

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission

Special Public Meeting

Case No. 04-33G [Coalition for Smarter Growth, et al.
- Text Amendment to Chapter 26 of the Zoning
Regulations.]

6:37 p.m. to 8:05 p.m.
Wednesday, July 20, 2016

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

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1 Board Members:

2 ANTHONY HOOD, Chairman

3 MARCIE COHEN, Vice Chair

4 PETER MAY, Commissioner

5 ROBERT MILLER, Commissioner

6

7

8 Office of Zoning:

9 SHARON SCHELLIN, Secretary

10

11 Office of Planning:

12 JOEL LAWSON

13 ARTHUR RODGERS

14

15 Office of Attorney General:

16 ALAN BERGSTEIN

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

2 CHAIRPERSON HOOD: Please come to order.

3 Good evening, ladies and gentlemen. This is a
4 special public meeting of the Zoning Commission for
5 the District of Columbia.

6 My name is Anthony Hood. Joining me are Vice
7 Chair Cohen, Commissioner Miller, and Commissioner
8 May. We're also joined by the Office of Zoning
9 staff, Ms. Sharon Schellin, Office of Attorney
10 General, Mr. Bergstein, as well as the Office of
11 Planning, Mr. Lawson and Mr. Rogers.

12 Copies of today's meeting agenda are
13 available to you and are located in a bin near the
14 door. We do not take any public testimony at the
15 meetings unless we ask someone to come forward.
16 Please be advised, this proceeding is being recorded
17 by a court reporter and is also webcast live. Please
18 turn off all beepers and cell phones.

19 Does the staff have any preliminary matters?

20 MS. SCHELLIN: No, sir.

21 CHAIRPERSON HOOD: Okay. If not, let's move
22 with the first item on the agenda, Zoning Commission
23 Case No. 06-04E, Consent calendar Florida and Q
24 Street, LLC., request for minor modification to PUD
25 at Square 3100. Ms. Schellin.

1 MS. SCHELLIN: Yes, sir. As the Commission
2 knows, this case was deferred from the last meeting
3 and the applicant has made a supplemental filing at
4 Exhibit 6 and 6A, would ask the Commission to
5 consider final action this evening.

6 CHAIRPERSON HOOD: Okay, Commissioners. As
7 noted we have submissions from 6 and 6A and I think
8 we already knew that we had a letter of support; a
9 resolution in support of ANC 5E. Let me open it up
10 for any discussion on the revised plans.

11 MR. MAY: Mr. Chairman.

12 CHAIRPERSON HOOD: Commissioner May.

13 MR. MAY: Since I was the one who raised the
14 issues on this one I can tell you I think that
15 they've met all the setback requirements so I'm very
16 happy to move this one forward.

17 CHAIRPERSON HOOD: Any other comments? Vice
18 Chair Cohen?

19 MS. COHEN: No, other than I would second
20 that.

21 CHAIRPERSON HOOD: Okay. Was that a motion,
22 Commissioner May?

23 MR. MAY: So moved.

24 CHAIRPERSON HOOD: Okay.

25 MS. COHEN: And second.

1 CHAIRPERSON HOOD: It's been moved and
2 properly seconded. Any further discussion?

3 [Vote taken.]

4 CHAIRPERSON HOOD: Ms. Schellin, would you
5 record the vote and the absentee if you have it?

6 MS. SCHELLIN: Yes, sir. Staff would record
7 the vote five to zero to zero to approve final action
8 in Zoning Commission Case No. 06-04E, Commissioner
9 May moving, Commissioner Cohen seconding,
10 Commissioners Hood and Miller in support,
11 Commissioner Turnbull in support by absentee ballot.

12 CHAIRPERSON HOOD: Okay. Next, let's go to
13 Zoning Commission case -- thank you, Ms. Schellin.
14 Let's go to Zoning Commission Case 04-33G. Again,
15 this is -- this is a proposed action campaign for
16 Inclusionary Zoning text amendment for Inclusionary
17 Zoning. Ms. Schellin.

18 MS. SCHELLIN: Yes, sir. There is just one
19 submission since the hearing, or the further hearing
20 last week. And that is a submission from NCPC at
21 Exhibit 425. Or, I'm sorry, 245, and it is advising
22 that NCPC does not find any -- the regulations are
23 not inconsistent with the federal elements of the
24 Comp Plan for the National Capital.

25 CHAIRPERSON HOOD: Okay.

1 MS. SCHELLIN: And we'd ask the Commission to
2 consider proposed action this evening.

3 CHAIRPERSON HOOD: Okay. Thank you, Ms.
4 Schellin.

5 Commissioners, I will tell you, I think a lot
6 of this has been covered as far as I'm concerned in
7 the presentation and materials and what they are. I
8 think our options -- what options we choose, there's
9 some multiple choice issues here. But I think as far
10 as a whole lot for me, and I can leave that up to
11 whoever wants to discuss it, I think the record is
12 complete. I think it's just a matter of us going
13 through the items and just picking which ones that we
14 would go with.

15 For example, I think we had initially had
16 further discussions on those five items, which I
17 don't know if we have our worksheets in front of us.
18 Okay. Great. And those five items -- and if you
19 feel we need to go through all the other ones, we
20 should.

21 So I would like to basically start off with -
22 - let me make sure I have the most current in front
23 of me. Shifted target of medium family incomes, MFI,
24 options, and we have A, B, C, and D. And again the
25 way I like to move forward with this is that we have

1 had plenty of discussion. And from our standpoint
2 the options, I think, are 1A, 1B, and then one of
3 them says, retain all current targets. I think, from
4 my standpoint we know something needs to be done and
5 from my standpoint I would be going along, basically
6 in the first five that we have, and I'd be looking at
7 Option 1B. But let me open it up for discussion.
8 From my standpoint 1A just does not go far enough.

9 All right. Let me open it up for discussion;
10 however, you all want to do it. If you want to go
11 down one by one, we can. However, you all want to do
12 it. I'm leaving it up to my colleagues.

13 MR. MAY: I think it makes sense for us to
14 march through these things one by one. But I think -
15 - I agree with the Chairman that 1B, the case has
16 been made strongly by the petitioner, and they did
17 pivot from where they originally were to support 1B
18 as it was developed by the Office of Planning. I
19 think we heard, you know, a lot of good testimony,
20 you know, from a number of sources supporting, you
21 know, both sides of this. But I think in the end I
22 think we should be pushing further than the sort of
23 safe choice that is 1A. And so I would support 1B as
24 well.

25 CHAIRPERSON HOOD: Anyone else? Okay. So as

1 -- oh, I'm sorry, Commissioner Miller.

2 MR. MILLER: Thank you, Mr. Chairman. I'm
3 pleased that we're here today at proposed rulemaking
4 to strengthen the Inclusionary Zoning program after
5 many years of seeing it produce affordable housing,
6 but seeing also that it's not quite meeting the needs
7 that existing in the city, and I think that the
8 Option 1B, listed as 1B on our worksheet, that OP had
9 recommended back in July of last year, which the
10 petitioner embraced as a compromise to have all 60
11 percent MFI rental units at the 60 percent MFI level,
12 will more greatly meet the need than the alternative,
13 and certainly more than the existing program. So I'm
14 pleased to support you and Commissioner May and I'll
15 wait to hear from Commissioner Cohen on that point.

16 MS. COHEN: Thank you, Mr. Chairman. I think
17 that DCBIA and the Office of Planning did make
18 thoughtful arguments on the development economics.
19 However, again, I agree that we must in this urgent
20 time where there's a mismatch between what's being
21 produced and what is needed by the population, I
22 mean, the market isn't meeting the need. And
23 therefore we have to be aggressive in how we address,
24 I think, the IZ program.

25 It will not, and we all know this, resolve

1 all the issues and all the needs. But I think we
2 need to just keep pushing to attempt to address this
3 60 percent median income, median family income.

4 I think, you know, the argument on land
5 development values, they're just, I think they're
6 over extended and I think our actions may end up
7 affecting production. But then again, I think that
8 it may not. It may end up balancing the cost of
9 doing business in the city. So I am in support of
10 1B.

11 CHAIRPERSON HOOD: Okay. I think we've all
12 commented on and keeping it in the spirit with which
13 I think we have 22 items so we'll just run through
14 these.

15 MS. COHEN: Twenty-two? Or five?

16 CHAIRPERSON HOOD: No. Well, five is what we
17 thought we needed to hear about, but we actually have
18 22, so we'll do our best to plow through these.

19 Okay. Shifted target median income options,
20 we have A, B, C, and D. Do I need to read all that?
21 I think it's for the record. I don't need to -- I
22 think it's in the record so I don't need to read all
23 this. I didn't want to do like we did when we did
24 the ZRR. So, I think we've already decided
25 colleagues, through the discussion and the

1 information we received from all sides and all
2 parties interested, OP setdown report, Option 1B said
3 2603.3, shift current targets to 60 percent MFI for
4 rental IZ developments and 80 percent MFI for
5 ownership IZ developments, whereas the OP final
6 recommendation, the 1A, we're going away from that.
7 I think we all chose 1B. Am I correct in that?

8 ALL: Yes.

9 CHAIRPERSON HOOD: Okay. So any other
10 comments on that?

11 Okay. Let's go to number two.

12 MR. MILLER: Do we need to -- we don't need
13 to vote on each --

14 CHAIRPERSON HOOD: I think as long as we're
15 agreeing, I don't think I we need to vote on each
16 one.

17 MR. MILLER: That's fine.

18 CHAIRPERSON HOOD: Yeah. Yeah. Unless we
19 come to a disagreement, but right now it seems like
20 we're hitting 100 percent.

