing requirement.

Considerations include land cost construction risks, hard and soft costs. Land costs, land value/land cost, is the primary development cost variable if a project -- variable, and if a project is not financial viable because of land cost, the developer will not be able to proceed with acquisition of a site and development of a site.

DCBIA does now believe that the Office of Planning's Option 1A recommendations outlined in the June 10 report, will not have -- this is almost a double-negative, but we believe those recommendations will not have a material adverse impact. And I say material. There is adverse, but we all make a judgment of what's material.

A material adverse impact on the production of either new affordable, or new market rate housing.

And the two go together. When we produce this affordable housing the market rate housing is coming along with it. Tonight, I would like to present to you our developer analysis which supports this. Please turn your attention to the table attached to my testimony. And do you have the hard copies of those now? All right. I will come back to the table after my few brief comments and just to outline what the basic components of the table are.

In our analysis we continue to use the Office of Planning's 100-unit housing model, except that we added a .33 parking ratio across all zones. And that's because we believe this is a minimum standard for a viable project and it helps each of these analysis be apples to apples.

We made this change to standardize the discussion across all zones. Is the table there attached to -- okay. I would like to highlight two major observations in our analysis. First, in the option 1A recommendation, we see a range of land value impact from neutral to negative in most zones. Option 1B, however, has the most negative impact to land value, especially in zones C-R, C-3-C, W-3, and W-2.

With this percentage of negative impact

ranging from 17.5 percent to 20.14 percent, by a contrast our analysis indicates Option 1A achieves the goal to deepen affordability levels for IZ projects in the near term, while having the least negative impact on land value.

The second thing I'd like to point out is that in our analysis, the impact to zone C-2-B, a zone we believe currently has the most potential for affordable housing, such as neighborhoods near Rhode Island Avenue Northeast, South Dakota Northeast, and Alabama Avenue Southeast, the impact to land value is significantly less sever under Option 1A.

I would like to turn to the table now quickly, just to describe how our presentation approach. It will take the Commission looking at it thoroughly later, but I'll point out a few of the analytical approaches. The table, we called it our developer analysis. The objective is to identify land value for different scenarios.

So the first column is the zone. We analyzed each zone separately. The second column is current IZ. The third column is the Office of Planning recommendation 1A. The fourth column is 1B.

So if we take the first line that says land value per the OP model, example, Zone 2A, the current

IZ would give an indicative land value of seven and a half million dollars. Recommendation 1A is in the range of seven and a half million dollars. But 1B is in the range of $7,200,000. That's a negative impact of minus four percent for that one.

But if you go to the second one, the C-R zone, you see that negative impact is 20 percent. And so there are -- zone C-R is minus 20 percent. C-2-B would be minus 8.96 percent of 1B, et cetera. Down at C-2-C there's another minus 20 percent.

Back to the 1A column, there are a few of the zones the end up in the range of minus five percent. And those are the ones that are in bold. C-3-A is minus five percent. C-2-B, minus five percent. W-2, the waterfront ones, minus 10 percent. So that, you see at the top at our note 3, before we started all this we set an internal. If the impact -- this is subjective -- was in the range of minus 2.5 percent, we thought because of the subjectivity of these analysis the market could kind of stand it. So that was what we had set before we started this in our range, those many months of working with the applicant and with the Office of Planning.

Several of these zones do have an impact in the range of five percent. And I mentioned that one in the range of 10 percent. But on balance it seemed DCBAI that that should be manageable within the market without having a material impact on the delivery of projects because land owners would not sell their land at that reduced land value is what happens. They are expecting a certain land value and if it's minus, sometimes the project doesn't work at that minus, and then that's why nothing will happen.

I'll finish my comments and then if you'd like to ask about the table. This is our conclusion. DCBIA continues to be a staunch advocate for creating more affordable housing. As noted in testimony we have provided to date, the deeper affordable levels proposed by Option 1B, without the possibility of additional height and density or other subsidies, will result in a material reduction of both new affordable and market rate housing construction.

I will close by saying that DCBIA and its members are eager to participate in the Office of Planning's comprehensive planned amendment process, which is expected to begin soon.

The Comp Plan process is a key opportunity to allow for increased high density and heights in the right zones to support the creation and preservation of more affordable housing and market rate housing in the District. Our recommendation is that the zoning commission adopt the Office of Planning's Option 1A.

We thank you for convening today's hearing and giving us the opportunity to present our analysis. Bryan and Ryan will now provide testimony specific to the five decision points. I am available to ask any questions at this point if it would help facilitate understanding, or we can wait. Thank you, Mr. Chairman.

CHAIRPERSON HOOD: We'll go ahead and let you all finish.

MR. MOLL: Thank you, Chairperson Hood, Members of the Zoning Commission and staff. As I mentioned, my name is Bryan Moll. I'm a principle of the JBG companies and I am also an active board member of DCBIA and a co-chair of DCBIA's Inclusionary Zoning Subcommittee.

I would like to note from the outset that JBG has followed the current Inclusionary Zoning requirements at several of our D.C. projects. In our experience the relationship between bonus density and affordable housing, the relationship between bonus density and affordable housing in the current IZ regulations has worked effectively to deliver units for moderate income families throughout the District.

The scope of tonight's additional public hearing is limited to the first five decision points described in the Office of Planning's report, dated June 10th, 2016. I will cover the first three decision points and my colleague, Ryan Lepine, will cover the last two.

As Bill mentioned, we appreciate this additional opportunity to provide feedback to you. DCBIA has received additional feedback that has led to the analysis conclusions that we are articulating at this hearing from its membership. 1A, shift targeted median family income. The OP final recommendation 1A amended Section 26, 033.3 is to expand the requirement to split IZ units between 50 percent and 80 percent of MFI to C-2-B, C-2-B-1, C-3-A, W-2, S-P-1 zone districts.

On recommendation 1 DCBIA supports the recommendation 1A, to split IZ units between 50 percent and 80 percent, MFI and the zones described. DCBIA considers a negative 2.5 percent impact to land value to be manageable, and anything more significant to have a negative impact to the financial viability of our projects. We believe Option 1A is best of the options that are currently being considered because although the analysis and member feedback suggests that as a result of 1A some projects will indeed have an impact of greater than 2.5 percent, as you can see on the chart. 1A deepens affordability in the near term with the least amount of negative consequences to the financial viability of projects. A larger loss of land value would result in the diminished creation of affordable housing and market rate housing in the near term.

2A, change of percent IZ square footage requirement, OP final recommendation. In expanded zones of OP's recommendation 1A listed above, keep the eight percent of residential square footage requirement, but eliminate the IZ requirement connected to 50 percent of the bonus density achieved. On recommendation two, DCBIA supports option 2A, the change to eliminate the IZ requirement connected to 50 percent of the bonus density achieved has very little to no impact on land value.

3A, expand IZ requirements to current exempted zone districts. Options A, OP final recommendation, retain current exempt zone districts except for Hill East. OP notes that the Hill East set-aside and MFI recommendations did not make it into the final report for the public hearing advertisement and OP submitted new text to exempt sites such as portions of Hill East from the IZ requirements when they are subject to greater affordability requirements under District law.

For the third recommendation, DCBIA supports option 3A. Based on our analysis and general feedback from members the impact to the land value with this change is low. It is, however, important to note that there will be some cases in which the impact could be extensive. In one instance the DCBIA member expected a negative impact to land value on the project over five percent. With this level of impact it is easy to see why developers, even those who work hard to ensure affordable housing is provided as part of our projects as Bill, Buwa who is not here, Ryan, and I do. Our concern that changing the IZ program without further action taken to provide density through the comp plan or other abatements will hurt the financial viability of projects and the creation of affordable and market rate housing.

Again, we thank you for convening today's hearing. Ryan will now provide testimony on the final two recommendations of the subject of this hearing, and we encourage the Zoning Commission to adopt OP's Option 1A to achieve the goal of deeper affordability without negatively impacting land value, and the financial viability of projects. And as a result, the production of more affordable and market rate units in the near term. Thank you.

MR. LEPINE: Good evening, Chairperson Hood, Members of the Zoning Commission, and staff.

As mentioned, I am Ryan Lepine, Development Senior Financial Analyst of WC Smith Company and one of a very few handful of for profit firms dedicated to producing and preserving affordable housing, over 2,000 units to date. My testimony centers on the final two recommendations outlined in the Office of Planning's report dated June 10th, 2016.

As my colleague Brian Moll mentioned, DCBIA has received active feedback that has led to the analysis and conclusions that we are articulating at this hearing.

Number 4A. Increased bonus density. OP final recommendation, Section 2604, retained current percent of bonus density permitted. On Recommendation 4, DCBIA supports recommendation 4A to retain the current percentage of bonus density permitted. Maintaining 20 percent bonus density has little to no impact to land value.

However, it is important to note that of the

118 projects under the current IZ program, a vast majority of them have received some type of other subsidy tool, such as the low income housing tax credit, Housing Production Trust Fund resources, or rental income subsidy, also known as project-based vouchers.

As I mentioned at the April 14th hearing IZ is designed to offer bonus density and/or height to offset the cost of producing affordable housing. Many projects are not able to secure financing to see affordable housing construction reach its completion without significant financial subsidy. We believe OP's Option 1A recommendation is the best option available before us.

Number 5A, change flexibility and permitted building envelop options. OP final recommendation, amended section 2604.2, increased the permitted height by 10 feet in the C-2-C and C-3-C zone districts and reduced permitted lot occupancy in the C-2-C to 80 percent.

For recommendation 5, DCBIA supports the Office of Planning's 5A recommendation, to increase height by 10 feet in the zone's outlined and reduce permitted lot occupancy in the C-2-C zone to 80 percent. Most of the feedback that we received from members shows that there is no impact to land value with this recommendation. The caution, however, is that some properties may not be able to take advantage of height increases because of the Height of Buildings Act of 1910 that limits the height based on the width of the street.

Finally, I want to mention that as the Commission considers making changes to IZ, it is critically important to ensure that an adequate grandfathering period is allowed to ensure that active projects are able to be completed under one known set of IZ rules. As mentioned throughout our testimony tonight there are many economic and financial factors that impact affordable housing construction. And any new rules implemented while in process, will negatively impact the financial viability of those projects.

This concludes my remarks. I will echo our appreciation for the additional opportunity you are providing here tonight to provide our testimony. Again, we encourage the Zoning Commission to adopt Option 1A, to achieve the goal of deeper affordability in the near term without negatively impacting land value. The financial viability of projects and as a result the production of more affordability and market rate units in the District of Columbia. We're available to answer any questions you may have. Thank you.

CHAIRPERSON HOOD: Okay. I want to thank the three of you. Let's see if we have any follow up questions or comments. Commissioner May?

MR. MAY: Sure. Okay. So first thing, from Mr. Alsup. I think you testified that the biggest component of the cost of a project is the property value. Right?

MR. ALSUP: Excuse me. The biggest variable.

MR. MAY: Biggest variable. Got it.

MR. ALSUP: Design a quality building, the building is going to cost so much. You don't want to be cheap but --

MR. MAY: So much per unit. Yeah, right. Okay.

MR. ALSUP: And that's what -- so when you're --

MR. MAY: So, and this is a question all three of you can answer, for the projects that you already have and, you know, active or planned, what percentage of those are on property that you already own?

