

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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REGULAR PUBLIC HEARING

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MONDAY

NOVEMBER 16, 2020

+ + + + +

The Regular Public Hearing of the District of Columbia Board of Zoning Adjustment convened via Videoconference, pursuant to notice at 4:00 p.m. EDT, Anthony J. Hood, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- ANTHONY J. HOOD, Chairman
- ROBERT MILLER, Vice-Chair
- PETER SHAPIRO, Commissioner
- PETER G. MAY, Commissioner
- MICHAEL TURNBULL, Commissioner

OFFICE OF ZONING STAFF PRESENT:

- SHARON S. SCHELLIN, Secretary
- PAUL YOUNG, Zoning Data Specialist

OFFICE OF PLANNING STAFF PRESENT:

- MAXIMILIAN TON
- JONATHAN KIRSCHENBAUM
- JENNIFER STEINGASSER
- ARTHUR RODGERS

The transcript constitutes the minutes from the Regular Public Hearing held on November 16, 2020.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Case No. 20-02, (Office of Planning - Text Amendments
to Subtitles B, C, F, G, I, K, U, X, and Z for
Inclusionary Zoning Plus). 3

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

(4:00 p.m.)

CHAIRPERSON HOOD: Good afternoon, everyone. This is a meeting of the Zoning Commission for November 16th, 2020. This is the case of 20-02, which includes the Office of Planning Text Amendments to Subtitles B, C, F, G, I, K, U, X, and Z for Inclusionary Zoning Plus, and this is the text amendment.

I would ask that everyone mute themselves so I (audio interference).

My name is Anthony Hood. Joining me this evening are Vice-Chair Miller, Commissioner Shapiro, Commissioner May, and Commissioner Turnbull.

We're also joined by the Office of Planning staff Ms. Sharon Schellin and Mr. Paul Young, who will be handling all of our virtual operations.

I would ask all others to introduce themselves at the appropriate time.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised that this proceeding is being recorded by a court reporter and the platforms used are webcast live, Webex, and YouTube Live. The video will be available on the Office of Zoning's website after the hearing.

Accordingly, all those listening on Webex or attending by phone will be muted during the hearing and all those who have

1 signed up to testify will be unmuted at the appropriate time. In
2 all cases, we ask that you sign up in advance so that you are
3 sworn in. If you have not signed up, please contact the staff on
4 the hotline number, which will be given out shortly.

5 When speaking, please state your name and home address
6 before providing testimony. When you are finished speaking,
7 please mute your audio so that your microphone is no longer
8 picking up sound or background noise.

9 If you experience in technical difficulty or any
10 problems during these proceedings, then please call our OZ hotline
11 number at 202-727-5471 and the Office of Zoning staff will assist
12 you.

13 If you wish to file written testimony or additional
14 support and documents during the hearing, then please be prepared
15 to describe and discuss it at the time of your testimony.

16 This proceeding will be conducted in accordance with
17 provisions of 11Z, DCMR Chapter 5, as follows: preliminary
18 matters, our presentation in this case, the Office of Planning,
19 report of other government agencies, report of the ANC, in this
20 case is citywide.

21 Testimony of organizations will have five minutes.
22 Testimony of individuals, 3 minutes.

23 Again, we'll hear in order for those in support,
24 opposition, and undeclared.

25 While the Commission reserves the right to change the

1 | time limits, if necessary, it intends to adhere to the time limits
2 | as strictly as possible and no time shall be ceded.

3 | Again, any issues, please call the Office of Zoning
4 | hotline number at 202-727-5471.

5 | At this time, the Commission will consider any
6 | preliminary matters.

7 | Does the staff have any preliminary matters?

8 | MS. SCHELLIN: No real preliminary matters, just advise
9 | that the Office of Planning did submit a supplemental report at
10 | Exhibit 18 and the presentation this evening will be given by
11 | Jonathan Kirschenbaum, followed by Art Rodgers, followed by
12 | Jennifer Steingasser, and I believe they are ready to come forward
13 | unless the Commission has something else.

14 | CHAIRPERSON HOOD: No, that's all.

15 | We can bring Mr. Kirschenbaum. I practiced that name
16 | earlier. About two o'clock, I was sitting here practicing.

17 | MS. SCHELLIN: Yes.

18 | CHAIRPERSON HOOD: I probably said it wrong, but anyway,
19 | we can bring them all up.

20 | MS. SCHELLIN: Okay. Thank you.

21 | MR. KIRSCHENBAUM: Paul, would you bring up our
22 | presentation.

23 | Good afternoon, Chair Hood and Members of the Zoning
24 | Commission. Jonathan Kirschenbaum with the Office of Planning for
25 | Case 20-02. I am joined with my colleagues, Jennifer Steingasser

1 and Art Rodgers, OP's senior housing planner.

2 The Office of Planning recommends approval of these
3 proposed text amendments to increase the Inclusionary Zoning set
4 aside requirements through certain map amendment applications.
5 (Audio interference) will not be inconsistent with a comprehensive
6 plan.

7 And to sort of make things more clear, we refer to the
8 existing IZ program as "Regular IZ" and the proposed text
9 amendments as "Expanded IZ."

10 Next slide, please.

11 First (audio interference) the proposals since filing
12 our set down public hearing reports that we would just like to
13 briefly go over with you. One is that we have changed the set-
14 aside requirements from being based on increments of an escalating
15 0.5 area ratio to a percent increase in density based on a sliding
16 scale.

17 We excluded the Northern Howard Road and Barry Farm
18 zones because they already require more deeper affordability than
19 the Regular IZ program.

20 And, three, we propose that the set-aside reduction for
21 the inclusion of three-bedroom or larger IZ units, which we have
22 previously proposed, we now propose that to be permitted on a
23 trial basis with a condition that OP submit a report to the zoning
24 administrator based on defined criteria and I will also get into
25 more specifics about that later on.

1 Next slide, please.

2 Just as a refresher of where we are with Expanded IZ, we
3 see it as sitting between the by-right inclusionary zoning process
4 and planning unit developments, also known as "PUDs." PUDs would
5 continue to be the District's preferred tool to both, increased
6 new housing and affordable housing above the Regular IZ
7 requirements and to analyze broader public benefits and amenities.

8 Next slide, please.

9 At this time, I would like to sort of dive into the
10 applicability of Expanded IZ. The information provided here has
11 not changed since set down and generally serves as a reminder of
12 the proposal. Expanded IZ would apply to map amendments that
13 would allow higher residency residential development.

14 OP does not propose that Expanded IZ apply to any PUDs.
15 Existing, proposed, or future PUDs would continue to be subject
16 to the Regular IZ requirements and any PUD-related negotiations to
17 provide additional IZ units and other benefits and amenities to
18 the community.

19 (Audio interference) IZ proposes a supersede of the set-
20 aside requirement of Regular IZ and I'll discuss that more
21 momentarily. All other program requirements of Regular IZ are
22 proposed to remain the same, including the bonus density of up to
23 20 percent.

24 Next slide, please.

25 OP would recommend to the Zoning Commission whether the

1 applicability of Expanded IZ would be appropriate, based on an
2 analysis of the local housing market, the distribution of existing
3 affordable housing around the area of the proposed map amendment,
4 a comprehensive plan, and the housing equity report. It is
5 expected that Expanded IZ would be appropriate for most map
6 amendment applications.

7 Next slide, please.

8 Since filing the public hearing report, we have received
9 comments, pertaining to the economic modeling that has informed
10 this entire process and the proposed set-aside requirements.
11 Based on this feedback, the goal of maximizing the productivity of
12 using Expanded IZ, OP in a supplemental report that was filed on
13 November 13th, so this past Friday, has amended the proposal to
14 base the set-aside requirements on a sliding scale of percent
15 increase in density, instead of using increments of 0.5 FAR.

16 If you go to the next slide, the tables in front of you
17 show the new proposed IZ set-aside requirements. So, some (audio
18 interference) FAR through the map amendment, the higher the
19 Expanded IZ set-aside requirement.

20 What we now propose is this sort of sliding scale of
21 percent increase in density as you can see in front of you. The
22 first table is the set-aside requirements for non-steel buildings
23 located in a zone with a height limit of 85 feet or less. And the
24 second table is for steel buildings located in any zone or for
25 buildings located in a zone with a height limit greater than 85

1 feet.

2 We'll just stay on it for a second just so you guys can
3 absorb all of this information.

4 Can you move to the next slide, please.

5 What has not changed is the Expanded IZ set-aside
6 requirements would continue to be based on the increase in
7 residential FAR resulting from being rezoned. The increase in
8 density would also continue to be a percent increase in FAR
9 between the maximum by-right residential FAR in the existing zone
10 and the maximum IZ FAR in the new zone.

11 Lots are rezoned from PDR, unzoned land, or a D zone, or
12 downtown zone, without a prescribed FAR would have a 20 percent
13 set-aside requirement and that we have at least proposed.

14 Next slide, please.

15 As we had also previously proposed, there would also be
16 the ability for a set-aside reduction for making all of the IZ
17 units reserved for households earning equal to or less than 50
18 percent MFI or making half of the IZ units three bedrooms or
19 larger, and this would only be for developments subject to IZ
20 Plus.

21 Next slide, please.

22 With regard to the satisfied reductions for providing
23 half of the IZ units at three bedrooms or larger, we would like
24 this now to be sort of be permitted on a trial basis with a
25 condition that OP submits a report to the zoning administrator,

1 | commenting on compliance with specific criteria for the reduction.
2 | This stems from work and conversations we've had with the (audio
3 | interference) community development. (Audio interference) three-
4 | bedroom IZ units, DHCD has identified several demand-related
5 | issues such as larger three-bedroom IZ units can be difficult to
6 | market and get occupied in a timely manner. So, to ensure that
7 | three-bedroom IZ units are viable, OP proposes to a review of
8 | reductions based on: Does the proposed project have important
9 | family-oriented design elements, such as access to common areas
10 | and outdoor activity space suitable for children and do these
11 | buildings have a concentrated share of both market rate and IZ
12 | three-bedroom units and does -- we would require that a market
13 | study conclude that there is demand for family-sized IZ units
14 | based on neighborhood amenities, such as parks and schools being
15 | in proximity to the IZ Plus Development. (Audio interference)
16 | continuing to work with the Office of Attorney General to fine-
17 | tune these criteria in the zoning texts.

18 | This concludes my part of the presentation and I will
19 | now turn it over to my colleague Art Rodgers to discuss the
20 | economic modeling for Expanded IZ. Thank you.

21 | MR. RODGERS: Great. Thank you.

22 | Could we -- great. I was just going to say next slide.

23 | Good afternoon, Chairman Hood and Members of the
24 | Commission. My name is Arthur Rodgers and I'm the senior housing
25 | planner for the D.C. Office of Planning. I'll present OP's

1 economic analysis of the Expanded IZ program and how the analysis
2 affected OP's final recommendations on the balance between the
3 change in density between zones and the affordable housing
4 requirements.

5 As the commissioners know, the District's Regular IZ
6 starts with a base requirement of 8 or 10 percent and increases by
7 50 percent of the density increase for residential construction
8 greater than 50 feet in height and 75 percent of the density
9 increase for residential construction of 50 feet in height or
10 below.

11 The key assumptions in designing the Mandatory IZ
12 program were that, one, it was mandatory, and that, two, it was a
13 matter-of-right process, and, three, the permitted 20 percent
14 increase in density could be achieved without significant change
15 in construction types or marginal increases in cost.

16 Regular IZ decreases the requirement from the 75
17 percent to the 50 percent of the increase in density at one major
18 inflection point: when projects shift from wood-frame to steel-
19 and-concrete construction, which when IZ was designed was at about
20 50 feet in height.

21 Could we go to the next slide, please.

22 OP used this as a starting point in our analysis and
23 worked with stakeholders to analyze the economic and affordable
24 housing potential of increasing IZ requirements through map
25 amendments. This slide summarizes the feedback OP used to modify

1 our model.

2 So, first of all, you can see from the slide that above
3 four stories, construction type is a sort of blend of two
4 different types of construction. Below four stories, it's called,
5 by the Building Code, it's called Type 5 and then when you hit a
6 fifth floor, it's called Type 3, and then above that, it's a blend
7 of that Type 3 form of construction and Type 1, which is steel and
8 concrete, and so as you add floors, you get a greater percentage
9 being constructed by steel and concrete.

10 So, that was an important thing for us to consider when
11 we designed Expanded IZ because as we change from one zone to
12 another, most zones' changes permit a greater increase in height
13 and number of floors.

14 One of the other comments were heard were that the hard
15 construction costs were just a little bit too low for our current
16 conditions, about 8 to 10 percent too low, and that's -- we
17 recognized and we stated in our report that right now there is a
18 lot of uncertainty in costs and we have tried to take a long-term
19 approach to construction costs.

20 Third, we heard that soft costs were a little bit too
21 low -- I'm sorry -- they were too high and that they generally
22 represent 25 percent of the hard costs, whereas, we had started
23 off with 30 percent of the hard costs.

24 And then the fourth thing we heard was that overall, the
25 total project return that was necessary for the project to get

1 financing was too low and that was due to two things. First of
2 all, the annual rate of return for equity was too low and we
3 raised it from 11 to 12 percent based on this. And the other
4 thing that we did was we added time to the investment period,
5 because the discretionary process that Expanded IZ takes adds
6 several months of the hearing process to approve the map
7 amendments.

8 So, those were the major feedbacks that we heard in
9 creating our analysis to model the balance between the increase in
10 density and the affordability requirements.

11 So, what this resulted was, is it means that Expanded IZ
12 is different from Regular IZ in several ways. First of all,
13 changes in the Building Code permitted different types of
14 constructions up to 85 feet, whereas, previously, the IZ was
15 originally designed for the change at 50 feet. And so, that's
16 something we've taken on with IZ Plus and it's also something we
17 will be looking at with the Expanded IZ -- I'm sorry -- with the
18 next case we'll be looking at for IZ and adapting this not just
19 for the map amendments, but for a matter-of-right IZ, as well.

20 As I said, too, it's a discretionary process and that
21 means it has to achieve two things. One, it has to offer a
22 positive incentive for property owners to pursue it and, two, it
23 does add delay to the development process that extends the period
24 of time that the equity is invested in the project and, therefore,
25 requiring a greater total return of the project.

1 And then one of the last major things was that the FAR
2 difference between zones is often greater than 20 percent and, as
3 I said, it necessitates additional floors and that causes a
4 marginal increase in construction costs, basically starting around
5 55 feet.

6 If we could go to the next slide.

7 So, this graphic tries to illustrate the differences
8 between the Regular IZ and Expanded IZ. And the section
9 highlighted -- well, first of all, along the bottom we have the
10 percent change in the density of the project and going up the top
11 vertically, we have the percent IZ required.

12 And it provides an example of a project within the MU-4
13 base zone and we can see that as density is added to the project,
14 up to 20 percent, we see the affordability requirements go from 10
15 percent up to 12 and a half percent as that bonus density is
16 achieved, and that's all within about 50 feet.

17 What happens next, though, as we would go to another
18 zone and add additional floors, IZ -- essentially, Regular IZ
19 levels off at 12 and a half percent and when you go to steel-and-
20 concrete construction it would actually go down to 8 percent.

21 But under Expanded IZ, we're proposing that it take step
22 increases from 12 and a half percent to 14 percent between a 20
23 and 40 percent increase in density, and then 16 percent between 40
24 and 60 percent increase in density, and then up to 18 percent
25 between 60 and 80, and then, finally, going up to a 20 percent

1 requirement when there is an increase in density of greater than
2 80 percent.

3 And I think what this means is, what this captures is
4 when we are looking at very low, dense zones, a change from one
5 zone to another is a significant increase; it generally could mean
6 a doubling the project size and that would approximate a hundred-
7 percent increase. But as we get into the more dense zones, every
8 step increase from one zone to the next gets a smaller percent
9 change.

10 And so, this is sliding scale, based on the percent
11 increase, tries to capture the differences between lower-dense
12 zones and the higher-dense zones. And this is what really made us
13 drive our final recommendations to the Zoning Commission.

14 And that concludes my portion of the testimony and I'd
15 be happy to answer any questions.

16 We can go to the next slide.

17 MS. STEINGASSER: Chairman Hood, Commissioners, thank
18 you very much. I'm Jennifer Steingasser with the Office of
19 Planning.

20 The Office of Planning asks that the Commission consider
21 taking proposed action on this case with the amended language from
22 our supplemental report this evening. We note that taking
23 proposed action tonight avoids a significant delay in, we believe,
24 getting this case adopted as soon as possible. It's critically
25 important.

1 It allows for the case to be referred to NCPC for their
2 December meeting. If we wait to take action at the next available
3 meeting, that would be in December and the referral to NCPC
4 wouldn't be until January, thus, final action would not be
5 available until the middle or end of January.

6 Taking proposed action this evening also provides a
7 continued opportunity for public comment to be submitted both, to
8 the Zoning Commission and to the Office of Planning, during the
9 publication, the 30-day, open-publication period and, of course,
10 OP would definitely be available for any public comment that comes
11 back.

12 We also request flexibility to continue to work with the
13 Office of Attorney General to fine-tune the language, as discussed
14 earlier in this case. And with that, we stand available to answer
15 any questions that the Commission may have. Thank you.

16 CHAIRPERSON HOOD: Okay. Thank you, Ms. Steingasser,
17 Mr. Kirschenbaum, and also Mr. Rodgers. Obviously, you all put a
18 lot of work into this and I know it's like a moving target, trying
19 to grasp it.

20 And I know this is not the only tool in the toolbox when
21 it comes to affordable housing here in the District of Columbia,
22 but it's a piece of it or it's a tool and there are many more and
23 I will discuss some of that as we move forward.

24 Let me see if we have any questions or comments.

25 Commissioner May?

1 COMMISSIONER MAY: Sorry, I was temporarily (audio
2 interference).

3 CHAIRPERSON HOOD: Okay.

4 COMMISSIONER MAY: I don't know that I have any
5 particular questions. I am very interested in hearing what the
6 public testimony will be.

7 I appreciate sort of the fine-tuning that has occurred
8 since the original report was submitted.

9 Yeah, I am very interested in seeing, you know, having
10 your PowerPoint. Has that been added to the record yet?

11 MR. KIRSCHENBAUM: Not yet. We intend to include it as
12 part of the record.

13 COMMISSIONER MAY: Okay. Can somebody get it to us
14 sooner rather than later, because I think there was some helpful
15 information in there, summary information that is actually helpful
16 to be able to look back at during the hearing. So, if somebody
17 could send it to us right away, then we could get it uploaded,
18 that would be helpful.

19 I am just looking at my notes from last time around.
20 Yeah, no, I don't have anything else. Thank you.

21 CHAIRPERSON HOOD: All right. Thank you, Commissioner
22 May.

23 Commissioner Shapiro?

24 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

25 One quick question. The idea of this trial basis for

1 three-bedroom units, I didn't quite understand practically how
2 that works. You know, where is the authority associated with the
3 trial basis and why wouldn't this be more data gathered in another
4 text amendment? Yeah, just help me make sense of that.

5 MR. KIRSCHENBAUM: So, as part -- the zoning text would
6 not refer to it as a trial. It would just be -- the reduction
7 would be there with defined criteria on how to obtain the
8 reduction.

9 I think that we would like to have the ability to sort
10 of evaluate how this reduction works over the next year and then,
11 with the idea that we may come back to the Zoning Commission to
12 fine-tune the reduction after we see how it works with the DHCD
13 and the IZ lottery.

14 COMMISSIONER SHAPIRO: I mean, the way I'm hearing it,
15 it's not really any different than anything else one might propose
16 or what we might approve. You're just saying this one, you're
17 less confident about, but you still want us to go ahead with it.

18 MR. RODGERS: That's correct. DHCD has had problems
19 leasing these units in the past and so they were concerned and
20 that was one of the reasons why we added in language about the
21 type of building it was, whether there were other larger units in
22 the building that might provide for other families to create a
23 concentration of families in the building and other things. So,
24 they were concerned about how attractive they might be.

25 And so, I think you're right, a trial basis is not the

1 right term. We intend to report back to the Zoning Commission as
2 to the productivity and how well it's been functioning.

3 COMMISSIONER SHAPIRO: Right. And then the last thing -
4 - and I may be having a senior moment, but I believe we asked this
5 question before, I just couldn't find the data around this -- what
6 the proposed impact of this will be, as you imagine it, how much
7 additional housing, affordable housing production will come from
8 what you're proposing?

9 MR. RODGERS: That's very hard to estimate for a lot of
10 reasons. First of all, we don't know how much of a map amendment
11 developers will seek under the FLUM. We have received feedback
12 from developers that they don't always seek what's available under
13 the FLUM due to site conditions and other factors.

14 It's also we don't know what the split will be between
15 the PUDs and just straight map amendments. We do know that
16 there's about 1500 units in the pipeline, in the sort of long-term
17 pipeline for inclusionary zoning of projects that we track. And I
18 believe in our report, we identified there was about a 6 percent
19 increase in capacity due to the FLUM changes that have been
20 proposed through this round of the comprehensive plan.

21 MR. KIRSCHENBAUM: And I'll just add in to Art, as well,
22 we did analyze map amendments from over the past five years and we
23 sort of estimated how many Regular IZ units would be produced
24 under those map amendments if the developer took full advantage of
25 their FAR and that would be 584 units. And with an Expanded IZ

1 requirement, the number of units would be 1,082 if all of those
2 map amendments have been subject to Expanded IZ.

3 But like my colleague Art said, it's very difficult for
4 us to really know how many units will be produced under this
5 because there are so many different variables.

6 COMMISSIONER SHAPIRO: Okay. That's all I had. Thank
7 you very much for that.

8 That's all I have for now, Mr. Chair.

9 CHAIRPERSON HOOD: Okay. Thank you.

10 Let's go to Commissioner Turnbull.

11 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

12 Thank you for your presentation. And, again, I would
13 just concur with Commissioner May, it would be nice to see at that
14 PowerPoint. I think it was very informative.

15 I guess the only question that I have, there's nothing
16 really mentioned in, just in your report about the Expanded IZ
17 about -- now, listen, it may be that I missed it -- the MFI. What
18 target MFI are we looking at Expanded IZ, and how does it -- I
19 mean, I just see it on the last page of your report, you talked
20 about the Fiscal Year 2021 Budget Support Act, including tax
21 abatement for mixed-income housing and high-cost areas, you talk
22 about 33 percent of the units affordable, bringing an average of
23 80 percent of the MFI and not to exceed a hundred percent.

24 But I don't really see anything in here where we're
25 focusing the Expanded IZ, and maybe it's understood, but I didn't

1 see anything in here about what the MFI, what we're really
2 targeting.

3 MS. STEINGASSER: It would give the same MFIs as the
4 Regular IZ, so it would be 60 percent for rental and 80 percent
5 for ownership. We do have a provision proposed for a deeper MFI
6 of 50 percent and that would come with a 20 percent reduction in
7 the requirement, but (audio interference).

8 COMMISSIONER TURNBULL: Is that mentioned in here? Is
9 that mentioned in your report?

10 MS. STEINGASSER: I believe it is in the hearing report
11 --

12 COMMISSIONER TURNBULL: Okay.

13 MS. STEINGASSER: -- but it also is just part of the
14 Regular IZ requirements.

15 COMMISSIONER TURNBULL: All right. So, there is a
16 spread. There is a spread if MFI can be provided there.

17 MS. STEINGASSER: Right. It would be --

18 COMMISSIONER TURNBULL: I mean I guess, really, it's
19 getting to this thing about, well, we had about 85 percent MFI. We
20 always said that, you know, it's not really doing a whole lot for
21 affordable housing. So, I was just curious where we were going on
22 this.

23 MS. STEINGASSER: We (audio interference) proposed any
24 mandatory change in the MFI through this program. We have
25 proposed an incentive to go deeper to a 50 percent MFI through a

1 smaller, dedicated set-aside.

2 COMMISSIONER TURNBULL: Okay. All right. Thank you.

3 CHAIRPERSON HOOD: Thank you, Mr. Turnbull.

4 Vice-Chair Miller?

5 COMMISSIONER MILLER: Thank you, Mr. Chairman, and thank
6 you, Office of Planning, for the presentation and for bringing
7 this IZ, Expanded IZ, IZ Plus case forward and all the work that's
8 gone into it.

9 I think I'll have more questions after we hear from the
10 public testimony and whether or not we have dialogue with you
11 specifically about points raised in the public testimony, I think
12 it would be useful for the Office of Planning, after this hearing,
13 to provide a brief summary of the public testimony and the Office
14 of Planning position on it. For example, I mean, there's been
15 suggestions that it not apply to certain things -- that it not
16 apply to pending map amendments or map amendments already approved
17 -- which I can ask you a question about now or I think I'll ask
18 you a question about it later after we hear public testimony -- or
19 there's suggestions of other suggestions or concerns being
20 expressed.