21 Okay. The change percent IZ square footage
22 requirement, the OP setdown requirement in expanded
23 zones of OP's recommendation 1A listed above, kept
24 both the eight percent of the residential square
25 footage requirement and the 50 percent of the bonus

1 density achieved requirement.

2 The petitioner, as we've noted, changed
3 percent of -- well, I don't need to read all that.
4 But do we all agree with 1B?

5 MR. MAY: So this one had me a little bit
6 confused because --

7 CHAIRPERSON HOOD: 2B, I'm sorry.

8 MR. MAY: -- I thought that this was, you
9 know, Options A and B are tied explicitly to OP's
10 recommendation 1A, which it you know, talks about
11 expanding the requirement to split IZ units in
12 certain specific districts. So I don't think that we
13 can vote for A or B since we didn't vote for 1A. So
14 the question is, do we keep the current percentages
15 with the 50 percent of the bonus density as the
16 alternative. I mean, you know, eight percent or 50
17 percent of bonus density. Or do we go to some other
18 calculation such as what is proposed by the
19 petitioner.

20 So I mean, I guess it's really -- I mean, the
21 first thing I said was actually D. And then the
22 alternative is C. That's the way I read it. Does
23 anybody understand it differently?

24 MS. COHEN: I think you're correct,
25 Commissioner May. That's the way I understand it.

1 MR. MAY: I saw a nod from the Office of
2 Planning too.

3 CHAIRPERSON HOOD: I didn't understand it
4 that way, but okay. If that's -- whatever gets us to
5 where we need to be in compliance with what we just
6 did, our actions of 1B, that's where I'm trying to
7 go.

8 MR. MAY: So I mean, essentially the real
9 question is whether we want to expand the percentage
10 of square feet required and be more aggressive about
11 that, you know, where the scheme we have now with
12 eight percent or 10 percent depending on the type of
13 construction, and then 50 percent of bonus density is
14 the alternative which I mean, essentially that's the
15 status quo. It's not what the petitioner had asked
16 for originally which was 12 percent for most zone
17 districts and change Saint Elizabeth's from 8 to 10 -
18 - excuse me, eight percent to 10 percent.

19 I guess, I mean, I would like to get a
20 clarification from the Office of Planning about
21 whether tied to their original Option 1B they had
22 recommended any other further changes to this
23 requirement, because I didn't see anything that was
24 tied to 1B.

25 CHAIRPERSON HOOD: Okay. Mr. Lawson, or Mr.

1 Rogers.

2 MR. ROGERS: That's correct. Our
3 recommendation for changing the percent of square
4 feet required was strictly with regards to 1A. We
5 made no recommendations one way or the other with
6 regards to 1B.

7 MS. COHEN: One of the things that I want to
8 note though, is that Saint E.s now is required to
9 provide 30 percent. And this is a question for you,
10 Mr. Rogers. 30 percent median income. I mean, 30
11 percent of the units affordable. Is that correct?
12 It's been legislated at Saint -- or it's been, the
13 RFPs indicate that there is a deeper subsidy
14 required.

15 MR. ROGERS: If it is the result of a
16 disposition that is a result of District law, then
17 that is correct. Then it would be either 20 percent
18 if it's not near a Metro station, or 30 percent if it
19 is near a Metro station. I don't know the specifics
20 of Saint E.s, whether they're all going to be public
21 dispositions or not.

22 MS. COHEN: Well, I believe that the RFPs
23 were issued at the deeper affordability.

24 CHAIRPERSON HOOD: Commissioner Miller.

25 MR. MILLER: Well, Mr. Lawson -- well, just

1 following up on Vice Chair Cohen's -- and there's a
2 later worksheet item that I think says that if it's
3 at a higher disposition then IZ doesn't apply and
4 it's recognizing what we've been doing in cases.

5 But I do have a question on the proposed
6 change, just the part of the proposed change,
7 originally proposed change from the petition to
8 change it from 8 percent to 10 percent. Do you see
9 any harm if that was adopted, either Mr. Rogers or
10 Mr. Lawson? Did you have a position on that in your
11 filings? I just don't remember.

12 MR. ROGERS: Yeah, I think we did not take a
13 position on it specifically.

14 MR. MILLER: I think I have no problem going
15 to the 10 percent if -- it's going to be more than
16 that anyway. They're mostly going to be by
17 dispositions as the Vice Chair pointed out. I think
18 as a threshold I think it might be a good signal to -
19 - just to have the minimum threshold at 10 percent
20 for Saint E.s.

21 CHAIRPERSON HOOD: Okay. I would agree. I
22 will concur with that. So in that case Saint E.s
23 would change it from eight percent to 10 percent,
24 unless someone objects.

25 MS. COHEN: No.

1 MR. MAY: No.

2 CHAIRPERSON HOOD: No objection.

3 MR. MAY: And otherwise it would stay the
4 same.

5 CHAIRPERSON HOOD: Yeah.

6 MR. MAY: Okay.

7 CHAIRPERSON HOOD: Okay. Are we ready to
8 move --

9 MR. BERGSTEIN: There was an accidental
10 repeal which was noted in the public hearing notice.
11 The original Saint E's order had it at eight percent
12 and 10 percent depending on the type of construction.
13 And then that accidentally got repealed so that the
14 only thing that was mentioned was the eight percent.
15 And actually the public hearing notice attempted to
16 correct that.

17 But just so you know that the existing Zoning
18 Regulations that say eight percent for Saint E.s
19 actually is incorrect and it was actually supposed to
20 be an 8/10 split based upon whether or not it was,
21 you know, a concrete or not concrete construction.

22 But if you want to change it all to 10
23 percent, that's fine. I just want you to be aware of
24 that.

25 CHAIRPERSON HOOD: Okay. I think we all in

1 agreeance. Everything is 10 percent. Any
2 objections?

3 Okay. We ready to move on. What number is
4 that? Number 3, expand IZ requirements to currently
5 exempted zone districts. We have the Options A, and
6 then we have the petitioner. We have what the Office
7 of Planning's final recommendation. Retain current
8 exempt zone districts except for Hill East. OP notes
9 that Hill East set-asides and MFI recommendations did
10 not make it into the final report and public hearing
11 advertisement and OP submitted new text in this case
12 to exempt sites such as portions of Hill East from
13 the IZ requirements, which they are subject to
14 greater affordability requirements as a result of
15 District law anyway. Now the petitioner expands IZ
16 requirements to Downtown District and Southeast
17 Federal Center.

18 Okay. Commissioners, what is -- you want to
19 do the --

20 MS. COHEN: Well, again, my understanding is
21 that if it is a disposition by -- excuse me, by the
22 City, it will have deeper affordability so IZ will
23 not apply. But I think that I would agree with the -
24 - agreeing with the petitioner I don't think the
25 Downtown Development District adds any benefits, and

1 I don't think Southeast Federal Center does. So --
2 excuse me. So maybe I'm arguing on behalf of the OP
3 final recommendation.

4 CHAIRPERSON HOOD: Any other comments on
5 that?

6 MR. MAY: I would agree.

7 CHAIRPERSON HOOD: Anything else?

8 MR. MILLER: Mr. Chairman. I wonder if OP
9 could just very briefly state the rationale for why
10 the Downtown Development District and Southeast
11 Federal Center are currently exempt. I think
12 Southeast Federal Center we realized that there are -
13 - there is a development agreement that requires a
14 much -- again, a much higher affordable housing
15 level. I think it's -- it is almost at the -- well,
16 I thought -- well, maybe you can just speak to that;
17 to why they are current exempt and what your current
18 position is, why they should continue to be --

19 MR. ROGERS: So the Zoning Commission, back
20 in 2006, concluded that if there was no opportunity
21 to offer bonus density, then no requirement should be
22 made of those areas because the fear was that we
23 would lose housing development to office development
24 in those areas. So that was the original reason why
25 they were exempted.

1 And as a result of the ZRR we have introduced
2 a voluntary form of Inclusionary Zoning into those
3 zones, and so those are the two reasons that we
4 recommended against applying a mandatory form.

5 With the case of the Southeast Federal
6 Center, that is a development agreement for, I
7 believe it's 20 percent affordability for rental
8 projects.

9 MR. MILLER: Thank you. So with that
10 explanation I'm willing to keep that as it is. There
11 is an area of exemption that I'd like to bring up at
12 some point but I'll bring it up later.

13 CHAIRPERSON HOOD: So we're all in agreement?

14 MS. COHEN: Yes.

15 CHAIRPERSON HOOD: Okay. Let's move to
16 increased bonus density options. We see Office of
17 Planning's recommendation, retain current percent of
18 bonus density permitted, and the petitioner has asked
19 to increase density to 22 percent above matter of
20 right floor area ratio.

21 Commissioner Miller.

22 MR. MILLER: Yeah, Mr. Chairman, thank you.
23 I don't think that's the petitioner's current -- that
24 was their original recommendation. I don't think
25 that is their current position. I think they --

1 CHAIRPERSON HOOD: Okay.

2 MR. MILLER: -- are fine with the status quo,
3 as I am.

4 CHAIRPERSON HOOD: So we'll retain the bonus
5 density, current percentage of the bonus density.

6 MR. MILLER: Yeah. I think that's where the
7 balance currently is.

8 CHAIRPERSON HOOD: Okay. Am I reading from
9 the right -- I guess I'm reading from the right
10 sheet. I didn't know that --

11 MS. COHEN: So far.

12 CHAIRPERSON HOOD: Okay. Change flexibility
13 to permitted building envelope. And we have the
14 Office of Planning's recommendation. We have the
15 Office of Planning's setdown recommendation. And
16 then we have the recommendations by the petitioner.
17 And then we have retained D, which is option to
18 retain all current height and lot occupancy
19 requirements.