MR. MOLL: I'd say, for us, probably about

50/50.

MR. LEPINE: I would say for us it's a little less than that. Maybe 40/60.

MR. MAY: Forty percent owned and 60 percent.

MR. LEPINE: Sixty percent occupied or not under our current control.

MR. MAY: Right.

MR. ALSUP: Probably only 20 percent is owned by us.

MR. MAY: Okay. So, the overall emphasis of the testimony seems to be, particularly in the analysis in that chart seems to be that increasing the IZ requirement more substantially as you would with Option B or whatever it -- you know, the second option, the one you don't support, would drive down property values. And I mean, I did hear testimony indicating that okay, well that means that some sellers won't want to sell because they can't get the dollars that they want. But isn't the market going to adjust to that over time? Isn't the property value just going to be -- I mean, we're not talking about in market where property values are flat. We're talking about a market where property values are climbing steadily and have been for many years. And I mean, isn't it in some ways desirable to slow down that growth? Wouldn't this have that that effect to slow down that growth so that the property that you were going to buy, and 50 percent of the property you're going to buy, at least, some cases 80 percent of the property you are going to buy, wouldn't it be better off that it's $800,000 instead of a million dollars? I mean, what's --

MR. ALSUP: I'll initially think of two or three considerations.

MR. MAY: sure.

MR. ALSUP: And Bryan may -- if you're already the owner then you're stuck with it. But the say, cash flow that's generated won't be the same and you can't hit the target returns, the third-party investors, or debt fairly required to judge a financially viable project. So it slows you down. There is an adjustment, because you won't start if you don't have a certain return on your additional investment.

MR. MAY: Right. But wouldn't lower property values help -- I mean, if you're buying a property and you have to pay less for the property, isn't your return on the investment that potential greater?

MR. ALSUP: Well, it would be the same with a new IZ in place, the value of the property would fall depending on if it does fall, depending on the zone. When it falls the problem there is the current land owner. If I were a land owner and I owned a project, a site that the appraiser last year had told me under current IZ was worth $10 million, and if I'm trying to sell it now and Bryan comes along and will only pay $9 million, then you as a seller, what you usually do is wait. Especially in Washington. Almost more than any city we work in there are, the right word, long-term land owners that don't have to sell. And they just wait until they get their price.

And that's why we're afraid that scenario will slow down because they just won't sell until there is the adjustment. I agree, there will be a longer term adjustment. But what I'm afraid of is the two or three or four year period it takes to adjust for that. And that wouldn't even matter if the project had an adequate supply of especially rental housing. But I believe if we compare notes, our market already has a short supply of housing. And that's what drives the price of the housing up, not being able to produce new housing.

So if we're not producing new housing the land value may fall. But renters, occupancy costs are going to continue to go up even more because of a supply side constraint. And I think that's the biggest danger limiting the continued supply of housing in the District of Columbia.

MR. MAY: Right. Well, I would think we do need to know a little bit more about the argument of whether we truly have a shortage of market rate units at this moment. I don't know that it -- I mean, I don't think I've read really decisive information on that.

MR. ALSUP: I was with three persons last week that work in the District of Columbia, and I said, I'm a District of Columbia supporter. Do you live in the District? And they said they could -- and these were market rate people, moderate income. They said they could find more affordable for them, housing in Virginia or Maryland than the District right now.

MR. MAY: Well, that's certainly true, but that doesn't necessarily make your argument. I mean, you're basically saying that yeah, you can -- the areas further out from the core of the city are going to be less expensive. And that's true. What we're trying to do is keep the prices within the city more affordable.

MR. ALSUP: It would just make the

differential worse, maybe, then is what I'm saying.

MR. MAY: Well, yeah. And I mean, and I appreciate the information that we all -- I mean, we hear, we talk to people and all that but it really is anecdotal. There has to be sort of more aggregate information about the shortage of market rate housing. But anyway, why don't we move on and see what --

MR. MOLL: Well, Commissioner, I would just say on that point, and then I wanted to revisit what you were discussing first. I think I lost you and these numbers are around -- so forgive me if they're 1,000 units off here. But I believe here were 15 or 16,000 units absorbed in the District and only 14,000 created. And those numbers might be market wide, but the same, the actual absorption, the same sort of absorption and built I guess ratio if you will, existed in the District.

And it's sort of a shocker because there is a lot of supply that's being built right now, and I think it's frankly because there's a lot of job growth in D.C. right now. Sort of, you know, potentially counter cyclical to the rest of the U.S. I think as of --

MR. MAY: Actually, I think there's

substantial job growth across the country if you believe last week's figures.

MR. MOLL: Well, that's fair. That's a good point.

But I think as of April or May the last statistics that I saw D.C. added, you know, 65,000 jobs.

MR. MAY: Uh-huh.

MR. MOLL: And a lot of those in professional business services which are generally the higher paying sectors. So, you know, I think there is a lot of supply that's being built, and part of the reason why there was still some, although, you know albeit limited rental rate growth during the last couple of quarters was just because, again, the supply couldn't keep up with the demand.

MR. MAY: Uh-huh.

MR. MOLL: So that would be my first note. And then the second note to piggyback off of what Bill had said about land owners and being willing sellers, I mean, you know, we've found that you know, frankly long-term land owners can be incredibly stubborn. And generally speaking if they don't have a lot of debt on the property, which a lot of long-term owners don't have any debt on the property, they'll sit on it. And they'll wait for the market to rebound. And I think we've seen that in some limited slowdowns that we've had. You know, I think the financial crisis of 2007 saw a lot of panicked sellers or sellers that had to sell because they were over levered. But for those that are not levered, they've, you know -- they're willing to sit on their land until land values correct themselves.

MR. MAY: Uh-huh. So following up on the issue of supply outpacing the demand, why do you think that is? I mean, do you think that it is the availability of land that is the issue, or is it that you can only -- you know, we can only pedal so fast trying to keep up, because I certainly see -- I've seen a number of housing projects that are moving slowly or not moving at all for reasons that I don't quite understand. I mean, we still get time extension requests for PUDs. We, you know, I you know, bike past a bunch of you know, unfinished, unstarted PUDs every day. So why aren't these projects moving?

MR. MOLL: You know, I can't speak -- I don't know of any PUDs that we have that we've requested for time extensions lately, for a while that I know of. And, you know, I think a lot of times it's availability of capital. Sometimes developers will tie up a piece of property and perhaps overpay higher than the land value is really worth, and then they try to find third-party capital, and they go to the market and the market just says, it's not worth that much.

MR. MAY: Right. Right. Right.

MR. MOLL: So that could be a reason.

MR. MAY: But as far as you know it's not the lack of available land.

MR. MOLL: I mean, not necessarily. I mean, you know, you had asked the question why we're continuing to see demand keep up with supply. And, you know, I think you know, frankly if job growth had been sort of more toward the long-term norm which is, you know, 40,000 jobs a year or maybe a little bit lower than that, and we had delivered the number of units that we delivered last year and are projecting to deliver, you would have seen a, you know, a decline in the rental rate.

So I think just part of the issue is that it's, you know, D.C. Metropolitan wide, but certainly the District itself is becoming a very attractive place to live for a lot of people. And so you mix that with job growth.

MR. MAY: Becoming a more attractive place to live. It's been attractive for --

MR. MOLL: Did I say more attractive?

MR. MAY: You said attractive.

MR. MOLL: Not more attractive.

MR. MAY: Yes, you did.

MR. MOLL: I live in the District so I can say that with all my heart.

MR. MAY: As most of us.

MR. MOLL: Yeah.

MR. MAY: And have for decades. So, but I mean, you're answering the sort of the demand side of it. Again, it's to the supply and I don't think I really heard a clear answer on that. I mean, do you have capacity to develop that is going unused, whether it's -- I mean, when I say capacity that means, you know, management capacity. It's the ability to fund, things like that, that we're -- you can't use it because you can't find the properties that are worth developing.

MR. MOLL: I would say probably no. That there still are opportunities. Now, you find yourself sometimes in heated markets where you have landowners who think their land is worth a lot more than it really is and that can sometimes stymie the ability to put --

MR. MAY: I have that problem too in the Park Service, yeah.

MR. MOLL: -- you know, land into production. You know, generally speaking there still are a lot of areas that have you know, that there still are a decent number of areas that still have, you know, either currently zoned high density or have some type of comp plan designation to allow that.

MR. MAY: Uh-huh.

MR. MOLL: I don't think it's an infinite supply by any means, but yeah, we think there is.

MR. MAY: Okay. Sorry. Mr. Lepine, did you want to answer that, that series of questions as well to -- I don't even remember what I asked. But you seemed ready to speak a couple of times.

MR. LEPINE: Sure. So I can at least speak to our company's experience. And I would say that we are trying to develop as fast as we can secure capital. Securing the capital is still the greatest challenge in developing around here. We have -- we do both affordable and market rate. And I know on our affordable side, of course, it's the timing of trying to get through the tax credit process and that's a good 12 plus you know, 15 months based on our recent experience.

MR. MAY: Uh-huh.

MR. LEPINE: And on the market rate side it really depends on your submarket. Even if you're trying to do a project in an attractive submarket, well, so is everyone else. And your lender is coming back to you saying, oh, well yeah, there's 2,000 more units coming on line here, what are you thinking. And our argument is, it's still not enough. And everything that we have in our neighborhood is still getting absorbed.

MR. MAY: Uh-huh. Okay. So I mean, I think that answers my first set of questions.

The subject of the comp plan amendment process was brought up and that has the opportunity to potentially open up more potential sites for greater development. I mean, if they are zoned to have -- or rather they are described in the comp plan as perhaps at a higher level of density than they're currently described. So that is fairly immediately going to drive up the property values on some level. Obviously it doesn't really happen until the zoning changes. But isn't there an opportunity there with that potential to increase the value of the property to capture more of that? I mean, you know, the property is already worth $1 million and if it goes from C-2-B to C-2-C and they can suddenly do a lot more with it, and the property would therefore jump to $1.5 million, well, what's wrong with that value being depressed, driven down by 20 percent because that's what you've projected.

And that sort of circumstance we're going to see property value grow because of comp plan changes.

MR. MOLL: I can -- if you want me to start I can say a couple of things about that. I think the first is -- first is time. Again, going back to time for the properties that we mentioned for the three of us up here, that we either own or control, you know, there will be a time that it takes in general for the comp plan process to, you know, to you know, go through the public process, eventually be approved, and then implemented. And then on top of that generally speaking -- not generally speaking but to tap that density you have to go through another longer process.

MR. MAY: Uh-huh.

MR. MOLL: And so the time of between you know, sort of now or the near term, what we've called the near term in some of our statements tonight, and when that land can be put into production, is a pretty significant period of time. And I think what we're saying is that that period of time is why we're worried that there will be a decline in the ability to produce housing.

MR. MAY: Right. Well, I mean, what if the timing of the change for the -- you know, for a deeper affordability requirement were you know, phased in over that time by some regular schedule or somehow tied to you know, up zoning a property as a result of the comp plan amendment. The comp plan amendment is going to take 18 months for OP to work through it, according to what OP has told me. And then of course then the council gets involved and who knows how long that will take, right? So maybe it's another six months or a year.