21 So, I think it would just be useful to have a matrix
22 prepared by Office of Planning, if my colleagues agree that it
23 would be useful, to have them make and if OP thinks they can
24 produce this, a summary of the major points made in the public
25 testimony and the Office of Planning position on it so that we can

1 just have that at our fingertips.

2 On to Commissioner Shapiro's question, which Mr.
3 Kirschenbaum and Mr. Rodgers attempted to answer about how much do
4 we think we would get from this. I realize all the variables that
5 are involved and Mr. Kirschenbaum did cite that they did an
6 analysis, you all did an analysis of map amendments that have
7 occurred in the past and what IZ would have produced and what
8 Expanded IZ, and it seemed to me that the numbers, you went by
9 them quickly in your verbal testimony, but I looked at it in your
10 written report, which it seemed to indicate a doubling almost of
11 the number of IZ affordable units.

12 Would that be a fair characterization of your analysis,
13 Mr. Kirschenbaum?

14 MR. KIRSCHENBAUM: (Audio interference) on the analysis
15 that we did and that is what the numbers show. Again, it's just
16 very hard to know the program of the building (audio interference)
17 developer (audio interference) and concerning FAR, it's hard to
18 know if they would (audio interference) or not, as well. This is
19 just rough estimates at this point.

20 COMMISSIONER MILLER: Right. On the other point that
21 was just raised, the trial -- what you're calling a trial period,
22 or what you're going to look at, you know, this
23 20 percent of the square footage reduction if the IZ units that
24 are being provided are -- is it half of the IZ units are being
25 provided as three-bedrooms, is that what the proposal is?

1 MR. KIRSCHENBAUM: Yes.

2 COMMISSIONER MILLER: So, half of the (audio
3 interference).

4 MR. KIRSCHENBAUM: (Audio interference) half of the IZ
5 units.

6 COMMISSIONER MILLER: Right. And also, that reduction
7 is also availed that square footage reduction is also available if
8 all of the IZ units are at the 50 percent median family income
9 level, which is lower than our normal MFI levels; is that correct?

10 MR. KIRSCHENBAUM: That is correct.

11 COMMISSIONER MILLER: And does this proposal also
12 include any other criteria? I saw some other testimony that if
13 they were offering all IZ ownership units as affordable at 60
14 percent MFI, instead of what is normally the 80 percent MFI, those
15 would be eligible for this 20 percent square footage reduction as
16 well.

17 Is that part of this proposal?

18 MR. KIRSCHENBAUM: That is actually not part of this
19 proposal. That, actually, already -- that provision already
20 exists. So, that's already part of the Regular IZ regulations and
21 --

22 COMMISSIONER MILLER: And that (audio interference)?

23 MR. KIRSCHENBAUM: Yes.

24 COMMISSIONER MILLER: Okay. Well, on the applicability,
25 we're going to hear testimony that, I think both from Mount

1 Calvary Church, Rhode Island Avenue development, and maybe from
2 others that the map amendments that are in the pipeline, due to
3 the existing comprehensive plan, density, designations, that those
4 should not -- that they've been working on these types of
5 developments for a long time, that the IZ Plus should not apply to
6 those pending map amendments or even future map amendments if
7 they're based on the (audio interference) existing comprehensive
8 plan map before we get to changes that (audio interference)
9 currently considering.

10 Does OP have a position on that or maybe you stated it
11 and I just missed it.

12 MS. STEINGASSER: If I understand correctly, we do
13 support the request that I saw earlier today that if the
14 Commission has already taken action on a map amendment, by the
15 order has not been issued, that IZ is not retroactive.

16 However, basing it on when the FLUM was adopted or not
17 adopted, we don't support that. So, if it's in 2021 and it's
18 still the same future land-use category, that is the map today, we
19 would still support IZ Plus for that project, for that map
20 amendment, not just -- so, I don't know if I'm answering it any
21 more clearly than you asked it.

22 But we're not applying IZ Plus to the future land-use
23 map amendments that are before the Council now. We're (audio
24 interference) it to be applicable to all map amendments.

25 COMMISSIONER MILLER: So, like Rhode Island Avenue,

1 | which has a map amendment filed, but hasn't yet had a hearing, as
2 | far as I know -- correct me if I'm wrong -- and hasn't yet,
3 | obviously, had a decision, if IZ Plus were to -- well, IZ Plus
4 | would apply to that.

5 | MS. STEINGASSER: It could apply to it, but the case has
6 | not yet been set down. It's been filed -- it got filed at the end
7 | of September or beginning of October, but it has not yet been set
8 | down for the Commission.

9 | COMMISSIONER MILLER: So, it would make a difference if
10 | it set down?

11 | MS. STEINGASSER: I think that it would be up to the
12 | Commission to decide, but it is -- OP does take the position that
13 | IZ Plus is very important and we'd like to (audio interference) as
14 | quickly as possible.

15 | COMMISSIONER MILLER: All right. Well, maybe I just
16 | need a primer on what IZ Plus would apply to and our existing set
17 | down rules. And I guess there's flexibility in every case and I
18 | think it's even laid out somewhere in the proposal for OP and the
19 | Commission to say that it shouldn't apply in that particular case
20 | for whatever market or geographical or other reasons.

21 | Is that -- am I --

22 | MS. STEINGASSER: When a case is filed IZ Plus will be
23 | assumed and we would analyze it against the conditions listed
24 | earlier -- the comp plan, the housing equity report, what we know
25 | about the current market -- and is it, because some areas could

1 | become oversaturated with affordable housing, whereas, we really
2 | want to look at areas that have high opportunities for housing.
3 | So, we would analyze that.

4 | COMMISSIONER MILLER: And you'd be able to make a
5 | recommendation whether or not it should apply or not?

6 | MS. STEINGASSER: Absolutely. At the set down, we would
7 | make that recommendation to the Commission.

8 | Now, the cases -- what I read this afternoon was an
9 | issue of cases, like if you said the Commission has already taken
10 | action on. You've already heard the case. You've had proposed
11 | action. You've taken final action. It's just the order has not
12 | yet been issued, and in those cases, we agree it should not be
13 | retroactive.

14 | But going forward, you know, we would -- it would be up
15 | to the Commission, but we would encourage IZ Plus to be considered
16 | for every map amendment going forward once the case is complete,
17 | the IZ Plus case.

18 | COMMISSIONER MILLER: Once the IZ Plus case is complete.

19 |

20 | All right. Well, I still think I need a primer on when
21 | it would apply to map amendments that have already been -- that
22 | are in the pipeline that might be set down before IZ Plus (audio
23 | interference). I guess I just need a (audio interference) --

24 | MS. STEINGASSER: There are two cases pending that have
25 | been set down and that have a public hearing coming up (audio

1 interference) new year. And then there's other cases we know of
2 that have not been set down.

3 What you're asking about is the vesting rules --

4 COMMISSIONER MILLER: Right.

5 MS. STEINGASSER: -- and the (audio interference). So,
6 there's rulemaking (audio interference). There's map amendment
7 rules, and, yeah, we'd look to OAG for that.

8 The advice we received was that the IZ Plus should, at
9 least get through final action.

10 COMMISSIONER MILLER: Was it -- okay. Well, I guess I'm
11 going to need a response to why it should not -- to the Mount
12 Calvary concerns about Rhode Island Avenue and also about toward
13 (audio interference). The testimony that we've gotten that it
14 shouldn't apply to areas east of the river, east of Anacostia
15 River that have been, in their words, saturated with affordable
16 housing projects and have actually been the subject of those areas
17 have been the subject of all unit developments going forward that
18 this Commission has approved in the recent past. So, I think we
19 need some action from OP that requests that IZ Plus not apply to
20 any geographical area.

21 MS. STEINGASSER: And I agree with you and that's why we
22 put in there the provision that OP would analyze each request that
23 comes before the Commission, rather than try to do some kind of
24 blanket description in the regulation. Each map amendment that
25 comes to the Commission will assume that it's subject to IZ Plus

1 and then we will analyze it for its appropriateness for the area.

2

3 COMMISSIONER MILLER: (Audio interference) analyze that
4 even if you don't (audio interference)?

5 MS. STEINGASSER: I'm sorry, I missed half the sentence.

6 COMMISSIONER MILLER: I'm just thinking out loud.
7 That's okay.

8 So, I assume it could be a case-by-case situation (audio
9 interference) --

10 MS. STEINGASSER: Yes.

11 COMMISSIONER MILLER: -- (audio interference)
12 appropriate.

13 So, I also appreciate the work that you're doing, I
14 believe, on other aspects of inclusionary zoning that you said at
15 our set down hearing, I believe, that you would be bringing
16 forward sometime, I thought before the end of the year, that would
17 look at the issue of applying IZ, which I guess would extend to
18 applying IZ Plus, to certain zones where it's currently exempt,
19 where -- so, applying it to exempt zones, currently exempt zones,
20 to applying it to conversions of office space to residential space
21 and maybe other -- are you (audio interference) you're looking at
22 that (audio interference) being part of this, as well, I guess.

23 MS. STEINGASSER: We are. It would be a separate case.
24 It would not be IZ Plus. It would be looking at the IZ program
25 and where properties that are currently exempt from the standard

1 IZ, the Regular IZ program and those are the cases that you just
2 described.

3 When you sit too still, I can't tell if you're frozen.

4 Whether it's a conversion of office to residential,
5 hotel to residential, parts of the downtown, different areas of
6 historic districts throughout the city, we would be analyzing
7 those and looking at them, subject to the Regular IZ program and
8 that will be coming as soon as the IZ Plus case is complete, we
9 will be bringing forward that next case.

10 COMMISSIONER MILLER: I don't want to delay that case
11 coming forward or this case moving forward. If it's (audio
12 interference) to make that evaluation right now on applying IZ to
13 certain exempt zones and conversions, it seems like a -- I guess I
14 don't -- I guess there's a lot involved there that I just don't
15 understand because, otherwise, you would be putting it into this
16 case, I guess; is that correct?

17 MS. STEINGASSER: The case is separate. The (audio
18 interference) keep the two cases separate. There is economics,
19 different modeling, a different amount of types of research, so it
20 just seemed easier to keep them very distinct, keep them in
21 sequence, but distinct cases.

22 COMMISSIONER MILLER: So, this is the last question I
23 had. In general, you know, obviously, IZ has had a rocky start
24 over 10 years ago and for a variety of reasons, but -- and
25 obviously as the chairman pointed out, it's just simply -- and as

1 a lot of people pointed out -- it's simply one tool in a very
2 large toolbox that's necessary to address the city's affordable
3 housing issues, plural, because IZ is obviously only attacking,
4 based on the median family income level, currently, it's only
5 dealing with the 60 and 80 percent MFI levels, although, it does
6 get to 50 percent in this case and in certain other situations.
7 And, obviously, IZ is being satisfied if it's below that median
8 family income.

9 But, in general, do you think that in recent -- you have
10 some numbers in your report. I think it might be useful for the
11 public at some point to, for you just to reiterate what the
12 current number of inclusionary zoning units that have been
13 produced in the city and what's in the pipeline, maybe if you
14 could just repeat that for the record and whether you think it's
15 been -- whether it's a successful program. I assume you wouldn't
16 be proposing to expand it if you didn't think there were some
17 kernels of success that needed to be built upon.

18 But do you have any general comment on that? Since
19 there's a lot of criticism that, well, it doesn't do very much,
20 and it ends up encouraging too much density and the balance isn't
21 there.

22 Can you respond to that generally.

23 MS. STEINGASSER: I'm going to ask Art Rodgers if you
24 can go over those numbers.

25 MR. RODGERS: Sure. IZ is producing about 200 units a

1 year, delivering about 200 units a year. And as I said, there's
2 about 1500 in the pipeline. I think there's about a thousand
3 units that have been delivered since the start of the program and
4 I think the key thing is, it is primarily concentrated in our
5 high-cost central areas of D.C. So, that would include places
6 like Shaw and 14th Street, Columbia Heights, Capitol Hill, all
7 those places that have seen a lot of development activity but are
8 very high-cost and very prohibitive to subsidize affordable
9 housing through financial means. So, as it plays its part in the
10 quiver of tools that we have, it plays a very important part in
11 bringing affordability to those high-cost areas. It's the only --
12 it's out of the only new affordable housing to west of the park in
13 the last 30 years.

14 And so, I think that is one of the main successes that
15 we feel it brings to the District's tool for affordable housing.
16 And as I said, I'll reiterate, there's 1500 units that we would
17 expect probably, maybe as soon as the next five or six years. It
18 all depends.

19 We certainly are in a period of time where there's a lot
20 of uncertainty and we can expect starts to slow down just due to
21 the economic fallout that we're experiencing right now. But, yeah,
22 we would say that it is a successful program.

23 COMMISSIONER MILLER: And I appreciate all the work
24 you've done to try to find the right balance in those economic
25 models between providing the incentive to produce housing and

1 | being able to set aside a certain proportion at a more affordable
2 | level, as you said, in these high-cost, high-opportunity areas,
3 | where it wouldn't otherwise -- the market, it would not -- that
4 | would not be the median income that would be targeted. So, I
5 | appreciate all of your work, Mr. Rodgers, and your entire office
6 | on this subject and on this case. Thank you.

7 | I may have further questions after the public testimony,
8 | Mr. Chairman, but that's it.

9 | CHAIRPERSON HOOD: Okay. Thank you.

10 | What I'm going to do is after -- let me take my round
11 | and then we'll do another round if need be -- but I think what I'm
12 | going to do is after we have public testimony, we will come back
13 | and follow-up from what we hear and ask questions.

14 | Now, I know that Office of Planning had a roundtable, I
15 | think July 15th. I understand about 90 people participated, so a
16 | lot of this probably has been hashed out. There are some things
17 | that may not have made it into what we see here in front of us
18 | today, probably will be revealed back to us again.

19 | But let me go to you first, Mr. Rodgers. I'm kind of
20 | asking you to predict the future, but -- and COVID-19 has changed
21 | a lot of our habits and how we do business and I'm just wondering
22 | if we're starting to see office space, office use shift or
23 | requests being made to residential use because, especially with
24 | telework -- and we're finding out in most cases that it's working
25 | -- so, your analysis, and I know,

1 Mr. Rodgers, you've been working on affordable housing for a
2 while, what are your thoughts on that? Do you have any?

3 And I'm not holding you to it, I'm just curious as far
4 as when projects come to us, are they going to come where they
5 could do makeshift residential, because, you know, offices, going
6 into an office once a week, that office space pattern and office
7 space square foot may not be as needed as it has been in the past.

8 What is your analysis on that?

9 MR. RODGERS: Well, I listened in on to some experts on
10 this and one expert said that our crystal ball is cracked, it has
11 rolled off the table, and it's gone out the door.

12 Yeah, it is very hard to figure out what's going on, but
13 we have been tracking it very closely. We actually have been
14 producing weekly briefings for our director and others on what's
15 been happening. There is definitely a shift to space, and by
16 that, I mean people are looking for larger units, primarily. They
17 are -- and that's often found in the suburbs -- but I think that
18 in the long term, that will affect the District.

19 And so, if that trend continues, development in the
20 District will respond and we will probably see larger units. I
21 think that's been a key thing that we've seen is in the short-run
22 there has been a marginal shift to more space. As people
23 telework, they're looking for that additional place to sort of
24 separate their life and their work.

25 So, we are tracking it. We think there will be

1 responses in the District through design of the buildings, through
2 design of the amenities of the buildings, and so I don't think,
3 and especially when the stores and shops and restaurants and all
4 the things that make urban living walkable and vibrant, when those
5 things return after the pandemic is over, that's one of our
6 competitive strengths.

7 So, we don't think that this is necessarily a long-term
8 structure shift in demand for living in the District and I think
9 that's the best I can say right now. But in the short-run, it has
10 caused this shift to people looking for more space.

11 CHAIRPERSON HOOD: So, on to the same topic for me, when
12 I do my own, when I do Hood's analysis, which doesn't have any
13 expertise, but I'm just thinking, I'm thinking that, you know, I
14 know Councilmember Bonds is working hard on affordable housing. I
15 know we're doing our piece and I know others may be doing their
16 piece -- the Housing Production Trust Fund -- but I think that
17 when it's all said and done, looking at economics, and if we get
18 more housing, that may help.

19 I've said this before. It seems like we're seeing the
20 supply increases, but to me, the price was going up. Maybe
21 sometime the supply will increase -- I mean the supply will
22 increase and maybe the prices will start coming down if we same on
23 that same (audio interference) with COVID-19, being working from
24 home, more affordable housing.

25 So, anyway, I always say affordable (audio

1 interference). I'm always at 30 percent (audio interference).

2 I think while this is not the perfect fix, I think this
3 is a continued start and moving forward in that direction is
4 obviously a plus. But let me just say, listening to the
5 conversations between the vice chair and Ms. Steingasser and I
6 guess Mr. Kirschenbaum, as well, we want to make sure whatever we
7 put in place is predictable and unless I didn't follow that
8 conversation, that conversation to me seemed like it was, you
9 know, I know we're still trying to grasp it and I'm not throwing
10 stones at it, but it seemed like it was all over the place to me.

11 How are we going to determine who falls into this and
12 who falls into that?

13 And I'm not saying (audio interference), but what I will
14 say is we need to make sure it's predictable, and I will adopt one
15 of (audio interference)'s words, if the (audio interference) is
16 predictable as we move forward. So, I'm not -- I don't have
17 the answers. I'll leave it up to the experts. I'll leave it to
18 Ms. Steingasser, Mr. Kirschenbaum, and Mr. Rodgers.

19 But let's try to be as predictable as we can. Do you
20 want to expand on that, Ms. Steingasser?

21 MS. STEINGASSER: I do. I'm sorry you have the
22 impression that it's unpredictable.

23 We think it is absolutely predictable. We think being
24 able to come in and look at the zone you're at and the zone you
25 want to go to and what is the percent increase of available

1 residential FAR and that sets your IZ requirement. So, what we've
2 tried to create was a bit of a relief valve so someone can
3 actually sit and actually document where they're proposing this
4 map amendment is already so saturated with affordable housing that
5 the new IZ level would somehow hold the neighborhood back from
6 revitalizing, in which case the Regular IZ would apply.

7 But we believe it's very much a predictable process that
8 tracks with the map amendments that would allow people to
9 understand what they have and where they're going and what the
10 inclusionary zoning would be. We don't see a lot of cases -- we
11 don't anticipate that we will see many cases that we would ever
12 recommend alternate to the IZ Plus standard (audio interference)
13 default.

14 CHAIRPERSON HOOD: So, what I heard, Ms. Steingasser --
15 and correct me if I'm wrong -- in discussions with the vice chair,
16 I heard you all talking about doing it on a case-by-case basis
17 that you would look at where to apply to or (audio interference).

18 MS. STEINGASSER: We will provide an analysis of every
19 application for the purpose of there being predictability. That
20 every case that comes in, we're going to give it the same
21 analysis, subject to the same criteria, and make our
22 recommendations to the Zoning Commission.

23 And as I said, we expect fully that IZ Plus will (audio
24 interference) all cases.

25 CHAIRPERSON HOOD: Okay.

1 MS. STEINGASSER: (Audio interference) as predictable as
2 anything else.

3 CHAIRPERSON HOOD: Okay. I'm a very -- I'm an optimist.
4 I always believe in let's get it started, let's see how it works,
5 and let's fine-tune it. I'm about that with everything.

6 But I will say having looked at your roundtable -- and
7 let me just thank the Office of Planning for doing the roundtable
8 --

9 MS. STEINGASSER: Uh-huh.

10 CHAIRPERSON HOOD: -- I heard some comments about the
11 policy changes, because I wanted to try to come up to speed to
12 where we were. I heard you mention about policy changes and I
13 think the vice chair and the others have alluded to this already.

14 So, one of the things is about the exempt areas.
15 There's nothing more frustrating, and I know why we -- I think you
16 mentioned this also at the roundtable -- why we're not (audio
17 interference). And in this case, I would encourage the Office of
18 Planning, and I know your plate is full, let's hurry up and try to
19 get to some of those exempt areas, because I can tell you that
20 what's more frustrating is missed opportunities for the
21 Commission. Being a commissioner, you can't do anything; your
22 hands are tied. So, as soon as we can, I would hope that we
23 (audio interference) hurry up and get them to us so we can work
24 with another tool in the toolbox. We don't want to keep having
25 missed opportunities.

1 And I heard you say in that (audio interference) that
2 that would be -- I wrote it down -- that it'll be a separate case.

3 MS. STEINGASSER: Yes.

4 CHAIRPERSON HOOD: I'm looking forward to having that
5 separate case as soon as we can get it.

6 MS. STEINGASSER: And we hear you. We've heard you for
7 the last six months on that issue -- "you" being the Zoning
8 Commission in general -- and we absolutely want to bring that
9 forward as soon as we can.

10 And (audio interference) your issue about lost
11 opportunity because we very much want IZ Plus to be on the books
12 and effective as soon as possible. As you know, the Council just
13 had their hearing (audio interference) and we've been (audio
14 interference) afoot to try to get the Council hopefully to act by
15 the end of the calendar year and we would like IZ Plus in place
16 and ready to go before those future land-use map changes come into
17 effect.

18 CHAIRPERSON HOOD: Okay. And I heard this -- this is
19 not my saying -- one of the people mentioned bold actions. So,
20 let's continue, let's start doing those bold actions.

21 And I think you said a lot of ideas (audio interference)
22 some of what you heard, so you know I did look at it, but let's do
23 some of those bold actions, because I think it's very important.
24 I think while everybody might not agree to this IZ Plus, Anthony
25 Hood is saying, and I will agree with you, Ms. Steingasser, let's

1 put it in operation and let's see it work. We may be able to add
2 and keep adding and keep adding, but I'm definitely for moving
3 forward on this, and I'll be, frankly, honest, but also, I'm sure
4 that we're going to have some good comments that are going to come
5 shortly, and at some point in time, we may be able to implement
6 some of those, as well.

7 But let me just -- the last thing is, in the pipeline,
8 especially Greater Mount Calvary -- I said this at their hearing,
9 their map amendments some years back -- Greater Mount Calvary was
10 down there on 4th and Rhode Island when nobody would even go down
11 there and now, we've got all this development coming up. So, they
12 have a map amendment -- and I'm not sure where -- so -- and I
13 think, Ms. Steingasser, you've already -- you didn't say
14 grandfathered in, but we would not go back and poll something in
15 the middle of the game that may need to go back and add. I think
16 that's what I heard from you. We're not going to change the rules
17 in midstream, correct?

18 MS. STEINGASSER: We would not expect IZ Plus to apply
19 retroactively to cases that the Commission has already heard and
20 taken action on.

21 CHAIRPERSON HOOD: Okay. Thank you, Ms. Steingasser.
22 That should probably save us a little time on some testimony, but
23 that's why I wanted to make sure that we revealed (audio
24 interference).

25 MS. STEINGASSER: I'm not sure because I think we would

1 see IZ Plus applying to cases that are set down after IZ Plus
2 becomes effective and (audio interference).

3 CHAIRPERSON HOOD: So --

4 MS. STEINGASSER: And this is our concern is that people
5 will make applications before IZ Plus becomes effective and then
6 want to be vested. And we're not -- we want to be bold and say,
7 look, let's be bold.

8 CHAIRPERSON HOOD: Right. And let's be bold.

9 So, if it comes in -- today is November -- if it comes
10 in on November 17th, it doesn't apply -- 16th -- I'm just throwing
11 that off the top of my head. But just like the pop-ups, we know
12 what happened there. We don't want to recreate (audio
13 interference). So, I agree with your statement. I'm going to
14 leave it up to the Office of Planning, OZ, and the zoning
15 administrator, but I think, you know, we need to make it
16 predictable. Let's be bold and let's not look for those rushed
17 applications.

18 If it come in on the 17th, I'm sorry, you didn't make
19 the deadline. Now, my colleagues would have to agree to that,
20 but, come on, we can't have the same thing we had with the pop-ups
21 or pop-backs or the higher heights.

22 MS. STEINGASSER: And there are cases, one or two cases
23 that have been filed after IZ Plus was set down, so it's up to the
24 Commission to find that threshold.

25 CHAIRPERSON HOOD: Well, for the record (audio

1 | interference) I'm only one vote, but you heard where I stand. We
2 | want to have an influx of all these cases trying to get in like
3 | there's (audio interference), because it may go back. We're not
4 | sure how long or how far, but that will be a discussion the
5 | Commission will have.