20 MR. MILLER: Mr. Chair, I wonder of OP again
21 could refresh our memory as to what the rationale is.
22 Is that -- to confirm that that is still your current
23 recommendation, I think A and B are the -- no,
24 they're not the same. What is OP -- what is OP's
25 current -- is it the final recommendation that is

1 your recommendation, and if you could briefly state
2 what the rationale is? I think I'm supportive of it.

3 MR. ROGERS: Yes. A is our final
4 recommendation. And it is actually, with regards to
5 the C-2-C, it's actually sort of more of a technical
6 correction from back in 2006. And it was, I believe,
7 it was advertised but never made it into the final.
8 And then C-3-C is based on you know, analysis we did
9 as a result of this case, that it would work better
10 with the additional height.

11 MR. MILLER: Thank you, Mr. Rogers. I'm
12 supportive of OP's final recommendation.

13 CHAIRPERSON HOOD: Mr. Rogers, help me
14 understand the difference between the petitioner's C-
15 1 on your worksheet here. What is the difference in,
16 other than the zones, which they have expanded, what
17 is the difference in what you say in your final
18 recommendation as opposed to what the petitioner is
19 saying?

20 MR. ROGERS: They recommended removing lot
21 occupancy restrictions all together, as well as
22 adding 10 feet in height across almost all the zone
23 categories. It was our recommendation that in --
24 there wasn't a single zone that wasn't mapped in some
25 place where we thought this would be in conflict, or

1 potential conflict with the Comprehensive Plan. So
2 we recommended against it.

3 CHAIRPERSON HOOD: Okay. And I do too, now
4 that you -- okay. So any other comments on this?

5 MS. COHEN: No.

6 CHAIRPERSON HOOD: So we all agree? Okay.

7 MS. COHEN: Yes.

8 CHAIRPERSON HOOD: Okay. Let's go to permit
9 voluntary compliance. Hold on a second. And I think
10 this is a better way. Mr. Rogers, if you can kind of
11 go over that for us and we will -- I think that's the
12 better way to do it than me trying to hash -- hash
13 through it.

14 If you can kind of -- each one, Mr. Rogers,
15 if you can just give us a background on it and then
16 we'll keep moving.

17 MR. ROGERS: And so just for the record,
18 you're on number 6?

19 CHAIRPERSON HOOD: Number 6, yes.

20 MR. ROGERS: Okay. Yes, this -- sorry, go
21 ahead.

22 MR. LAWSON: No, I was -- I was just reading
23 through this one.

24 Essentially this is under the current
25 regulations if you are -- unless you meet that

1 trigger of 10 units IZ cannot apply, and there is no
2 provision to allow somebody to opt into IZ, even if
3 the property can't quite accommodate 10 units but
4 they'd be happy to provide affordable units in return
5 for the density boost. This was to allow for that to
6 happen.

7 We have actually seen some examples of this.
8 I don't think it's something that's going to be
9 incredibly common, but it is one more way of
10 achieving additional Inclusionary Zoning units spread
11 throughout the city. So that's why we recommended
12 it.

13 CHAIRPERSON HOOD: Any comments on this?

14 MS. COHEN: No, I think that we want to
15 include A, Option A.

16 MR. MILLER: I concur.

17 MR. MAY: So, you know, I recall that we had
18 substantial testimony from some members of the public
19 who were concerned about the bonus density, as sort
20 of giving an automatic on the bonus density and they
21 would prefer to see it -- well, I don't know that it
22 was even proposed that it be a special exception.
23 But I mean, I think that was a concern that there's
24 sort of an automatic up-zoning that you could get and
25 that may not be appropriate in every circumstance,

1 you know. So I'm thinking, you know, there are -- I
2 mean, I don't know if we hit all the correct zones in
3 2602.3E, but maybe we want to consider making any
4 project that, you know, that opts into IZ, that if
5 they're going to take the bonus density that there
6 has to be a special exception.

7 I mean, I don't want to make it too
8 difficult, but I think the one time that this
9 actually came up in a real case, it was a case where
10 they, you know, they sought relief to get it. We
11 couldn't grant it in the end, I think. But you know,
12 it came before us.

13 So that's what I'm a little bit uneasy about
14 for some of the zones. Now, I guess I should look at
15 the 2602 -- I mean, another way to think about this
16 is to look at those zones that are exempted and
17 whether we're hitting the right ones. Or rather the
18 zones you know, the exempted zones 2602.3E. Is that
19 listed in one of our exhibits that we already have?
20 Or do we have to look at the regs?

21 MS. COHEN: Is your --

22 CHAIRPERSON HOOD: Somebody take -- direct us
23 to where that is?

24 MS. COHEN: Is your concern R-1 -- well, the
25 old R-1 through 4 Districts? Is that what --

1 MR. MAY: I honestly don't recall what the
2 testimony was about, but I do recall the testimony.
3 I'm guessing it was in the R-3, R-4 range. I don't
4 think it was in the R-1, R-2, but more the R-3, R-4,
5 the row house neighbors. I think that was a big
6 concern.

7 It might also have been R-5-A as well.
8 But --

9 MR. ROGERS: So the exempted zones in 2602.3E
10 are the ones where it was concluded that the bonus
11 density was incompatible with the character, so -- or
12 with a specific overlay what was in the Federal
13 interest. So for instance, it was the C-2-A in the
14 Naval Observatory. It was the 8th Street overlay in
15 along M Street in Southeast. So those were
16 considered. The bonus density was considered
17 incompatible with those areas for either character of
18 the neighborhood or federal interest.

19 So our recommendation was, those areas not be
20 allowed to have access to the bonus density. If they
21 want to opt in, that's up to them. But all the other
22 areas where IZ does apply, a small project of fewer
23 than 10 units could opt in.

24 MR. MAY: So again, I mean, is there a place
25 -- I just would feel better if I could look at that

1 list again, and if I have to pull up the regs to do
2 it, I mean, I can do that. But do you have them
3 handy? Or do you have a report that --

4 MR. LAWSON: I actually have the list here.

5 MR. MAY: Great. Thank you.

6 MR. LAWSON: It's the DD in Southeast Federal
7 Center, which wouldn't apply. The TDR receiving
8 areas which are all -- I think they're all C-3-C.
9 The W-2 Zone, portions of Georgetown, the R-3 Zone
10 portion of Anacostia Historic District.

11 MR. MAY: All right. So go a little slower.

12 MR. LAWSON: Oh, I'm sorry. I'm sorry. The
13 W-2 within Georgetown Historic District.

14 MR. MAY: Yeah.

15 MR. LAWSON: R-3 within Anacostia Historic
16 District.

17 MR. MAY: Uh-huh.

18 MR. LAWSON: C-2-A within Naval Observatory
19 District.

20 MR. MAY: Okay.

21 MR. LAWSON: And the 8th Street Overlay,
22 which is that little section, those four blocks just
23 off M Street. Southeast.

24 MR. MAY: Okay. Thank you. So again, I
25 don't -- I can't recall the particulars of who was

1 testifying about this but my recollection was that it
2 had to do with the low end residential zones. So R-
3 2, R-3, R-4, I mean, do we -- I mean, I can certainly
4 picture it happening in R-4, because you can get the
5 bonus density and you can narrow your town houses in
6 a townhouse development. Things like that.

7 I don't know, you know, maybe I'm worrying
8 about something that isn't likely to happen.

9 CHAIRPERSON HOOD: So you're saying that we
10 should add a special exception component to the R-2,
11 R-3, R-4. Is that where you're doing?

12 MR. MAY: Yeah, I would say R-5-A or less.

13 CHAIRPERSON HOOD: R-5-A or less?

14 MR. MAY: Yeah. We haven't really studied it
15 so it's kind of a hard question. I mean --

16 CHAIRPERSON HOOD: Here's where I am. I
17 would rather proceed with caution, and I think that
18 gives people a -- the public, you know, it's just not
19 haphazard.

20 MR. MAY: Right.

21 CHAIRPERSON HOOD: It might make more work
22 for us but I think it will give the public a say-so.
23 So I don't have a problem with what you're
24 recommending. So, R-5 --

25 MR. MAY: Special exception for anything

1 involves bonus density in the R-1 through R-5A.

2 CHAIRPERSON HOOD: R-1 through R-5A. And if
3 somebody finds out that it doesn't work, we do like
4 we always do, come back and change it.

5 MR. MAY: Right.

6 MR. MILLER: I have no problem with that.

7 MR. MAY: Okay. I mean, Office of Planning,
8 do you have -- Art?

9 MR. ROGERS: I would just point out that our
10 recommendation, 2602.1D does not add IZ to the R-1.
11 It is only where IZ currently applies, and IZ does
12 not apply in the R-1. So it only -- R-2 --

13 MR. MAY: So it would be R-2 through R-5-A?

14 MR. ROGERS: Yes.

15 MR. MAY: But do you see any concerns with
16 adding a special exception component for the bonus
17 density?

18 MR. ROGERS: No.

19 MR. MAY: Yeah. Okay.

20 CHAIRPERSON HOOD: And if you do see one I'm
21 sure you all will notify us as soon as possible.

22 MR. MAY: Yes.

23 CHAIRPERSON HOOD: Okay. Which number? Are
24 we ready to move on?

25 MR. MAY: Thank you.

1 CHAIRPERSON HOOD: We all in agreement on
2 that? Which number is that? No. 5? Six? No, I'm
3 sorry, seven. I'm on seven.