So it's a, I don't know, two or three-year time frame. I mean, what about having it phase in? I can understand how overnight changing to a much stricter higher affordability requirement could have an immediate negative impact on properties held that are in a pipeline and could mess up projects that you are planning. But what about the ones that are a little bit further out. Again, it drives down property values a little bit and it gives the market time to adjust. Maybe those you know, the longtime land owners will have time to adjust their thinking. I don't know.

MR. MOLL: Well, I mean, I certainly, you know, I would certainly ask the commission to consider a long -- regardless of the, you know, the decision to consider a long-term you know, or certainly past the near term, what we consider a near term grandfathering period, because I do think that that's important in any even to make sure that, you know, that production of housing, both affordable and market rate is sustained. So I do think that grandfathering, you know, sort of in general in any event, is important.

You know, I think you know, when we've talked a lot about the comp plan, and I think the opportunity that we see in the comp plan goes back and, and I'm speaking on behalf of JBG here where we've seen -- we've built projects with Inclusionary Zoning on matter of right projects where you know, where we've been able to take advantage of heightened density. You know, we've been made economically whole, and that has been a tool that has worked well for us.

Now, granted, it hasn't worked well for everybody and there's still some people within DCBA that need additional subsidy, but I will speak on behalf of JBG and say that that is a tool bonus density and height for additional affordability, you know, requirements or levels is something that we believe has, you know, has worked in some instance, in many instances, for us.

And so I think that's where we see the opportunity in the comp plan.

MR. MAY: So, you say, you know, you've been, in your matter of right projects you've been made whole. I assume that that -- I mean, that means that you know, eight percent at 80 percent of Median Family Income and then the bonus density that you get to go with it is a net plus. You're actually making more money as a result of that than you would be -- you would have been before.

MR. MOLL: On the projects I'm referring to we had owned -- you said, we had owned prior to Inclusionary Zoning being implemented.

MR. MAY: Uh-huh.

MR. MOLL: So we have, we sort of had paid the non-inculsionary price for it, you know, and the cost of --

MR. MAY: And you still did fine?

MR. MOLL: Yeah, with the bonus density.

MR. MAY: With the bonus density. You've even made more money in some cases.

MR. MOLL: I don't think so.

MR. MAY: You don't think so?

MR. MOLL: No.

MR. MAY: Okay. I mean, the first analysis I ever saw of that, a comparison that came up at another case, the potential to make money with the bonus density, I mean, it was there. It wasn't a huge percent but it was, you know, in the total return it was 21 percent versus 20 or something like that. So I wouldn't be surprised if in fact there was actual additional profit made on IZ when you get the bonus density.

MR. MOLL: We don't believe that there has been additional profit that's been made based on it.

MR. MAY: Okay. All right. I certainly don't know. I'm just taking a hard guess. So that's it for my questions.

CHAIRPERSON HOOD: Thank you. Commissioner Turnbull.

MR. TURNBULL: Oh, thank you, Mr. Chair. Well, again I want to echo Commissioner May. Thank you for your materially presented -- we're going to need to go through it a bit more.

But I guess I want to piggyback on where Commissioner May was -- or some of the points that he brought up. A lot of these things, when you talk about the property values, the land values, and long-term holder of the land, that's going to be around forever. That's always going to happen. You're going to have that no matter what.

And what concerns me, and we talk about market value, affordable housing, and Mr. Alsup, you talked about how Virginia and Maryland are more affordable and that the city is becoming the place to live and move to. But it's not the place to live for everybody. A lot of the people that live here already have their -- when the properties are being bought they really can't keep and stay in the same neighborhood anymore because they can't afford it.

And what concerns me is that I have a feeling that five years from now we could be this -- have this same hearing with the same issue about affordability and the IZ, and you will be making the same argument, that property values are going to dictate where you are and what you can afford for IZ. So five years from now you will be making the same argument that you can't -- we can't make that limit. We can't make changes.

And I think what Commission May was getting at and we talked about is, a phasing attitude, that we've got to reach a better affordability level. We have to because there's people in this city that are being excluded left and right. And it's hurting the city. It will hurt the city if we have this tremendous imbalance.

So my feeling is, or just thinking about, again, some of these things that the arguments you make will be said in perpetuity, that property values will dictate what can be afforded. And I'm trying to get to a point is, what kind of a phasing would we look to get to the next step? You're saying for the short term. What is the short term? Two years?

If you tell me it's five years then what I just said is true. Five years from now we will be here talking about the same issue about affordability and I'm afraid DCBIA will be saying the same thing, that we can't make the change.

So I need your help. I need input that tells me when will you be able to make a better change? When can we see better affordability?

MR. ALSUP: Let's be interactive here, thinking out loud. Number one, I would like to observe, and I think we've all discussed that zoning itself cannot be the total solution to affordability. It's just too big a problem.

And so but, I think what we're talking about is what's the most zoning can contribute to solving the problem. And so I then translate that to, how much can we contribute and not so immediately adversely impact the current production of housing over two or three years, so that it has the unintended consequence of limiting both new affordable housing and market rate housing, and makes everybody's prices go up. And so I'm trying to be in an inclusionary zoning what's a realistic way of trying to help solve the problem.

Bryan and Ryan, do you have a sense of what -- if how long -- I've dealt with a lot of these long-term land owners that have sat there a long time because they don't need the money, when they're not getting the price they just think. But you go ahead on a transition for a, say a heavier move.

MR. MOLL: Yeah, you know. The reason DCBIA has made the case that there is -- you know, there's a reduction in land value as part of the Office of Planning's 1A. You know, 1A proposal. And I think what we've said is that the market, we believe, you know, again I think we said it was not a material amount in most cases to where the market would stop, or certainly reduce the amount of housing that's built.

The more drastic change in land value, we think would. And when you're talking about a drop, you know, in our analysis, you know, that is 10 percent or more per zone district, if you're a land owner that drop in value is very significant to you. And what you are going to want to see are many data points of land trading at that lower amount before you as a long-term land owner against somebody that's not somebody that is not levered or not necessarily, you know, bound by time, somebody that's going to want to see additional data points in the neighborhood of where land is trading before they trade themselves.

And so, you know, I don't know what the amount of time is. I don't know. I don't think that it's five years. But it's certainly not one or two years either.

MR. TURNBULL: But see, that's my problem. We've had so many hearings and testimony by people and you're right, it's not a zoning issue totally but we need to do something. We need to start getting a new mindset, a new paradigm that helps this city move toward an equality in housing for all people. And I think we've been a little bit remiss in meeting that. And we don't want to make any -- but I don't want to make any property owner lose his shirt. But at the same time we have an obligation to be more progressive and to think of those individuals that can't afford market rate housing. And market rate housing is -- I mean, even at 80 percent market rate housing, that's still a lot of people, most teachers, firemen, policemen, are not going to be able to afford a lot of that.

So some of the people that we really care about in the city are struggling. So, I'd like to look at this. I mean, I think we want to be as open-minded and step out of the box and look at these things as clearly as we can. But I think we need a path to shoot for. I think we need somewhere to go that we're going to say, if we have to keep this, this is going to be for this period of time or whatever, or we're going to -- then we're going to make a change.

But what I'm concerned about is that five years from now you could be before us again saying the same thing. And it's like we're in this loop where the property values will always be there and that's going to be the sticking point. And that's my fear where we're not solving a problem.

MR. ALSUP: Think of two possible conceptual approaches by example. If you round it and say the Commission took X action right now, and just to say, say it's three years and the market will relatively adjust at these, then for this component of what you can do, you can do it again in three years. Or whatever judgment you make about when you'll take the risk of hurting.

So one step is your progressive three years. But then equal with that, and maybe -- and you made me think of this hearing, the comments, and that can have even a bigger impact is back to the comp plan process. If it's a simultaneous judgment on a comp plan where there's X density now, and the density is increased but simultaneously the requirement for affordable housing goes at the same time, then the value coming from the increased density will near 100 percent go, or the best we can judge it, to affordable housing. And that's the biggest potential long-term adjustment I think, outside of just the pure zoning is to -- but it has to be simultaneously or Commissioner May is right, then the value just accrues to the land owner if the affordable didn't go along with it at the same time.

So that's my thought, that two-step. And there will be others. I have one other. You made me think of a philosophical thing too. I think myself and other members of our organization have always felt when you're here, there's another possibility of additional subsidy from, say from the city. That's never felt fair to me, or right. If you really decide a property should have X zoning and that sets the value, to the city then to have to do additional subsidy that goes to pay a landowner more than what the land value really is by the public policy of a zoning. And that's why we, as a team, have stayed away from suggesting additional subsidies be considered in this context. Thank you.

MR. TURNBULL: Thank you for your comments. Mr. Chair, I think that's it for me for right now.

CHAIRPERSON HOOD: Okay. Thank you. Commissioner Miller.

MR. MILLER: Thank you, Mr. Chairman. Thank you for your testimony.

So just following up on the grandfathering question, did you just say that three years is a reasonable time or no? What was the three years?

MR. ALSUP: I was suggesting that's the

range. It would take great and careful consideration but I was trying to use it as an example of a judgment the Office of Planning and the Zoning Commission could make to incrementally continue to approach.

Now, that's a very subjective thing, Bryan and Ryan, but if you've got a better guess, Bryan?

MR. MOLL: Well, I would -- you know, you said something which I don't know if it's been discussed yet, but it's a very interesting concept where, you know, a change would be considered to coincide with the comp plan being approved. And hopefully that is in, you know, two years, two to three years.

You know, again, I think there is a possibility there that some, not all, landowners will, you know, get some increase in value potentially and you know, that might help offset some of the additional cost.

MR. LEPINE: Yeah, and I would echo that sentiment that coinciding it with the comp plan makes a whole lot of sense to mitigate that impact and I don't know that I can really speak to, you know, to a time period. I mean, I think if you had asked me in 2006, you know, would three years be, you know, be an appropriate time for land values to adjust, you might say, yeah, sure. And then 2007, 2008 happened. There's some things that we just can't control.

MR. ALSUP: Excuse me. That's a good point, though. If there was an anticipated three year, four-year cycle, and you start and after two and a half years you see, is housing production still happening, or is it not happening and you can't take a chance on making further efforts? But at least there's a way to rejudge it, just like you're doing right now.

MR. MILLER: Well, I would comment on the -- I would be very reluctant to make any change that's based on some future mayor council change on the comp plan. That would be a very --

MR. ALSUP: Excuse me. I am opposed --

MR. MILLER: -- speculative --

MR. ALSUP: Excuse me. I am totally separating those. I'm thinking of the Zoning Commission, thank you, is totally by itself.

MR. MILLER: You'd have time to --

MR. ALSUP: And then the Comp Plan --

MR. MILLER: You'd have time to --

MR. ALSUP: -- to wait to exponentiate the impact. But not forego the opportunity the Zoning

Commission has to do it all by itself.

MR. MILLER: You think you'd have time to work on that other -- on the Comp Plan part of it.

MR. ALSUP: Yeah. It might happen to come along within your three-year example and have an increased ability to impact affordable housing as Commissioner Turnbull said. But the Zoning Commission in its independent capacity can keep its program. So.