6 | MS. STEINGASSER: Okay.

7 | CHAIRPERSON HOOD: Thank you, Ms. Steingasser. Thank
8 | you, Mr. Kirschenbaum. Thank you, Mr. Rodgers.

9 | Let me see if there are any follow-ups?

10 | Second round, Commissioner Shapiro?

11 | COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

12 | Just a brief one. I was quite taken by your -- the
13 | description of IZ and now IZ Plus, and I think Mr. Rodgers was
14 | speaking to this, about how beneficial it is in certain geographic
15 | areas.

16 | I don't remember seeing that mapped anywhere. Do you
17 | have that mapped?

18 | MR. RODGERS: We can provide you that map. It is
19 | available on DHCD's website. They produce an annual report and so
20 | you can go to DHCD.DC.GOV and within their annual report is a map.

21 | But we can get that to the Commission so they're aware of where
22 | the projects have occurred.

23 | COMMISSIONER SHAPIRO: I think it's useful for the
24 | record, too, because, you know, we may want to have this much more
25 | in our heads as how geographically useful these tools are.

1 Thank you, Mr. Chair. That's all I have.

2 CHAIRPERSON HOOD: All right. Thank you.

3 Any other commissioners, any other second round?

4 (No verbal response)

5 CHAIRPERSON HOOD: Okay. I'm not seeing any.

6 I didn't see an ANC report, Ms. Schellin, in the file.

7 Let me go back to it.

8 MS. SCHELLIN: We do have two ANCs registered to
9 testify, but I do want to advise that the Office of Planning's
10 PowerPoint presentation has been added to the record.

11 CHAIRPERSON HOOD: Okay.

12 MS. SCHELLIN: We have two ANCs that have registered to
13 testify.

14 CHAIRPERSON HOOD: Okay. Can we bring them up now?

15 MS. SCHELLIN: That would be Tom Quinn of ANC 3E.

16 I remember seeing a second one --

17 CHAIRPERSON HOOD: Okay. You know what --

18 MS. SCHELLIN: Actually, the other one is an SMD, so
19 it's just the one.

20 CHAIRPERSON HOOD: Okay. I want to take that back. ANC
21 3E had a resolution, so okay.

22 MS. SCHELLIN: Yes. So, ANC 3E, Mr. Quinn.

23 CHAIRPERSON HOOD: Let's bring him up.

24 Mr. Quinn, once you get straight, you may begin.

25 MS. SCHELLIN: He's muted. He needs to unmute himself.

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CHAIRPERSON HOOD: If you unmute yourself, you can get started. Just hover over to the left -- well, on mine, it's to the left --

MR. QUINN: Can you hear me now?

CHAIRPERSON HOOD: All right. There you go.

MR. QUINN: Good afternoon, Members of the Zoning Commission. My name is Tom Quinn and I'm an advisor neighborhood commissioner representing Single-Member District 3E04, which runs along the east side of Wisconsin Avenue from Tenleytown to Western Avenue.

I'm here today to testify about on behalf of ANC 3E, regarding the proposed changes to inclusionary zoning. I've attached the resolution that ANC 3E passed at its properly noticed public meeting on November 12th.

Beginning in 2015, the Office of Planning initiated a planning process to update the comprehensive plan which resulted in numerous proposed amendments to both, the comp plan and the future land-use map. At its third public meeting concerning the comp plan in February of 2020, ANC 3E passed resolutions supporting many of the proposed changes to the FLUM, which, if approved by the D.C. Council could result in a greater densities on a number of properties along Wisconsin Avenue within ANC 3E's boundaries if they are redeveloped through a PUD, many which would require map amendments.

1 It was not lost on this ANC that Mayor Bowser in May of
2 2019 came to a business in ANC 3E to issue an order on housing
3 which set a District-wide goal of 36,000 additional housing units,
4 12,000 which are to be affordable being built by 2025. By making
5 an announcement in Ward 3, Mayor Bowser was clearly (audio
6 interference) that her administration's expectation was that some
7 of these new units would be constructed in Ward 3.

8 While ANC 3E has consistently asked developers that
9 appear before the ANC that they provide more IZ units than
10 required, since the debut of IZ requirements, the five projects
11 listed in my written testimony have been approved within the
12 boundaries of ANC 3E with IZ units.

13 But despite ANC 3E's efforts to facilitate the
14 construction of more IZ units within its boundaries, of the
15 housing units in Ward 3, as of 2018, only 0.4 percent of those
16 units, 222 total, are considered income-restricted affordable
17 housing and as of 218, only 53 IZ units have been delivered in
18 Ward 3.

19 According to the OP set down report in Zoning Commission
20 Case 20-02, as part of the comprehensive plan amendment -- and I'm
21 quoting their report, As part of the comprehensive plan amendment
22 process, OP has proposed revisions to the housing element that
23 would encourage increased market rate and affordable housing
24 creation in high-cost areas of the District where existing
25 affordable housing is limited and where land prices make it very

1 expensive to financially subsidize affordable housing.

2 OP has also released a draft future land-use map that
3 would change the intensity of land-use designations in areas, such
4 as in Metro stations, along major corridors, and on large
5 properties. Among the reasons for the proposed changes to the
6 FLUM designations is to identify areas where affordable housing
7 can be accommodated in areas that can support more density.

8 ANC 3E believes that any new housing built along the
9 Wisconsin Avenue corridor will be in a high-cost area, and as
10 such, has in part, supported OP's amendments to the FLUM because
11 we believe the District and Ward 3, specifically, would benefit
12 from additional IZ units and we, therefore, support OP's
13 application in Case 20-02 to amend the IZ requirements that
14 require a greater number of IZ units (audio interference)
15 applications require amendments.

16 Thank you for the opportunity to testify before you
17 tonight.

18 CHAIRPERSON HOOD: Thank you, Commissioner Quinn.

19 Ms. Schellin, can we bring up the other commissioner, as
20 well.

21 MS. SCHELLIN: Yes, sir. It's a single-member district
22 and that is Susan Kimmel -- I'm sorry, not Susan Kimmel -- my
23 mistake -- Michael Wray from 1A09.

24 CHAIRPERSON HOOD: Okay. So, what we'll do is once we
25 finish with the two commissioners --

1 MS. SCHELLIN: He gets three minutes.

2 CHAIRPERSON HOOD: Okay. We'll ask questions and then
3 we will keep moving. So, once Mr. Wray goes, Mr. Quinn, you hold
4 tight for a moment.

5 Commissioner Wray, you may begin.

6 MR. WRAY: Thank you.

7 Good evening Chairman Hood and Commissioners. My name
8 is Michael Wray from ANC 1A09 in Parkview. I have been a proud
9 Washingtonian for more than 20 years and a Parkview resident for
10 almost 14 and I'm completing my first term here at the ANC and
11 looking forward to another two years. I am providing my personal
12 testimony in favor of Text Amendment Case 20-02 for Expanded IZ
13 requirements for certain map amendments.

14 To meet the mayor's affordable housing goals, we must
15 add new tools, like this text amendment. As each of you know, the
16 majority of ANC 1A is zoned RF1, consisting of two- and three-
17 story row homes and residential flats. Most of our developments
18 in this zone will never produce even one affordable unit. We rely
19 on the smaller areas of higher-density transit corridors to
20 produce any affordable units, typically, the planned unit
21 developments.

22 Unfortunately, these PUDs have either been held up for
23 many years in litigation or in the case of three PUDs on Georgia
24 Avenue in my own SMD have been cancelled completely by the
25 developers. Adding additional IZ requirements to the map

1 amendment process is a step in the right direction to address our
2 needs.

3 Last week, the D.C. Council held two days of hearings on
4 the comprehensive plan and more than 200 people testified on the
5 city's need for better -- to better address the housing
6 affordability crisis. ANC 1A provided the Office of Planning with
7 nine recommended sites that could absorb additional density and
8 most of those recommendations were accepted.

9 If the comprehensive plan is approved, as written, each
10 of those locations are candidates to produce additional affordable
11 housing because of the text amendment that you're considering
12 tonight.

13 I would point out that the FLUM amendments represent 6
14 percent of the land area, but 15 percent of the capacity.

15 I also want to point out one observation that may need
16 some future analysis by the Office of Planning. In review of
17 their report, cost modeling analysis for construction costs and
18 soft costs and timeline considerations, there was no mention of
19 community investments in our neighborhoods.

20 Washington, D.C., as a city, has had tremendous
21 financial success since our days under the control board and in
22 this time, we have invested considerable taxpayer resources in
23 school restorations, transportation infrastructure, entertainment,
24 and green spaces and many other neighborhood amenities. These
25 investments translate into additional land value, regardless of

1 | how a neighborhood is serving any particular property owner's
2 | intentions.

3 | Many of my constituents comment on landowners along
4 | Georgia Avenue who seem to allow their properties to remain
5 | underutilized, while realizing valuable gains based on our
6 | investments. Future changes to our IZ programs should do more to
7 | recognize this value, which might justify a program that goes
8 | beyond a 20 percent set-aside requirement.

9 | And I'll end on one question that the Commission may
10 | want to ask the Office of Planning. During the comprehensive plan
11 | discussions, it was brought up that the Office of Planning would
12 | be able to bring forward its own map amendment changes based on
13 | small area plans. And in those cases, it would seem that we would
14 | bypass this additional requirement and I would want you all to at
15 | least address that or talk about that during your presentations.

16 | Thank you very much for hearing me. Have a good night.

17 |

18 | CHAIRPERSON HOOD: Okay. Thank you both, Commissioner
19 | Quinn and Commissioner Wray. We (audio interference) continue.
20 | I'm sure your constituents in the city appreciate your service.

21 | Let's see if we have any questions or comments.

22 | Commissioner May?

23 | (No verbal response)

24 | CHAIRPERSON HOOD: Okay. Commissioner Shapiro?

25 | (No verbal response)

1 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

2 (No verbal response)

3 CHAIRPERSON HOOD: And Vice-Chair Miller?

4 COMMISSIONER MILLER: No. Thank you for your testimony.

5 CHAIRPERSON HOOD: Okay. I want to thank you both. We
6 appreciate you taking the time to provide us your testimony.

7 Commissioner Shapiro -- oh, you're waving bye. Okay.
8 All right. I have a list, a witness list. I'm going to go by
9 what I have here, and Ms. Schellin, keep me honest.

10 Okay. We're going to bring up Ms. Cheryl Cort, Alex
11 Baca -- and if I mispronounce your name, forgive me -- Melissa
12 Bondi, and Patrick McAnaney.

13 Now, I know there's a panel that's coming up and I hope
14 I didn't call that panel. Okay. Okay. I got it.

15 All right. Ms. Cort, you may begin.

16 MS. CORT: Thank you, Chairman.

17 Thank you, Commissioners.

18 Please accept this testimony on the behalf of the
19 Coalition for Smarter Growth. We're the leading organization in
20 Washington, D.C. making the case for smart growth. Our mission is
21 to promote walkable, inclusive, and transit-oriented communities
22 and the land-use and transportation policies and investments
23 needed to make those communities flourish.

24 We want to thank the Office of Planning and the
25 Commission for taking up this proposal. We want to express our

1 enthusiastic support for this proposal and since July, we have
2 joined with our partners at the D.C. Housing Priorities Coalition
3 to support an updated, comprehensive plan that expands affordable
4 housing opportunities and the applicable distribution of those
5 affordable housing opportunities and increased housing capacity in
6 the future land-use map.

7 The increased housing capacity in the future land-use
8 map is essential for significant value for homeowners and should
9 be complemented by the Expanded IZ proposal. I want to note that
10 we also -- we fully expect that existing -- that until the future
11 land-use map is changed, that moving forward, future rezonings
12 will also be subject to this, as we've noted that plan unit
13 development shifted from HUDs to matter-of-right rezonings over
14 the last few years.

15 By providing lower-priced housing opportunities across
16 the city, the existing IZ regulations and program have contributed
17 to addressing a legacy of redlining, racial segregation, and other
18 discriminatory practices that have led to today's disparities in
19 wealth, health, and housing security for so many black and Latinx
20 households. We believe now is the time to pursue bold measures to
21 foster more affordable housing throughout the city. This is
22 especially through for exclusive neighborhoods that are too
23 expensive for most D.C. residents to afford.

24 Given IZ's success and D.C.'s great need, we welcome
25 Expanded IZ through a rezoning process. We support the text

1 changes, as proposed, that, basically, up to a 20 percent increase
2 in FAR would be required as to satisfy for IZ.

3 We support the change for 80 -- the change in height to
4 85 feet for non-Type 1 construction -- there's a lot of double-
5 negatives in there that are hard to follow -- but we really
6 appreciate what is being done with the change in the steel and
7 concrete -- "stick on podium" kind of construction style that's
8 emerged since 2006.

9 And the set-asides of the reduction in order to have 50
10 percent MFI units or families served and for three-bedroom units
11 and we defer to DHCD in terms of how to make that connection work
12 better for those households who meet that.

13 We certainly support the expanded applicability of IZ
14 Plus for currently exempted zones. I will note that it covers, I
15 think all of downtown's zones. We really welcome that, as we've
16 been trying to get it downtown for many years and we look forward
17 to the next map amendment that's going to be -- or I mean the next
18 case that's going to be put forward by Office of Planning
19 furthering that for Regular IZ.

20 And, of course, the conversion of non-residential to
21 residential use that IZ Plus will be covered -- will cover that.
22 That is also another very important new coverage.

23 We appreciate that the economic feasibility needs to
24 work for this and like our partners at Enterprise Community
25 Partners and Somerset Development, we believe that the feasibility

1 and increased FAR exchange for affordable units is striking the
2 right balance. The goal should be to get as much affordability
3 without severely undermining the incentive to pursue that rezoning
4 and build more housing, which we want to get.

5 We know that financing requirements for housing projects
6 will be different, depending on a variety of factors, including
7 what type of equity investor is used, and that not all housing
8 project (audio interference) however, we do want to move forward
9 with this much-needed initiative and monitor how this requirement
10 is received.

11 We want to note that this is a value recapture measure
12 that takes a public benefit and recaptures the value of it,
13 something that the private sector can benefit from, while
14 recapturing part of it for affordability. So, this is an
15 important value-recapture mechanism and we fully support its
16 extension to Expanded IZ.

17 I see my time is running out, so we want to say that
18 this -- we also, in addition to Expanded IZ, we also want to come
19 back and ask for it, as we've been asking for repeatedly, to
20 create a matter-of-right development for affordable housing
21 developments, say giving the PUD level of bonus over the matter-
22 of-right zone density and do that as a matter-of-right for a hope
23 for an affordable housing development, maybe at the 20 percent
24 set-aside level at 60 percent MFI or below for affordable housing
25 developers who simply can't tolerate even the risk of a zoning map

1 amendment, let alone a PUD.

2 So, we need all the tools in the toolbox from the
3 Housing Production Trust Fund to everything we can do to
4 strengthen our zoning tools, as well. Thank you.

5 CHAIRPERSON HOOD: Thank you, Ms. Cort. If you can stay
6 around so we can ask questions once we finish the rest of the
7 witnesses.

8 Alex Baca?

9 MS. BACA: So, good evening. My name is Alex Baca. You
10 were just right on that.

11 I am testifying on behalf of Greater Greater Washington.
12 We have, you know, supported the legalization of increased
13 residential density in Washington, D.C., so as to meet the housing
14 needs of District residents.

15 We prefer, in particular, new, denser housing and new
16 affordable housing in affluent, high-amenity neighborhoods, such
17 as Rock Creek East, Rock Creek West, and New Northwest, which have
18 historically seen the construction of new affordable housing.

19 I wrote the following in my letter of support that I
20 sent to the Office of Planning's roundtable in July. Nothing has
21 really changed in our evaluation of that, so I'm going to
22 reiterate a portion of my statement for your record today. I
23 think the point that I most want to impress, because we work with
24 a lot of people who are just residents in their neighborhood and
25 they may be sort of professional, higher-income, but do want to

1 advocate for more housing and more affordable housing. The link
2 between density and affordability is sometimes really different to
3 grasp in theory and often invisible in practice.

4 We do know that the District has not added the housing
5 that it needs to meet the pace of population and job growth in the
6 region. We also know that more new housing and more affordable
7 housing will make housing more affordable, though, that is not the
8 sole solution.

9 But we also know that the laws of supply and demand mean
10 little to the people who are not professionally engaged in
11 development politics. To a longtime resident or a service worker
12 or a multigenerational household faced with the seeming
13 impossibility of finding safe, accessible, and adequate housing,
14 that they can afford in the District, new development can look
15 like a threat, rather than a solve.

16 And I know you all are familiar with, you know, how that
17 is really at the root of so many of our conflicts in this space.
18 So, we do think that by requiring more affordable units and
19 projects, seeking in greater density than what's allowed by
20 current zoning, the length between density and affordability is
21 made more literal.

22 Affordable units explicitly benefit the District's
23 residents, for whom new-market housing is out of reach and,
24 therefore, IZ Plus is a worthwhile policy that addresses some of
25 the political sticking points of large-scale developments, because

1 | it delivers something discrete, a number of more affordable units
2 | to District residents.

3 | It also, like the District's existing inclusion and
4 | zoning policy, encourages integration in neighborhoods that if not
5 | for the construction of more denser housing and more affordable
6 | housing, will remain virtually and economically segregated.

7 | I do want to say that operationalizing [sic] IZ Plus
8 | should be done delicately and realistically. I think Office of
9 | Planning has made some good changes to its proposed policy. I
10 | hope that it's continued to be evaluated.

11 | We do acknowledge that projects that (audio
12 | interference) exceed existing zone density like map amendments,
13 | can make the District's housing stock more affordable by
14 | increasing the number of available units overall, even if the
15 | (audio interference) affordable units and any given project stays
16 | the same. Increasing the set aside of affordable units captures
17 | more of the increase in value enabled by zoning changes.

18 | But I do think that this will probably require a regular
19 | fine-tuning and I hope that you have the support and resources for
20 | that. The one Alex math that I was able to work out on this --
21 | and I will say that this is not exactly my expertise -- is that a
22 | 100-unit building with a map amendment that allows for 50
23 | additional units would result in 12 affordable units, rather than
24 | 8 at an 8 percent set-aside.

25 | The IZ Plus, the number of affordable units in this

1 hypothetical project could increase to 21 units with a 14 percent
2 set aside. But if the IZ requirement is infeasible, it's more
3 likely that the by-right 100-unit project would proceed. This
4 would deprive the District of 50 total units and 4 affordable
5 units.

6 So, we do want to make sure that if the goal of IZ Plus
7 is to produce more affordable units, IZ Plus shouldn't hold back
8 the production of more housing. But, ultimately, we do support
9 this. We want to see it happen.

10 I will say that much of my work over the past year has
11 been on amendments to the comp plan. We've organized over a
12 hundred District residents to personally ask their elected
13 officials for changes to the comp plan and to the FLUM that will
14 support, rather than restrict the potential future construction of
15 more homes, and I think at this point, IZ Plus is pretty friendly
16 in the vernacular of Office of Planning, of the Council, and of a
17 lot of public witnesses at last week's hearing.

18 I think there's kind of an assumption that something
19 like this is going to move forward and that's a great opportunity
20 to fine-tune it and make it really effective. So, we're in
21 support of this absolutely. I hope that we can see this become a
22 reality and I do hope that it is evaluated to be sure that it
23 meets the goals and meets the needs and isn't holding anything
24 back.

25 GG Wash is not in the business of making the perfect the

1 enemy of the good and we do support more housing and I want to be
2 sure that this is something that encourages that. So, thank you
3 for your time tonight. I'm happy to answer questions, to the
4 extent possible.

5 I am not a math genius and I leave that up to some of
6 the more fine experts on this panel, including Melissa and
7 Patrick, so thank you.

8 CHAIRPERSON HOOD: Okay. Thank you. Will you hold
9 tight.

10 Ms. Bondi?

11 MS. BONDI: Yes. Good evening Chairman and Members of
12 the Commission. Thank you for providing the opportunity to
13 participate at today's hearing.

14 My name is Melissa Bondi and I'm speaking today on
15 behalf of Enterprise Community Partners. For more than 30 years,
16 it's been Enterprise's mission to create and preserve well-
17 designed homes that people can afford in inclusive and connected
18 communities.

19 In the District of Columbia, Enterprise owns and
20 operates nearly 3,000 affordable rental homes in a mix of
21 preservation, rehab, and new construction. Our Partnership
22 Capital and financing reach is larger, helping many nonprofit
23 housing providers and (audio interference) profits to preserve and
24 create 14,000 total units across the city and nearly (audio
25 interference) in investments through tax credits and many other

1 grant and loan programs.

2 I mentioned these details to provide perspective on the
3 many aspects Enterprise considers when evaluating a new potential
4 program like IZ Plus. As a partner to the city and many of the
5 housing providers and community organizations responsible for
6 housing in the city, we are committed to devoting our resources
7 and to leveraging them with public and private sector tools,
8 including the kinds of zoning concepts under consideration today.

9 Briefly, in case I run out of time toward the end, we
10 support the Office of Planning's IZ Plus concept as an optional
11 alternative to provide housing affordability at greater levels,
12 including (audio interference) locations consistent with the comp
13 plan framework elements, mixed-in (audio interference), and
14 proposed chapter and map amendments.

15 We also support Expanded IZ specifically as a means of
16 land value capture to provide a greater tangible community benefit
17 dedicated toward increasing the number of affordable homes in more
18 locations across the District that need them.

19 We also appreciate the Office of Planning's attention in
20 providing additional provisions in exchange for needed housing
21 unit types like three-bedroom units or 50 percent MFI level units
22 or lower. Expansion of both of these types of housing is
23 desirable and we recommend, as others have said, monitoring these
24 incentives to see how they're employed over time.

25 I want to tell you a little bit about the review that

1 Enterprise undertook as we were looking at the model provided by
2 the Office of Planning earlier this year. We tested OP's
3 performing model in consultation with our construction managers,
4 contractors, and our development teams. Like any good model, we
5 find that the Office of Planning's provides flexibility to assess
6 potential projects for viability with many opportunities to test
7 tolerances across a wide set of variables. This is important
8 because no project is the same, as we all know.

9 We also acknowledge the model is not intended to be a
10 guarantee of future conditions or reflect every possible condition
11 for any one parcel. We found the model structure (audio
12 interference) to be robust and considering generally good current
13 market conditions and pricing, they are, in fact, volatile and we
14 know that this is a long-term model for a long-term policy, not
15 trying to capture more than a snapshot in time.

16 We also find that the sliding scale contributions
17 proposal falls within reasonable tolerances for the contributions
18 on the basis of building size and construction type.

19 Finally, Enterprise also talked with our equity
20 investors and our syndicators for housing affordability projects
21 to assess their interest in the concept. They mentioned that they
22 would want to see substantial committed affordability, far
23 exceeding 20 percent (audio interference) in order to participate
24 in the transaction. This suggests to us that IZ Plus may be
25 really viable for developers who do not rely on traditional

1 housing tax credits and other financing mechanisms to support
2 (audio interference).

3 It's encouraging to think that a program like IZ Plus
4 could bring additional capacity to the market, to develop mixed-
5 income projects through a by-right mechanism, without needing to
6 take advantage of the finite resources of tax credit and financing
7 that many mission (audio interference) housing providers,
8 themselves, rely upon.

9 Most housing projects for Enterprise as a partner are
10 going to contribute substantially more than 20 percent committed
11 affordable homes. So, for us, having a tool that does land value
12 capture in a meaningful way in new parts of the city where more
13 housing affordability is needed, will also make the difference,
14 perhaps, in the viability of some of our proposals, too. So, we
15 think Expanded IZ can work for a variety of different potential
16 users.

17 Finally, we recognize that IZ Plus is not proposed as a
18 mandatory program. It is a by-right alternative for developers'
19 consideration as they assess potential sites and projects. It is
20 reasonable that in some cases, Expanded IZ may not be the best
21 choice for any one specific site or the performance targets of any
22 one investor, developer, or project.

23 It's most important that the programs works well enough
24 for applicants that they choose this option some of the time to
25 leverage land value recapture for community benefits or affordable

1 housing, racial equity, and dispersal of mixed-income
2 neighborhoods in more parts of the city.

3 I agree with Chairman Hood that evaluation of the
4 program should include metrics to assess over time how the market
5 responds to options and what may make the program more effective
6 in future considerations, such as three-bedroom and 50 percent
7 MFI.

8 Thank you very much for the opportunity to present our
9 views. We are in support of the proposal from the Office of
10 Planning. Please let us know if you have any questions and thank
11 you, again, for the opportunity.