4 Okay. Reduce square footage requirements
5 set-side for lower household incomes. Excuse me. We
6 have our options, the final recommendation, and the
7 setdown. Mr. Rogers, can you give us a quick
8 synopsis?

9 MR. ROGERS: Yeah, this was a thought that
10 when the sales price of an ownership unit is very
11 close to the surrounding market prices, it might be
12 difficult to -- especially for the 80 percent of AMI
13 units, it might be difficult for the developer to
14 market a price controlled unit in that neighborhood.
15 And so therefore we were going to give them the
16 option of providing fewer units but at a lower target
17 income.

18 CHAIRPERSON HOOD: Okay. So on this one your
19 final recommendation is, reduce the requirement to 80
20 percent MFI units by 20 percent, provide the
21 remaining units at target to the households at 50
22 percent.

23 MR. ROGERS: Yeah, that was based on our
24 recommendation for 1A. If the Zoning Commission is
25 going to go with Option 1B, then just be consistent.

1 We would probably suggest choosing Option B in this
2 case.

3 CHAIRPERSON HOOD: Okay. All right.

4 MR. MAY: So just, so I fully understand this
5 because I got confused reading all those percentages.
6 Essentially if it's an eight percent requirement,
7 that can be reduced by 20 percent so the 8 percent
8 would drop down to 6.4 percent, and it would be
9 provided at 60 percent of MF -- 60 percent MFI.

10 MR. ROGERS: Yeah, that's roughly correct.
11 Yeah.

12 MR. MAY: Okay. All right. That works for
13 me.

14 MR. MILLER: And what's the trigger for that?

15 MR. ROGERS: This would be at the developer's
16 option.

17 MR. MILLER: At the developer's option.

18 MS. COHEN: But it's a market issue that the
19 prices within the market are -- they're very close.
20 And so to sell the unit --

21 MR. MILLER: And this only applies to for
22 sale.

23 MS. COHEN: Yeah.

24 MR. MILLER: Is that correct?

25 MR. ROGERS: Yes, it only applies to for

1 sale. That's correct.

2 MR. MILLER: Okay.

3 CHAIRPERSON HOOD: I wish this was as easy
4 because I always look at the lower number. I always
5 like 30 percent of the MFI. You know, that's kind of
6 where I am, but anyway.

7 MR. MILLER: I'm fine with it.

8 CHAIRPERSON HOOD: Okay. All right.

9 MR. MAY: Well, but hold on a second. But
10 the 60 percent MFI is tied to rental units. So we
11 could choose A or B. Would not be inconsistent.

12 MR. ROGERS: That's correct. You could
13 choose A or B.

14 MR. MAY: So do we want to go -- I mean, how
15 low do we want to go? I mean, first for -- when
16 we're talking about for sale units are we better off
17 -- because I mean, right now what we're doing is
18 we're creating this sort of 60 percent category for
19 rental units, and pushing that. And we already have
20 the 80 percent and 50 percent for sale units, right?
21 So --

22 MS. COHEN: If you go down to 50 percent I
23 would presume that they would definitely need some
24 subsidy, if you're at 50 percent, to help in purchase
25 as well as maintain the property.

1 MR. MAY: Sure. I don't know. I mean, I
2 don't know what the right thing to do is here.

3 CHAIRPERSON HOOD: Well, I think for now what
4 I would like to go down the 50 percent, I think for
5 now though, as Mr. Rogers stated, consistent with our
6 other action, obviously they work hand in glove. So
7 we may better stick with being consistent, even
8 though I would like to figure out -- but I don't know
9 all the dynamics of when you're looking at 50 percent
10 of the households at 50 percent of the MFI.

11 And the other subsidies might not be
12 available.

13 MS. COHEN: Well, that's your final
14 recommendation, though, right? The 50 percent? And
15 you must have some basis for recommending that. So
16 maybe you could more elaborate in explanation.

17 MR. ROGERS: Yeah, it was more for
18 consistency with the current regulations that if the
19 Commission was going to go with 1A, that we reduce it
20 down to 50 percent of AMI rather than create a new
21 income category.

22 With Option B, it would be consistent with
23 Option 1B in that DHC would be categorizing their
24 households, yet either 60 percent of AMI or 80
25 percent of AMI. So they would already have a process

1 in that. So a part of it was a consideration for
2 administration.

3 MS. COHEN: I think that we should attempt to
4 be consistent.

5 CHAIRPERSON HOOD: Okay. Let's continue this
6 as we stated before, consistent with our further
7 action. Any other questions on this?

8 Okay. This next one, expand the Mayor's
9 right to purchase. This is one I really didn't
10 understand. But anyway, Mr. Rogers?

11 MR. ROGERS: So as they are written right
12 now, the regulations allow the Mayor to purchase up
13 to 25 percent of the IZ units. However, in certain
14 small projects that would not allow the Mayor to
15 purchase one unit. So we expanded that to a minimum
16 of one, or up to -- an absolute right to purchase up
17 to 25 percent of the IZ units, but expanding it up to
18 whatever the developer would agree to. If they want
19 to sell all of their IZ units to the Mayor, they
20 could do so.

21 CHAIRPERSON HOOD: And which option is -- I
22 mean, which --

23 MS. COHEN: A.

24 CHAIRPERSON HOOD: That's A? And they would
25 at least have to sell one, but if they wanted to sell

1 all IZ units to the Mayor they can. And that's in
2 Option A.

3 MR. ROGERS: they would not have to. They
4 could.

5 CHAIRPERSON HOOD: They could if they wanted.

6 MR. ROGERS: Yeah.

7 CHAIRPERSON HOOD: But they had to do one.

8 MR. ROGERS: Had to do one or up to 25
9 percent.

10 CHAIRPERSON HOOD: Okay.

11 MS. COHEN: And I think that would satisfy
12 the petitioner.

13 CHAIRPERSON HOOD: I'm more concerned with
14 what's doable, what's going to work, what's going to
15 help the residents of the city. And if the
16 petitioner recommended it, I appreciate it but --

17 MS. COHEN: I think that would help the --

18 CHAIRPERSON HOOD: That's what I'm more in
19 tune to.

20 MS. COHEN: -- the population of our city.

21 CHAIRPERSON HOOD: All right. Any objections
22 to that? Okay. I kind of like that so, any other
23 comments on that one?

24 Okay. Let's go to permit greater off-site
25 flexibility as a matter of right. Mr. Rogers?

1 MR. ROGERS: This was an attempt to do two
2 things. One in areas where we might see very high-
3 end amenities with high condo fees that might trigger
4 the desire to either move them off-site or to perhaps
5 get out of IZ all together. We want to introduce a
6 matter of right option that could be done
7 administratively provided there were certain
8 thresholds that one, they be within a certain
9 distance of the on-site location and that, two, the
10 requirement be increased by 20 percent. So the
11 square footage would be increased by 20 percent.

12 So it would leverage more additional
13 affordable units.

14 CHAIRPERSON HOOD: Okay. Commissioners, any
15 comments? Commissioner Miller?

16 MR. MILLER: Mr. Chairman, I don't think I'm
17 supportive of this. I think it goes against one of
18 the goals of the IZ to have mixed income projects,
19 and because this would allow the clustering of all
20 the affordable -- well, let me ask OP. This would
21 allow the clustering of all the affordability housing
22 units for a project on an off-site project that
23 wouldn't necessarily be a mixed income project. Is
24 that correct?

25 MR. ROGERS: They could move all of their

1 units off site. They would have to be within a half
2 mile of the project. So it would still achieve the
3 desire goal of a mixed neighborhood, but not a mixed
4 project.

5 MR. MILLER: Right. I guess if it went up to
6 50 percent of square footage I might be willing to
7 consider that. But I still think mixed income
8 buildings is a goal that should be retained. But
9 I'll hear what my colleagues have to say in answer.

10 MS. COHEN: I would concur with you but I
11 think the important -- the economics may end up
12 resulting in more units, but in a mixed income
13 neighborhood. And the location being less than half
14 a mile should not really -- may not inhibit that
15 mixture of incomes. But again, it is a neighborhood
16 based, and there may be really good reasons to, on
17 the economic side, to do this. So I don't have a
18 problem with it.

19 MR. MAY: You don't have -- I'm sorry. You
20 don't have a problem with --

21 CHAIRPERSON HOOD: Agreeing with him?

22 MR. MAY: -- Miller's, Commissioner Miller's
23 position?

24 MS. COHEN: Yeah. I would prefer that we be
25 more sensitive to the economics of the project and

1 maybe have more units that are affordable than fewer
2 units in a mixed income.

3 MR. MILLER: Yeah, so I was saying that I
4 could only support it if we were going to up the
5 requirement instead of 20 percent more affordable
6 units, 50 percent more, since we're keeping that
7 eight percent, you know --

8 MS. COHEN: Yeah, I understand what you're
9 saying now.

10 MR. MILLER: And you know, this is the
11 argument about, here's the poor door and here's the
12 market rate door, and we don't really -- that's not
13 what IZ kind of is about. But if we're going to get
14 50 percent more units and it's within a half a mile,
15 I could go for it.