MR. MILLER: Well, the only other comment I would make is that having been very involved in the Comprehensive Plan changes over the last 20 years, at least the last two cycles, which I think I was involved with at the council, I mean, there was a lot of increased density provided without requiring affordable housing. We see the zoning cases all the time where people come in for the map amendments, along with the PUD usually. But with the map amendments to correspond with the density that's provided on the Comp Plan map.

So that density has already, in many -- in much of the city, has already been expanded from the downtown to, you know, to NoMa, to South Capitol and Ballpark District, and New York Avenue. And we see those increased densities all the time and you know, I guess if the people -- if there are new -- well, I think that, combined with just the rising land values in the city and the -- I think develop -- and the cases that we see, developers have been capturing the -- they've been able to absorb, when we've asked them to consider deeper affordability levels, I think each of you in cases before us without getting into specifics, have provided deeper levels of affordability than the Inclusionary Zoning required because I think you recognize, as we recognize, as the council in its unanimous resolution recognized over a year ago, that 80 percent AMI, which is what 80 percent of the Inclusionary Zoning units that have been produced are at the 80 percent level, is just not meeting an affordable housing need in the city.

And so, do you want to comment on whether you think 80 percent AMI -- and under Option 1A I think it will only go down to -- it will still be two-thirds of the rental units will be at the 80 percent AMI level, as opposed to Option 1B where all those rental units will be at 60 percent AMI.

MR. ALSUP: We agree that it's not enough, but we're concerned about the adverse impact of going all the way to those 20 percent level impact on values that have the opposite effect. You just can't build at all. Then you're having no more affordable housing, even at the 80 or and 65 percent that we would have if we don't right now try to do too much.

MR. MILLER: So you must have seen the petitioner's testimony from March and April and the tables they provided which showed that the Option 1A, under their analysis, and I think they included the ZRR parking changes within that analysis, did not result in the levels of negative land value impact that you're showing in your table. I think they showed no more than a five percent at the worst case scenario.

What would you account for the difference between your two -- I'll ask them that as well. I'm sure they'll bring it up by themselves, but --

MR. ALSUP: Right, and I think the difference, and that's exactly why we said the practicality of whatever the zoning is, the market and especially the investor markets, the institutional investor markets and the debt markets will require a minimum amount of parking no matter what the zoning is or they won't finance the project. And that's why we set that point, .33. Many of them are actually .5, and just for security. But --

MR. MOLL: Yeah, and if I may? And I can't comment on all the facets off the top of my head by the difference might exist. But we do know that a large portion of their analysis was based on the ZRR. And, you know, if I can toot our own horn for a few minutes, I think JBG has been a market leader in building sort of the minimum amount of parking that we think is needed. The coalition for smarter growth has, I think applauded our efforts in some of our locations on 14th Street where the rest of the market was building still at a .75 to a one per unit. We were building .33 to .4 because that's where we believed the market was and the market wasn't any higher than that. We did extensive studies both inside and outside of the District and in our neighborhoods. We, as developers, don't want to build more parking than is needed. That's just an added cost, you know, to us.

However, we do believe that revenues are impacted at a certain point. And we've seen parking come down substantially. You know, we don't want to sit up here and say that parking is absolutely necessary, and it always is going to be necessary, but today we know that parking has you know, has decreased dramatically. But it has now sort of stabilized in a lot of these urban neighborhoods at about a .33 to a .4. We've seen it in the 14th Street neighborhood. We've seen it in the U Street neighborhood. We're seeing it in other neighborhoods where we have projects, even close to Metro, that we're not getting much below that.

And that's not to say in 10 years maybe when Metro fixes some of its issues, that that doesn't drop to a .2. But that's certainly not the case right now. And so that's one of the reasons why we stabilized. I think it's not appropriate to say just because the ZRR changed that people are going to now build no parking in their projects, because we still believe that there is a certain amount of parking that is required to get market -- the market rents, you know, that exist.

Oh, if you don't have parking they're going to go to your competitors, in other words. Some people. Very -- a third of people.

MR. MILLER: I'm not sure I have any other questions. I do have just -- offer the same comment that I offered to Ms. Mallory at the hearing back in March or April that, you know, I'm glad to see that DCBIA now supports the current Inclusionary Zoning program which you opposed strenuously at the time that it was adopted by this Commission and the

Council.

You made many of the same arguments at that time. There was a recession that happened. I don't think it was because of Inclusionary Zoning. I think the recession happened before even the Inclusionary Zoning was fully implemented. I just, I think you had -- I think there just is a -- I think we do have to be careful but I think there is a sky is falling mentality that the industry has brought to this issue in the past which just creates doubts in my minds about the testimony that you're providing when there's such a call by the citizens and residents and the council for deeper affordability levels.

So, I just think that the tweaking of it might be an improvement as proposed by OP 1A. But it just doesn't really meet a significant need in a meaningful way which I think is why, frankly I think it's why you're okay with it because it's not going to really affect you really either way. You said it's going to create more affordable housing. I think it -- what do you think? How much more at the 50 percent AMI level do you think it's going to create? I just, I gave a statistic earlier that -- how much? Your testimony referred to creating -- it would create more affordable housing.

MR. ALSUP: I believe it's creating more because we're not preventing it from being stopped. It will keep going.

MR. MILLER: The market argument, the land value argument.

MR. ALSUP: Yeah. And we're trying to be as thoughtful as we can at this point.

MR. MILLER: Okay. I understand that. I appreciate that. Thank you, Mr. Chair.

MR. LEPINE: I think --

CHAIRPERSON HOOD: Vice Chair Cohen. Sure, hold on. You had some --

MR. LEPINE: Sorry. Just one more thought. I believe the last time we looked at the amount of land relative by zone, the reason we called out C-2-B as the zone with the most potential affordable housing in the near turn is that's the most -- that was the zone with the most sort of developable land that fit the -- you know, fit the sort of locational attributes and whatnot. I believe it was about 20 percent of the available land in the city for development.

And, you know, again just to -- you know, I think some of our concerns with affordability with sort of turning our back on the 80 percent AMI people is, we need a place for them too. We can all agree that the 50 and 60 percent AMI absolutely need a seat at the table. At WC Smith Company we're very cognizant of that, which is why we are such an active affordable housing developer.

But the people at the 80 percent AMI range, your proverbial teacher and a firefighter, they need a place to live too. And none of the city's programs really are geared towards serving that segment. And those people are getting pushed out the city too.

MR. MILLER: Yeah, I'm concerned. I share the concern about the 80 percent AMI level too. But don't you think a lot of the -- or at least a good chunk of the market rate units are marketed to 80 percent AMI renters?

MR. LEPINE: I don't have all of the --

MR. MILLER: Over $60,000 a year, a single person. Like, they can't afford any of your market rate properties. Maybe the land values need to go down if that's the case.

MR. MOLL: Yeah, Commissioner Miller, I would just, I would note, you know, especially on our projects, you know, a lot of our projects are marketing between, you know, 50 and 80 percent of AMI. And, you know, we've seen you know, a pretty high demand for 80 percent of AMI units. And so I don't think, you know, we're certainly not sitting here saying we shouldn't be building lower AMI or we shouldn't -- you know, that 80 percent of AMI is the only thing that we should be building. You know, so I think what we're saying is that it should be a mixture of AMI levels that are delivered. And ultimately we want to build, as developers, we want to build as much housing as we can, both affordable and market rate housing. And that's what we want to do and we don't want to risk that by reducing land values in the near term too significantly.

MR. MILLER: Thank you.

CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

MS. COHEN: Thank you, Mr. Chairman. I want to carry on something that Commissioner Miller began.

First of all, I think Commissioner May, Turnbull, and Miller have asked some very relevant questions that have been of concern to me. But we have to provide, it's our legal responsibility, great weight to ANCs, and all the ANCs are asking for deeper affordability.

On the other hand, we also have to make sure that we don't move ahead with something that's not financially feasible. But help me formulate the answer to ANCs if we do go with what you prefer, the 1A option. That's where I think we really need to focus on their point of view. They want mixed income communities. They don't want to isolate themselves and Manhattanize themselves. They really want to provide housing for all types of people. And so maybe you can help us develop that argument if we do go for 1A.

MR. ALSUP: The argument could be, it's what the Commission judged would not hurt the continued development of housing and affordable housing in the District. And the lower components could come from other city programs. And so I don't remember the DHCD guideline, but for example, if DHCD or the other departments provided additional money to a housing development with a condition that X more is 60 percent affordable, it's the other programs. There have to be other public policy judgments to support the production of affordable housing than just zoning, I think.

MS. COHEN: But the perception is that developers who are providing market rate housing are getting benefits that exceed what they're delivering. Can you comment on that, please?

MR. ALSUP: I know as a conscientious

developer, when we have best estimate returns investors are really excited when we happen to hit those returns because most of the time we were with our cautiously optimistic projects to be able to rationalize proceeding with the project to start with.

MS. COHEN: Well, developer -- developers are known for being optimistic and they usually put forward their best case scenario to lenders. And let us talk about the hurdle rates that have been proposed.

At the beginning of the setdown report we had hurdle rates in the low 30s. And the latest analysis by OP, which I believe you participated in developing along with the coalition, it's in the low 20s now. Again, a lot of pension funds were burned in the 2008 meltdown. So they -- you know, like Calpers and Calsters, the largest pension funds, are much more cautious now. So tell me a little bit more about what you're seeing, because I presume your investors are usually pension funds.

What you are now actually seeing that they are most comfortable with. What are they looking for?

MR. ALSUP: I have one analytical observation with respect to your comment. We tried to take the base model of OP and we're thinking what matters is the relative impact. You could say the required return was 25 percent, or 20 percent, or 15 percent. But when you put that same return on each of the options, it's the relative impact between the options that matters, because we're trying to get to what's the relative impact on land value. So where -- whichever one of those returns we decided was market, and they are different in different submarkets, I think the relative impact of land value will be the same. And that's what we're concerned about, it's the relative impact.

And I believe that's what OP meant in their model to start with.

MS. COHEN: Well, that's why we held this hearing is to get to the relative impact on the land values, but people are bringing up some other issues including one thing that has always -- when I, in a former life, reviewed pro formas, cross-subsidies. Year-ends are pretty healthy in this city for two, three-bedroom, even a one-bedroom micro unit.

What's happening on cross-subsidies? Why can't you go deeper with the higher rents that go up every year. Most likely you're getting increases.

And you reach stabilization. What is happening then in your pro formas?

MR. ALSUP: The potential for higher rents is considered to start with in the economic analysis, particularly on the equity side versus the debt side.

And for example, if an investor thinks over 10 years they would like a current initial return cash flow on actual cost of six percent, we can help rationalize starting the project at a four percent sometimes because of just what you said, over time you expect the rents will be able to go up. So it may go four, four and half, and 10 near the end of 10 years, and you'll average. So actually in anticipating that increase in rents --

MS. COHEN: Helps your IRR.

MR. ALSUP: -- lowers the initial -- well, it lowers the initial return requirement to make the project viable. You know, we might say -- let's say it's a five more realistically. But we do many projects taking a lower initial return. And it's that initial return criteria that then sets how much you can afford to pay for the design and construction of the building. And then for the residual land value how much, after you pay for the building, can you pay for the land and still hit an initial return of five percent in my example.