12 CHAIRPERSON HOOD: Okay. Thank you.

13 Let's go to -- do we have Mr. Patrick McAnaney?

14 MR. YOUNG: Yeah, he's, I think, calling in. I can't
15 make him --

16 MS. SCHELLIN: He's an attendee. He's been as an
17 attendee. He wasn't put in as a speaker. (Audio interference).

18 MR. YOUNG: Yeah, I'll unmute him right now.

19 CHAIRPERSON HOOD: Okay. Good.

20 MR. MCANANEY: Hi. Can you all hear me?

21 CHAIRPERSON HOOD: We can hear you. You may begin.

22 MR. MCANANEY: Great. Thank you.

23 Good evening, Chairman Hood, Members of the Zoning
24 Commission. My name is Patrick McAnaney, here today representing
25 Somerset Development Company. We are a mission-driven, for-profit

1 developer based in D.C. that specializes in the preservation and
2 production of affordable and mixed-income housing, here in the
3 District, as well as Baltimore.

4 As a Ward 3-based affordable housing developer, we are
5 strongly supportive of the mayor's goal to add 1,990 affordable
6 units to the Rock Creek West planning area in order to reduce
7 historical patterns of segregation and provide greater access to
8 opportunity for low- and moderate-income families.

9 As such, we are also in favor of OP's draft amendments
10 to the comprehensive plan's future land-use map, currently under
11 consideration by the D.C. Council to provide additional
12 development capacity to help achieve this goal; however, to ensure
13 that these land-use changes effectively produce a large number of
14 affordable units, any future revisions to the zoning map based on
15 the updated form must require significantly higher affordability
16 thresholds than the District's standard inclusionary zoning
17 policy, otherwise, providing additional development capacity by
18 increasing allowable height and density will merely drive up the
19 value of the land in Ward 3 and make it harder to finance
20 affordable housing projects.

21 We are, thus, very supportive of the concept of Expanded
22 Inclusionary Zoning, which will help to ensure that as much
23 increased land value as possible is captured by the public and
24 invested in affordable housing production.

25 Since the summer, we have worked with OP to provide

1 feedback on both, the structure of their economic impact model, as
2 well as specific inputs the model uses to assess the impact of
3 changes to inclusionary zoning on land values. We commend OP for
4 the hard work they put in to analyzing the economic input of this
5 proposed policy in order to ensure that we strike the appropriate
6 balance between capturing additional value created from upzonings
7 to investment affordable housing and ensuring that this
8 requirement does not eliminate the incentive to pursue such
9 upzonings and cause a negative impact on housing supply.

10 We believe this approach does, indeed, strike that
11 balance. It's important to recognize that because economic
12 conditions are constantly changing, the economic impact analysis
13 is constantly going to be a moving target. Interest rates go up
14 and down. Equity trends go up and down. Rents go up and down.
15 And construction costs go up and down.

16 In just this year alone, we have seen how external
17 shocks can cause tremendous and unexpected changes on the real
18 estate market. As such, it's important to regulate, update, and
19 reevaluate our inclusionary zoning policy to ensure it stays in
20 line with the market and reflects current economic conditions.
21 It's also important to recognize the economics of each project
22 will vary slightly, so the goal of this model is to capture more
23 generalized impact of a generic pro forma project.

24 Calibrating the policy to reflect the specifics of every
25 unique project is simply not possible and would introduce far too

1 much complexity into the system. As such, we do think OP's
2 overall approach to the economic impact analysis is correct.

3 In addition to supporting Expanded Inclusionary Zoning
4 as a broad concept, we strongly encourage the Zoning Commission to
5 adopt a second complementary tool to expand the production of
6 affordable housing across the District, a matter-of-right bonus
7 density incentive for projects that meet a minimum threshold of
8 affordable units. Right now, given the significant risks and
9 costs of discretionary upzoning processes, affordable housing
10 developers are staying away from these projects.

11 The recent D.C. Court of Appeals decision in the case of
12 the Park Morton Public Housing Redevelopment has confirmed for us
13 that even affordable housing projects are at high-risk of legal
14 challenges to approve map amendments or PUDs. Affordable housing
15 projects operate with very thin margins and complex financing and
16 timing requirements and, thus, face especially high risks from
17 delays during discretionary zoning change processes.

18 As a result, the affordable housing projects we are
19 currently working on in the District are all being done as a
20 matter-of-right. Until there's a nondiscretionary-review process
21 for a certain level of bonus height and FAR is provided
22 automatically in exchange for reaching a certain affordability
23 threshold, perhaps 20 percent, we are not likely to pursue any
24 projects that require any further zoning changes.

25 Thank you for your time today, and I'm happy to answer

1 any questions you may have.

2 CHAIRPERSON HOOD: Okay. I want to thank our first
3 panel.

4 Let's see if we have any questions or comments,
5 Commissioners?

6 Commissioner May?

7 (No verbal response).

8 CHAIRPERSON HOOD: Commissioner Turnbull?

9 Commissioner Turnbull -- I'm sorry, Commissioner
10 Shapiro?

11 (No verbal response)

12 CHAIRPERSON HOOD: Okay. I saw you.

13 Okay. And Vice-Chair Miller?

14 COMMISSIONER MILLER: Thank you, Mr. Chairman.

15 Mr. McAnaney from Somerset -- I don't know if I'm
16 pronouncing that correctly -- I'll just call you "Mack," since
17 that's all I heard on my audio.

18 The Coalition for Smarter Growth also offered this for
19 our consideration and OP's consideration, matter-of-right bonus
20 density if a certain threshold of affordable housing, I guess
21 above 20 percent, is being set aside in the project.

22 Is it the PUD bonus density that would be -- that you're
23 suggesting be a matter-of-right if, without any discretionary
24 reviews, if more than 20 percent is being set aside for -- at
25 affordable levels?

1 MR. MCANANEY: That's right. You know, I don't think we
2 feel extremely (audio interference) with that to be the exact
3 density bonus given. I think it's possible to model and we'll get
4 that.

5 And I did hear some comments from OP, and it made it
6 sound like they were going to be looking at that in the future.
7 But something along those lines, yeah, that the more you can
8 create a matter-of-right (audio interference) getting even a
9 higher bonus density for higher affordability thresholds beyond
10 the baseline matter-of-right inclusionary zoning today, that would
11 (audio interference) affordable housing projects.

12 COMMISSIONER MILLER: Okay. Well, I'll ask OP when we
13 come back to them after the public testimony, whether they're
14 looking at that in the context of the other inclusionary zoning
15 changes that they're looking at in a future case. So, thank you
16 for your work in this area and for your testimony and everybody
17 else, as well.

18 CHAIRPERSON HOOD: All right. Thank you.

19 Ms. Cort, let me come back to you. Kind of in line with
20 Vice-Chair Miller, I have a note here I wrote down about the
21 matter-of-right. I actually like the idea, but I've been around
22 long enough to know in the District, a lot of times, the words
23 "matter-of-right" is a bad word because there are certain things
24 that are implied there.

25 But I think for me, as I'm thinking out loud and I'm

1 | talking it through, I really want to talk through it with you. As
2 | I'm talking this through, when you talk about affordable housing,
3 | I think the words are not as bad then.

4 | So, kind of explain to me -- and I saw in your
5 | submission, you also mentioned in your testimony, you said,
6 | Anything below 6 percent of the MFI. And I think that gets it for
7 | me. I just don't know what all other parameters that go along
8 | with that, but can you expand a little bit. And I know this is a
9 | lot of questions, because I'm very interested in that.

10 | Did you mention that at the -- did you testify for us at
11 | the July 15th hearing and did you mention that and what was the
12 | Office of Planning's response?

13 | MS. CORT: Yes, I did mention it. It's in my written
14 | testimony and I testified orally at the July roundtable on that.

15 | I'm not sure I would really urge the Commission to ask
16 | Office of Planning to seriously evaluate this. We think it's
17 | another tool that's needed.

18 | CHAIRPERSON HOOD: So, why would we not want it
19 | evaluated? I'm just curious.

20 | MS. CORT: No, I'm asking -- we're urging the Zoning
21 | Commission. I was excited to come before the Zoning Commission
22 | because I knew you could ask the Office of Planning to do this.

23 | We asked before. I haven't seen any movement since
24 | July. And now I knew that I would have a warm reception at the
25 | Zoning Commission to pursue this --

1 CHAIRPERSON HOOD: Oh, so you want -- I thought I heard
2 you say you didn't want us to ask it, but you do.

3 MS. CORT: No. No. I want you to ask Office of
4 Planning to evaluate this.

5 CHAIRPERSON HOOD: Okay. I actually think it's a good
6 idea, but listen, I know there's probably a whole lot more that
7 comes with it that I don't know, so I think that's a great idea.
8 Thank you.

9 All right. So, I don't have any -- are there any other
10 follow-up questions or comments?

11 COMMISSIONER MILLER: Mr. Chairman, is the July
12 roundtable testimony that the Office of Planning held, is that
13 part of our record or -- if it isn't, I was just going to ask Ms.
14 Baca if we don't have her written testimony from today, if she
15 could just provide that or provide what she provided to the Office
16 of Planning in July. I just didn't know if it was incorporated
17 into our hearing record on this case or not.

18 MS. BACA: I'm happy to send those over, of course.

19 COMMISSIONER MILLER: Okay. Thank you.

20 CHAIRPERSON HOOD: Well, if you recall, Vice-Chair, I
21 know specifically I was concerned about who was going to do the
22 roundtable --

23 COMMISSIONER MILLER: Right.

24 CHAIRPERSON HOOD: -- permission to watch the link and
25 be able to kind of come up to speed of what was discussed and

1 that's actually what I did. And there's a legislative case, so I
2 wanted to make sure that I kind of knew most of what was going on.
3 Even -- I didn't see the video, but I was able to listen to the
4 recordings. That's how I got that information.

5 All right. Anything else to anybody?

6 (No verbal response)

7 CHAIRPERSON HOOD: All right. Thank you all very much.
8 We thank this panel and appreciate all your ideas and your
9 comments and taking the time to investigate. We appreciate all of
10 it.

11 All right. Ms. Schellin, I'm going to call four more,
12 but I'm going to go around the panel -- no, I'm going to go in
13 order this time.

14 Adam Maloon.

15 MS. SCHELLIN: I checked, and I do not see him on.

16 CHAIRPERSON HOOD: Thomas Houston?

17 MS. SCHELLIN: He is on.

18 CHAIRPERSON HOOD: Susan Landy Kimmel.

19 MS. SCHELLIN: She is on.

20 CHAIRPERSON HOOD: Let's stop there and then I'll bring
21 the panel and then we'll continue, as noted on the sign-up sheet.

22 MS. SCHELLIN: Okay.

23 CHAIRPERSON HOOD: Okay. So, I guess Mr. Thomas
24 Houston?

25 MR. YOUNG: Yeah, he's calling in so I can just unmute

1 him.

2 CHAIRPERSON HOOD: Okay. Let's unmute him now.

3 MR. HOUSTON: Good evening, everybody.

4 CHAIRPERSON HOOD: Good evening.

5 MR. HOUSTON: Perfect. It's dinnertime around here, so
6 forgive me if you hear some young toddlers in the background.

7 But, good evening Chairman Hood and the other
8 Commissioners. My name is Thomas Houston, and I am the executive
9 director from Medici Road. We are a certified (audio
10 interference) or a nonprofit developer in the District.

11 We are currently developing for sale mixed-use townhomes
12 (audio interference) in Ward 7 for families in the 60 to 80
13 percent AMI levels and so this is the lens in which I'll make
14 these comments.

15 As a quick summary, we actually support Expanded IZ,
16 particularly in areas identified by the District's equitable
17 housing report and the comprehensive plan. We believe Expanded IZ
18 will provide greater land value over time, not lesser land value.

19 We believe that this has the ability to bring non-tax credit
20 financing to developers. We also believe there's a long line of
21 residents who would be willing to purchase IZ units, however, many
22 landlords refuse to rent to lower-income residents and voucher
23 recipients.

24 And I want to make sure we're not confusing public
25 housing with affordable housing; they are not interchangeable. But

1 make sure when we're not using public housing rates as the reason
2 on not to build affordable housing.

3 And so, as I mentioned, we are advocates of IZ Plus. I
4 will caveat that with the notion that our project would receive
5 city funding, so whether we opt-in to IZ or not, we are developing
6 housing for many residents who fit into the 80 percent or lower
7 AMI; however, as a developer, we are also advocates for turning a
8 profit. And although we have a slight advantage, as we don't pay
9 taxes on our projects, I have a hard time believing that we're
10 going to put developers in a position of negative equity or
11 brought by (audio interference) affordable housing.

12 Here's an example. We created a pilot housing plan
13 specific to (audio interference) and we wanted to test the model
14 in Columbia Heights. Instead of doing a by-right two- or three-
15 unit conversion, we wanted to do a four-unit conversion. The catch
16 is that one unit would have been IZ, one workforce, and the other
17 two market rate. And in this model, profit margins don't really
18 change significantly.

19 (Audio interference) we're talking about 4 to 10 units
20 and not 250, but the concept is similar. Now, if you understand
21 the idea for a developer to incur any kind of return as the
22 project gets larger, but the idea that developers end up in the
23 negative just doesn't make sense.

24 And so, I would like to preface that we did not have
25 time to do a full analysis on the models put forth by OP in the

1 supplemental report, but after an initial review, there are a few
2 points that we would like to highlight. For example, when I
3 looked at Figure 3.8 in the OP supplemental report, the residual
4 land value decreased \$520,000, however, the developer returns
5 increased by 7.8 million and the (audio interference) rate
6 increased by less than 5 percent.

7 But, yes, there was a five-hundred-thousand-dollar
8 decrease in land value, but we question, does this take into
9 account (audio interference)? The first (audio interference), I
10 expect that moving forward, developers are going to be exploring
11 ED5, high (audio interference) bonds, and (audio interference), et
12 cetera, as a means to pay for these Expanded IZ projects. But
13 (audio interference) funds state in the model, it would
14 drastically affect those returns.

15 Secondly, all developers will conduct a net present
16 value analysis in addition to the residual land value calculation,
17 was this done, and if so, were there still unfavorable results in
18 multiple cases?

19 I doubt it, but I would love to be able to see that. And
20 so, I do want to (audio interference) one piece of information,
21 because it wasn't in my written testimony. ANC Michael Wray
22 reminded me that the parking is going to be an issue in the
23 District as we add density into your neighborhoods, and so we
24 would like to recommend that OP and the Zoning Commission consider
25 significantly reducing the parking requirement when developers

1 | opt-in to Expanded IZ. I think this would solve some of the
2 | questions around affordability, as well as loss of parking for
3 | existing neighbors.

4 | In conclusion, there are probably going to be cases
5 | where Expanded IZ will not work, however, there are many more
6 | cases where it will work. We also believe this is not the only
7 | tool in building affordable housing.

8 | Will it add 5,000 units in the next two years? Maybe
9 | not, however, we believe that it's less about closing the housing
10 | gap, but more about ensuring equitable building across the
11 | District.

12 | Medici Road believes that or, rather, we firmly believe
13 | that mixed-income is one of the ways to help families transition
14 | out of poverty. We have data that shows Wards 4, 7, and 8 have
15 | the highest amount of (audio interference) residents and less than
16 | 25 percent of Wards 7 and 8 residents have an associate's degree
17 | or higher.

18 | Expanded IZ removes those (audio interference)
19 | inequities and allows families to have access to amenities and
20 | networks that start to reverse these trends.

21 | Thank you for allowing me to offer my testimony and I
22 | look forward to seeing the final results before the OP. Thank you
23 | very much.

24 | CHAIRPERSON HOOD: Okay. Thank you, Mr. Houston.

25 | Let's go to Ms. Susan Landy Kimmel.

1 MS. KIMMEL: Good evening, Chairman Hood and
2 Commissioners.

3 My name is Susan Kimmel and I live at 4101 Albemarle
4 Street in Tenleytown. I am the chair of the steering committee of
5 Ward 3 Vision. We are a grassroots organization of residents who
6 support smart growth and advocate for socially and environmentally
7 responsible development to make our neighborhoods more walkable,
8 sustainable, and inclusive.

9 I am testifying today in favor of the Office of
10 Planning's proposed changes to the inclusionary zoning regulations
11 to expand the amount of IZ required using a sliding scale; in
12 fact, this is the fourth time that Ward 3 Vision has testified in
13 support of the inclusionary zoning, dating back to 2006 when it
14 was first adopted.

15 Despite the fact that IZ requirements are now 14 years
16 old, only 53 IZ units have been delivered in all of Ward 3 and
17 only 0.4 percent of the housing units in Ward 3 are considered
18 income-restricted housing.

19 But IZ, what people haven't been saying today is that
20 IZ, in general, is a very good tool to make mixed-income housing
21 throughout the city and so expanding the concept of IZ is really
22 one of the most effective ways to bring more affordability into
23 such neighborhoods as Rock Creek West and Ward 3 is part of that,
24 and areas which have a long history of exclusionary zoning, and
25 which the new proposals to the comprehensive plan are trying to

1 take down some of those walls. Because by increasing density along
2 transit corridors and, you know, what's called transit-orient
3 development, it really can increase the density in parts of Ward 3
4 where land values are very high. And by having more inclusionary
5 zoning in these new units and new construction, it really will
6 increase the percentage of people of all income brackets into this
7 part of the city.

8 So, we really think that the Expanded IZ needs to go
9 hand-in-hand with the proposals of the comprehensive plan and,
10 especially, the increased density of the future land-use map.

11 We also applaud the efforts to accommodate family-sized
12 IZ units, where appropriate.

13 Although, we are not prepared to evaluate the technical
14 details of the calculations, we appreciate the nature of the
15 process undertaken by OP to obtain hard data from developers to
16 make the numbers work as an incentive to developers for greater
17 density. And we just heard from the previous two people who were
18 -- represent developers or three of the speakers who show that
19 when you crunch the numbers, it comes out that there's an
20 advantage to getting the increased density by providing more IZ.
21 You'll get a bigger profit as a result, even though you're also
22 giving back to the city at the same time.

23 We hope that there will be an ability to fine-tune the
24 formulas and to recalibrate them as needed in the future to be
25 sensitive to changing economic conditions. One of the features

1 that caught my attention in the formulas is to vary the amount
2 based on the cost of the land and the type of construction used
3 for the project.

4 Another provision estimates the allowance for additional
5 time needed to create a map amendment as taking one year. As an
6 outside observer, to me, it seems that this time variable may vary
7 across neighborhoods, with Rock Creek West requiring even more
8 time than other parts of town to enact the map amendment. We
9 think that the current costs may be higher in Rock Creek West than
10 elsewhere due to the delay caused by local opposition challenging
11 upzoning.

12 Currently, there's not much of a track record from Ward
13 3 on the number of applications for map amendments. I'm only
14 aware of one located in ANC 3E in the past 10 years. The scarcity
15 of applications in and of itself may be indicative of developers'
16 anticipation of extended legal wrangling, that they avoid even
17 applying for map amendments in the past.

18 Hopefully this will change with the enactment of the
19 proposed FLUM and the incentives set forth for increased density.
20 We suggest that OP investigate the variability of the time factor
21 when evaluating the financial incentive benefits of the IZ
22 formula.

23 And while we believe that Expanded IZ is a necessary
24 first step in providing more affordable housing in Rock Creek
25 West, we look forward to other changes in the Zoning Code to

1 encourage developments of (audio interference) density housing, as
2 well as creating financing mechanisms to enable the construction
3 of more units at reduced costs and lower rents.

4 I think the concept of value being captured really says
5 a lot in that the City is giving greater value to land by allowing
6 greater density but needs to get something in return and that
7 would be in the form of Expanded IZ.

8 We also support the concept that Cheryl Cort and others
9 have spoken about, about the matter-of-right, if there is a bonus
10 density and a greater than 20 percent of affordable units and
11 making that a matter-of-right. See, this is where (audio
12 interference) spoken with the head of OP about the predictability.
13 The more things that are a matter-of-right, it's easier for a
14 developer to know what to expect and have fewer challenges to the
15 -- that would be present in a (audio interference) application.

16 CHAIRPERSON HOOD: Ms. Kimmel, could you give us your
17 closing thought.

18 MS. KIMMEL: Yes. Thank you for your time and your
19 consideration on all of these measures and to bring greater equity
20 to D.C. and reverse the history of exclusionary zoning in Ward 3.
21 So, thank you very much.

22 CHAIRPERSON HOOD: And let me -- I think we've gotten
23 everyone on this panel -- let me thank this panel. Let me see if
24 we have any questions of this panel, including Mr. Houston, who's
25 on the line, as well. So, we just had two people on this panel,

1 okay.

2 Commissioner May?

3 (No verbal response)

4 CHAIRPERSON HOOD: Commissioner Shapiro?

5 (No verbal response)

6 CHAIRPERSON HOOD: Commissioner Turnbull?

7 (No verbal response)

8 CHAIRPERSON HOOD: And Vice-Chair Miller?

9 (No verbal response)

10 CHAIRPERSON HOOD: So, when I call your names, I'll be
11 looking at you and sometimes you'll move to a -- and it'll move
12 and I'll be looking there and it'll move over there, but anyway,
13 it's funny -- a sidenote.

14 Okay. Thank you very much. We appreciate your
15 testimony, Ms. Kimmel and Mr. Houston.

16 Okay. I'm going to call the panel up next, and I have a
17 list of names here. Give me one minute, please.

18 Lisa Mallory, Shane Dettman, Taylor Roethle, David
19 Avitabile, and Jeff Utz.

20 Taylor, I may have messed your name up, but again: Lisa
21 Mallory, Shane Dettman, Taylor Roethle, David Avitabile, and Jeff
22 Utz.

23 I'm not sure who's taking this. Ms. Mallory, is that
24 all of your panel?

25 MS. MALLORY: Yes, it is.

1 CHAIRPERSON HOOD: Okay. So, you all may begin whenever
2 you're ready.

3 MS. SCHELLIN: I don't see -- is Taylor up also?

4 MS. MALLORY: I can't see everybody here. Let me see
5 --

6 MS. SCHELLIN: Paul, do you have Taylor up?

7 MR. YOUNG: I don't see Taylor in the attendee list.

8 MS. SCHELLIN: She was on the list -- he or she.

9 MS. MALLORY: I can't see if Taylor is in the waiting
10 room. I can't see the waiting room.

11 I don't see Taylor in the panelist section, though.

12 MS. SCHELLIN: She's no longer in the waiting room.

13 Okay. It worked earlier, but I do not see them now.

14 MS. MALLORY: Okay. Well, we can get started in the
15 interests of time and we can see if --

16 MS. SCHELLIN: Yeah, maybe they lost their connection.

17 MS. MALLORY: I'll send an email to -- a text and we'll
18 get started. So, I'll get started and then we can --

19 MR. UTZ: Can we bring up our presentation, please.
20 It's Exhibit 24, and I just emailed Taylor, as well, to join.

21 MR. YOUNG: I didn't get the PowerPoint.

22 MS. SCHELLIN: No one emailed it to us.

23 CHAIRPERSON HOOD: Why don't we do this, I know, you
24 know, we have to jiggle around playing musical chairs, so we're
25 waiting on Taylor, we'll then get the report. It'll give them

1 | time to -- let's take them down and let me keep on with the list
2 | and that way they can come back and give us a full presentation.
3 | That's not hard to do.

4 | MR. UTZ: Sure.

5 | CHAIRPERSON HOOD: Let's do that.

6 | MR. YOUNG: Can you just tell me what exhibit number it
7 | was again.

8 | MS. MALLORY: It's 24.

9 | MR. UTZ: 24, yeah.

10 | CHAIRPERSON HOOD: So, but Taylor is a major piece of
11 | your presentation, correct, Ms. Mallory?

12 | MS. MALLORY: Yes. Can you -- I just heard a beep. I
13 | don't know if that's --

14 | MS. SCHELLIN: No, that's not -- we don't have beeps on
15 | entrances.

16 | CHAIRPERSON HOOD: So, let's go with that plan. I'm
17 | sorry to inconvenience, but let's just make sure -- it's very easy
18 | to do. Let's take them down, let me go ahead on, and then when
19 | she comes back, I'll ask staff to let us know and we'll bring you
20 | right back. Hopefully, it will be soon, because we're almost at
21 | the end.

22 | MR. UTZ: Sounds good.

23 | CHAIRPERSON HOOD: Commissioner May, you were raising
24 | your hand?

25 | MS. SCHELLIN: I think he was agreeing with you.

1 COMMISSIONER MAY: No, that's fine. I just want to make
2 sure everybody understood that we have the presentation. That's
3 all.