16 MS. COHEN: Okay. I can concur with you.

17 CHAIRPERSON HOOD: Commissioner May, anything
18 on --

19 MR. MAY: So I have a question. I'm
20 wondering if in your service on the BZA, if you've
21 heard cases like this because I've heard only one and
22 it was recent, and it was a tangled case for a number
23 of reasons. I won't go into the particulars of it,
24 but the thing is that was striking to me is that
25 there was a substantial resistance to the idea of

1 moving the required units off site. And so I think
2 that this does kind of strike at the heart of the
3 intention of Inclusionary Zoning. I mean, it is
4 inclusionary, right? It's supposed to be
5 inclusionary and so I mean, I guess you could define
6 inclusionary as being within a half mile. But it
7 somehow feels a bit less inclusionary.

8 And I'm less concerned about the, sort of
9 the, you know, the poor door concept. I mean, I
10 think that there, you know, it's okay to have units
11 of varying size and quality and things like that and
12 be proximate to each other. So I'm not -- I'm less
13 concerned about that aspect of it.

14 I just think, I think there's a principle
15 that we should be standing up for. And even if we
16 can get a lot more units elsewhere, I'm not sure that
17 we're going to get that many because I mean, even as
18 it is I don't think -- I don't know. I don't know
19 how many cases we actually get for off-site zoning,
20 so. I mean, off-site IZ.

21 MS. COHEN: Yeah, I agree with you that I
22 don't think we get that many cases. But I'm thinking
23 of the project in Adam's Morgan. I mean, in U Street
24 corridor where the residents -- you know, it was two
25 buildings that were paired and the residents you

1 know, wanted to remain separate and not be blended in
2 the larger project. So there might be those types of
3 instances that come forward.

4 And again, I'm anxious to get more units that
5 are affordable, as long as they are inclusive in a
6 neighborhood. But that's just, you know, my position
7 is the more units the better.

8 CHAIRPERSON HOOD: I am willing to support
9 Commissioner Miller's first, whatever it was now,
10 before you added the 50 percent off-site. I forgot
11 now with everything else that came into place. I
12 thought that was a great idea. I think that was
13 consistent with what we've done because I remember
14 years ago one of my issues was moving things off
15 site. And I particularly remember the Watergate
16 case. I mean, just think about moving the
17 affordability, which I know a lot of folks thought I
18 was crazy. But at that time the applicant came back
19 with another alternative.

20 But I can tell you that I agree with whatever
21 your first statement was.

22 MR. MILLER: Which is that it was kind of
23 what Commissioner May was saying, that it was against
24 the idea of mixed income projects. And I think -- I
25 appreciate your comment because I think they still

1 could be able -- they still could argue a hardship
2 under the hardship provision to go for more units
3 off-site if the economics don't work under the
4 existing regulations. So I would support keeping it
5 the way it is.

6 CHAIRPERSON HOOD: So what number is that?

7 MR. MILLER: That is --

8 CHAIRPERSON HOOD: What is your --

9 MR. MILLER: -- eight. No, not 8. Nine.
10 It's just --

11 CHAIRPERSON HOOD: D? No.

12 MR. MILLER: Yeah. Yeah, D.

13 CHAIRPERSON HOOD: 9D?

14 MR. MILLER: Yeah.

15 CHAIRPERSON HOOD: Okay. Are we all in
16 agreeance with 9D?

17 MR. MILLER: Well, certain B. Certainly B
18 and D. I mean, if it needs to be clarified that off-
19 site units need to be in the District of Columbia we
20 certainly should -- is that what that's saying?

21 CHAIRPERSON HOOD: Yeah.

22 MR. MILLER: I mean, if that needs to be
23 clarified, we should do that. So let's go with B
24 and --

25 MR. MAY: I think there might be a

1 requirement --

2 MR. MILLER: -- keep the same language.

3 MR. MAY: -- now that they be in the same
4 census tract. Isn't that what it is?

5 MR. MILLER: Are census tracts across state
6 lines?

7 MR. ROGERS: The applicant has to show a good
8 faith effort to locate them in the same census tract.
9 And then the BZA is authorized to grant them
10 flexibility beyond the census tract, but it doesn't
11 specifically state within the District of Columbia.

12 CHAIRPERSON HOOD: So, it should state that.

13 MR. MILLER: We'll keep the current language
14 and go with the clarification that it should be in
15 the District of Columbia.

16 MR. MAY: Yeah, I think that's probably --
17 it's okay to clarify that but I think it's pretty
18 obvious.

19 MS. COHEN: Again, I just want to say that
20 there are a number of subsidies that are available to
21 certain projects like low income housing, tax
22 credits, that may end up encouraging two separate
23 projects. And one project is located off site but in
24 the neighborhood. And we saw that as well in Capra
25 Carrollsburg (phonetic). So you know, I just want to

1 caution us that sometimes subsidy projects are very
2 restrictive because of the need to add subsidies with
3 requirements for different median incomes. And so I
4 would just ask the OP office to take a look at that
5 because I don't want unintended consequences to
6 occur.

7 MR. ROGERS: So the current regulations
8 actually do not allow the off-site units to be
9 located in a subsidized project. They must be in a,
10 you know, a private market rate development. And
11 there is another threshold that the units moved off
12 site plus the off site's own IZ requirement cannot
13 exceed 30 percent of the units. So the project would
14 not become too concentrated with affordable units.

15 MS. COHEN: All right. I'll go along with
16 the majority.

17 CHAIRPERSON HOOD: Okay. Are we back to the
18 same where we were at? Okay. All right. So we all
19 clear on that one? What number we on now?

20 MS. COHEN: We're on 10 now

21 CHAIRPERSON HOOD: Ten? Okay. Great
22 flexibility and when other cost of IZ units threaten
23 affordability. Mr. Rogers.

24 MR. ROGERS: So this is in response to the
25 potential for condo fees and other things rising

1 rapidly and threatening the affordability of the unit
2 to the occupant. It would allow two options. It
3 would allow them a 50 percent -- well, I mean, under
4 1A it would have allowed a 50 percent unit to be sold
5 at 80 percent of AMI. With 1B it would allow the --
6 an 80 percent of AMI unit to be sold at market. But
7 the difference between the market price and the
8 control price would be deposited into the Housing
9 Production Trust Fund.

10 CHAIRPERSON HOOD: Okay. The later was --
11 what all did you say? The latter is -- which
12 alphabet is it? B? I don't have B on --

13 MS. COHEN: It would be the decimal two.

14 CHAIRPERSON HOOD: Let me ask Mr. Rogers. No
15 offense, Vice Chair. Let me make sure I'm clear. I
16 appreciate you helping me out. I know you're a
17 housing advocate and you're an expert and very well
18 respected. I'm not diminishing that any, but I want
19 to make sure I'm clear. You're more advanced than I
20 am. I want to make sure I'm clear.

21 So, Mr. Rogers, which one is what you just
22 described?

23 MR. ROGERS: So the worksheet that you have
24 in front of you.

25 CHAIRPERSON HOOD: Yeah.

1 MR. ROGERS: The worksheet that you have in
2 front of you, the recommendation is based on OP's
3 recommendation for 1A, where we would retain the
4 current 50 and 80 percent of AMI targets.

5 With the Zoning Commission opting for 1B,
6 what would -- how we would revise this, this
7 language, would probably reflect that sort of current
8 units that are at 50 percent of AMI could be sold to
9 a household. The control price would stay the same,
10 but the buyer could earn up to 80 percent of AMI.
11 And presumably -- but their increased income could
12 afford the higher condo fees.

13 The alternative is that the unit be sold at
14 market, and if for instance an 80 percent of AMI
15 buyer could not be found, who can also afford those
16 high condo fees, the alternative would be that it
17 would be sold at market and the difference between
18 the control price and the market rate price that is
19 received would be deposited toward the housing
20 production trust fund and then DHCD could use that
21 money to invest in affordable housing elsewhere.

22 CHAIRPERSON HOOD: Okay. Commissioners, what
23 is your pleasure? Or Commissioner Miller?

24 MR. MILLER: Thank you, Mr. Chairman. I do
25 not support this recommendation. I think it would

1 create an incentive for developers to keep the IZ
2 units vacant so they could get the higher AMI level,
3 which is already at 80 percent AMI, which is the high
4 AMI level. So I don't think they need to go higher
5 than that under any circumstances, really.

6 CHAIRPERSON HOOD: Mr. Rogers, you wanted
7 to --

8 MR. ROGERS: Yeah, I just wanted to make one
9 clarification. The way we've drafted the regulations
10 is it's not -- it would not be available to the
11 developers. It would only be available to an owner
12 who had purchased the unit and at the target incomes
13 that they were required to meet. And that, DHCD
14 would review their application and they have a
15 protocol for the PUD units and land dispositions that
16 they review when condo fees have gone up and they
17 have determined that the unit is no longer
18 affordable, they will make a determination and that
19 becomes submitted to the Zoning Commission as part of
20 the record. And then the Zoning Commission can say
21 yes or no.

22 So it is -- the case would be reviewed by the
23 Zoning Commission, and it would be only open for the
24 individual owners who can no longer afford the unit.

25 CHAIRPERSON HOOD: So it won't be no opt in

1 and opt out by a developer. Okay.

2 MR. ROGERS: Correct.

3 MS. COHEN: It actually helps the household
4 who can no longer afford that unit. It allows DHCD
5 to intervene on their behalf.

6 MR. MILLER: I just need to study that more
7 to make sure that the representation is accurate that
8 it's not at the option of a developer. So I will
9 study it more but I will go along with this now.

10 CHAIRPERSON HOOD: Okay. And that's one you
11 may want to remember because we'll have a second bite
12 at this. Okay. But from what I'm hearing I do like
13 the route that Mr. Rogers mentioned. But if you find
14 something different I'll -- okay. All right.
15 Anything else on this?