And that's the return. And so you then anticipate the increase in rent to rationalize taking a lower initial return to start with.

MS. COHEN: But you also are in an environment of very low interest rates. So hasn't that helped you? In achieving all of your returns, plus?

MR. ALSUP: It has helped lower the initial project cost to the extent your construction financing costs during the three years of construction were lower, but the permanent financing costs have not materially moved.

MS. COHEN: Your 30-year debt hasn't really been significantly reduced?

MR. ALSUP: On the commercial buildings we hardly ever have our investors willing to do 30 year or 20 year. Most of them are --

MS. COHEN: Are doing the 10 year.

MR. ALSUP: It's the same question, 10 or --

MS. COHEN: Ten.

MR. ALSUP: Ten. And because they like to retain the ability to refinance, expecting the value to be higher in 10 years than if you've locked in a permanent loan for 30 years, they don't allow you to pay it off without paying them a penalty. So.

MS. COHEN: But then in 10 years wouldn't you probably go to Fannie Mae for refi?

MR. ALSUP: They're different markets. The last one we did two months ago, we actually had a group of major banks commit to a lower risk spread than Fannie Mae is offering now in doing a refinancing.

Now there may be different markets. Ryan or Bryan?

MR. MOLL: No, I mean, I would just add that in terms of analyzing a deal for production, you know, those are variables that we can try to predict but we can't control. And so, you know, when we're looking to put a project into production and typically when a lot of our, both equity and most times for us our debt investors, you know, they're looking for you know, return on investment. And so I think that's, you know, in 10 years there may be Fannie debt there. There might be lower. Who knows if, you know, Fannie will be there in 10 years, so --

MS. COHEN: They'll be there.

MR. MOLL: They probably will. If they made it through the last crisis, I'm sure they will.

But anyway, so I think that's, you know, we're -- and generally I think, you know, we look at projects on a long-term basis. But I think when we're putting something in production we do focus on the return on the up-front cost.

MR. LEPINE: And I will also, on behalf of WC Smith, we are very long-term holders in the District, very committed to the District. And we find that our projects with higher rents, often times they're matched with higher expenses. In these emerging submarkets taxes, you know, taxes for example, end up climbing much faster than rent growth. Water has skyrocketed over the past four or five years. There are certain -- we're not capturing all pure profit in that.

And if we get favorable enough financing in our deals, sometimes what we will do is put that back into the building, trying to increase the scope, use higher quality materials, make it a more viable long-term asset because again, we're long-term holders.

And as far as delivering to investors, you know, there is -- it's hard to say what exactly a target return is. I think it depends on who you're talking to and it depends on when you're talking to them. I know that we had a project that got fairly significantly impacted in 2012. We thought we had everything in line and good to go, and then the Greek debt crisis first hit and almost crushed the project. If we had tried to lock during, you know, say during the week of Brexit, the same thing might have happened.

So, you know, we find that while it's easy to kind of look back and look at a trend line and say, you know, everything has gone steadily down, property has gone steadily up, our experience down in the trenches has not 100 percent borne that out.

MS. COHEN: Do you think tax abatement would help you in producing lower rents?

MR. LEPINE: I certainly think tax abatement on the affordable units, I presume -- I know that other city commissions have proposed that for affordable housing projects or even affordable units, that there be a tax abatement. And I think that would certainly help provided it's structured in a way that is permanent enough to satisfy a lender. I certainly think that's a way to mitigate an impact to land value. Absolutely.

MS. COHEN: Thank you.

CHAIRPERSON HOOD: Okay. I've been listening to a lot of discussion and I wanted to do this, and I appreciate, first of all, for you all coming down to give us that walkthrough that I requested; we requested from DCBIA.

I was here when we did IZ here in the city. And this kind of takes me back to that. I remember a lot of the development community saying development was going to stop. I remember asking the question, and I remember telling the Office of Planning, whatever happens, let's hurry up and make the change if we mess it up.

And it seems like I'm hearing the same thing here now. But what I found since then, I have been spending more time down here since then, and since all this development was supposed to stop. And I haven't figured it out now, and I think a couple weeks ago I was down here four nights in one week.

So I don't know if I necessarily buy that argument. I kind of associate myself with the ending comments of Commissioner Miller. Everything was falling in and had to stop. I remember asking I think the gentleman's name was Tad Baldwin from Montgomery County. I remember asking him, and this was some years ago, I remember asking him what did they do in Montgomery County. I might have some of it messed up. But I remember asking, what do they do in Montgomery County? They had to keep changing until they got it right. They were the model to look at. And I remember having all those discussions.

But I do remember the development community coming down saying, this is not going to work. We're making a terrible mistake. And as I hear this conversation I'm thinking, well, this is the same thing I heard some time back. And I started thinking about how much time I've been spending down here.

So I guess, I'm not really asking a question. I'm trying to figure out the rationality of the argument, of the 1A and the 1B. This is a different approach from what I've heard from my colleagues. And I think that -- I will say this, though, zoning seems to be the fix-all. We've been asked to reduce rents. We've been asked -- I mean, and I'm talking about rents that people pay. We've been asked to do a lot of things. And I do know that there are some other programs that can help with this affordability issue because some of the folks that I hang around, 80 percent of the AMI don't get it. And it has never got it.

So that's one of the things I always say, affordable to who? And what is affordable? Affordable to who? Who are we making it affordable for?

I don't know if I necessarily have any questions, but I just don't -- I see us going back through the same thing when we did IZ. And it seems like we -- I don't know if 1A goes far enough. But I will say the same thing that I said in the 2007, '05, or whenever it was, I don't want us to put a damper on development. And I said it then. And obviously we haven't, again.

I've been down here and I know there are PUDs as Commissioner May rides his bicycle, and that's a whole other issue. But I know there are PUDs that are still sitting there that are ready to take off. But anyway, I've said enough. I've heard quite a bit from my colleagues. I always go last. I've have a lot to digest on. But if anybody want to comment on any of my comments, you can do that.

MR. ALSUP: One thought, it's a question with respect to your, I think your main comment, the result of the prior IZ program. I remember, Bryan and Ryan, when we traced the prior impact of the earlier IZ. In concept there were not many projects delivered under the IZ program from several years without really being part of other programs, PUD, or other subsidies. So, Ryan, you can -- and it was actually almost none. And I remember proposing three sites in what we call NoMa now, where under the IZ we figured we would like to do it but we could afford a land value of X to be able to commit to buy the site and proceed with the development. And the land owners would not sell at that.

And but if you could help me with the actual result, for many years there --

MR. LEPINE: Yeah. So I don't remember the full statistics, but as far as the years go it seemed to -- more projects seemed to be delivering under IZ starting in '11, '12, '13. The first few years was very little. And I don't know that that had anything to do with IZ. Again, the greater world that we're in, '07, '08, '09, '10, happened and it can certainly -- something like that can happen again.

But yeah, they -- it took a long time, I think, for that -- you know, for those land values to adjust. If you would say certainly now you look around this year, last year, the year before, certainly development is going gangbusters. And all the land values have adjusted and no one is complaining about the current IZ. As you've pointed out, we're not complaining about the current program.

MR. MOLL: But, and I would just add really quickly, Commissioner Hood, that that's -- I would argue that's because the IZ program is now, and has been probably for several years now, incorporated into the land value. And so in -- you know, I said it in my opening remarks and speaking on behalf of JBG, we still are true believers that, you know, that the Inclusionary Zoning program has benefitted the District and we've built Inclusionary Zoning units in our buildings and you know, and we're proud to have been able to contribute to that.

And again, I think the Inclusionary Zoning when it was created, off-set the land value decreases. And so, you know, putting aside that some people didn't believe in it, and perhaps there was a period of time where nothing was delivered, either because the financial crisis or because of Inclusionary Zoning, draw your own conclusions. But, you know, but I think as I said in my statements, that our biggest concern is the reduction in land values without any supplement to you know, to mitigate that.

CHAIRPERSON HOOD: Okay. Well, in 1998 when I first got on this Commission we were doing time extensions for PUDs. It's been around for 20 years, and I call it the Herb Franklin Rule. So I know it takes time for things to catch up with the market and catch up with the values. And I understand that.

So, but I think your point goes to exactly what Commissioner Turnbull was talking about. We're going to be here three years later and we haven't achieved anything. So I just see it differently and I have not, and I know we have another group to hear from, but I just see us -- I'm not sure which way we're going, 1A, B, or whatever. Whatever the Commission is going to do. That will happen when we deliberate.

But I just see us not -- actually what you're asking, not going far enough. I hear the same argument that I heard when we did the IZ. And I just can't differentiate it. And I know, like I said, the PUDs, I'm going back to '98 now when I first got here. I heard the Herb Franklin Rule. Herb Franklin had a problem with keep extending PUDs. We were doing them -- they been out there for 20 years.

And I remember him saying, I think this Commission now because of him, a lot of his leadership, he's been gone for some years now, I think now we're looking very hard at those ones. I don't think we have a whole lot that's been out there for 20 years now. Maybe -- I think we just did one for eight. So we have cut that down drastically.

So I don't know, I think that again I don't -- this just reminds me of a hearing we had some years ago. And it might have took three or four years. I'm not saying one IZ and when the Inclusionary Zoning, when all that kicked in, but it kicked in, and everybody is happy. Well, everybody may not be happy and singing Kumbaya, but everybody is working with what we have. And I see that being realized here again.

So anyway, any other comments up here? All right. I thank you all very much. We greatly appreciate it.

Okay. Let's call the petitioner up. Okay. Do we need to take a few minutes? Do you all need a few minutes to set up, or you're all right?

[Discussion off the record.]

CHAIRPERSON HOOD: All right. So whenever you all are ready you can get started.

MS. CORT: Thank you, Chairman Hood. I'm Cheryl Cort. I am with the Campaign for Inclusionary Zoning and also with the Coalition for Smarter Growth, and we sent a letter in January of 2015 and file -- petitioned the zoning text amendment in February of 2015. So we are hopeful that we can come to a resolution that's really going to address the needs of our city in terms of affordable housing.

And I'm actually going to turn it over to Claire Zippel, who is our star housing analyst at D.C. Fiscal Policy Institute, and has done some amazing work. I know that she has written testimony. I'm not sure whether or not she's going to use it, but I'm going to turn it over to Claire Zippel.

MS. ZIPPEL: Hi. I'm Claire Zippel, as Cheryl has nicely introduced me, and I am going to depart almost entirely from my prepared written testimony.

So, I guess I'll start out by saying, I'm very glad that we're having this conversation about economic impacts. Obviously our goal in bringing this text amendment was to achieve greater affordability. But we're also very attentive to the fact that any policy change will impact a market and that we don't want to be counterproductive as we seek to get greater affordability. We want to balance that with the market.

So again, we're glad to have this conversation and make sure that we can strike an appropriate balance. And in fact our concern with economic impact is what motivated us to support Option 1B rather than our original proposal which was much more ambitious and Office of Planning's impact model showed that it would just have too substantial of an impact, whereas Option 1B has a much more moderate impact that we believe the market can tolerate. So we moved away from what we had originally wanted based on that evidence, and came to support Option 1B.