4 CHAIRPERSON HOOD: Okay. Yeah, I think they wanted to
5 talk through it as they --

6 COMMISSIONER MAY: Yeah, yeah, that's fine.

7 CHAIRPERSON HOOD: Okay. Let me go with the list here.
8 I think Bob Ward, Leila Batties, and Tom Skinner, and that's all I
9 have. And anybody else --

10 MS. SCHELLIN: There's one more: Adam Kent.

11 CHAIRPERSON HOOD: Okay. I don't have his name.

12 MS. SCHELLIN: He was added after.

13 CHAIRPERSON HOOD: Okay. Adam Kent.

14 Is anybody educational out there, Ms. Schellin?

15 MS. SCHELLIN: No one else signed up.

16 CHAIRPERSON HOOD: So, this panel -- or nobody has
17 called the number saying they want to sign up, so this panel will
18 be the next-to-the-last one and then we'll bring the other panel
19 back up. Hopefully, I can get Ms. Taylor -- Roethle -- Taylor
20 Roethle hopefully we can get her.

21 With that, let's start with Bob Ward. There you are.

22 MR. WARD: Here I am. Okay. My name is Bob Ward. I
23 live at 2930 Macomb Street NW in Cleveland Park.

24 Chairman Hood, Members of the Commission, thank you.

25 I chair the steering committee for Cleveland Park Smart

1 Growth. We educate, organize, and advocate for greater inclusion,
2 sustainability, and vitality in our neighborhood. We are not
3 economists or developers, so our comments on this proposal are
4 based on a layman's reading of it and also our priorities.

5 Our group encourages having new residents from a range
6 of incomes in a range of housing types in the greater Cleveland
7 Park area. The cost of land in this part of the city is high, as
8 you know, and the added restrictions of the historic districts in
9 Cleveland and Woodley Parks make construction costs even higher.

10 We believe the Expanded IZ proposal is calibrated to
11 attract map amendments in our area. This will be a valuable tool
12 to ensure that we in Ward 3 can add more and meaningfully income-
13 restricted housing, which has a terrible track record of affording
14 -- of adding affordable units here in this part of the city.

15 With the proposed FLUM density increases in Cleveland
16 Park, Woodley Park, and Van Ness, we are encouraged with the
17 Expanded IZ proposal that would recapture the value future
18 upzoning would provide and convert it into additional affordable
19 housing.

20 At a two FAR, the Cleveland Park zone, for example,
21 would not need a maximum density increase to see IZ Plus require
22 the maximum amount of required affordable units.

23 While we believe the ideal project on our transit
24 corridors would be a planned-unit development where the community
25 can negotiate benefits in exchange for greater density, we support

1 | having Expanded IZ as a backstop, especially until there is more
2 | confidence by developers in PUDs. We prefer upzoning to a PUD
3 | because we prioritize, including a range of affordability, and
4 | including deeper affordability, as well as family-sized units.

5 | So, we encourage you to pass this proposal so that it is
6 | a tool ready for the amended comprehensive plan when it is passed
7 | by Council.

8 | Thank you very much.

9 | CHAIRPERSON HOOD: Okay. Thank you.

10 | Next, we're going to call next Leila Batties.

11 | MS. BATTIES: Good evening, Mr. Hood. I signed up to
12 | testify. I'm (audio interference).

13 | CHAIRPERSON HOOD: Ms. Batties, I couldn't hear you.

14 | MS. BATTIES: Can you hear me now?

15 | CHAIRPERSON HOOD: Yes, we can hear you now.

16 | MS. BATTIES: I was saying I signed up to testify on
17 | behalf of two matters, so do you want me to just do one right
18 | after the other or ...

19 | CHAIRPERSON HOOD: Can you incorporate both of them in
20 | your testimony?

21 | MS. BATTIES: I can do them one right after the other;
22 | they're not related.

23 | CHAIRPERSON HOOD: They're not related, okay. All
24 | right.

25 | MS. BATTIES: Okay. So, for the first item, good

1 | afternoon, Leila Batties with the law firm of Holland & Knight,
2 | which serves as (audio interference). (Audio interference) LDT
3 | Acquisitions, LLC and 525 Rhode Island Avenue, LP, which has
4 | assembled nine parcels totaling over 122,000 --

5 | UNIDENTIFIED: Mr. Chair?

6 | MS. BATTIES: -- square feet of land along the 600 block
7 | of Rhode Island Avenue --

8 | CHAIRPERSON HOOD: Ms. Batties, we're having some
9 | problems hearing you. I don't know if you need to move forward,
10 | turn your sound up or something. We need to do something. Unless
11 | you have more than one -- do you have more than one computer on?

12 | MS. BATTIES: No.

13 | CHAIRPERSON HOOD: So, we can't -- can you move closer?

14 | MS. BATTIES: Yes, I will try to move closer.

15 | Is this better?

16 | CHAIRPERSON HOOD: This is better.

17 | MS. BATTIES: Okay. Sorry about that.

18 | All right. Good afternoon, Leila Batties with the law
19 | firm of Holland & Knight, which serves as land-use and zoning
20 | counsel to LDP Acquisitions, LLC, and 525 Rhode Island Avenue, LP,
21 | which have assembled nine parcels totaling over 122,000 square
22 | feet of land, along the 600 block of Rhode Island Avenue NE, at
23 | the Rhode Island Avenue Metro station, that are the subject of
24 | Zoning Commission Case Number 20-23.

25 | Greater Mount Calvary Holy Church is the major landowner

1 of this property. Greater Mount Calvary has submitted a letter to
2 the Zoning Commission, which is marked as Exhibit 13 of the
3 record. Has also been asked to testify on behalf of the Church,
4 because it would be fundamentally unfair for Expanded IZ, if
5 adopted, to apply to Greater Mount Calvary's pending map amendment
6 application for the property.

7 This is especially the case because the requested map
8 amendment is wholly consistent with the property's current and
9 proposed designation on the future land-use map and the Rhode
10 Island Avenue small area plan. The zoning map amendment
11 pertaining to the Rhode Island Avenue properties is subject to
12 Zoning Commission Case Number 20-23, received full ANC and
13 Eckington Civic Association's support in June.

14 The notice of intent to file was issued on July 16th and
15 the application was filed on September 30th. Although filed after
16 set down of the proposed enhanced IZ regulations, it took a decade
17 for Greater Mount Calvary to get in a position to file its map
18 amendment application.

19 This includes the Church's investment in the
20 neighborhood, working with District staff and community
21 stakeholders, its engagement of professionals to analyze
22 development, programming, and financing, and the selection of its
23 development partner.

24 Greater Mount Calvary started investing in the
25 neighborhood in 1995 and over the years, has provided crucial

1 community services such as a food bank, health care services, and
2 a community center. The Church has grown to 8,000 active members,
3 anchored in the community.

4 In 2011, the Church actively participated in the Rhode
5 Island Avenue small area plan. The 2012 amendments to the
6 District's comprehensive plan future land-use map designated this
7 section of the Rhode Island Avenue corridor as mixed-use, high-
8 density residential, medium-density commercial.

9 As such, the pending application for a map amendment
10 from PDR2 to MU10 is fully consistent with the current land-use
11 designation. Lastly, Greater Mount Calvary has invested a
12 significant amount of resources related to the proposed
13 development of the property in reliance of the current zoning
14 regulations, therefore, it would be fundamentally unfair to impose
15 more restrictive new regulations on any property owners at this
16 point if they have a map amendment filed and are going through the
17 zoning approval process. To do so would unduly diminish the
18 Church's efforts over the past decade.

19 Greater Mount Calvary supported the small area plan and
20 the subsequent change to the 2012 comprehensive plan with full
21 clarity, understanding of the Inclusionary Zoning Regulations
22 adopted in 2009 and proceeded with assemblage and redevelopment
23 efforts accordingly.

24 The proposed 2016 comprehensive plan will not result in
25 increased density for the property, therefore, additional

1 regulatory requirements at this point will only jeopardize the
2 redevelopment plans on the south side of Rhode Island Avenue and
3 possibly Greater Mount Calvary's redevelopment plans on the north
4 side of Rhode Island Avenue, where the sanctuary sits today.

5 The impact is significant. A subsidy of 150,000 to
6 \$200,000 per unit is required to build and operate units at 60
7 percent of MFI. If enhanced IZ results in just 50 additional
8 units over the Regular IZ requirements, the impact is \$10 million,
9 which will be a direct reduction in value to the Church and its
10 resources to serve the community.

11 The Office of Planning (audio interference) suggests
12 that enhanced IZ is intended as a tool to capture additional
13 affordable units as part of the anticipated upzoning of properties
14 resulting from the proposed future land-use map. This is totally
15 appropriate and reasonable, but given that the proposed future
16 land-use map won't be adopted until next year, property owners who
17 arguably will benefit from the amendments of the proposed land-use
18 map change will have sufficient time to, one, account for the
19 enhanced IZ requirements and the development plans and financial
20 modeling and, two, file their map amendment applications.

21 But in the interests of fairness to Greater Mount
22 Calvary and other applicants similarly situated, we respectfully
23 urge that the enhanced IZ regulations not be applied to pending
24 map applications where the requested zoning map amendment is
25 consistent with the current and proposed comprehensive plan future

1 land-use map.

2 As such, we respectfully propose that Section 502.2 of
3 the draft enhanced IZ regulations be amended to include a fourth
4 exemption, which is map amendments that are consistent with the
5 2012 comprehensive plan future land-use map and filed prior to the
6 effective date of these regulations. Thank you.

7 The second matter, Mr. Chair, is just a brief letter
8 that I would like to read into the record regarding the
9 prospective nature of enhanced IZ and it reads:

10 Dear Members of the Commission, we seek confirmation
11 that the enhanced IZ regulations proposed in Zoning Commission
12 Case Number 20-02 cannot be retroactively applied to zoning map
13 amendments that have been previously approved by the Zoning
14 Commission and the final written order has not yet been issued.

15 For your reference, and what we filed into the record,
16 includes the notice of final rulemaking for Zoning Commission Case
17 Number 10-08 related to special exemptions. The notice of final
18 rulemaking in that case states that new zoning regulations can
19 only be applied retrospectively and that was stated explicitly to
20 avoid future enforcement problems.

21 On September 14th, 2020, the Zoning Commission took
22 final action to Zoning Commission Case 19-28, the zoning map
23 amendment for the Howard University property on the west side of
24 7th Street NW, between S and T Streets. The final written order
25 for the case is pending, therefore, in order to clarify that

1 enhanced IZ does not apply to the zoning map amendment approved in
2 Zoning Commission Case 19-28, we respectfully urge that the Zoning
3 Commission confirm that enhanced IZ is prospective in nature and,
4 therefore, cannot apply to the zoning map amendments previously
5 approved by the Zoning Commission, even where the final written
6 order has not yet been issued. Thank you.

7 CHAIRPERSON HOOD: Okay. Thank you.

8 While Ms. Richards is coming up --

9 MS. SCHELLIN: She's up.

10 CHAIRPERSON HOOD: She's up?

11 And there was one person before Ms. Richards, I thought.
12 Hold on a second.

13 MS. SCHELLIN: Mr. Kent, Adam Kent.

14 CHAIRPERSON HOOD: Oh, that's right. Okay. He wasn't
15 on my list.

16 Okay. Mr. Kent and then we'll have Ms. Richards and the
17 other one.

18 MR. KENT: Good evening, Chairman Hood and Members of
19 the Zoning Commission.

20 My name is Adam Kent and I'm the deputy director of the
21 D.C. office of the Local Initiative Support Corporation or LISC.
22 LISC is a national community development organization with a
23 flagship office in D.C. Established in 1982, LISC has financed
24 the production and preservation of over 13,000 affordable homes,
25 as well as many health clinics, theaters, community centers, and

1 retail, all across the District of Columbia. We work every day to
2 help create healthy and resilient neighborhoods that are good
3 places for low- and moderate-income families to live, work, raise
4 children, and conduct business.

5 We are testifying today in support of the concept of
6 Expanded Inclusionary Zoning put forward by the Office of
7 Planning. As a member of the D.C. Housing Priorities Coalition,
8 we have advocated to support an updated, comprehensive plan that
9 expands affordable housing opportunities to all areas of D.C.,
10 codifies anti-displacement principles and promotes increased
11 housing capacity in the proposed future land-use map or FLUM.

12 The increased housing capacity in the FLUM, which is
13 currently under consideration by the D.C. Council, creates the
14 potential for additional value and realization for landowners
15 through rezoning and, thus, should be complemented with an
16 expanded IZ policy. The expanded IZ proposal is a feasible way in
17 which the public can capture some of the additional value created
18 via rezonings under an updated FLUM to increase affordable housing
19 opportunities for D.C. residents.

20 Over the 38 years LISC has worked in D.C., we have
21 witnessed an extreme loss in affordable housing, coupled with
22 increased displacement pressures on middle- and lower-income
23 residents. In order to address this affordable housing crisis,
24 Mayor Muriel Bowser issued an executive order in May of 2019 where
25 she affirmed that the District must produce 36,000 New Residential

1 units by 2025 and at least 12,000 of which be affordable for low-
2 income residents.

3 In DHCD's housing equity report released in 2020, IZ is
4 repeatedly referenced as an integral tool to ensure the production
5 of a portion of these 12,000 units. While inclusionary zoning has
6 done much in the way of producing housing units, particularly in
7 high-amenity areas, D.C. still struggles to adequately preserve
8 and produce sufficient affordable housing to meet the needs of its
9 population.

10 Indeed, DHCD's housing equity report anticipates that
11 given the city's current project pipeline, by 2025, there will be
12 a shortfall of 5,220 of the committed 12,000 units. Given this
13 anticipated shortfall, the critical need for affordable housing
14 production and the integral role IZ already plays in producing
15 affordable housing, we strongly support the Expanded IZ proposal.

16 Expanded IZ presents an opportunity for the city to
17 increase its affordable housing in high-amenity areas, which for
18 decades, have resisted affordable housing development. In
19 addition, Expanded IZ incentivizes the production of affordable
20 housing without the need to provide developers with financial
21 subsidies. This new set of incentives and expectations for
22 developers who seek map amendments and rezonings has the potential
23 to provide substantial, additional new affordable housing units
24 that would otherwise be produced through the current IZ program.

25 Since January of 2020, the D.C. Housing Priorities

1 Coalition has worked closely with the Office of Planning to
2 provide recommendations as to the expansion of the existing
3 inclusionary zoning. The expansion takes into account guidance
4 from developers and practitioners, as well as those who will help
5 finance the projects. Modeling of the program is robust in
6 looking at current conditions, includes many known industry costs
7 and provides flexibility to assess potential projects for
8 viability.

9 Again, I would like to reiterate what previous witnesses
10 have said in terms of the difficulty of modeling out every
11 possible scenario. This model is very thorough and also includes
12 a number of assumptions that conform to the existing conditions.

13 The sliding scale, the contribution to Expanded IZ is
14 based on an incremental increase of new density, which reflects
15 the model's tolerances for viability overall, with a program that
16 can be regulated, explained, and followed by potential applicants.

17 Ultimately, Expanded IZ can be another effective tool in
18 the District's affordable housing toolbox, helping to create
19 affordable housing opportunities for D.C. residents in all areas
20 of the city without the need for public subsidies. Addressing our
21 affordable housing crisis and creating neighborhoods of equity and
22 opportunity requires a multitude of policies and programs that
23 work in partnership. It is time to add Expanded IZ to that list.

24 Thank you for the opportunity to testify.

25 CHAIRPERSON HOOD: Okay. Thank you.

1 Let's go to Ms. Richards.

2 MS. RICHARDS: Okay. And you should also -- yes, there
3 I am, partially.

4 Good evening, Chairman Hood and Members of the
5 Commission.

6 I'm glad to have the opportunity to offer the (audio
7 interference) hundred comments on this proceeding. We are, once
8 again, among the people who say, This isn't working, so why are we
9 expanding it?

10 You have our comments, and before I get into the gist of
11 those, I want to emphasize our very strong objection to what I've
12 heard here tonight about the possibility of non-discretionary
13 mayor of right IZ, Expanded IZ. If you're going to toss out any
14 kind of review and make it a matter-of-right, all of the other
15 factors that you usually look at, the traffic, the light, the air,
16 all of the things that go into a complex project will be taken out
17 of your reviewing process and I don't understand why you would
18 want to give up that kind of authority. You know, it's not a
19 matter of being power-mad on your part; it's a matter of making
20 sure that all of the stakeholders, including the existing
21 residents there are represented. You can't just like take away a
22 project, you know, you won't have an opportunity to kind of say
23 how it's going to affect them if you look at buffering and all
24 sorts of things. So, that's my comment on the whole idea of
25 matter-of-right.

1 Second, this 80 percent, the 80 percent for
2 classification for a purchased IZ unit is really too high. It
3 should be 60 percent. 80 percent is really market rate for a lot
4 of purchases here and I'm not sure why we're subsidizing something
5 through IZ that most people are, like, handling on their own and
6 you're talking away the benefits of IZ, such as they are, from
7 people who need it more. So, the 80 percent, we have never liked
8 the 80 percent and we think this is a good time to revisit it.

9 Second, we think that you're going a little too fast.
10 The comp plan is not going to be approved until next year. We're
11 in the middle of what OP's own documents say is a very strange
12 period here and won't last -- we don't know what the mid- to long-
13 term effects will be. OP has acknowledged nobody is going to be
14 building anything right away or much of anything, so I'm not sure
15 what the rush to get Expanded IZ into the pipeline is.

16 The fact that the Office of Planning just introduced in
17 the last couple of days, a more detailed economic analysis,
18 indicates that it's still a work in progress. We are still
19 looking at it. I'm sure that you guys are still looking at it.
20 So, why approve anything until there's a full airing of what it is
21 before you?

22 But the main point we wanted to emphasize is this
23 program has been around for 10 years, as you noted. It's produced
24 less than a thousand units. The first half of the time that we
25 were all coming out of our other recession, but we had, in the

1 last four or five years, we produced 800 of the IZ units expand at
2 a time when the city was booming.

3 Now we're back in hard times again, so I'm not sure why
4 you think we're going to suddenly start churning out more IZ units
5 just because you added another layer to it.

6 Maybe we should use some of these other tools in the
7 toolkit that you talk about. There's -- we have a shortage of
8 affordable housing, but it isn't being built and I will just say
9 that within a 10-minute drive of my house, there are, let's say,
10 about 700 affordable units that have come online within the last
11 five years.

12 So, it's income-restricted and it touches about the same
13 tranche of income levels that IZ is aimed at, the rental units, 60
14 percent. So, that's just one little neighborhood, and then we're
15 supposed to get excited because we've produced a thousand units
16 all over the city in 10 years.

17 I just think the entire IZ program needs some
18 reconsideration. Committee of 100 has been supportive of the
19 concept ever since its inception. We have never objected to the
20 concept of IZ, but we certainly do not see how it's being
21 implemented in an effective way.

22 My final comment is, is the City trying to -- are you
23 trying to get, like, housing built -- because that's not happening
24 through IZ -- or are you trying to have racial and income
25 diversity?

1 If you want, like, income diversity, you're paying a
2 really high price for it with little return for your buck.

3 If you want racial diversity, well, 53 units in Ward 3,
4 and I'm not sure how many of them went to minorities, so I'm not
5 sure that I can see, other than upholding a principle, where IZ is
6 achieving its stated objectives. So, I really encourage you, on
7 behalf of the Committee, of course, instead of just going forward
8 with this, just slow down and say, What's this program for and is
9 it coming anywhere close to achieving its goals or is it simply
10 accommodating the development community and giving them even more
11 bonus density than they are going to get more the comp plan?

12 So, those are our thoughts. Thank you.

13 CHAIRPERSON HOOD: Okay. Thank you, Ms. Richards.

14 I think that's everyone on this panel.

15 MR. SKINNER: Hold on.

16 CHAIRPERSON HOOD: Mr. Skinner, we didn't hear from you.

17 MR. SKINNER: Yes.

18 CHAIRPERSON HOOD: Okay. All right.

19 MR. SKINNER: I've been waiting patiently.

20 Thank you, Chairman. Good evening, Chairman Hood,
21 Commissioners Miller, Shapiro, Turnbull, and May.

22 My name is Tom Skinner. I'm the managing partner of
23 Redbrick LMD and a Capitol Hill resident.

24 Redbrick focuses on large-scale, complex projects. They
25 typically have a significant element of public-private

1 partnership. Our projects often take 5 to 10 years to conceive,
2 structure, and negotiate. They may then take another decade to
3 develop.

4 In order to attract the long-term, patient capital to
5 pursue these transformative projects, one needs a strong degree of
6 clarity around the regulatory framework in which one is operating,
7 many years in advance.

8 The OP analysis for Expanded IZ is relevant to smaller-
9 scale projects, which are private sector owner of a single parcel
10 of land increases their overall density. The landowner and/or
11 developer will determine whether the increase in density offsets
12 the costs from increased inclusionary zoning requirements. In
13 general the timeline will be less than a year for zoning and
14 perhaps an additional year for design and permitting activities.

15 I contend that applying this framework to large-scale,
16 complex, currently unzoned properties is not appropriate and could
17 result in significant, unintended, and undesirable consequences
18 for the District.

19 The Office of Planning has already recognized this, at
20 least in part by exempting Hill East, North Howard Road, Southeast
21 Federal Center, St. Elizabeth's, Union Station North, Walter Reed,
22 and the Barry Farm zones. I would suggest generalizing this
23 principle so that the consideration of a map amendment for
24 currently unzoned land should also not fall within the enhanced IZ
25 framework.

1 Unzoned land typically has no current value to D.C. and
2 significant current value to the Federal Government or whoever is
3 the current owner. Bringing this land onto the D.C. tax rolls
4 creates enormous value to D.C.

5 Consider the Hoover Building or the France Perkins
6 Building, an acre of high-density land can create 400,000 square
7 feet of density and generate \$8 million or more in annual tax
8 revenue for the District. These two projects alone comprise about
9 18 acres of land and so, have the potential to generate in excess
10 of \$100 million annually for D.C. This matches the current annual
11 budget of the Housing Production Trust Fund.

12 These projects have been on the back burner for the last
13 four years, primarily due to political considerations. We believe
14 that one or both of them could proceed in the upcoming Biden
15 administration, however, imposing a 20 percent Expanded IZ
16 requirement on these projects is likely to derail them once again.

17 Redbrick is currently working to bring similarly sized
18 tracts of land onto the D.C. tax rolls. Sorry for the cat here.

19 Our counterparty has vast land holdings throughout the
20 country. They could easily substitute land in other jurisdictions
21 for D.C. land if OP and the Zoning Commission undermines their
22 land values and doesn't provide the clarity and certainty
23 necessary for ensure a smooth transaction.

24 To summarize, I would recommend exempting unzoned land
25 from Expanded IZ requirements. These land transfers take many

1 years of behind-the-scenes discussions and there is simply no
2 guarantee that they will materialize.

3 The benefits to D.C. from expanding its tax rolls dwarf
4 the incremental benefit derived from Expanded IZ on such projects.

5 The tax revenues from these transactions can fund many times as
6 many affordable units through any manner of alternative
7 mechanisms. It would be penny wise and pound foolish to
8 jeopardize such transactions.

9 I appreciate the opportunity to speak with you today and
10 I'm happy to answer any questions that you might have.

11 CHAIRPERSON HOOD: Okay. Thank you very much, Mr.
12 Skinner and all this panel.

13 Let me see if we have any follow-up questions or
14 comments.

15 Commissioner May?

16 (No verbal response)

17 CHAIRPERSON HOOD: No comments, okay.

18 Commissioner Shapiro?

19 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

20 A question for Mr. Skinner: What were the examples of
21 the projects that you referenced in terms of the unzoned land?
22 You mentioned the FP Building and what was the other one?

23 MR. SKINNER: The Department of Labor building. That's
24 another one that I spent a lot of time working on, the France
25 Perkins Building.

1 COMMISSIONER SHAPIRO: Thank you for that.

2 Yeah, that's all I have, Mr. Chair. Thank you.

3 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

4 (No verbal response)

5 CHAIRPERSON HOOD: And Vice-Chair Miller?

6 (No verbal response)

7 CHAIRPERSON HOOD: Let me see. I wrote down a few
8 things.

9 Ms. Batties, on Greater Mount Calvary, I was -- I didn't
10 understand the magnitude and I didn't know there was an
11 application that something was just filed. I agree with your
12 point on both of your issues, especially when you talk about
13 Greater Mount Calvary.