16 Number 11, clarify steel and concrete frame
17 construction. Mr. Rogers.

18 MR. ROGERS: This was at the request of the
19 Zoning Administrator to improve their ability to
20 administer the projects that were filing for
21 compliance with IZ. It is basically making reference
22 to how the building code defines a steel and concrete
23 structure versus a stick built.

24 MR. MAY: Well, I think that makes sense to
25 me that we -- because we're getting these hybrid

1 building types that it's not totally clear. I mean,
2 you know, stick built on top of a concrete pad. I
3 mean, what is that? So it's, you know, Type 1 makes
4 it clearer.

5 MS. COHEN: I concur with that.

6 CHAIRPERSON HOOD: I really am not even -- I
7 don't even really understand. I really don't.

8 MR. MAY: Well, maybe we need to define -- I
9 mean, Type 1 as defined by the building code.

10 CHAIRPERSON HOOD: Yeah, what is Type 1?

11 MR. ROGERS: Type 1 is basically, it's a fire
12 code requirement that allows occupants to evacuate
13 the building before it burns down. And essentially
14 the only types of material that meet the Type 1 are
15 steel and concrete construction.

16 MR. MAY: And that's all the way to the top?

17 MR. ROGERS: Well, to your point, it is
18 actually the second Is, the double I, clarify the
19 development to construct a majority of dwelling
20 units.

21 MR. MAY: Got it.

22 MR. ROGERS: So that it's whatever the
23 majority of the dwelling units are used.

24 MR. MAY: Right. So --

25 CHAIRPERSON HOOD: So we should be looking at

1 two as opposed to one.

2 MR. MAY: No, it's one and two together.

3 CHAIRPERSON HOOD: One and two together?

4 MR. MAY: Yeah.

5 MR. ROGERS: It's A-I and A double I.

6 CHAIRPERSON HOOD: Oh, okay. A-I and A-II.

7 Okay. All right. I understand it now that I know
8 what Type 1 is. Okay.

9 Anything else? Okay. Let's move on with 12,
10 clarify IZ requirements. Applicability to additions
11 and the existing residential square footage. Mr.
12 Rogers, can you help us?

13 MR. ROGERS: This was to clarify and
14 strengthen the existing regulations which go back to
15 the original 2006 case that if the addition reached
16 the threshold of more than 50 percent of the original
17 project, that the IZ requirements apply to both the
18 new construction and the existing construction. This
19 amendment is as a result of the Zoning Administration
20 interpretation that the current regulations didn't
21 require that.

22 CHAIRPERSON HOOD: So you have three
23 recommendations, right? Three OP final
24 recommendations on this.

25 MR. ROGERS: Yes. The first one is that if

1 the addition is more than 10 units, or 10 units or
2 more, that IZ apply to the addition.

3 And then secondly if the addition of 10 units
4 or more is also a 50 percent expansion then it
5 applies to both the addition and the existing
6 structure. And then finally because the existing
7 units might be occupied, and you wouldn't be able to
8 you know, find a unit to meet the IZ requirement,
9 that the developer could be allowed to concentrate
10 all the IZ units into the new addition.

11 MS. COHEN: How does this impact the
12 testimony we heard from the woman who brought in rent
13 control? Is this consistent or does it complicate?

14 MR. ROGERS: There are -- there are
15 complications because rent control applies whether
16 the unit is -- an existing unit is occupied or
17 vacant. It can only go up so much in rent between
18 tenants.

19 In discussions with DHCD we concluded that
20 any conflicts could be handled through either an
21 amendment to the rent control, or to the regulations
22 of rent control.

23 MS. COHEN: But the one issue that appeared,
24 you know, to jump out, was the issue with related to
25 the management, but -- or the operating budget. And

1 I'm trying to recall how she presented it where she
2 was concerned that the IZ units might in some way
3 negatively impact the budget. So could you take a
4 look at that one more time?

5 MR. ROGERS: Sure.

6 MS. COHEN: I just want to make sure that
7 we're not in any way negatively impacting an addition
8 to a rent controlled building.

9 MR. MILLER: Mr. Chair, I would just follow
10 up on the Vice Chair's comments. Yeah, I don't want
11 to negatively impact a rent controlled building, but
12 having additions and upgrades, but there are existing
13 provisions in the IZ regulations for hardship, and
14 there are existing provisions in the rent control law
15 for hardship. So, I just wanted to point that out
16 that --

17 MR. MAY: Can I get a clarification, though?
18 I mean, it sounded like you were -- these were three
19 individual recommendations that you are making, and
20 that we should be adopting A, B, and C. Or we could
21 be adopting A, B, and C.

22 MR. ROGERS: The first recommendation is to
23 clarify that regardless of how large the project is
24 compared to the existing structure, that IZ will
25 apply to the addition.

1 MR. MAY: Uh-huh.

2 MR. ROGERS: So in a sense, that is a
3 standalone recommendation.

4 MR. MAY: Right.

5 MR. ROGERS: We have had projects that have
6 been added on to that were more than 10 units. But
7 because they were not a 50 percent expansion the
8 Zoning Administrator interpreted it as IZ applying
9 not at all to the addition. So that, I think, is the
10 first distinct recommendation by itself.

11 MR. MAY: Uh-huh. But then B is a distinct
12 recommendation.

13 MR. ROGERS: Yes.

14 MR. MAY: And then C is a distinct
15 recommendation.

16 MR. ROGERS: Correct.

17 MR. MAY: Right. And C doesn't currently
18 apply right now. You can't cluster them all in the
19 new construction. Or can you? Maybe you can but it
20 hasn't been -- it's not clear.

21 MR. ROGERS: You, theoretically could. It
22 would be up to the Zoning Administrator if it met the
23 test for nonconcentration.

24 MR. MAY: Got it. Okay. So, essentially you
25 are recommending A, B, and C?

1 MR. ROGERS: Correct.

2 CHAIRPERSON HOOD: Okay. Are we going to --
3 any objections to accepting those recommendations
4 again? We have another shot at this.

5 MR. MAY: Yeah, I mean, I would note that we
6 did get that testimony that raised concerns about it.
7 And I do understand those concerns, but I guess I
8 would trust that the hardship provisions -- hardship
9 is difficult to demonstrate in a BZA case. So it's a
10 little sticky but I would -- I'll go along with this.

11 CHAIRPERSON HOOD: But I think also with the
12 request from the Vice Chair, I think that that will
13 help us, especially if we find out any further
14 information before we take final on this.

15 Okay. Number 13, if we're ready to move on.
16 Clarify IZ requirement calculations, include cellar
17 space, and projections in the public space options.
18 We had a recommendation, then we had retained current
19 references.

20 Mr. Rogers, you have anything else to add?

21 MR. ROGERS: Yes. Again, this is just at the
22 request of the Zoning Administrator to clarify how
23 the calculations are made of what would be the total
24 square feet required of the project. And it has to
25 do just with the variety that projects have of you

1 know, do projections like a bay that go out into
2 public space, does that count toward the requirement.

3 Typically, those don't count toward FAR, but
4 they are this sort of net leasable space that an
5 occupant would pay for.

6 CHAIRPERSON HOOD: Okay. Commissioners, what
7 is your pleasure? Either retain the current
8 references or the final recommendation of Office of
9 Planning?

10 MR. MILLER: I think the OP recommendation
11 makes sense.

12 MR. MAY: Uh-huh.

13 CHAIRPERSON HOOD: All right.

14 MS. COHEN: Yeah. I think so.

15 CHAIRPERSON HOOD: Okay. Great. Let's move
16 on. Clarify IZ requirements, applicability to
17 adjoining lots. Mr. Rogers.

18 MR. ROGERS: Yes, again this was at the
19 request of the Zoning Administrator. They
20 interpreted a loophole in the regulations that when -
21 - the regulations state that when IZ applies to
22 adjoining lots, if they are of single-family units.
23 But it does not mention multiple dwelling units. So
24 in other words, if there were adjoining lots of four
25 units each, the way the Zoning Administrator was

1 interpreting it, is that IZ would not apply to the
2 entire project.

3 CHAIRPERSON HOOD: Okay. And your
4 recommendation would clarify that?

5 MR. ROGERS: Correct.

6 CHAIRPERSON HOOD: Okay. Any objections,
7 comments?

8 MS. COHEN: No.

9 CHAIRPERSON HOOD: Okay. Let's move on to
10 15, eliminate use of CFO as an IZ trigger. Mr.
11 Rogers.

12 MR. ROGERS: Yes. Again, the request of the
13 Zoning Administrator because single-family dwelling
14 units are not issued a C of O. And so there was no
15 way to enforce this. And so we are adjusting it to
16 when the building permits were filed.

17 CHAIRPERSON HOOD: Okay. I don't think -- I
18 think that's pretty straight forward. Let's go to
19 exempt subsidized affordable projects. Mr. Rogers.

20 MR. ROGERS: Yes. This was to establish a
21 minimum threshold that the subsidized projects would
22 have to meet in order to be exempt from IZ. I would
23 point out that we've also had an emergency setdown
24 for 0433-H, which adds the projects that are as a
25 result of District law.

1 CHAIRPERSON HOOD: Okay. So your
2 recommendation -- let me open it up. Your
3 recommendation moves us in that direction anyway,
4 which would be consistent with possibly our hearing
5 that we may be having; our hearing that's scheduled.
6 Commissioner Miller.