So I think we've heard a lot today from the development community about their concerns about economic impacts that many of you commissioners pointed out appeared when Inclusionary Zoning was first being debated and considered in 2005. And at that time we heard, and it's not surprising, business groups you know, when asked how regulation is going to affect them usually say, negatively. But we saw pretty dire warnings the first time around and now we're in a 25 year high of residential construction.

So to me that indicates that sometimes these predictions don't come to pass and in fact might lead to making more conservative decisions than maybe we could actually afford to make, based on the evidence.

So I guess to address a couple of specific points that have been raised earlier today, so we worked extensively with Office of Planning in our working groups, which you all have heard a lot about, I'm sure, that we convened over the summer and fall of last year, really trying to drill down to come to a common ground of you know, we have to be talking about the same thing, what model are we going to use. And so we worked really extensively on this model with Office of Planning. We discussed in our stakeholder groups, we discussed at -- I'm sure all of us, one-on-one with Office of Planning, and we, we're a little surprised now to hear that the developers don't believe that we can factor the reduced parking requirements into the model.

It's the first time we've heard about it and we're actually surprised. You know, if this were a really deep and abiding concern, why not after all of this time, you know, we've been through extensive working groups. The record has been open for many times and now we're seeing that they've chosen to make modifications to the inputs of Office of Planning's model. So I'll just note that that's a little surprising to me. Especially Office of Planning actually notes in their testimony, let's see, dated April 4th, that -- this is on page 3 in case you have it in front of you that, "Many developers during the ZR-16 process stated that the parking reductions would improve affordability."

So there seems to be kind of a difference with what we're hearing today. And also we'd note from the submission that was submitted by BIA, let's see, on April 28th. They didn't make this change to parking in their submission on the 28th. So again, it's a little surprising to us why this coming up now. Especially because the ZRR parking reduced requirements really represent an opportunity, just like the Comp Plan will represent an opportunity down road. We know there's a significant cost saving that's going to come down the line that is going to save I think, Office of Planning, different places mentions, you know, tens of millions of dollars.

And so, to us, that's a clear savings and what can we do with that policy change. And it seems like putting that change towards deeper affordability would make sense.

The second thing I'll address is the time it takes for land values to adjust. So, as I'll talk about in a minute, the magnitude of impacts to land values are really very small. We're not talking about a million dollars on a $10 million piece of property. I'll provide an example later.

We're talking about a less than a half a million-dollar impact on an $11 million piece of land which I'll note before Inclusionary Zoning was implemented, was worth a million dollars less because the bonus density was more valuable than the cost of the affordability.

So, it seems to me that a land owner, if it's that tiny of a difference, especially as we see land costs going up, that they might not even notice it.

But we do recognize that there are cases where developers have acquired land while they're still formulating a development plan, and that if there is a policy change that happens in the intervening period, they might not have had a chance to plan for it when they did buy the land. So we would support a reasonable grandfathering provision, or some sort of policy that would ensure that people aren't getting sort of cut off in the middle of their planning process. And so that once projects are started -- so that projects that are started have a reasonable time frame to understand, to make sure that things that are in development, things that are being planned, that they have been able to anticipate and to price in to their pro formas, to their negotiations when they go to closing on the land, any policy change.

So that's also something that we believe that, you know, there will be an adjustment period and we don't want to see people sort of caught; caught in the middle and when Inclusionary Zoning was first implemented there was a good deal of that that I'm sure you all saw, of projects you know, wanting to know if they were subject to the new IZ rules or not. And so we believe that a process similar to that would be equally effective this time to prevent any projects that might be caught up in the transition.

So I guess I have two other quick points. And I will go, actually, to my written testimony now if you don't mind. I think this is on page 4.

So just to provide greater context to the magnitude of the impact to land value that we're talking about, I gave an example here. This is from Office of Planning's land value impact model. I didn't change any of the inputs. This is Option 1B in the C-2-B zone. This is a zone where an Option 1B, we the petitioner, actually saw an impact that seemed a little larger than the other zones, so we've suggested actually reducing the set-aside in that zone to make sure that it's within the comfort range of impacts to land value.

So the model predicts a negative, around four percent impact to land values on a typical 120-unit project in the C-2-B zone, again with our modifications.

So that means the model expects the developer to aim to pay around $470,000 less for an $11 million piece of land. Or to achieve those cost savings elsewhere. And I'll note that the contingency for a project of that size is twice as large as what is needed to absorb a cost difference of that kind. So there is certainly -- it's certainly within a comfortable margin of price fluctuations that developers typically expect even if they're not able to come to an agreement with the land owner. Which again, given that it's less than a half a million dollars on a piece of land worth over $10 million, that seems like such a small magnitude to me, and doesn't seem like it would single-handedly be the difference between a piece of land trading on the market or a piece of land sitting.

And in any case, that piece of land can host a $40 million project. So a price difference of less than half a million dollars, to think that that, such a small marginal change would throw the whole project into jeopardy doesn't quite make sense.

So I guess two, two additional points and then I'll see if Cheryl has any additional points or if you all have any questions. So in terms of affordable housing need, I mean, I agree with what several commissioners have said that we can't solve this historic affordable housing crisis with the zoning alone. A lot of DCFPI's work is focused on advocating for greater subsidy resources in D.C. for affordable housing. But we know that there's on so much those resources can do on their own. We need every tool in the toolbox to go to work.

And we know that, you know, we're investing historic amounts in affordable housing, but we crunched numbers and actually looked at every single affordable housing project that the city has planned, and assuming that all those projects are completed and that no additional need forms in the meantime, there are still going to be thousands of renters at 60 percent AMI who need affordable rental housing. And there are half as many affordable housing units currently in the pipeline for those households than there are households that need affordable housing. So there's a huge gap that is still going to exist.

MR. MAY: Can you restate the gap there? Sorry.

MS. ZIPPEL: Sure. I realize I didn't

explain that in a very clear way.

So, even when the new -- okay. I'll put it this way, there are more than twice as many 60 percent MFI renter households in need as there are units in the pipeline for them. Figure 1, Cheryl instructs me.

MS. CORT: It's Figure 1 in the testimony.

MS. COHEN: And where did you get that? Did you --

MS. ZIPPEL: Sure. So as part of the open government initiative, D.C. has actually made public all of its information on every single one of its affordable housing projects. So Office of Planning has included some numbers on the pipeline in their testimony. I explored this greater in my written testimony, but for a couple reasons I came to a very different conclusion in looking at the information, and found that Office of Planning seems to include a lot of units that are existing that are going to be preserved. Homeownership units that aren't going to have a net decrease effect on the amount of rental housing need.

And projects that have been completed since 2015, as well as projects that are still in the early planning stages where there is just -- it would be inappropriate to speculate how many affordable housing units they would result in. So, and I have full documentation. I'm happy to share all my spreadsheets, if you would like. But again, I mean, it leads me to believe that there is such a huge gap that is going to remain and Inclusionary Zoning has a very, very important role to play. We're not producing enough housing for renters at this income level. And they are getting pushed out of the city. And what we're doing currently is not enough and Inclusionary Zoning can help meet that gap.

And that gap at 80 percent MFI which the majority of production would continue to be under Option 1A, it just doesn't meet a real need. We see that the vast majority of renters at that income level are accommodated by the private market. There are extremely low rates of severe housing cost burden, and you know, even a simple search on Zillow actually I include a figure, Figure 1, shows that any -- oh, it's Figure 2, excuse me. That at any given moment you can see that there is really a significant offering of rental units affordable at the 80 percent MFI level, including in very high cost parts of the city, Ward 6, Ward 3. But if you go down to 60 percent MFI it just seems like those units barely exist, and they're concentrated east of the River.

So we see again, you know, that a significant need exists and that 80 percent MFI, it's just not a need that we should be directing affordable housing resources to when there is such a clear and pressing need at a lower income level.

And finally, you know, we've heard suggestions of linking implementation to any Inclusionary Zoning policy to the Comprehensive Plan process. And again, I mean, the concept that we need additional bonus density to compensate for deeper affordability is just not borne out by the economic evidence that we have from Office of Planning's impact model. Excuse me.

MS. CORT: In terms of 1B.

MS. ZIPPEL: In terms of 1B, which indicates again that the impacts to land value are within negative five percent, which as I've shown is marginally small; likely to be well absorbed by a market that is probably the strongest its ever been. Rents increased faster in the past year, twice as fast in the past year as they have in the past five years.

So all of that indicates that we have a very resilient, a strong and resilient market at this time. It would be best able to adapt to any policy change and that no additional compensation is needed. And in fact existing Inclusionary Zoning already includes enough compensation, additionally with the ZRR parking requirements.

And so I'll see if Cheryl wants to say any more about the Comprehensive Plan, but I'll finish. Thank you.

MS. CORT: But we look forward to working on the Comprehensive Plan in the future, but we'd really like to accomplish something significant now with our exiting IZ program, and we'd love to answer any questions from the Commission. Thank you.

CHAIRPERSON HOOD: Okay. Thank you all very much. Let's see if we have any questions or comments up here. Commissioner May.

MR. MAY: Yeah. So thank you very much. I appreciate that it's going to take a little while to read through your testimony in detail, but I appreciate the very helpful diagrams and charts that makes some of these concepts very easy to understand.

I am interested, putting aside the question of when any of this might be implemented, I am curious about your attitude about tying increased affordability requirements to comp plan changes are probably more specifically to up zoning properties through map amendments or through PUDs, and whether that's a viable way to get more. Putting aside that it's not in 1B, and you know, just even as a separate concept. Because it seems like we got some sense that that might be supportable by DCBIA.

MS. CORT: Yes, I would just reiterate, rather than just setting aside 1B, we're here to try for 1B.

MR. MAY: I understand that.

MS. CORT: Tonight.

MR. MAY: Right.

MS. CORT: But yes, we do -- we would -- in fact I think we submitted in some of our submissions to tie added increased density to greater affordability in the future, yes. So in the future we actually, we're working on how do we get more people involved with the Comp Plan --

MR. MAY: Uh-huh.

MS. CORT: -- so we can really look at where can we build more housing to better meet the need, both market rate. And then also, you know, better leverage. Inclusionary Zoning is a part of that. So in the future we're very excited about working on the Comp Plan to really accomplish more of that and step up and really meet more of the city's needs that way. Yes, we're interested in that.

MR. MAY: So, have you given any thought yet to kind of what level we might be talking about. I mean, you know, if we're going from a, you know, a 4.0 FAR to an 8.0 FAR are we talking about -- I mean, you know, surely an extra eight percent of that differential is --

MS. CORT: I mean, I think that's a great -- I guess we've spent --

MR. MAY: What is it?

MS. CORT: We've spent so much time explaining why we think that 80 percent AMI is not really affordable housing for our city.

MR. MAY: Right.

MS. CORT: I mean, just so we've been so concentrated on building our arguments around why we think that 1B is feasible and not destructive to the housing market, and why 80 percent AMI is not a good income level, that I have not focused -- I think it's a really important question and it's the next thing I'm going to work on as soon as we win 1B here.

MS. ZIPPEL: So you've not seen the last of us here today.