14 Churches have a little more threshold of trying to
15 accomplish things and trying to get everybody together. Being in
16 the church, the deacon board, and the trustee board, I understand
17 all that and we don't want to have to put any, as we say, more
18 burden. So I will be following up with the Office of Planning to
19 see if we can do some kind of limited legal -- the proposal that
20 you recommended I think fits, especially in this case, because we
21 do it for folks who have a lot of money. We need to make sure
22 that we're looking out and making sure that we keep those churches
23 like Greater Mount Calvary, who's been a stellar, here in this
24 community, and especially in Ward 5 and throughout this city, it
25 has helped a lot of people, so we need to make sure that we don't

1 put any more burden on anything they do.

2 I did -- when you, Mr. Kent, when you mentioned LISC, I
3 did want to mention Oramenta Newsome, who I've worked with years
4 ago. She's now passed, the late Oramenta Newsome.

5 I know the work that you all do. We appreciate you
6 taking the testimony and you all keep doing the fine work that
7 you've been doing.

8 MR. KENT: Thank you, Commissioner.

9 CHAIRPERSON HOOD: Ms. Richards, I wrote your name down,
10 but I'm trying -- so, you mentioned about the -- I know what it
11 was now -- the matter-of-right and as you noticed, my comments
12 were, our focus is, and I said matter-of-right in this city is a
13 bad word.

14 Don't you think it levels off when you're talking about
15 affordable housing, don't you think the citizens would rather have
16 the affordable housing as opposed to -- I know matter-of-right can
17 be a bad word, trust me in saying that -- but don't you believe
18 that affordable housing, getting to the deeper levels of
19 affordability would kind of offset some of that bad word or bad
20 myth about a matter-of-right?

21 And it's not a myth, but things have happened with
22 matter-of-right.

23 MS. RICHARDS: All right. Well, let's consider some of
24 the things that would not be subject to review if it's a matter-
25 of-right. There would be no real obligation or less of an

1 obligation to comply with First Source in hiring and contracting.
2 There would be no opportunity to work out the -- with the
3 residents, the traffic flow. There would -- people would not be
4 able to discuss access if it's a mixed-use building, hours of
5 operation, lighting.

6 These large buildings have significant impacts, as you
7 well know, much better than I, and there are many, many facets to
8 them. The mix of uses, for instance, that's often the subject of
9 great discussion.

10 If we were simply talking about throwing up a
11 residential unit on Wisconsin Avenue with first floor retail and
12 it's going for -- you know, it's an all residential, so maybe you
13 don't have to look at some of the impacts there, but it still does
14 something. And you have seen some high buildings on Wisconsin
15 Avenue have -- would have excited -- (audio interference) -- have
16 excited a good deal of community comment.

17 So, I just think that you are -- the Commission is
18 cutting out the already-reduced citizen input. You're cutting out
19 your own ability to review these things. If they're a matter-of-
20 right, you'll never see them.

21 And you know from your own expertise how many moving
22 parts there are to a project of this size. So, I think it would
23 be very ill-advised to take them out of any kind of public review.

24 CHAIRPERSON HOOD: Okay. Thank you, Ms. Richards.

25 I will tell you that I fall somewhere in the middle. I

1 | agree -- and it doesn't help me any. I have to think about this,
2 | but I agree both with what Ms. Cort said and I also agree with
3 | what you said, so, I obviously listened to both of y'all's
4 | testimony and I fall somewhere in the middle. That doesn't help
5 | me much right now.

6 | But I can tell you that I think for me a matter-of-right
7 | has always been a bad -- has always left a bad taste with me.

8 | MS. RICHARDS: Uh-huh.

9 | CHAIRPERSON HOOD: So, I agree with what you're saying,
10 | but I also know that, okay, it doesn't taste as bad when we're
11 | trying to give residents an affordable place to live. So, to me,
12 | it kind of takes that bad taste away.

13 | So, trying to balance that, and I appreciate your
14 | comments, and I also appreciate Ms. Cort's comments, but I'm
15 | somewhere in the middle because the residents of this city are
16 | looking for affordable housing and we're pushing forward, we're
17 | trying every tool -- again, this is just a piece of it; there's a
18 | whole lot more (audio interference) that come into play. So,
19 | those are my comments.

20 | MS. RICHARDS: Well, let me just say one more thing
21 | which may make you -- I hope will make you feel a little bit
22 | better about maybe not giving up your review. Let's assume that
23 | it did become matter-of-right. The solution would not touch any
24 | of the young, single people who are earning minimum wage and
25 | looking for housing. It would not, because they will never be

1 eligible for any kind of inclusionary zoning units. It will never
2 impact a lot of our senior citizens who are looking for affordable
3 housing, unless it's one of those units or projects that has well
4 below the 60 percent AMI, because they will never be able to
5 afford it.

6 Tell yourself on the other hand, oh, look, when the City
7 wants to, like, really develop some deeply affordable housing, it
8 can. Taking into account the number of units in Walter Reed, the
9 entire of the senior citizens, the 80 percent units to senior
10 citizens and the several hundred veterans.

11 So, think about you're really giving up discretionary
12 review for a tool in the toolkit that's going to deliver a drop in
13 the bucket. That's it.

14 CHAIRPERSON HOOD: Okay. Thank you very much, Ms.
15 Richards. I appreciate your testimony.

16 And I appreciate everyone's testimony.

17 Did I do the rounds? Did anybody have any other
18 questions or comments?

19 (No verbal response)

20 CHAIRPERSON HOOD: All right. I thank you all very much
21 for your testimony and taking the time to come down and provide us
22 additional information out of your perspective.

23 Now, Mr. Skinner, did the cat agree with you? I saw him
24 hit you in the head, so ...

25 MR. SKINNER: Oh, my goodness, yes.

1 (Laughter)

2 MR. SKINNER: I hope you enjoyed that.

3 (Laughter)

4 CHAIRPERSON HOOD: Right.

5 Thank you all. We appreciate that.

6 MR. SKINNER: Thanks, everybody.

7 CHAIRPERSON HOOD: All right. Ms. Schellin and Mr.
8 Young, can we bring back up the panel.

9 So, we don't have anybody else in the waiting room?

10 MS. SCHELLIN: No one else.

11 So, that's Jeff Utz, Lisa Mallory, Shane Dettman, David
12 Avitabile, and Taylor Roethle.

13 CHAIRPERSON HOOD: Okay. Did we find everybody okay --
14 yeah, it looks like we have everybody. Good.

15 So, Ms. Mallory, you may begin.

16 MS. MALLORY: Okay. Good evening, Chairperson Hood,
17 Members of the Zoning Commission, and staff.

18 My name is Lisa Mallory and I'm the CEO of the District
19 of Columbia Building Industry Association, which is the leading
20 voice of real estate in the District of Columbia. I'm also a
21 longtime resident of Ward 4.

22 The DCBIA appreciates the opportunity to testify on the
23 Office of Planning's proposed amendment to the zoning regulations
24 to enhance inclusionary zoning related to the zoning map
25 amendments that increase residential density, also known as IZ

1 Plus.

2 DCBIA and our members are deeply committed to meeting
3 the District's need for more affordable housing. There is no
4 disputing the City's need for more housing and more affordable
5 housing. As the industry that Washington, D.C. relies on to meet
6 the needs, the demand for current and future residents, we view
7 ourselves as essential partners with the District Government when
8 it comes to addressing the housing challenge.

9 And as builders, we stand ready to rise to the
10 challenge. It is with this mindset that the DCBIA mobilized the
11 experience and expertise of our members to study IZ Plus. And
12 DCBIA learned that OP was going to explore expanding inclusionary
13 zoning. We formed a working group drawn from an array of
14 companies within our membership to examine the concept and its
15 real-world impact.

16 During our review, it became clear that we needed
17 understand OP's underlying financial modeling. We received the
18 model in early October and our group then dove right in to conduct
19 detailed analysis of the model and prepare case studies to
20 understand how IZ Plus and, as then proposed, would affect the
21 viability of real-world development.

22 We are grateful to OP for sharing the model and for
23 meeting with us to explain our thinking and to listen to our
24 feedback. We are also pleased that OP responded to our comments
25 in their supplementary report, which was issued just this Friday

1 afternoon. And we would welcome additional time to update our
2 analysis based on OP's latest changes.

3 Speaking broadly, based on our review and discussions
4 with OP, our concern is ensuring that IZ (audio interference) will
5 increase the production of affordable units, rather than lead to
6 an unintended consequence of discouraging housing production
7 altogether. Like the Regular IZ program, IZ Plus is premised on a
8 project creating enough value within the grounds of market,
9 regulatory, and physical constraints, to support increased
10 affordable units.

11 At the same time, a project also must generate be enough
12 value to attract investment so it can be built and maintained.
13 DCBIA greatly appreciates being able to engage with OP throughout
14 this process and presenting to the Zoning Commission today.

15 Over the weekend, we began to review OP's updated report
16 and we will continue to review it to determine the impact of OP's
17 updates to the model and to our case studies.

18 For our presentation tonight, we'd like to share some
19 initial feedback to show where we believe the proposal requires
20 additional studies and where it should be adjusted, generally, so
21 that projects generate enough value to both, attract adequate
22 investment to be built and create more and affordable units.

23 With me are five members that are available to answer
24 questions on DCBIA's work to date in our preliminary
25 recommendations and they're including Shane Dettmann of Holland

1 & Knight, Taylor Roethle of Foulger-Pratt, and Jeff Utz and David
2 Avitabile of Goulston & Storrs.

3 Jeff is going to quickly walk through our specific
4 recommendations, and we respectfully ask for more time to provide
5 the Zoning Commission with our full analysis of OP's supplemental
6 report circulated on Friday.

7 We look forward to continuing these collaborative
8 efforts with OP and the Zoning Commission to refine IZ Plus, so it
9 will operate as intended. Again, I thank you for the opportunity
10 for us to be able to testify this evening.

11 MR. UTZ: Great. Thank you, Lisa.

12 Can we please go to the next slide. Thank you.

13 Good evening, my name is Jeff Utz of Goulston & Storrs
14 and I am speaking on behalf of the DCBIA IZ working group. We had
15 several slides to present tonight, based on the enhanced IZ
16 formula and the model prior to Friday, but instead, consolidated
17 that presentation into a short overview for tonight based on the
18 supplemental report.

19 So, our plan is for me to summarize DCBIA's further
20 testimony and then we have a panel available for a discussion of
21 these points, if desired.

22 As Lisa described, DCBIA's primary recommendation is to
23 allow for additional time so that there can be further study of
24 the enhanced IZ program; specifically, the additional time would
25 allow for the further study of the updates to the financial model,

1 the alignment of the IZ set-aside requirements with market
2 realities and costs, and the geographical variability of rents.

3 We are aware of the urgency to move forward and we share
4 the desire for the larger undertaking here. To that end, we
5 testified on this exact point at the Council's hearings on the
6 comp plan last week when we requested an expedited approval of the
7 plan.

8 But we believe that enhanced IZ can still be put in
9 place, prior to the effective date of the comp plan, so we are not
10 asking for a long delay, but rather, a bit more time to help
11 create a tool that we think can be immediately implemented when
12 the comp plan is effectuated.

13 Next slide, please.

14 A couple preliminary recommended changes in addition to
15 the prior slide, the primary recommendation. DCBIA would also
16 like to mention two preliminary recommendations, in particular,
17 that resulted from the various case studies and analyses performed
18 by the working group. These recommended changes both relate to
19 the proposed adjustments to the IZ sliding scale set-aside formula
20 and, specifically, they include, the first one is an apples-to-
21 apples calculation of the increase and density gained through an
22 enhanced IZ action and the second is a calculation of the increase
23 in density gain to apply to the achievable bonus density for each
24 individual project.

25 Next slide, please. Thanks.

1 So, the first of those two, the apples-to-apples
2 concept. The current IZ imposes a fixed set-aside requirement
3 offset by the 20 percent increase in bonus density. The set aside
4 was based on careful calibration of the ability for the bonus
5 density to offset the initial IZ requirement.

6 Enhanced IZ imposes a greater set-aside requirement for
7 the rezoned properties. As currently drafted, the increased set-
8 aside requirement would apply even to the IZ bonus density in the
9 current zone. So, the sliding scale, we would recommend it be
10 altered to measure the increase in FAR from the current zoning,
11 including the IZ bonus to the proposed zoning, including the IZ
12 bonus.

13 Next slide, please. Thanks.

14 To the second preliminary recommended change, this
15 relates to the achievable bonus density. The current IZ set aside
16 applies to 50 percent or 75 percent of the achievable bonus
17 density. It recognizes that not all sites can achieve the full
18 bonus, due to size constraints, limitations, and concessions;
19 similarly, the rezoned properties often do not construct the
20 maximum achievable density.

21 Enhanced IZ applies based on theoretical maximum
22 density, regardless of whether that density is actually used. So,
23 DCBIA recommends that enhanced IZ acknowledges these meaningful
24 constraints that can limit the ability to maximize the permitted
25 density and, therefore, we would request that the sliding scale

1 should be measured based on the achievable bonus density.

2 Next slide, please. Thanks.

3 As Lisa mentioned, DCBIA is committed to produce and
4 agrees with the focus on producing affordable housing, but housing
5 and affordable housing production will only happen when there are
6 sufficient market incentives to redevelop property. So, we want
7 to make sure we get this right; not perfect, but usable.

8 The comprehensive plan and amendment process is still
9 underway. We have a window to get it right; not a long window,
10 but we think enough time to take a few more steps towards trying
11 to make a more usable tool.

12 We urge the Commission to give DCBIA, OP, and other
13 stakeholders a bit more time to further study the financial model,
14 set aside percentages, and propose adjustments to the regulations.

15 In a related vein, we also have a great deal of interest within
16 DCBIA membership to establish a phase-in period for enhanced IZ
17 once it is enacted.

18 DCBIA and its members are committed to working with OP
19 and the Commission to develop enhanced IZ into a tool that can
20 ensure housing production, housing affordability, and equity
21 throughout the District.

22 And, finally, we just wanted to reiterate that DCBIA
23 greatly appreciates OP's engagement on this process and the
24 updated supplemental report that was put in on Friday. And with
25 that, that brings our testimony to a close and we are happy to

1 discuss any of the points that we've made or answer any questions.

2 Thank you.

3 CHAIRPERSON HOOD: Okay. Does anybody else on the panel
4 want to speak?

5 (No verbal response)

6 CHAIRPERSON HOOD: That was it? That's it?

7 MR. UTZ: So, that is it, yeah.

8 MS. MALLORY: We're available to answer questions.

9 CHAIRPERSON HOOD: Oh, okay. I got you. Maybe I missed
10 that part.

11 All right. So thank you all very much. Let's see if we
12 have any questions or comments of this panel.

13 Commissioner May?

14 COMMISSIONER MAY: Yeah, I have one question.

15 So, Mr. Utz, your -- I mean the concern about the
16 achievable density, I mean it seems to me that what's been are
17 proposed includes some flexibility on the part of the Office of
18 Planning when a map amendment case comes before the Zoning
19 Commission. So, wouldn't it be possible in that sort of
20 circumstance to make the case that the map amendment should be
21 -- I don't know -- shouldn't strictly follow the sliding scale
22 because of the achievable density issue? I mean, isn't there -- I
23 mean there's language in there that allows for that kind of
24 subtlety, I would think.

25 MR. AVITABILE: Jeff, do you want me to take a stab at

1 that?

2 MR. UTZ: Sure.

3 MR. AVITABILE: Okay. Thank you, Commissioner May.

4 Hello, Commissioners. Good evening.

5 David Avitabile of Goulston & Storrs. So, I think the
6 answer to that, Commissioner May is there might be some
7 constraints that you could identify at that early stage, for
8 example, if sort of the lot occupancy doesn't allow you to get to
9 use all the bonus density or the density through the rezoning.
10 But there's often other things that come up in the process of sort
11 of designing a building, you know, whether it's -- if you happen
12 to be in a historic district and there are historic constraints or
13 you're working to sort of work with adjacent property owners to
14 scale back a portion of the building to work with them and
15 accommodate them to discovering site constraints like easements or
16 other issues that might prevent you are from actually achieving
17 all the density.

18 And we see this all the time. This is why any number of
19 the PUDs that we bring before you don't max out the envelope; they
20 leave some density, theoretically, on the table. And part of that
21 is, once you're in a rezoning world, you're sort of choosing the
22 category that gets you everything that you might need.

23 So, you might choose or opt into it not so much just for
24 the maximum density of that zone, but for the height that it
25 allows or the lot occupancy it allows. And so you might never

1 plan on actually using all of that density, but you really need
2 that zone for the height. You have that all the time with PUDs
3 and I expect the same thing might be true for other rezonings
4 implemented through the FLUM.

5 And so, that's where our concern is that you might
6 choose, let's say, MU10 because it gets you to a 90-foot or 100-
7 foot building, but you want to scope that building for any number
8 of reasons and you're only planning to build a 6 FAR. And in that
9 case, this would require you to do the enhanced IZ based on that
10 extra 1.2 FAR of density you're never going to use.

11 COMMISSIONER MAY: But then I still don't understand how
12 you would have it work, right. I mean, you're asserting that it
13 should be based on the achievable density, but isn't that
14 something that you have to determine when you bring the map
15 amendment forward anyway?

16 MR. AVITABILE: No. I think it would operate similar to
17 the way the IZ -- so right now under IZ you either do 8 percent of
18 the residential GFA or 50 percent of the bonus density that's
19 utilized, and maybe that's the better way to phrase this. It
20 should be based on the amount of density that you're able to
21 utilize.

22 So, what happens is that permit, you look at the GFA of
23 the building, you figure out how much bonus density that you use
24 and then 50 percent of that number becomes your affordable housing
25 requirement.

1 So, you could do the same sort of thing here. You would
2 look at the amount of the additional density gained through what
3 you're actually using. Presumably, you'd do it at the permit
4 stage. It could be a little box on the CIZC just like the other
5 one is right now, and that's when you figure it out.

6 COMMISSIONER MAY: Okay. Now I understand.

7 CHAIRPERSON HOOD: Okay.

8 COMMISSIONER MAY: Thank you, you've answered my
9 questions.

10 CHAIRPERSON HOOD: Okay. Thank you.

11 Commissioner Shapiro?

12 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

13 That was my question and Mr. Avitabile, you answered it,
14 as well. Thank you.

15 CHAIRPERSON HOOD: Okay. Commissioner Turnbull?

16 COMMISSIONER TURNBULL: Thank you, Mr. Chairman.

17 I don't really have a question per se, in that we've got
18 the OP proposal (audio interference). We've got a lot of these
19 comments. Your comments add some more complexity, or you've got
20 some changes that you want to massage.

21 So, I'm not sure where we're going to go on this
22 tonight, but it just sounds like there's a little bit of massaging
23 that's got to be done still. So, that's really all I have to say.
24 Thank you.

25 CHAIRPERSON HOOD: Okay. And Vice-Chair Miller?

1 COMMISSIONER MILLER: All right. Thank you, Mr.
2 Chairman.

3 And thank you to the DCBIA panel for your presentation.
4 Have you provided OP with specific -- I hear the
5 achievable density calculation change that you're asking for
6 instead of the available density and I'll ask OP about that or
7 we'll ask OP about that. But have you provided a specific scale
8 that's different than OP has provided, or have you provided
9 something, and they've responded, and they just haven't come all
10 the way to your position?

11 I assume that there's been a back-and-forth based on
12 what I've read with you all for a period of months now. I don't
13 know who wants -- if anybody wants to answer it or I'm even
14 assuming the right discussion has occurred.

15 MR. UTZ: So, I can take a stab at it and if folks want
16 to jump in, please do.

17 But -- so we have been working with OP on the models and
18 kind of figuring out some of the implementation of the enhanced IZ
19 formula. You know, frankly, it kind of took a long time to put
20 together the case study, so we hadn't gotten it to a point where
21 it was even really presentable until kind of late last week.

22 So, we haven't kind of walked through (audio
23 interference) percentages that would work, for example. We were
24 close to getting that. That's actually part of what we would like
25 to be able to do, hopefully, as part of this additional time. You

1 know, we have individuals and companies lined up to do it. We
2 have them having performed case studies based on the kind of prior
3 approach to the formula. So we think we can activate all of those
4 components and hopefully get some responses fairly quickly and put
5 some finer points to set asides that would, you know, potentially
6 work and potentially show green lights for folks proceeding
7 towards map amendments.

8 And so that's why we would love the opportunity to be
9 able to put some finer points in, put some data in to kind of
10 flush out what it is that we're talking about.

11 MR. AVITABILE: Yeah, and I'll add, we were prepared to
12 -- we were going to present those, some of those case studies,
13 findings this evening, but once the model shifted, we felt like we
14 really needed to go back and align our studies with the model so
15 that we weren't talking past each other.

16 And I think the case studies are particularly important
17 because they look at not only sort of comparing what you -- what
18 would happen with the rezoning and the IZ Plus scenario to (audio
19 interference) development, but also look at it in the context of
20 what the existing use of the property is.

21 Many of the properties that are targeted sort of by the
22 FLUM changes aren't vacant land; they're existing sites that are
23 already improved with, often whether it's sort of one-story retail
24 or service uses like banks or low-scale office that is sort of
25 underutilized, where there's a real opportunity to sort of create

1 the sort of vibrant corridors that the plan envisions, that we all
2 envision.

3 And what the case studies really try to look at is that
4 sort of careful calibration in place that's going to incentivize
5 the redevelopment of that land versus just keeping it as it is,
6 because the returns as-is are one number and you need to get above
7 that number. And that's sort of what we've been trying to get at
8 and there's a tension there.

9 But we've been trying to figure out from the perspective
10 of sort of our (audio interference), how do you calibrate this
11 tool to really make sure that it actually works?

12 COMMISSIONER MILLER: So how much time do you think you
13 need to get OP some specific numbers based on their model that was
14 released on Friday?

15 MR. UTZ: That's a good question.

16 Probably a few weeks, I would say. I mean, we can
17 immediately re-engage on this tonight and start working towards
18 that.

19 COMMISSIONER MILLER: And you don't think you can do
20 that during a proposed rulemaking period?

21 MR. UTZ: I fear that we might not be able to just, you
22 know, based on how long it took to kind of reach that point. You
23 know, there was just the target analysis and kind of meetings that
24 went into where we were kind of towards the end of last week, but
25 I don't want to overcommit us.

1 COMMISSIONER MILLER: Let me step back and then I'll be
2 finished, Mr. Chairman, since it's getting late. Let me just step
3 back and more generally ask the panel, does DCBIA support the
4 concept of enhanced IZ and do you support the current inclusionary
5 zoning program, because now there's been enough of these hearings
6 where (audio interference) over the time where DCBIA opposed or
7 wanted more time to work on it and then came around to being okay,
8 it seemed, based on development projects that came forward with
9 what was adopted.

10 And I just don't know where -- do you support the
11 concept -- the concept, going back to just the concept -- of
12 enhanced IZ, as opposed to just -- that map amendments that
13 provide additional density, putting aside the achievable argument,
14 map amendments that provide additional density should be subject
15 to a greater affordable housing set aside percentage. Do you
16 support the concept?

17 Because I'm not sure that you do, and if you don't, then
18 I'm not sure what the usefulness of going back-and-forth with
19 specific percentages or if they're going to be meaningful
20 percentages.

21 MR. UTZ: Yeah. So, I would say other folks should jump
22 in on this, but yeah, you know, it's a tool that can be utilized
23 to increase housing and affordable housing. I mean, that's -- if
24 utilized correctly, it's something that can actually be employed,
25 it's timely.

1 You know, we are all systems go on the future land-use
2 map (audio interference) and we testified to that last week. And
3 we know that this is a way to -- prior to this, there was a
4 discussion about being bold between the Office of Planning and I
5 think the Chair. This is an example of that. We agree. We
6 embrace the challenge. We embrace what could happen here on the
7 upside. So, yes, but we also just want to make sure that it's a
8 tool that can actually be used.

9 Our greatest fear is that, you know, everybody puts this
10 much kind of time into it and the comp plan finally gets
11 effectuated and then there isn't a tool that we can -- this
12 particular tool. There are other tools, but this particular tool
13 is something that would maybe not be implemented much or would be
14 avoided. That's our kind of our greatest fear.

15 MS. MALLORY: Let me add, I mean, we have been working
16 at this diligently. We have put countless hours into this and one
17 of the reasons we have so many panelists here today and I have
18 begged the Commission that you give us -- you know, we have all
19 these people here today because we had case studies prepared for
20 you.

21 But on Friday, everything changed, so we're here to
22 answer questions, because we already had our names here because
23 everything changed. It's not that we don't support it. We're
24 just asking for more time so then we can fill in the blanks with a
25 different set of circumstances. It's not that we don't support

1 it.

2 We're not asking you for time because we figure we'll
3 just kick the ball on down and then the (audio interference) would
4 change and we could just ignore it. We're here because it's
5 another tool. We have -- we're asking -- we'd love as many tools
6 as possible so that the City can continue to provide as much as we
7 can for our residents.