7 MR. MILLER: Well, I would prefer, then, that
8 we put this -- either that we put this issue off to
9 be part of that case, or that we make this consistent
10 with the first action which we took tonight, which
11 would be to set the minimum threshold at 60 percent
12 for rental units and 80 percent for home ownership
13 units. I think that would make more sense as an
14 initial matter. Maybe we can just go that direction
15 and study that between the preliminary and final
16 action and we'll probably have the hearing on the
17 other case in between.

18 CHAIRPERSON HOOD: I have no objection to
19 that. I don't know about others, but I have no
20 objection. I mean, we can put it in there and then
21 if we see we need to move it over, I mean, you know -
22 - I think, I'm not sure what that hearing is going to
23 be, but apparently we've already set it down.

24 MR. MILLER: But I don't support the
25 recommendation as made here that 80 percent should be

1 the minimum for rental units. I just don't --

2 CHAIRPERSON HOOD: No, I agree with --

3 MS. COHEN: No, it's --

4 MR. MILLER: That's not consistent with what
5 we just --

6 CHAIRPERSON HOOD: Right. I agree with us
7 making this consistent and if we find that something
8 needs to be changed when we have the hearing then we
9 do it -- I don't know when everything is scheduled,
10 but you know, the timing of it.

11 MS. SCHELLIN: October 6th.

12 CHAIRPERSON HOOD: October 6th. We probably
13 won't take final action on this until October
14 sometime, right?

15 MR. ROGERS: That depends when we issue the
16 notice of proposed rulemaking --

17 CHAIRPERSON HOOD: Yeah, so it would be
18 October sometime. So I think all that will fall
19 right into place. Okay? But for now I think we
20 could insert what Commissioner Miller mentioned
21 witness the --

22 MR. BERGSTEIN: Right. I mean, the -- yes,
23 you can propose it and but there is --

24 CHAIRPERSON HOOD: Yeah.

25 MR. BERGSTEIN: -- the adopted amendments are

1 actually in effect, and required that they actually
2 exceed the standards of IZ. So it may be that what
3 it says is that any development subject to mandatory
4 affordable housing requirement that exceeds the
5 requirements of this chapter. So there is actually,
6 the law says right now that in order to get the
7 exemption you must exceed the requirements of the
8 chapter. So ultimately the two may mesh anyway. So,
9 yes, just for you to know that.

10 CHAIRPERSON HOOD: Okay. So we'll adopt -- I
11 don't think anyone has any objections to adopting the
12 language, Commissioner Miller.

13 MR. MAY: Can you repeat the language?

14 MR. BERGSTEIN: Sure.

15 MR. MAY: Mr. Miller's language, at that.

16 MR. MILLER: Oh, I was just using the summary
17 worksheet as the -- it said establish a minimum
18 threshold for exemption from IZ for subsidized
19 affordable housing development to a minimum target
20 income standard, it says of 80 percent MFI. I was
21 suggesting to say 60 percent MFI for rental units and
22 80 percent MFI for homeownership units.

23 MR. MAY: Okay.

24 MR. MILLER: And I think our intent is to
25 make it consistent with what the language that Alan

1 Bergstein just -- or counsel just said; stated.

2 MR. MAY: Okay. Thank you.

3 CHAIRPERSON HOOD: All right. Okay. Let's
4 move on. Let's go to 17, treat variances and
5 increased FAR as bonus density. Mr. Rogers.

6 MR. ROGERS: This was the result of a BZA
7 case that received an increased far above and beyond
8 what IZ permits. However, because the way the
9 regulations are drafted the Zoning Administrator
10 could not interpret that additional FAR as bonus
11 density, so that would clarify that.

12 CHAIRPERSON HOOD: Okay. I certainly don't
13 have any problems with that. I don't think we need a
14 whole lot of discussion on that. One of our test
15 cases.

16 Okay. Let's move forward. Clarify how IZ
17 units may not be concentrated. Mr. Rogers.

18 MR. ROGERS: Yes, this is in respond to the
19 potential that a project have a mixture of rental and
20 ownership, and that it would require the affordable
21 units be distributed between those two elements of
22 the project, rather than be concentrated by tenure.
23 Currently the regulations only require that they not
24 be concentrated on any floor.

25 MS. COHEN: So does this refer to if a

1 developer is doing an ownership condo and a rental
2 that you want the distribution to be in both
3 buildings as opposed to just rental, correct?

4 MR. ROGERS: Correct. Yes.

5 CHAIRPERSON HOOD: Okay. I think that is
6 okay. Any objections?

7 MS. COHEN: No.

8 CHAIRPERSON HOOD: Okay. Let's move right on
9 to clarify the quality of interior amenities. Mr.
10 Rogers. And I think this is another clarifying.

11 MR. ROGERS: Yes, this was, again, as a
12 result of the Zoning Administrator's research of what
13 other jurisdictions use as a benchmark to make sure
14 that the interior fixtures are not just comparable
15 but of consistent -- as it says, consistent with
16 contemporary standards for new housing.

17 CHAIRPERSON HOOD: Okay. Another
18 clarification. Any objection? Okay. Let's go to
19 clarify and update definitions. Mr. Rogers.

20 MS. COHEN: Wait, can we go back to that for
21 a second?

22 CHAIRPERSON HOOD: Interior amenities? Okay.

23 MS. COHEN: Yeah. Who actually reviews that?
24 I mean, does the Zoning Administrator staff actually
25 go in and check that, because I don't know if that's

1 something we want to --

2 MR. ROGERS: Yeah. So there is a -- the
3 developers are required to submit a schedule of
4 finishes and then there is an inspection done when
5 the units are delivered.

6 MS. COHEN: Thank you.

7 CHAIRPERSON HOOD: Ready to move on to
8 definitions?

9 MS. COHEN: Yes.

10 CHAIRPERSON HOOD: Okay. Clarify, update
11 definitions. Mr. Rogers.

12 MR. ROGERS: This was to clarify what DHCD
13 has learned through administration that there were
14 units. One, to clarify the definition of a bedroom,
15 to include both an exterior window and a closet. The
16 current building code does not define a bedroom.
17 They define a sleeping room which does not require a
18 window to the immediate light and air.

19 And so this was to clarify that that should
20 be a minimum standard for -- to qualify as a one or
21 versus a two-bedroom.

22 CHAIRPERSON HOOD: Okay.

23 MR. MAY: I'm sorry. So we are clarifying
24 that a bedroom has to have a window.

25 MR. ROGERS: Yes.

1 MR. MAY: Yeah. Okay.

2 CHAIRPERSON HOOD: And also we're updating
3 the Area Median Income to Medium Family Income,
4 right?

5 MR. ROGERS: Yeah.

6 CHAIRPERSON HOOD: Okay.

7 MR. ROGERS: Simply that's -- HUD has changed
8 the terminology from Area Median Income to Median
9 Family Income.

10 CHAIRPERSON HOOD: So I think we -- any
11 issues with any of that? Okay. I think we're fine
12 with that. Let's move.

13 Eliminate references to R-5-E, Mr. Rogers.

14 MR. ROGERS: This is a correction to what's
15 in the current regulations. R-5-E was exempted
16 because the bonus density was not achievable within
17 the 90 feet and the FAR of -- the current FAR of 6
18 and a reasonable assumption for lot occupancy. And
19 so that was concluded, however it was left in certain
20 elements of the current regulations. So this is just
21 removing any reference to R-5-E.

22 CHAIRPERSON HOOD: Okay. I think that's
23 pretty straight forward.

24 Now, the last thing is effective date. Mr.
25 Rogers, you want to comment on any of that? I see

1 your recommendation.

2 MR. ROGERS: Yeah, our recommendation of six
3 months was to address the idea of projects that are
4 already in the pipeline, that if any significant
5 changes be made to the IZ requirements that that
6 projects that are under a current review, whether
7 it's for a BZA case or a building permit, be able to
8 get those things processed six months -- within six
9 months of the application of the changes.

10 And then just to add on that it would
11 probably be since the Zoning Commission is opting for
12 1B, it would also be subject to a publication of a
13 price schedule reflecting the 60 percent AMI rents.

14 MR. MAY: So, I'm sorry. The six months --

15 MR. LAWSON: Never occurs later. Right?

16 MR. MAY: Is that in the six months, or
17 outside the six months?

18 MR. ROGERS: The six months would be after
19 the first publication of the price schedule.

20 MR. MAY: Oh, okay. So how long is that
21 going to take? Well, I mean, wasn't there a delay in
22 getting that done the first time around?

23 MR. MILLER: Years.

24 MR. MAY: Years.

25 MR. BERGSTEIN: Well, that's because for the

1 original amendments there needed to be an act, there
2 needed to be a regulations, and there needed to be a
3 price schedule. The price schedule is actually the
4 easiest thing to do. There doesn't have to be a
5 notice of proposed rulemaking.

6 You've heard in other instances that DHCD
7 cannot administer IZ units at 60 percent. And that
8 may be because of legal issues. That may be because
9 of regulatory issues. That may be cause of
10 administrative issues. That may be cause of
11 budgetary issues, or a combination of all those
12 things. So I don't think anyone here can speak to
13 how long it will take DHCD to be able to come up with
14 a price schedule.

15 Certainly if their general counsel believes
16 it requires an amendment to the IZ act, that will
17 take time. Then there will have to be -- if they
18 don't have the budgetary authority to implement this,
19 and a fiscal impact statement indicates that, there
20 may be a delay in the applicability of any amendment
21 to the IZ act. Then they will have to adopt a new
22 regulatory scheme perhaps, to address certification
23 of income levels at 60 percent.