No, I mean, I think the proposals we've been talking about over the past couple of months have been predicated on balancing what's currently available in the form of bonus density. So we've been basing our affordable housing asks on that. If we assume the Comprehensive Plan will result in even more density being available to offset the cost of affordable housing, we would obviously like to see above and beyond what we're talking about here today. Some of that density go to support additional affordability. But of course we need to know, you know, how those things would shake out.

And I think, you know, one thing that's great that's come out of all this process is the model that's been developed by Office of Planning which I think, and maybe there are some tweaks that Art will need to make, that Mr. Rogers will need to make down the line, that that could actually be a good empirical foundation to help us evaluate during the Comp Plan process, how much additional affordability would be appropriate for different levels of density the Comp Plan would achieve.

But again, Option 1A, Option 1B, they all work with the density that we already have and don't need any additional density through the Comp Plan in order to still have a very small economic impact.

MR. MAY: Right. Okay. And I get that message. But it's still the thing that I'm -- that is most unanswered for me, and I feel like we're at -- you know, we haven't quite hit the moment yet, but we're approaching a critical moment in understanding the interplay between housing affordability and these Comp Plan changes. And I feel like if there is not some clear direction that rises up early in the process that, kind of retrofitting it to whatever is proposed in changes in map changes becomes more difficult. And I think that now that you're sort of submerged in this -- I know that we're not necessarily going to enact anything. You know, what's before us now is 1A and 1B, and you know, maybe tweaks of that.

But I think it is a much bigger question because it is something that we are facing constantly in PUDs, where we see examples, just like what I said. You're going from a C-M-1 with a 4.0 FAR to a C-3-C with an 8.0. I mean, I don't know the exact numbers but it's things like that where these huge increases in density, and we're kind of at a loss to value that. You know, Gee is 8 percent at you know, with -- or 10 percent with 50 percent of that at 50 percent. And 50 percent at 80 percent. Is that --

does that correspond to the increase in value?

I mean, the thing about it is that you know, the property was purchased on the assumption that it deserves to go to C-3-C. All right? There's already a map in consistency and it makes sense that it would go that high, so it's hard to capture that value on these things that are already coming before us. But it is, it's a real problem because what we see as, geez, you know, you can build twice as much density. How much more value is there, and how much is going into you know, the investors of the property, and how much of that value can be captured by the city that is starving for more affordability.

I'm not trying to, you know, take all the money out of the pockets of the investors and the developers, but gee, it would be nice if some of that increase in value which is due to a policy change on the part of the city, actually goes to furthering those values. So, I mean, it's a very important question for me even if we don't get to answer it with regulations out of this process. But you know, anything in that direction. I mean, I'm at a loss. Is it, you know, if you're going to go from four to eight does that mean that 50 percent of the increase in density should be affordable housing? Or is it 20 percent? Or is it 80 percent? You know, so. Those are the questions.

MS. ZIPPEL: Yes. I mean, I think taking -- one of the things I think very early in this process, maybe our first submission to the record, we suggested adding to the text amendment a provision that would say that additional density provided by the Comprehensive Plan would be treated as bonus density for the purpose of Inclusionary Zoning. So there was already sort of contemplated and IZ, the idea that you know, a certain percentage of additional density that's supplied, should go to affordable housing with the understanding, you know, the balance would go to cross-subsidy.

And so I think that would seem to be a very intuitive way to go for the Comprehensive Plan to say if this zone is going to achieve X amount of density then, you know, X percent of that density is bonus density. And therefore, you know, part of that will need to go to affordable housing.

MR. MAY: And if it's tied to the bonus density then it triggers that other measurement of how much has to be affordable, because we almost never see that.

MS. CORT: It's already in the provision for a BZA. Well, I mean, for a --

MR. MAY: No, I mean, it exists, right? You know, it's -- you know, the measure is eight percent of a certain percentage of the bonus density that's achieved, right?

MS. CORT: Fifty to 75 percent of the bonus density.

MR. MAY: Right. Whatever it is. But the point is that I don't remember a single PUD where we've ever seen the amount of affordability tied to an increase in bonus density. Maybe it is. Maybe it happens in matter of right projects, but we never see it in PUDs. And maybe that's because of the types of construction that it's tied to or the zones that it's tied to. I forget what all the ins and outs are.

So I'm not sure that we're going to see that if we simply tie it to map changes. So, anyway, I mean it's --

MS. CORT: It would be helpful for the Office of Planning to do more detailed analysis of that.

MR. MAY: Well, I think I kind of asked for that at the last meeting that we start to look at that question of increase in density and what that -- you know, is that an opportunity to capture greater affordability. So, maybe we'll see that but I don't know that we'll see it in time to make decisions on this. But who knows. Thank you.

CHAIRPERSON HOOD: Okay. Any other questions? Commissioner Turnbull?

MR. TURNBULL: Yeah, thank you, Mr. Chair. Thank you for being here again tonight on our continuing saga. You know, your submission, the two figures are, excuse me -- the two figures, the Figure 1 and Figure 2, were a little disturbing and I will have to ask Office -- and you had mentioned that in Figure 1 that the Office of Planning did not include -- that your data does not -- they had omitted some data that you are now -- that is different from -- it's kind of flipped. So we'll have to ask them why they didn't include it.

But Figure 2 is very disturbing to find everything east of the -- about, east of the river. It sort of shows a tremendous difference. When we look at all our projects and we don't actually often see the big picture of where everything is happening. So if your data -- it's just troubling. It's disturbing when we see this. And we've had a lot of comments from the residents in the area that have pointed this out so that if -- so that, what's happening. But again, thank you.

I guess I mean, I think we've touched on a lot of different things that Commissioner May pointed out. I guess one of the things, we know you're for 1B. But DCBIA also commented upon the other four items in there. And in the -- in looking at the hearing notice, and we look at the other four items that are to be talked about, and it talks about OP setdown and it talks about the -- is your petitioner, is your -- what's listed here is still your status or have you -- you've shifted.

MS. CORT: I mean, I think our status, petitioner, but we no longer are proposing the original petition. We are now supporting 1B.

MR. TURNBULL: That's what I thought. So I thought it was a little misleading just to see this.

MS. CORT: It's awkward to explain to everybody.

MR. TURNBULL: Right.

MS. COHEN: Like ANCs for instance.

MS. ZIPPEL: Yeah, I mean --

MR. TURNBULL: Yeah, I --

MS. ZIPPEL: -- I think formally the petitioner is what we included in the actual petition but as, you know, we now are supporting OP setdown report 1B.

MR. TURNBULL: Okay. So, I was just as I say, looking at these other statements that are in this hearing notice just to clarify, the one key is 1B. And these other points are sort of subservient. Okay.

MS. CORT: Absolutely.

MS. ZIPPEL: Yes.

MR. TURNBULL: All right.

MS. ZIPPEL: But I will say just for clarity, that we have proposed two modifications to 1B to actually make it a little more -- to make the impact even less to set asides in two zones, C-2-B and R-5-A or B that's in my written testimony.

MR. TURNBULL: Okay.

MS. ZIPPEL: So I will point that out.

MR. TURNBULL: All right. So we need to adjust that accordingly then. Okay. All right. Thank you.

CHAIRPERSON HOOD: Okay. Commissioner Miller.

MR. MILLER: Thank you, Mr. Chairman. And I just want to thank the Coalition and D.C. Fiscal Policy Institute for all of your work and analysis and initiative on this case. It's very comprehensive and you've presented it in a way that, you know, I think the public can understand it, and Commissioners can understand it. So I appreciate all that effort.

I think you may have commented on this, but I don't -- and I don't remember what the comment was. Did you have a position on what the period of time for -- if we were to go with any proposal.

MS. CORT: Regarding grandfathering?

MR. MILLER: Yeah.

MS. ZIPPEL: I don't know that a strict cut off would be necessary. I mean, I think definitely as we've said, projects that are already in the planning stages, land that's already been acquired based on certain assumptions, those projects should be allowed to comply with the existing rules. I guess I worry with setting a cut off that that will actually cause a sharp -- it will actually end up causing more of a sharp transition period as people rush in to get the ball rolling before the period ends and that could potentially cause some distortions to the market.

So I think again, as worked pretty successfully last time, just coping with individual projects, making sure people who have already started pursuing developments have the chance to price that in, would be sufficient.

MS. CORT: I mean, I think that the grandfathering last time, though, it was not related. You had to have -- you had to have some level of vestment in the project. And even with that we probably still have a couple of grandfathered projects kicking around today.

But I think that, you know, grandfathering is about making sure that we don't harm any existing project that has been underway for some reasonable but not, you know, undetermined amount of time basically. I mean, sort of this balance between you want to make a change to your regulation but you don't want to harm people who made investments in a regulatory environment that is changing. You want to keep a stable regulatory environment as you make, you know, important changes to policy to better respond to needs. So it's sort of that balance that we want to see. We don't want to harm any of those investment decisions. And so --

MS. ZIPPEL: But a cut off based on a specified number of years seems to be far too blunt an instrument to address that issue.

MS. CORT: Well, you need to -- you need to come to a conclusion though.

MS. ZIPPEL: Yes.

MS. CORT: I mean, it can't just be forever. So you can't just have a home, sitting on it, and saying that they're grandfathered because they were thinking about doing a project. And so --

MR. MILLER: Well, we have the previous example and we have a number of zoning cases that we've done in the past two years where we had grandfathering provisions. We can look at all them and see what's appropriate in terms of not harming any project that's in the pipeline.

So anyway, I appreciate all of your testimony.

CHAIRPERSON HOOD: Okay. Vice Chair Cohen.

MS. COHEN: Thank you, Mr. Chairman. Again, I think the largest discrepancy that I see is in the, you know, evaluation of land value. And again, you're talking about less than five percent mostly. Yet, and I guess today you just received a copy of the developer's analysis, his Table 1 dated 7/13, where C-2-C -- I'm sorry. Yeah, C-2-C, C-3-C, are looking at 19, 20 percent. Can you address that differentiation between your analysis and their analysis?

MS. ZIPPEL: Sure. So, as was mentioned earlier, and I think as in the table in BIA's testimony, instead of using all the base inputs from Office of Planning's model they substituted a different parking ratio across the Board based on what they say are their typical practices and what they need for projects. So that's the source of the discrepancy.

And in fact when I look at the numbers for zones that weren't affected by ZRR, the percentages are equivalent. So that appears to be the source of the difference. But again, BIA's submission from a month ago didn't include this change, and it really has not been discussed up until now in the record, or in any of the conversations we had with Office of Planning. So it's perplexing to us that this different input has been introduced at so late a date resulting in the appearance of much greater impacts than are in the base model.

MS. CORT: And the analysis presented by Office of Planning, Figure 17 in the technical appendixes, has C-2-C for -- 1B has actually a positive value of 2.2 percent for in Office of Planning's report, for instance.

MS. COHEN: Okay. So your planning assumption, I mean, your parking assumption is you're assuming not .3 per unit, you're assuming zero?