8 And so, we have continued to be partners to the Office
9 of Planning in any way that we can. Every time they have afforded
10 us the opportunity to look at the models, to talk to them, to work
11 with their teams, we have done that. We have bent over in every
12 way, shape, or form that we could do that, and you can certainly
13 talk to the deputy mayor, to Director Kubelik, and all of their
14 teams.

15 And so we are just asking for more time to provide more
16 input into the case so that at least we can inform everyone.
17 We're trying to learn, as you were trying to learn some of our
18 data so that we can all be informed so we'll have a better model
19 for the city, because we are partners in all of this. And so
20 that's what we're asking you for today: more time.

21 Because on the eve, Friday night, we had it all
22 prepared. We had slides and other things. We have just totally
23 changed. That's why you see five people here today kind of
24 saying, Oh, we'll just answer questions. That wasn't our original
25 intent. So, we're just going with the flow; again, we just want

1 | to be partners to you to make it a better city so that we can all
2 | build.

3 | COMMISSIONER MILLER: Well, I appreciate that answer
4 | and, certainly, we all want it to work and work effectively and it
5 | certainly can. "It" being the inclusionary zoning regular policy
6 | and the enhanced policy and any future changes and it's not going
7 | to work without the development community.

8 | So, thank you for coming today and we'll see where we
9 | go.

10 | CHAIRPERSON HOOD: Okay. So, I really appreciate your
11 | testimony, but I actually think -- and I hear Ms. Mallory loud and
12 | clear. This is not the first time that something has come in and
13 | that this Commission has voted. Whatever we decide to do, even if
14 | were to move forward, there's another act that's going to take
15 | place and a number of you attorneys and legal counsel have
16 | represented over the years, go ahead, we may propose, or we can
17 | work it out in between.

18 | So, I don't see why that doesn't apply here. I think if
19 | it depends on what the Commission do, I just want you to know that
20 | that's where I stand. I think it applies, the same methodology
21 | about moving forward. If we move forward or whatever we decide to
22 | do.

23 | And I hear you, Ms. Mallory and I understand that you
24 | need to continue to work. That's where that second bite of the
25 | apple always workings out for this Commission and I think that's

1 | where I would be depending upon what we decide.

2 | Commissioner Shapiro?

3 | (No verbal response)

4 | CHAIRPERSON HOOD: Commissioner Shapiro?

5 | COMMISSIONER SHAPIRO: Sorry, Mr. Chair. I was having
6 | technical difficulties.

7 | So, setting aside the achievable bonus density issue, I
8 | mean at the end of the day, you need more time to look at the
9 | models, but what will we see?

10 | We'll see small changes in the percentages at each step;
11 | I mean, is that what the product is going to look differently if
12 | there were changes in it?

13 | MR. UTZ: And so folks should jump in from the panel if
14 | you want to take that one, but I do think that's where it's most
15 | likely to manifest is the set aside percentages themselves. You
16 | know, the initial analysis that showed that there is some
17 | significant concern around where the set aside percentages
18 | resulted, based on the net gain of density, so we just need to run
19 | those same analyses with the percentage gain and kind of see what
20 | comes out with the tweaked assumptions from the model in place.

21 | So --

22 | COMMISSIONER SHAPIRO: Yeah, but --

23 | MR. UTZ: Uh-huh.

24 | COMMISSIONER SHAPIRO: No, I appreciate that and I
25 | appreciate you being frank about that because the piece that, you

1 know -- so, the percentages, it's not that they're insignificant,
2 it's just that everybody on all sides agrees that at some level,
3 there's no certainty around that because there's no certainty
4 around the market.

5 I mean, you're talking about differences in rents based
6 on geography within D.C. as a piece of it. I mean, you know, who
7 knows where we're going to be in six months or a year or in three
8 years or in five years. There's just so much movement.

9 So, it's just are hard to imagine that, you know, coming
10 up with a percentages, based upon the current models, unless
11 you're talking about radical changes in the percentages, is going
12 to -- you know, I don't even get it. I mean I get that you're
13 looking out for what makes the most sense for the industry and I
14 trust your commitment to the goals of IZ and IZ Plus; again, I
15 just don't get how the percentages are even going to be, you know,
16 how you're going to come up with something radically different.

17 MR. AVITABILE: Well, so to use an example, Commissioner
18 Shapiro, you know, originally, the model was particularly well off
19 based on the case studies for sort of higher-density steel-and-
20 concrete construction. That's sort of the reason why the OP
21 shift, you know, the last in the supplemental report is important
22 and meaningful.

23 And that was not a small change; that's a large change
24 for some of those larger projects. But it will allow those
25 projects, I think, to be more within the realm of something that

1 can go forward.

2 We haven't had a chance yet is to really look at the
3 application of the new sliding scale to other examples. So, for
4 example, under the older new model, it looked at it based on a net
5 FAR increase level. So, if you were in a zone that only allowed a
6 one or a one and a half FAR and you went up to a three FAR, you
7 were looking at it based on a one and a half of their increase,
8 which tended to be sort of in the middle of the scale.

9 Now, in sort of the new program in some situations, that
10 tends to be, you know, towards the higher end and results in an
11 additional increase. And we just have to sort of look at that and
12 model that among the different sorts of examples we were looking
13 at to sort of see, you know, in one problem, did we create another
14 where the balance is now off there. And we just haven't had a
15 chance to look at that, yet, because, you know, it's been,
16 basically, 24 hours since we sort of digested it. So, that's sort
17 of what we're looking for a little more time on.

18 But I do think that we could find something that is
19 theoretically, not a minor "out of whack" situation, but a more
20 significant "out of whack" situation from our perspective.

21 MR. ROETHLE: To add on to that -- hello, my name is
22 Taylor Roethle, Foulger-Pratt -- your analysis of bifurcating
23 between construction types, which is a very monumental shift, you
24 know, we were putting all the construction types into one bucket
25 and now you're bifurcating between Type 1 and non- Type 1, which

1 is a very drastic shift. So, you know, adding on to David, you
2 know, there's just a lot of moving pieces going on with a large
3 change in the model that we haven't received yet and we look
4 forward to that.

5 COMMISSIONER SHAPIRO: Yeah, I mean the drastic change
6 is based upon construction type, that's a significant difference.
7 It seems to me that -- it's okay. (Audio interference).

8 That's all I have, Mr. Chair.

9 CHAIRPERSON HOOD: Do you have any follow-up questions
10 or comments?

11 (No verbal response)

12 CHAIRPERSON HOOD: Okay. All right.

13 Thank you all for your presentation and I appreciate
14 Taylor Roethle being able to come in, being able to get on
15 eventually.

16 How do you pronounce your last name?

17 MR. ROETHLE: It's actually pronounced Roethle.

18 CHAIRPERSON HOOD: Roethle, okay.

19 MR. ROETHLE: So, I apologize for the delay.

20 CHAIRPERSON HOOD: That's all right. We're glad you
21 were able to make it.

22 So, thank you all very much. I appreciate your comments
23 and we'll see how we go. Thank you very much.

24 MR. UTZ: Thank you.

25 CHAIRPERSON HOOD: Okay. I'm going to ask, did the

1 Office of Planning come back up, because if you have any questions
2 or comments, because I think that's what we're going to do. So,
3 we can bring Mr. Kirschenbaum, Mr. Rodgers, and Ms. Steingasser
4 back up at this time.

5 Commissioners, I guess we have another round of
6 questions. We'll start with you, Commissioner May for the Office
7 of Planning, any questions, comments?

8 COMMISSIONER MAY: You know, I'm interested in hearing
9 what the Office of Planning has to say about a number of the
10 things that have been discussed today. I mean, from the
11 particular examples of Greater Mount Calvary and their concerns to
12 the concept of the bonus MOR bonus density proposal to the things
13 that we most recently heard on this panel.

14 But I think, you know, and I think we want to hear
15 responses on all those things, but I think my immediate question
16 has to do with the Office of Planning's initial request that we
17 take action tonight; although, it was -- the slide presentation
18 was take action on Thursday, but tonight, Thursday, you know,
19 whatever.

20 We've heard testimony and, you know, some of that makes
21 sense to me. I would like to understand what it would mean if
22 there was, you know, that delay. I mean, I don't remember the
23 specification of what you thought the timing would be. I know you
24 wanted to get it before NCPC at their December meeting. That's
25 the milestone you're trying to hit?

1 MS. STEINGASSER: That's one of the milestones,
2 Commissioner May. You need at least five days to amend the agenda
3 so we couldn't make it on Thursday's agenda. So, if we took the
4 proposed action tonight, that would allow us to get to NCPC in
5 December and the Commission could take and consider a proposed
6 action at their December meeting, which would have the effect of
7 the case being done in this calendar year and then we could move
8 on to the next.

9 If we postponed action, it would be the December meeting
10 before the Zoning Commission took proposed action, then it would
11 get referred to NCPC for January and it would be either late
12 January or early February before the case got completed. So, it
13 was just a matter of trying to move this as cleanly and quickly as
14 we could and hopefully get it closed out before the (audio
15 interference) begins. So the timeline just got so long so
16 quickly.

17 COMMISSIONER MAY: Uh-huh. So, I mean, I do kind of
18 want to have more information and so I'm wondering if what -- you
19 know, what if we were to have, you know, handled this particular
20 case in special public meetings, apart from the regular schedule.
21 So, we could take it up theoretically -- I know we have a hearing
22 on the 30th that I don't anticipate to be very complicated.
23 That's the animal boarding text amendment. If we took it up on a
24 special public meeting that day, because that will be on the NCPC
25 agenda.

1 MS. STEINGASSER: I would have to ask Ms. Schellin if
2 that is a (audio interference) to get that forwarded to NCPC.

3 MS. SCHELLIN: Yes. I mean, we could forward it to them
4 and I think if we got it to them and let them know it's coming, if
5 you've been working with them, then they may go ahead and still
6 put it on their, you know, have it on their radar to put it on
7 their calendar for their December meeting.

8 MS. STEINGASSER: That would work. That would give us
9 two extra weeks -- well, let's say a week, 10 days because of the
10 holidays --

11 COMMISSIONER MAY: Right.

12 MS. STEINGASSER: -- to respond to some of the (audio
13 interference).

14 COMMISSIONER MAY: An alternative would be to take it up
15 next Monday at a special public meeting, but I don't know if
16 that's -- I don't even know what that case is (audio
17 interference).

18 I just feel like, you know, and I really feel bad about
19 this because I don't want to dump a lot of extra work on you and
20 tell you to sort of hurry it up and get it to us over the holidays
21 or before the holiday, so I feel bad for even suggesting it, but
22 I'm just thinking that having that, you know, having a little bit
23 more time to understand and address some of these questions that
24 have come up in the hearing might be helpful.

25 So, I'll leave it alternative that, rather than ask for

1 specific answers on my other questions and see what the rest of
2 the Commission is thinking about.

3 CHAIRPERSON HOOD: Thank you, Commissioner May.

4 Yeah, let's see how it goes. That's one option. There
5 may be some other options that may come up from other (audio
6 interference). We'll put that in the parking lot.

7 Let's go to Commissioner Shapiro.

8 COMMISSIONER SHAPIRO: Mr. Chair, can you hear me?

9 (No verbal response)

10 COMMISSIONER SHAPIRO: I'm just having some weird
11 technical issues with my computer.

12 So, similar to Commissioner May, pardon my ignorance,
13 what stops us from taking proposed action and then just delaying
14 when we take a final action?

15 CHAIRPERSON HOOD: That question is to me, Commissioner
16 Shapiro?

17 COMMISSIONER SHAPIRO: It's kind of to you, yeah.

18 CHAIRPERSON HOOD: Okay. So, you're saying, what's
19 stops us?

20 We can do proposed, and like I stated earlier, if we
21 decide to do proposed, some of the questions -- I haven't heard
22 from everybody -- but some of the questions that we are looking
23 for answers to, because I have some, along with Commissioner May,
24 we do like we normally do. You know, I can tell you, we have, at
25 times to propose on what we had, and it looked like something

1 | totally different when we got ready to do the final and we don't
2 | mind holding it up at that point.

3 | So, I don't know. It depends on what all of us decide
4 | to do.

5 | COMMISSIONER SHAPIRO: I'm asking the question in public
6 | response to the last panel who was thinking that they didn't think
7 | there would be enough time between proposed and final. It's like,
8 | well, we decide how much time there is between proposed and final.

9 |
10 | And where Ms. Steingasser is coming from is more -- the
11 | point (audio interference) is around when we take proposed. I
12 | think that's what I'm hearing.

13 | CHAIRPERSON HOOD: So, I think you and I are saying the
14 | same thing, because I think it's -- Ms. Schellin, is it 30 or 45
15 | days between proposed and final?

16 | MS. SCHELLIN: Well, it ends up being probably at least
17 | 40, 45 because you have to have it published. It's a 30-day
18 | comment period for the public.

19 | And we refer it to NCPC for a 30-day comment period, but
20 | we have to first get that proposed we're making from the Office of
21 | the Attorney General, who will work with OP on that language. So,
22 | you know, it's going to be a minimum of probably 40 by the time it
23 | gets published.

24 | COMMISSIONER MAY: So, we wouldn't even be able to take
25 | it up for a final in December --

1 MS. SCHELLIN: Of January.

2 COMMISSIONER MAY: No, I know, but Ms. Steingasser had
3 suggested December and I don't think that's possible.

4 MS. SCHELLIN: December for NCPC is what she's saying.

5 COMMISSIONER MAY: No, I think we were talking about the
6 December final decision.

7 MS. STEINGASSER: We were hoping that it would be able
8 to be (audio interference) in December.

9 MS. SCHELLIN: No, there's nothing in December that
10 would allow you to get finalized.

11 CHAIRPERSON HOOD: So let me just opine. Let me just
12 say this. Commissioner Shapiro, you are exactly correct, the
13 Zoning Commission can delay final action.

14 COMMISSIONER MAY: So, I want to speak to that for a
15 second because I think that the issue is less about the time
16 between proposed and final and the content of any changes that
17 might occur, because we run the risk that we would have to re-
18 advertise.

19 CHAIRPERSON HOOD: Right. I got you. I understand
20 that.

21 COMMISSIONER MAY: That's the risk, and that's why I
22 thought a little more information, a little more time would
23 actually be helpful in avoiding that. We'd get a better proposal
24 out of it.

25 You know, it requires that last panel to, you know, work

1 day and night between now and Friday or something like that, but,
2 you know, I think they're used to that. They're all lawyers in
3 big firms, so they know how to do that.

4 CHAIRPERSON HOOD: Okay. So, Peter Shapiro and Peter
5 May are all right.

6 So let's just get through this. We have two different
7 things in the parking lot. The parking lot is getting full now.
8 So, we have two different issues in the parking lot. I kind of
9 maybe like both of them, but let me hear from Commissioner
10 Turnbull, as well.

11 COMMISSIONER SHAPIRO: But --

12 CHAIRPERSON HOOD: I'm sorry, Commissioner Shapiro?

13 COMMISSIONER SHAPIRO: (Audio interference), as well,
14 but if we want to just discuss the process first and then come
15 back, let's do that.

16 CHAIRPERSON HOOD: Let's do process first.

17 COMMISSIONER SHAPIRO: Okay.

18 CHAIRPERSON HOOD: Commissioner Turnbull?

19 COMMISSIONER TURNBULL: Mr. Chair, the Department of
20 Transportation wants less parking, so we've got to try to get rid
21 of some of these things in the lot.

22 I would -- I guess my concern is if we took proposed
23 action, and I'm not opposed to taking that, but like it's been
24 said, if there are going to be changes, significant changes, and
25 whatever that really means, I think Ms. Steingasser has got to go

1 back again to NCPC, I guess, with a revised -- if we're going to
2 change it, then we're going to have to re-advertise it.

3 So, I don't know what we gain by going so fast. I mean,
4 if we think we can do it and it's still going to work taking
5 proposed and then we're going to delay final and then we're going
6 to make some changes, we've done that before, too. We've gone
7 through several final meetings, final -- where we haven't taken
8 anything; we've come back and asked the applicant to make changes.

9 In this case, the applicant is OP, but -- so, I don't
10 know what we gain. I think we want to get it right. I think we
11 want to get it right and whatever right finally is, I know that
12 even when it's right, we'll probably still make changes in the
13 future anyways. We're going to find that we're going to fine-tune
14 it as we go along.

15 But I think right now we ought to at least take a -- you
16 know, the last panel had a lot of different things in there that
17 was -- I mean, not a lot, but this whole thing about achievable,
18 and we'd like to get OP to respond to that and some of the other
19 comments that were made.

20 So, I don't know how we -- we can take proposed action
21 tonight based upon insufficient information for us to make a
22 decision on it and still go forward with the idea that we're going
23 to get those answers as we go forward, but I think I'd like to
24 take a -- to have them take some more time and get some answers
25 back to us so that OP, we can -- if we have a special public

1 meeting on the 30th and we can decide something, I would be in
2 favor of doing that, also.

3 My other question for OP, which I didn't ask in the
4 beginning, was that map amendments, and we go to these map
5 amendments and we -- what about a design review, is that going to
6 come into play with the design review?

7 I mean, I'm going back to last week where we were all
8 struggling with the fact that we had an issue with design reviews.

9 Is this somehow going to play into that to help us out or no?

10 MS. STEINGASSER: Not this case. The next case, what
11 we're calling IZ XL. That's where we're going to be looking at
12 the existing matter of ripe scenarios, whether they're design
13 review or just regular matter-of-right that is not subject to IZ
14 (audio interference), so it'll be the second case.

15 COMMISSIONER TURNBULL: Okay. All right. Thank you.

16 CHAIRPERSON HOOD: I think that was a good point,
17 Commissioner Turnbull, the parking lot is getting full.

18 Let's go to the Vice-Chair and then I'll make my
19 comments and we'll come back, and we'll ask another round.

20 COMMISSIONER MILLER: Thank you, Mr. Chairman.

21 So, yeah. So on the process issue, there are -- you
22 know, on the one hand, you know, I'm ready to vote in favor of
23 proposed rulemaking because I strongly support, as I think the
24 Commission does, this concept of enhanced inclusionary zoning and
25 wanted to move forward and we want to get to this XL IZ case where

1 we all have a lot of issues about exemptions and, you know,
2 applicability that we want to get to and don't want to delay that.

3 On the other hand, I think there have been a number of
4 questions that have been raised in our public hearing record. I
5 think I started out by saying I wanted to see a matrix from OP, a
6 summary of the major issues or concerns or suggestions that were
7 brought forward in our public hearing today and in the record and
8 have OP's response, including the ones that Commissioner May
9 referenced.

10 Mount Calvary, I mean, I'm ready to make a decision on
11 that tonight, but we've got to make a decision, because it's not
12 in the proposal right now to include if (audio interference) this
13 IZ Plus would apply to Mount Calvary's case. Going forward, as I
14 understand it, the way, unless we put some language in there and
15 there's no language that's before us.

16 So, I think we would benefit from some time to get
17 information that we can go through in our next set of questions to
18 OP, get answers to questions about suggestions that have been
19 brought forward or concerns that have been raised. And I do
20 propose rulemaking that's more likely to be the proposed
21 rulemaking that is similar, substantially similar to the content
22 as the final rulemaking, so we don't have to re-advertise;
23 although, I have no problem with re-advertising. We've done that
24 in the past when we've had to when there are changes that come in
25 and we've suggested, and people have commented on our proposal.

1 But I think there are enough outstanding questions that
2 it would be useful to have some time and we've had requests for
3 more time. You know, I hesitate to say, you know, when you have
4 the DCBIA and Committee 100 asking for more time I think we're
5 probably doing something right to be able to go forward, but we're
6 not -- (audio interference) giving them more time, but be that as
7 it may, I've now offended the entire city, I think we could use a
8 little more time to have some answers to questions before we
9 proceed to proposed rulemaking which could happen, then, November
10 30th or I think even could happen at our December meeting.

11 You know, if there's some magic associated with the
12 future land-use map amendments that are pending in the comp plan,
13 that are pending in the Council -- the comp plan amendments that
14 are pending in the Council, I heard Chairman Mendelson at a press
15 conference today, that he's going to deal with it in January and
16 February. It sounded like first reading and second reading in
17 January and February, which wouldn't become law after the
18 congressional review and NCPC review for that process until March
19 or April at the earliest.

20 So, I think if we even took action in December and
21 January, it could work with having the IZ enhancement in place way
22 before the comp plan amendments upzoning -- up densities if there
23 are any, are in place.

24 So, I've rambled too much, but I think we need a little
25 more time, whether it's the 30th or December, I'm in favor of.

1 CHAIRPERSON HOOD: Thank you, Vice-Chair.

2 I will say this that a former mayor told me that when
3 everybody is mad with you, Hood, that means you're doing your job.

4 So, I wanted to say that to you, Vice-Chair, because the way it
5 sounds, I wanted to kind of help us frame that because it's not
6 that we're taking anybody's side. If people are upset with
7 whatever decisions we make, that means that we're taking in
8 whatever they said under consideration and he told me, he said, If
9 everybody is mad with you, Hood, that means you're doing your job.

10 Now, my comments about what we were talking about, I
11 think that Commissioner May's suggestion is best from what I've
12 heard, but I would rather go with Commissioner Shapiro tonight,
13 but I think the Vice-Chair also mentioned about Greater Mount
14 Calvary, and once we do our next round, I want to mention I do
15 have some proposals that have already been submitted that I want
16 us to deal with on Greater Mount Calvary and the other issues,
17 because I think it's not that many. But I don't necessarily want
18 to belabor this too long.

19 So, unfortunately, there may have to be some work over
20 the holiday or maybe before the holiday or whatever the case may
21 be, but I think in this case, from what I've heard from all my
22 colleagues, I think Commissioner May's pulling forward is best.
23 That way, we cutback. We're trying to reduce work on everybody,
24 even though we have to do it up front on OP.

25 But we would have to re-advertise, which could cost us

1 | some more time and we would go on like that. So, unless I hear
2 | something otherwise, we will adopt, as far as a process, what
3 | Commissioner May mentioned about the 30th.

4 | Okay. So, I'm seeing thumbs-up. I'm always looking at
5 | you, even though you all keep moving. So, there are thumbs-up.

6 | So, we'll do Commissioner May's proposal. I hope he
7 | remembers it, because I don't, but the question, then, Ms.
8 | Schellin, before we go and do our other round, what time would we
9 | do that, because we start at 4:00?

10 | MS. SCHELLIN: Do you guys think you need 30 minutes or
11 | an hour? Forty-five minutes?

12 | CHAIRPERSON HOOD: Commissioner May, it was your idea so
13 | ...

14 | MS. SCHELLIN: And it would only be proposed actions, so
15 | you're not talking about another hearing. So it would only
16 | involve you guys and the Office of Planning if we had follow-up
17 | questions for them.

18 | COMMISSIONER SHAPIRO: This is December 17th?

19 | MS. SCHELLIN: December 30th -- I'm sorry -- November
20 | 30th.

21 | CHAIRPERSON HOOD: November 30th for a special public
22 | meeting.

23 | COMMISSIONER MAY: Yeah, I mean, I don't know. (Audio
24 | interference) we're expecting a large crowd of people to come in
25 | for the hearing at four o'clock, but, you know, it's somewhere

1 between 30 minutes and an hour, I think.

2 CHAIRPERSON HOOD: So, could we do it after the hearing?

3

4 MS. SCHELLIN: You want to do it after?

5 We could just -- I could publicize it for, say, 4:15 or
6 immediately following the hearing.

7 CHAIRPERSON HOOD: Is that hearing that fast, 4:15?

8 MS. SCHELLIN: Well, I mean just in case you finish it
9 at 4:20. You know, if I say 4:30 or 4:45, then you've got to
10 wait. I mean it's up to you guys.

11 CHAIRPERSON HOOD: Okay. I don't even know what the
12 case is. So, yeah, let's do 4:00 -- and if y'all fine with doing
13 it afterwards ...

14 COMMISSIONER SHAPIRO: That's fine.

15 CHAIRPERSON HOOD: Okay. So we'll do it after --

16 MS. SCHELLIN: And we'll advertise it for 4:15, but it
17 may not happen until 4:30 is what I'm saying.

18 CHAIRPERSON HOOD: Okay.

19 MS. SCHELLIN: That way, we're safe. If you finish at
20 4:20, you can immediately start.

21 CHAIRPERSON HOOD: Okay. And you have me looking to see
22 what we're doing on the 30th.

23 Okay. All right. So, let's do that, 4:15 on the 30th,
24 with what Commissioner May proposed. We're going to move in that
25 (audio interference). Hopefully, we're all on the same page.