24 I can't tell you if all those things are
25 required. Perhaps it might be wise to ask DHCD to

1 give you a ballpark figure. But those would be the
2 circumstances that DHCD would have to address in
3 whole or in part.

4 MS. COHEN: Mr. Rogers, excuse me. Have you
5 had any discussions with DHCD with regard to the 60
6 percent? I mean, it's been talked about for a long
7 time and we keep hearing push back but they can't do
8 it. Yet it seems to me that it doesn't take rocket
9 science to implement something like this.

10 And I mean, of course they may have to do
11 modified legislation, but maybe I don't know what it
12 all involves. But you did it once.

13 MR. ROGERS: I think at minimum this would
14 require changes to the administrative regulations.
15 Whether -- I can't speak to whether it would trigger
16 a change to the law itself. But certainly the things
17 that we have talked about here would trigger changes
18 to the administrative regulations, and that has a
19 process of public notice and so on and so forth.

20 MS. COHEN: Even though it's -- well, even
21 though it's done here, they still would have to do it
22 on another track.

23 MR. ROGERS: Correct. There's a whole other
24 set of administrative regulations that guide how
25 people apply for to be on the lottery lists, how

1 developers submit documentation, the stewardship of
2 the units, and a lot of other issues.

3 MS. COHEN: Thank you.

4 MR. MILLER: Mr. Chairman, I would just
5 comment that I think the six months is a reasonable -
6 - from the date of final order, is a reasonable
7 effective date and we've done that for other major
8 changes.

9 I think the administration should work on --
10 work on the implementation beginning with after we
11 take proposed action so that it can be done as
12 quickly as possible in terms of administrative
13 actions.

14 And to the extent that legislative actions
15 are necessary, we have in our record a unanimous
16 resolution from the council supporting the direction
17 that we've gone in this evening. So I would hope
18 that that would be a -- if that is determined to be
19 necessary.

20 But I think Mr. Bergstein, or whoever,
21 suggested that DHCD should maybe provide us with some
22 commentary as to how they're going to -- how quickly
23 they're going to figure out how to implement this. I
24 think that's what they should be trying to do.

25 CHAIRPERSON HOOD: Do you think we need to

1 send the Mayor a letter from us or -- should I
2 mention it to her, or how should we do this so they
3 can move --

4 MR. MILLER: I'll leave that to you, Mr.
5 Chairman.

6 MR. MAY: So I agree, though, that we should
7 get clarity on what's going to happen. I mean, you
8 know, six months -- you know, if the order is
9 published in, what is it going to take, two weeks or
10 a month or something like that, the proposed
11 regulations get published and then that's got to be
12 out for how many days and --

13 MR. BERGSTEIN: It's 30 days.

14 MR. MAY: Thirty days.

15 MR. BERGSTEIN: And then you'd have to take
16 final action. And then it takes about a week or two
17 for ODAY to publish it. And then it will be six
18 months.

19 MR. MAY: So we're talking about two or three
20 months from now before it gets published, and then
21 another six months before it takes effect. So I
22 think when we take final it would be useful to know
23 that all the wheels are moving that have to move,
24 whether it's legislation, policy changes,
25 regulations, development of the price schedule. All

1 those things; that those are in motion so that we can
2 say with some certainty that six months after that
3 the regulations can apply. Does that make sense? Or
4 we're worrying about the --

5 MR. ROGERS: Well, if there is a price
6 schedule at 60 percent for rental.

7 MR. MAY: Uh-huh.

8 MR. ROGERS: Then I don't see any reason why
9 the regulations could not apply after six months. I
10 mean, that's the bottom line.

11 MR. MAY: That's the key thing.

12 MR. BERGSTEIN: There needs to be a rent
13 schedule at 60 percent.

14 MR. MAY: So then we just need DHCD to --

15 MR. BERGSTEIN: To tell you what needs to be
16 done.

17 MR. MAY: -- assure us that they can get the
18 schedule done within that time frame.

19 MR. BERGSTEIN: Well, again you're saying,
20 the six months -- the price schedule would trigger a
21 six-month count down to the effectiveness of this
22 regulatory change. So what you would need to know
23 from DHCD is how long it would take them to get to
24 the point where that six-month countdown begins to
25 effectiveness.

1 MR. MAY: So I think we need to hear from
2 DHCD fairly immediately, not at final action. I
3 mean, by the time we take final action, I think if we
4 want this to be in effect six months after the order
5 is published, that's going to be, you know, six and a
6 half months after final action. So we need to know
7 before that that DHCD is on track to get the new
8 schedule done. Doesn't that make sense.

9 MR. BERGSTEIN: Well, the earliest you'd be
10 able to respond to that would be September 12th.

11 MR. MAY: Right.

12 MR. BERGSTEIN: Yes. So you would schedule
13 this as a sort of -- assuming you take proposed
14 action tonight which would then authorize us to
15 create text, under the ZR-16 of course, and then
16 publish that, you would do an interim status during
17 the comment period to react to DHCD's response.

18 But in the meantime should the proposed text
19 propose a six-month effective date after the pricing
20 schedule, or is that something you want to wait on
21 until you hear DHCD's response? It would be better
22 to put that forward so that there could be comments
23 on that, with the idea that it may be adjusted at
24 final depending upon the DHCD response.

25 MR. MAY: Absolutely, and I think we should

1 say something right now about when we want it to
2 happen, but then we would look for an update from
3 DHCD. So --

4 MR. BERGSTEIN: So what I'm hearing is that
5 the rules would become effective six months after the
6 publication of a price schedule for rental at 60
7 percent. Is that what's on the table?

8 MR. MAY: Well, we, I think we were talking
9 about our order, not the price schedule.

10 MR. MILLER: Yeah, I think it should be tied
11 to our order, I think. That's what we usually do.

12 MR. MAY: Yeah.

13 MR. MILLER: Tie it to something we control.

14 MR. MAY: I think we just want reassurance
15 that the price schedule will --

16 MR. MILLER: Happen.

17 MR. MAY: Will be ready to go when we publish
18 our order.

19 MR. BERGSTEIN: Okay. So you would be
20 proposing just a six-month effective period flat,
21 without regard to whether or not there is a price
22 schedule or not?

23 MR. MAY: Well, that's maybe what we're
24 saying right at this moment. I think we'd have to --
25 once we hear from DHCD we would consider how rational

1 that is.

2 MR. ROGERS: And we could note that. We'll -
3 - in other words, the text will propose that with the
4 notion that the Zoning Commission is requesting DHCD
5 to provide this response. And based upon the
6 response at final it may adjust the -- so, we could
7 certainly say that.

8 CHAIRPERSON HOOD: Okay. I think that's
9 actually the way -- that's a good way for us to move
10 forward. Vice Chair Cohen.

11 MS. COHEN: No, I was just going to emphasize
12 that again DHCD, now that we have and probably will
13 have proposed action tonight, they're under pressure
14 from, I think the counsel, to move forward. And as I
15 said, it's not rocket science to develop a schedule.
16 And they can even go to their former written
17 administrative procedures and amend them and adapt
18 them.

19 So as I said, I don't think it should take
20 them that long. Especially knowing that they're
21 under the gun by not only the Zoning Commission but
22 the council as well.

23 CHAIRPERSON HOOD: Okay. All right.
24 Anything else?

25 I would move that we approve Zoning

1 Commission Case 04-33G with all the necessary
2 comments and corrections and things we've asked for,
3 and ask for a second.

4 MS. COHEN: Well, I would just like to
5 emphasize, though, Mr. Chairman, because I will make
6 a --

7 CHAIRPERSON HOOD: I'm going to call a
8 discussion.

9 MR. MILLER: Second.

10 MS. COHEN: No, I --

11 CHAIRPERSON HOOD: It's been moved and
12 properly seconded. Any further discussion? Vice
13 Chair Cohen.

14 MS. COHEN: Yes. I would just like to
15 emphasize that we are splitting the units between 60
16 percent MFI for rental IZ developments, and 80
17 percent MFI for ownership IZ developments.

18 CHAIRPERSON HOOD: Okay. Thank you for that.
19 Anything else? Moved and properly seconded. Any
20 further discussion?

21 [Vote taken.]

22 CHAIRPERSON HOOD: Ms. Schellin, would you
23 please record the vote?

24 MS. SCHELLIN: Yes. I just want to confirm
25 that Commissioner Cohen seconded that?

1 CHAIRPERSON HOOD: Commissioner Miller.

2 MS. SCHELLIN: Okay. So, staff will record
3 the vote five to zero to zero to approve final --
4 sorry, proposed action in Zoning Commission Case No.
5 04-33G, with the changes as discussed this evening by
6 the Commissioners. Commissioner Cohen --
7 Commissioner Hood moving, Commissioner Miller
8 seconding, Commissioners Cohen and May in support,
9 Commissioner Turnbull in support by absentee ballot.

10 And I just want to confirm that at the
11 September 12th meeting that the Commission wants a
12 status update from DHCD. Is that correct?

13 CHAIRPERSON HOOD: Yes.

14 MR. BERGSTEIN: That you would want to put
15 this on the agenda, assuming you got the response for
16 a status, even though it's proposed action that takes
17 us ongoing. But you will have a discussion on
18 September 12th. Okay.

19 CHAIRPERSON HOOD: Okay. Anything else?

20 MS. COHEN: No, sir.

21 CHAIRPERSON HOOD: All right. I want to
22 thank everyone for their participation tonight and
23 this special public meeting is adjourned.

24 [Hearing adjourned at 8:05 p.m.]

25