MS. CORT: No.
MS. ZIPPEL: No, we're assuming compliance --
MS. COHEN: With ZRR.
MS. ZIPPEL: -- with ZRR. And again, that's what Office of Planning also assumed and what the baseline that we had all been working off of up until tonight.
MS. CORT: So if you look at Figure 18 of the technical appendixes, it's actually related to Option 1, but it actually shows the ZRR parking change in the first column. And it shows one, two, three, four, five zones that are affected by the ZRR parking change with significantly positive values. I know for a fact that the CR value of the increased value of 14.4 is due to CR being, I guess, all subject to the one to six ratio. So that's by far the lowest ratio because it's all transit related.
I don't know if that's the case, but it could be and I think we should ask Art, Mr. Rogers, about the other zones.
MS. ZIPPEL: And I guess I'll just note that, you know, again, this has been sort of priced into everything from the beginning and if developers choose to provide more parking than they're required to it's like any other development choice based on

the market. You know, they could choose to include common space, a rooftop pool. I mean, it's all what they need to do to make their building marketable, and so we are not pricing any of those other things into the model so it's not clear to me why parking should be an exception. If they want to make the business decision to provide more of this or that amenity in their project, that seems to be at their discretion.

MS. COHEN: Well, it seems to me that it's a market, you know, decision. It's not, you know, I'd like this versus I'd like that. It really is market driven.

Your Figure 2 is disturbing as Commissioner Turnbull mentioned. Are you including existing properties as well? You know, aged housing?

MS. ZIPPEL: Figure 2?

MS. COHEN: Yes.

MS. ZIPPEL: Yes. So to make --

MS. COHEN: Mic.

MS. ZIPPEL: Sorry. So to make Figure 2, and the testimony also meant digitally the hyperlinks will be usable and you can actually visit the Zillow website. And I just typed in a search, assuming that I am a regular person looking for an apartment, what are the options that pop up to me. You know, I clicked on a couple of them to look individually and we, you know, again, not representative, I could look more in depth. But I saw a lot of row house flats, a lot of well-maintained older buildings, you know, class B, really nice with beautiful gardens and stuff, and some English basements. And so those thoughts, the type of housing stock, the $1,600 a month did appear to be mostly sort of the holder housing stock. But in some neighborhoods there were smaller apartment buildings that appeared to be newer that were priced at this level.

MS. COHEN: Okay. Thank you for your analysis. Appreciate it.

CHAIRPERSON HOOD: Okay. I don't necessarily have any questions, and I thank you all for your hard work and I will digest some of this in the days to come. So, any other follow up?

Okay. We greatly appreciate it. Thank you. Okay. Let's -- is there any organizations or persons who are here who would like to testify in support? Come forward. Just two? Do we have any organizations or persons who would like to testify in opposition? Come forward.

Okay. We'll start with the two in support first and then we'll go to the person in opposition. Okay. You may begin.

MS. STEEN: Good evening, Chairman Hood and Commissioners. Thank you. I'm Leslie Steen. Thank you for allowing me to testify, again, regarding the proposed changes to Inclusionary Zoning. I'll be brief.

I'm here tonight as a resource to the Zoning Commission. I have not -- I anticipated the hearing covering the DCBIA pro forma which I did not have in advance to review. I'm sorry, I had the one from the previous and could not discern where numbers came from. And so I thought tonight we were getting expanded numbers that I would be able to review and have some comments on. There's just insufficient information in what DCBIA provided at the April hearing.

There are many assumptions that underlie DCBIA's numbers as OP numbers. And you can discuss what those assumptions are and the impacts they have on what the residual land value are. One number I was able to pick out of the April numbers was operating costs, which were set at $11,092 per unit, per year, which is extraordinarily high.

In my field of affordable housing we are limited, we cannot underwrite for more than $6,500 a unit. And even in, I have a high-end, top of the market Arlington Courthouse Metro high rise, high amenity building, we're close co-developed with Buzuto (phonetic) mixed income. We're nowhere near $11,000 a unit of operating expenses. You back those numbers down and your land values change.

So there are all kinds of things that you can take into account that will impact land value. Another thing that is -- but is not in OP's pro forma is the timing of equity; when does equity come into a deal. And if equity typically comes into a deal, staged over time. And as opposed to in one lump sum.

And in OP's numbers it's there at the beginning, which drives up the cost of the return that has to be provided. So there are a lot of things that can be discussed about numbers if you know what the underlying assumptions are. OP's, we all sat together and discussed underlying assumptions.

So I'll stop with that. I'm in favor of 1B. We can afford it and we need to afford it.

CHAIRPERSON HOOD: Thank you. Next.

MR. BELL: Hi. My name is Sam Bell. I'm a homeowner in Northwest D.C. I was here at the last one of these. I hope you all don't have to stay as long as you did last time. And I'm sorry, I don't have written testimony. I spent half the day at work and half the day chasing my eight week old -- or trying to feed my eight week old. Not chasing yet.

And I'm here, I'm for 1B. As I said last time, I think there's a severe crisis in the city around affordable housing, even though there are not many people in the room, I think actually this issue is top of mind for all my neighbors, rich and poor, every color, every race, every background.

So I'm a market person. I believe in dynamism. I don't think -- I believe that people coming into the city is good. I think people are going to leave. I think there's going to be a lot of mixing.

What gets me a little bit is thinking -- stepping back and thinking, why do these development opportunities exist to begin with. And there are many reasons. People are moving to cities. But one big reason in my mind is this city and the tax payers of this city made huge investments, tax payers paid for investments in Metros, in other infrastructures, in tax subsidies, to make neighborhoods that would be -- that would have huge development opportunities.

And I think at this point for the city not to make those development opportunities available to people at all income levels would really be -- would really be just a sad, a really sad outcome.

I think the other thing I want to say is there's -- the way I think about it is a spectrum. On one end of the spectrum there is this Commission and the city just stays out of development, let developers do what they want. We're talking about 1B which I think is a very solid progressive Inclusionary Zoning, which I see as a middle way. There's a other end of the spectrum which is that the frustration that people are felling now results in a political blowback that means there is no development.

I don't want to be extremist about this, but I think anybody who is paying attention to the frustration can see a scenario where people react very badly to the outcomes in this city. And I think, you know, we talked about Franklin Roosevelt saving capitalism from itself and having to do aggressive things, I think you and this Commission are in a good place to save development from itself. And I think -- I'm not predicting it but I think it's a real possibility that we don't take seriously enough is that too many people see the development that's happening in the city, feel themselves and other people in their family and their communities cut out of it, and say enough of all of it.

The last thing I'll say very quickly is, everything in my life has been guided by shared experience. Shared experiences I've had with my family. Shared experiences I've had with people I went to school with, played basketball with, what have you. The beauty of Inclusionary Zoning I think is you're giving people an opportunity who wouldn't otherwise, to have shared experiences. I was having a conversation with a friend the other day who -- raised by a single mother who was sometimes a taxi driver, sometimes out of work, and he just happened to live and go to school in an area of mixed income. And it saved his life. It meant everything to him. Exposure to different people doing different things, other avenues, other models, everything.

And so this is bigger than housing, I think. I think it's about really our people in this city. Lots of different people live here but are we having shared experiences? Are we actually living together?

And I really appreciate you all taking the time to hear us out and, yeah, thank you.

CHAIRPERSON HOOD: Thank you. Now you're in opposition so you can just go right ahead and we'll wait and ask all our questions at the end.

MS. WEIRICH: Okay. Great. My name is Terra Weirich. I live at 2300 Ontario Road Northwest in Adam's Morgan. And I'm giving testimony as part of the Zoning Commission's consideration tonight of zones exempt from IZ, point number 3, and an unresolved issue of exemptions remains regarding rent control buildings that are expanded by 50 percent or more. I'm requesting that rent controlled buildings be exempt from IZ when expanded by 50 percent or more, such that IZ would only apply to the addition.

I testified about this issue at the Commission's last hearing on April 14th and subsequently spoke with the Office of Planning about it. OP's recommendation to the Commission in its last report was that DHCD will quote, "Review the two programs and resolve any conflicts between them either administratively or by legislation if necessary, which leaves the issue entirely unresolved. And in my case leaves a project in limbo.

I have submitted more detailed written testimony with data that explains the economic and practical challenges that imposing IZ on a rent controlled building would create. However, I want to give you the key points. First, I did an analysis of about 550 rent controlled units in four buildings for which I had data, and I found that rent control is achieving comparable or higher levels of affordability than IZ. I have data for nine more buildings and could perhaps dig up some more if that's of interest to you, but I expect the trend to be the same. That's attached to the testimony that I provided to you, on the last page.

So I come to the conclusion that owners of rent controlled buildings are already bearing their fair share of below-market rents. And from an economic perspective the effective imposing IZ on rent control buildings will still -- will render such expansions infeasible.

As an example, you know, a 50-unit stick-built addition on a 100-unit building would trigger 10 IZ units in the existing 100-unit building. And then a -- and IZ units generally don't cover their operating expenses, or close to it. So the effective value of these 10 units goes from probably two to $4 million to zero, making the bar to proceed with that addition to the building excessively high.

From an administrative perspective administering IZ and rent control to the same units in an existing building is overly burdensome for staff as rents are set and escalated differently and there are separate reporting requirements. The idea that all IZ units could be located in the addition over-concentrates IZ units and contravenes the intent of IZ from the beginning to disburse IZ units throughout a project.

Using my example from before of a 50-unit stick-built addition to a 100-unit existing building where 15 total IZ units would be required, accommodating all of those in the addition would represent a 30 percent IZ percentage in that 50 unit building.

Without the IZ exemption for rent controlled units, the District loses because these additions cannot meet the financial bar to proceed due to the impact on the existing building. No language or other regulatory fix to the conflict has been proposed to address the situation, leaving me and other developers without any direction about how to proceed on real projects in que.

I ask the Commission to provide clarity and direction by exempting rent controlled buildings and applying IZ only to additions of 50 percent or greater. Thank you.

CHAIRPERSON HOOD: I want to thank you all for your testimony, both proponents and opponents. Any questions or comments of either group?

MS. COHEN: No.

CHAIRPERSON HOOD: Okay. We thank you very much. We appreciate all your testimony.

Okay. This action is going to conclude our proceeding. Ms. Schellin, what are we doing next Wednesday?

MS. SCHELLIN: Next Wednesday. So this closes the record unless the Commission wants something specifically. But next Wednesday is, this case is up for proposed action.

CHAIRPERSON HOOD: Is this the only case we have next Wednesday?

MS. SCHELLIN: Well, no. Thursday -- Wednesday -- I'm sorry. Monday night there was one case that was deferred off of the consent calendar.

CHAIRPERSON HOOD: So we'll put it for Wednesday.

MS. SCHELLIN: Yes. You guys thought it would take less than five minutes to take care of that case.

CHAIRPERSON HOOD: I was just thinking, maybe we could deliberate the night and not come down here Wednesday. But I think we probably need to look at some more, what we have in front of us. Okay. All right. I was just trying to save us a Wednesday. All right.

MS. SCHELLIN: 6:30 p.m. next Wednesday, the 20th.

CHAIRPERSON HOOD: Okay. So I want to thank everyone for their participation. Anything else, Ms. Schellin?

MS. SCHELLIN: No, sir.

CHAIRPERSON HOOD: I want to thank everyone for their participation tonight and if you want to continue to follow us we will be discussing this next Wednesday at 6:30 after we finish one other preliminary issue that we have to deal with. So appreciate all your testimony, all your hard work, and everything you've brought us for us to try to make the best decisions possible for this City.

So with that, this hearing is adjourned.

[Hearing adjourned at 8:58 p.m.]