1 And let's do our round of additional -- do we have a
2 round of additional questions that we want to ask the Office of
3 Planning to expound upon, so they'll be ready for the 30th?

4 Commissioner May?

5 COMMISSIONER MAY: So, I'm not looking for answers at
6 this moment. I am interested in -- but, you know, it's up to the
7 Office of Planning whether you want to provide something in
8 writing or incorporate into whatever your further report is before
9 leaving on the 30th, but my specific concerns have to do with, you
10 know, the specific case that was raised, Greater Mount Calvary, it
11 seems to me that that is something where, you know, it could be
12 covered by the existing language that allows for some flexibility
13 and further reporting on a specific map amendment case, but, you
14 know, I'm interested in hearing what Office of Planning has to say
15 about that.

16 The proposal that unzoned land should be excluded, not
17 that I'm particularly sympathetic to that, but I am interested in
18 hearing what the Office of Planning has to say about that.

19 I think that the -- I don't fully understand what's
20 being -- what was being discussed about having a matter-of-right
21 IZ bonus, you know, how that would actually work. And I know
22 we're not going to incorporate that into this action, but I'm
23 interested in seeing what the Office of Planning has to say about
24 that particular suggestion.

25 And then, of course, the concerns that were raised by

1 | the DCBIA panel having to do with the financial model, the apples-
2 | to-apples issue and then the achievable density.

3 | I would say I don't, you know, none of those really were
4 | a great concern to me. I mean I think the financial model, you
5 | know, the specter that we could be doing something that would
6 | actually discourage development, as opposed to encouraging the
7 | right kind of development, I think is a concern, but I think a lot
8 | of this has to do with the, you know, the overall uncertainty and
9 | I feel like -- I mean, I am inclined at this moment to, you know,
10 | take chances and to do something and risk that we could wind up
11 | having some unintended consequence because I'm actually fairly
12 | confident that, you know, the developer -- the development
13 | community will find a way and that there will be a way for this to
14 | work because they don't, you know -- I don't think they want to be
15 | under-building on anything and I think they want to take advantage
16 | of that potential to build bigger and better things and to produce
17 | more housing and to produce more affordable housing.

18 | So, I'm not as nervous as the DCBIA crowd wants me to
19 | feel, but I definitely want to have the Office of Planning's
20 | assessment of their particular concerns to know whether it's --
21 | whether they really are concerns for us.

22 | So, I've rambled a bit. I don't know, Ms. Steingasser,
23 | whether you and your team want to say anything to those or whether
24 | these are all things that you feel better just answering in
25 | written form?

1 MS. STEINGASSER: I think I'd like to say a few things
2 and I'll let my colleagues add in.

3 I think the issue of the new matter-of-right with extra
4 IZ, that's not before the Commission in this case. It's a (audio
5 interference) like that's something we were looking at as part of
6 the next case, where we are looking at the more matter-of-right
7 expansion, but that's not in this case. So, if it's all right, I
8 would rather put that off till next year and not include that in
9 this case.

10 The other thing is with the Mount Calvary case, the text
11 proposed by the representative this evening was really quite broad
12 and it far exceeded the Mount Calvary case and it proposed an
13 exclusion of all cases filed prior to the effective date of this
14 case, which means that people now are on notice that they need to
15 file a map amendment really lickety-split in the next two months
16 to (audio interference).

17 So, if the Commission is all right, we would ask for --
18 that we be allowed to really pare that down and use this hearing
19 date as the date, as opposed to the effective date. Because
20 that's what we were talking --

21 CHAIRPERSON HOOD: Ms. Steingasser, can I answer that -
22 - can I interrupt. I just want to read -- I would suggest
23 minimizing. This may be in tune with exactly what you just said
24 (audio interference) to applications filed prior to this hearing
25 on behalf of Greater Mount Calvary.

1 And I think there's another case, also, and if anybody
2 wants to be excluded, then they have to do, I guess, as you all
3 have proposed, a specific history of why they should not have to
4 do IZ Plus.

5 But as far as Greater Mount Calvary, to me -- and I
6 think there's another case; I think there were two that were
7 mentioned -- but that's some language that when it gets to my
8 turn, I'm going to bring it up again. But since we want it, I
9 wanted to chime in and, again, it says, suggest minimizing (audio
10 interference) to applications filed prior to this hearing, which
11 would take care of the Greater Mount Calvary issue and others.

12 So, I think we're saying the same thing. I just want to
13 make sure.

14 MS. STEINGASSER: Yes, sir, I think we are, just
15 narrowing it back down.

16 Okay. The unzoned land exclusion, we don't agree with
17 it, but we're happy to address that in writing.

18 Then, I don't know, Art did you want to talk to some of
19 the other issues, talk (audio interference) about the model or are
20 you more comfortable doing that in writing?

21 MR. RODGERS: Yeah, I think it would be better to do it
22 in writing because ideally --

23 MS. STEINGASSER: You're -- we can't hear you.

24 MR. RODGERS: Oh, I'm sorry.

25 MS. STEINGASSER: Your microphone is not near your

1 mouth; it's up on top.

2 MR. RODGERS: There we go.

3 (Laughter)

4 MS. STEINGASSER: As much as I'd love to hear what's
5 inside your head ...

6 MR. RODGERS: I'm not using -- I'm not used to using
7 this.

8 So, yeah, I think it would be better to have it done in
9 writing. I think I'm a little concerned based on DCBIA's comments
10 about how long it would take them to give us more detailed
11 feedback and then what would be our turnaround time to include
12 that for anything by the 30th. So, I think that would be the only
13 concerns that I would have.

14 MS. STEINGASSER: Okay. All right. Thank you.

15 Jonathan, is there anything that you wanted to add about
16 these comments?

17 MR. KIRSCHENBAUM: Nothing additional to add.

18 MS. STEINGASSER: Okay. Thank you.

19 CHAIRPERSON HOOD: Commissioner May, are you complete?

20 (No verbal response)

21 CHAIRPERSON HOOD: Okay. Commissioner Shapiro?

22 COMMISSIONER SHAPIRO: Thank you, Mr. Chair.

23 I think Commissioner May captured them all quite well.
24 I mean I just had a slightly different reaction. I'm not sure it
25 matters, but I mean I'm curious, Ms. Steingasser, to hear your

1 rationale around the unzoned land, because I was actually taken by
2 that argument and saw where that might be useful to explore.

3 MS. STEINGASSER: Well, I mean right off the bat, these
4 are large pieces of federal land in very high- opportunity --
5 what we would consider high-opportunity areas; areas of the city
6 that have, you know, great opportunity. And if we don't use them
7 when they get redeveloped and come out with federal office and get
8 some kind of affordability requirement on them, it would be kind
9 of like (audio interference) they're aware. It's the classic case
10 of where it should be is how I would look at it.

11 COMMISSIONER SHAPIRO: Yeah, I mean, I think working
12 with (audio interference) you would get some kind of affordability
13 out of it, it just might not be -- the certain -- I think where I
14 was taken by what Mr. Skinner said is that the certainty,
15 especially because of the complexity of these (audio interference)
16 outweigh the additional bump you might get from something like
17 having IZ, Expanded IZ applied to it. So, I think that's really
18 worth thinking about is on these very few large, signature
19 projects, certainty matters.

20 MS. STEINGASSER: It does, and that's part of why the
21 idea of achievable density is not appealing to us because we don't
22 know what that is. If it gets rezoned to capture height, well,
23 that's a whole different kind of value that we don't have access
24 to.

25 But I think when it comes to these large federal sites

1 that are transferring out of a complete office use into a mixed-
2 use residential, I mean, we put this on the street in January of
3 this year for the sole purpose of putting everybody on notice that
4 this was coming, that this was important. You know, the mayor has
5 got her statements out about the housing crisis. So, to reduce
6 the requirement on these really large sites that are in the prime
7 locations for providing affordable housing, it's very difficult
8 for us to say we think that would be the right answer.

9 COMMISSIONER SHAPIRO: Okay. No, I hear you. I hear
10 you.

11 And the achievable bonus density, yeah, I just don't
12 quite get it. Despite what (audio interference) said, I just
13 don't quite get how you come to that.

14 MS. STEINGASSER: Yeah. And that gets to the issues
15 that two of the commissioners raised earlier about predictability.
16 How does somebody understand what the IZ requirement is going to
17 be if it doesn't get triggered until the building permit? And
18 what happens when the land keeps selling and maybe the next guy
19 doesn't want to do the height, because remember, part of this
20 program is that the zoning map needs to reflect what that IZ is
21 going to be and it'll be in an order. So, we need to have some
22 predictability up front on what that's going to be. But that is
23 something else that we'll address in our supplemental.

24 COMMISSIONER SHAPIRO: Okay. And that's all I had, Ms.
25 Steingasser.

1 And Mr. Chair, the only thing I'd say is even these
2 brief snippets of conversations reenforce this in me why we might
3 have been okay in being in a position to take proposed actions,
4 because I'm not sure, I'm just not quite sure how much is really
5 going to come out of this beyond the few small pieces, you know,
6 the church, a few other small pieces that we can, you know -- I
7 don't think we're going to see some big changes between now and
8 then, but (audio interference) I'm fine with the process (audio
9 interference) and that's all I had, Mr. Chair.

10 CHAIRPERSON HOOD: Okay. Thank you, Commissioner
11 Shapiro.

12 I agree with you, everybody is right tonight.

13 (Laughter)

14 CHAIRPERSON HOOD: So, we're (audio interference) with
15 them, I agree with you, too.

16 Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Thank you, Mr. Chair.

18 Well, Ms. Steingasser, I'm glad to hear you reassure me
19 that matter-of-right IZ was not on the table. I didn't think it
20 was, but I'm glad to hear that we're not looking at that tonight.
21 But there were questions brought up about it, so I'm like, I
22 don't remember that being there.

23 The unzoned land can be a ball of wax. That's a tough -
24 - I mean, the Hoover Building was brought up. I think we need to
25 look at those, but you've got to look at it in certain contexts.

1 So, I don't know what you're going to come up with, but that's a -
2 - that could be a game changer in a lot of different ways, but I
3 think it's something you've got to tread very carefully on, too.

4 Then looking at the context of the lands around it, the
5 properties and everything else, and what can it be? Could it be
6 different? And what's the Federal Government, how they're going
7 to get rid of it.

8 So, anyways, I like the idea of what you said about
9 tightening up the language for tonight from the hearing so that we
10 don't have this open end of people trying to submit amendments ad
11 infinitum to us.

12 The other thing that I get confused about -- and I
13 always hate when we start dealing with financials and modeling. I
14 mean, I don't know how many (audio interference) cases I've sat on
15 where someone wants relief, and they bring in all these
16 financials. Well, if we don't get that extra, we can't succeed.
17 We're not going to --

18 And a lot of it, to me, it's not a gamesmanship, but a
19 lot of times you can make numbers do what you want the numbers to
20 do. I mean, I think there's a certain interpretation on how you
21 do the numbers, and it depends on how you lay these numbers and
22 what qualifications you put on the numbers and how you do it.

23 So, I know you guys, your team has done a great job of
24 modeling and looking at things, and I think there's a lot of
25 effort that goes into that. But I guess (audio interference) more

1 | so from the development side when they come in with their numbers
2 | and how are they skewing them a certain way?

3 | So, I think there's a little bit of interpretation
4 | that's going to have to be made when we look at different modeling
5 | techniques and modeling scenarios and what they're going to come
6 | up with. I think it may not be apples-to-apples. There might be a
7 | certain give-and-take on how those numbers come in.

8 | So, Commissioner Shapiro was saying, I don't know how
9 | much more we're going to get out of this. Are we going to get
10 | something that's really meaningful and that tells us something
11 | that was going to change anything? Is there going to be something
12 | in there?

13 | I mean the bottom line on this is we want to increase
14 | affordable housing in the city. I mean IZ is the key that this -
15 | - the whole point of us doing this.

16 | So, there's a lot of issues that people want to do and
17 | take advantage of, but I think we've got to be careful, look at
18 | our focus, is that we need to get this done. We need to get
19 | affordable housing and IZ in the way we think it should be done.
20 | So, I'm just throwing that out there.

21 | Anyways, that's it from me, Chairman.

22 | CHAIRPERSON HOOD: Thank you, Commissioner Turnbull.

23 | You're right, too.

24 | Vice-Chair Miller?

25 | COMMISSIONER MILLER: Thank you, Mr. Chairman.

1 Yeah, I've listened to my colleagues and I've listened
2 to OP's responses. If it makes any difference, Mr. Chairman, I
3 would be ready to go forward this evening and just get whatever
4 additional information we would need between proposed rulemaking
5 and final rulemaking.

6 And I support your language, Mr. Chairman, if that's
7 what you're proposing, because that's one of the things you would
8 be taking care of this evening, the Mount Calvary situation where
9 map amendments filed prior to this hearing would not be subject
10 to, automatically subject to IZ Plus.

11 And I've heard the answer that the matter-of-right IZ
12 option would be something that would be explored or evaluated as
13 part of the next case, IZ XL, which I would like it to be
14 evaluated and explored and brought to us, that evaluation. Not
15 necessarily brought for the proposal, but the evaluation of it.
16 So, I think we can get that information during -- before final
17 rulemaking, whenever that is.

18 And I think I wanted to -- and maybe you can answer this
19 question off the top -- I think we had this question at set down,
20 Ms. Steingasser or Mr. Kirschenbaum or Mr. Rodgers, just refresh
21 my memory, why aren't we doing IZ Plus for map amendments that are
22 associated with related PUDs applications? Why aren't we -- why
23 isn't -- why shouldn't we do IZ Plus?

24 MS. STEINGASSER: Well, the idea originally was when we
25 started seeing the transition from PUDs to map amendments because

1 of all of the appeals that were going on, we wanted to find a way
2 to capture the equivalent of benefits and amenities that we would
3 (audio interference) process, and so we (audio interference) IZ
4 Plus allowed us to capture some of that.

5 It seems unfair to put that as a mandatory requirement
6 (audio interference), because they're already negotiating with the
7 (audio interference).

8 Now, it may turn out that they elect to just (audio
9 interference) their benefit package or the Commission may find
10 that they don't -- the balancing doesn't equal without it, but as
11 far as it being a mandatory requirement (audio interference) try
12 and balance the flexibility with other benefits. It felt like it
13 was too (audio interference) as a (audio interference).

14 COMMISSIONER MILLER: Okay. I understand the rationale.

15 I, personally, when my -- the IZ Plus (audio interference) the
16 baseline, as long as we're not addressing the MFIs, I wouldn't
17 mind that being a baseline (audio interference) the public (audio
18 interference) --

19 MS. STEINGASSER: Well, I -- I'm sorry.

20 COMMISSIONER MILLER: Yeah, go on.

21 MS. STEINGASSER: Our concern was nobody (audio
22 interference) a PUD if they're getting nothing more than they
23 would with a map amendment and IZ Plus, then they wouldn't do the
24 PUD. And I think the PUD is still our preferred (audio
25 interference) because of the public involvement that it permits

1 and the review of the project, the details of the project, as
2 opposed to just the development envelope, which is what the IZ
3 Plus and map amendment gives us.

4 COMMISSIONER MILLER: Okay. Well, I -- that's a
5 reasonable response and I think that if we get to a point where IZ
6 Plus exists and these PUD with map amendments come before us, they
7 can be (audio interference) or go beyond the Regular IZ as part of
8 the whole negotiated package. So, I think that's a reasonable
9 response and so I don't need any information on that at this
10 point.

11 I would like information for final rulemaking. I'm
12 always concerned about exemptions. So, we're exempting out all
13 these zones from IZ Plus that -- Hill East, North Howard Road,
14 North Howard Road, Southeast Federal Center, St. Elizabeth's,
15 Union Station North, Walter Reed, Barry Farm presumably because
16 they had had more affordable housing requirements than what --
17 they had pre-existing affordable housing requirements that, in
18 most cases, if not all, are way beyond what the IZ would require.

19 I think I would just like a list of, at some point
20 before final rulemaking, as to what those affordable housing
21 requirements are in each of those zones so we can -- because I
22 think they're somewhat different in each zone. It's hard to keep
23 track, and I just want to make sure that they are all beyond the
24 IZ Plus affordable housing.

25 In any case, there probably wouldn't be a map amendment

1 associated with those particular zones. That's why we created the
2 zones, so they wouldn't have to go through a whole other process
3 to do the development that we wanted to see there. But it would
4 just be good to see what the affordable housing requirements are
5 in each of those zones that we're exempting from this process.
6 And that's all I have to say.

7 Mr. Chairman, I'm ready to go forward tonight, November
8 30th, whenever you want to go forward with proposed rulemaking.

9 CHAIRPERSON HOOD: Okay. Thank you all.

10 Let me ask, Ms. Steingasser, because I, too, am ready to
11 go forward tonight, especially since we dealt with the Mount
12 Calvary issue. And I understand that some of the other things
13 that were mentioned during this hearing will come at a later time
14 in another case like the authority issue, like what Ms. Cort
15 and what Ms. Richards talked about when I said I'm in between.
16 You know, I can understand how it would be an analysis and that it
17 will come later.

18 The other issue is about the DCBIA having time, and I
19 mentioned this earlier. I still think they have time later in
20 between from proposed to final, but I also think their input is
21 very valuable, as well, as the residents. So, that's kind of
22 where I am.

23 But, you know, after hearing everything from everyone,
24 Commissioner May, Commissioner Turnbull, Commissioner Shapiro, and
25 Vice-Chair Miller, I think the best option is what Commissioner

1 May proposed. While I'm not necessarily in favor of it, I think
2 we can go ahead and move forward, but I think his option is the
3 best one.

4 But Ms. Steingasser, you know, I know the issue with
5 NCPC -- and this (audio interference) to Ms. Steingasser and to
6 Ms. Schellin -- as much as this city is talking about affordable
7 housing, I don't want us to be the holdup. If we do the 30th --
8 and I know you all went through the analysis of how it works at
9 NCPC -- are we still in a good time frame to have it done so, I
10 guess, by January or the end of January I think I heard, or the
11 beginning of February. Are we still on time to do that?

12 MS. SCHELLIN: The time to (audio interference) I mean,
13 assuming that (audio interference) and OP can get the language
14 done satisfactorily and we can get it published within a week, we
15 could get it done fairly early in January.

16 CHAIRPERSON HOOD: So, let me go back to Commissioner
17 May, because I think, Commissioner May, there are -- and
18 Commissioner Turnbull, as well, I'm not sure where you were on
19 that -- there seems to be a big consensus about moving forward
20 tonight with a proposed action.

21 COMMISSIONER MAY: I don't object.

22 CHAIRPERSON HOOD: You don't?

23 COMMISSIONER MAY: No.

24 CHAIRPERSON HOOD: Oh, Commissioner Turnbull?

25 This is getting ready to be really easy.

1 COMMISSIONER MAY: I can go either way. No, I mean at
2 this point, I mean I tend to want to be a little bit careful about
3 these things, particularly if we are at risk of making decisions
4 on something and then having to, you know, take a significantly
5 different direction or not even significantly, just something
6 that's substantively different that could cause us to re-
7 advertise. I think that's the risk.

8 But if everybody else is comfortable and thinks that
9 things are not going to change significantly as a result of this,
10 you know, maybe some tweaking of the scale or something like that
11 may come of it, then, you know, I'll take that risk, too. I mean
12 I certainly think that this is a time that we need to be acting
13 and not, you know, overanalyzing. So, I'm okay with that.

14 And it seems like the rest of the Commission is so I'm
15 not going to, you know --

16 CHAIRPERSON HOOD: Sounds great.

17 Let me ask, Commissioner Turnbull, are you fine, too? I
18 think you said either way, right?

19 COMMISSIONER TURNBULL: As I've said, we've done this
20 before. We've taken proposed action. If we don't find something
21 totally right, we don't have to jump ahead and take the final
22 until we're actually happy with everything. So, I'm good with
23 going ahead with it.

24 CHAIRPERSON HOOD: Okay. And I know this for the
25 public, I know all the time we don't always have to have five

1 members. You know, I've been on many votes where it's 4:1 or 3:2.
2 You know, we've been on many votes, but something of this
3 magnitude, I want to make sure that we have all the information we
4 need to vote.

5 I think we do to go forward. And, again, I understand
6 that the DCBIA, we need their input, as well, and I guess they can
7 continue to work on that during that other time frame, a key slot.

8
9 And I agree with Commissioner Shapiro, we will not -- I
10 don't know what was going to be the difference between now and the
11 30th, but it was a good idea it try to balance it.

12 So, with that, I think I will take a motion and I think
13 this motion will include the language for the Greater Mount
14 Calvary and for that piece. So, would somebody like to make a
15 motion?

16 COMMISSIONER MILLER: Mr. Chairman, I would move that
17 the Commission take proposed action on, with an amendment that
18 I'll state in a minute that you just alluded to, but take proposed
19 action on Zoning Commission Case Number 20-02, Proposed Text
20 Amendments to Subtitles B, C, F, G, I, K, U, X, and Z, expanded
21 for inclusionary zoning within an amendment that -- now I've lost
22 my -- oh, here it is -- an amendment that exempts map amendments
23 consistent with the 2012 -- with the existing comprehensive plan
24 land-use map and filed prior to the date of this hearing today,
25 and ask for a second, and also ask for all the answers to the

1 information that we want before final rulemaking and all the
2 discussions (audio interference).

3 CHAIRPERSON HOOD: Okay. Commissioner Turnbull, it
4 looks like your mic is on mute.

5 Did you want to second?

6 COMMISSIONER TURNBULL: I'll second, sure. Sorry about
7 that.

8 CHAIRPERSON HOOD: No, that's good. That works out.

9 Okay. It's been moved and properly seconded. Any
10 further discussion?

11 (No verbal response)

12 CHAIRPERSON HOOD: Okay. Ms. Schellin, would you do a
13 roll call vote, please.

14 MS. SCHELLIN: Sure. Commissioner Miller?

15 COMMISSIONER MILLER: Yes.

16 MS. SCHELLIN: Commissioner Turnbull?

17 COMMISSIONER TURNBULL: Yes.

18 MS. SCHELLIN: Commissioner Hood?

19 CHAIRPERSON HOOD: Yes.

20 MS. SCHELLIN: Commissioner Shapiro?

21 COMMISSIONER SHAPIRO: Yes.

22 MS. SCHELLIN: Commissioner May?

23 COMMISSIONER MAY: Yes.

24 MS. SCHELLIN: The vote is 5-0-0 to approve propose
25 action in Zoning Commission Case Number 20-02.

1 And I just want to confirm that the record is closed,
2 other than OP to provide the supplemental information, then we'll
3 reopen for the 30-day comment period.

4 And we did ask Ms. Baca to submit her testimony. What
5 about Mr. Houston? He is trying to submit his written testimony.

6
7 Will you accept that into the record?

8 CHAIRPERSON HOOD: Yeah, we'll accept Mr. Houston.

9 Now, what we're doing with DCBIA, we're waiting to get
10 theirs on the --

11 MS. SCHELLIN: During the 30-day comment period.

12 CHAIRPERSON HOOD: 30-day comment, okay.

13 MS. SCHELLIN: The record is closed to everyone else.

14 CHAIRPERSON HOOD: Right.

15 MS. SCHELLIN: I just wanted to confirm. Thank you.

16 CHAIRPERSON HOOD: Okay. I thank you all.

17 Any other questions or comments, Commissioners?

18 (No verbal response)

19 CHAIRPERSON HOOD: I want to thank all those who
20 testified. I want to thank all those at the Office of Planning,
21 the OAG, Office of Zoning staff, and my colleagues.

22 I think this is very well thought out. We may have to
23 make some tweaks. I don't want anybody to go away and say the
24 Commission did this.

25 It's a start. We've got to start somewhere, so I'm sure

1 | if we have to make changes or we have to do some stuff we've done
2 | in the past, as Commissioner Turnbull has already mentioned, then
3 | I am sure we will continue that process.

4 | So, unless I hear anything, before I adjourn this
5 | hearing, the Zoning Commission will be meeting November 19th,
6 | 2020, at 4:00 p.m. Right now it looks like we have about four or
7 | five things on the agenda, so if you want to, you can tune in to
8 | the same website and everything in that order.

9 | So, I'm glad now that people can enjoy their
10 | Thanksgiving and not have to worry about us. Yeah, I'll see
11 | everybody Thursday and wish you all a nice holiday.

12 | So, with that, this hearing is adjourned. Good night.

13 | MS. SCHELLIN: Good night.

14 | (Whereupon, the above-entitled matter went off the
15 | record at 8:03 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Hearing

Before: DCBZA

Date: 11-16-20

Place: Teleconference

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