

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC MEETING

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THURSDAY

MARCH 30, 2023

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The Regular Public Meeting of the District of Columbia Zoning Commission convened via teleconference, pursuant to notice at 4:00 p.m. EDT, Anthony Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
ROBERT MILLER, Vice Chairperson
PETER MAY, Commissioner
JOSEPH IMAMURA, Commissioner

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN, Secretary
PAUL YOUNG, Zoning Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

JACOB RITTING, ESQUIRE
HILLARY LOVICK, ESQUIRE
DANIEL LIU, ESQUIRE

The transcript constitutes the minutes from the Regular Public Hearing held on March 30, 2023

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

Case No. 06-11Y/06-12Y BXP 2100 Penn, LLC	4
Case No. 22-21 2229 M Street, LLC	10
Case No. 21-23 Office of Attorney General	14
Case No. 22-23 Alan Gambrell, Hugo Roell, AIA, Guillermo Rueda, AIA	59
Case No. 18-03A Dancing Crab Properties, LLC and 10009 Field Road, Inc ...	63
Case No. 13-14D McMillan Parcel 2 Owner, LLC	65
Case No. 04-14G Florida Rock Properties, Inc	69

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

2 (4:00 p.m.)

3 CHAIRPERSON HOOD: Good afternoon, ladies, and
4 gentlemen. We are convening and broadcasting this public meeting
5 by video conferencing. My name is Anthony Hood. Joining me this
6 evening are Vice Chair Miller, Commissioner May, and Commissioner
7 Imamura. We're also joined by the Office of Zoning staff, Ms.
8 Sharon Schellin and Mr. Paul Young, who will be handling all of
9 our virtual operations. Also, we have from our Office of Zoning
10 legal division, Ms. Lovick, Mr. Ritting, and Mr. Liu. I will
11 ask all others to introduce themselves at the appropriate time
12 if the Commission requests.

13 Copies of today's meeting agenda are available on the
14 Office of Zoning's website. Please be advised that this
15 proceeding is being recorded by a court reporter and is also
16 webcast live, Webex and YouTube Live. The video will be available
17 on the Office of Zoning's website after the meeting. Accordingly,
18 all those listening on Webex or by phone will be muted during
19 the meeting, unless the Commission suggests otherwise. For
20 hearing action items, the only documents before us this evening
21 are the application, the ANC set-down report, and the Office of
22 Planning report. All other documents in the record will be
23 reviewed at the time of the hearing. Again, we do not take any
24 public testimony in our meetings unless the Commission requests
25 someone to speak.

1 If you experience difficulty accessing Webex or with
2 your phone call-in, then please call our OZ hotline number at
3 202-727-0789 for Webex log-in or call-in instructions.

4 I'm going to go to Ms. Schellin. We have rearranged
5 the schedule for the agenda, and Ms. Schellin, could you give us
6 the order please?

7 MS. SCHELLIN: Yes sir. We will first -- the Commission
8 will first consider the modification of consequence 06-11Y/06-
9 12Y, then move on to final action, which is Case No. 22-21, and
10 then move to hearing actions, first taking up Case No. 21-23,
11 then moving to Case No. 22-23, and then move to time extensions,
12 Case No. 18-03A, then 13-14D, and ending with 04-14G. That's it.

13 CHAIRPERSON HOOD: Okay. Thank you, Ms. Schellin, do
14 you have anything else?

15 MS. SCHELLIN: No.

16 CHAIRPERSON HOOD: Okay. I'm going to do my best to
17 remember all that. I wrote -- took some quick notes, so if I
18 get it wrong, I'm sure -- just chime in please.

19 Okay. First, modification of consequence determination
20 and scheduling. Anyway, Zoning Commission Case No. 06-11Y/06-
21 12Y, BXP 2100 Penn Avenue, LLC, modification of consequence of a
22 PUD at square 75.

23 Ms. Schellin?

24 MS. SCHELLIN: Yes, sir. So this is a request from the
25 Applicant requesting a modification of consequence. Sorry, the

1 page is flipped around here. They initially filed for two changes
2 to adjust the tenant signage and to eliminate the 21st Street
3 entrance. They filed a supplemental statement at Exhibit 9
4 advising that after meeting with the stakeholders, they reduced
5 the size of the signage to be in scale with the other tenants.
6 At Exhibit 6, you have an OP report stating that they agree the
7 request is a modification of consequence and recommend approval.
8 Exhibit 12 is a letter -- the ANC 2A report in support. Exhibit
9 5 is a letter from WECA in opposition. Then at Exhibit 7 is a
10 letter, a joint letter, from WECA and FBA in opposition. And at
11 Exhibit 11 is a letter from WECA's counsel, Mr. Brown, in
12 opposition. Since all parties have submitted responses, if the
13 Commission does find this to be a modification of consequence,
14 they can proceed with final action if they choose to do so. Thank
15 you.

16 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

17 Let me just start off by -- I was trying to consider
18 this. I think the sign change -- I'm not sure if others -- I
19 didn't see an issue, but I did look at Exhibit 11, which is the
20 letter in opposition from WECA. And one of the things that
21 concerned me was it seems like -- and it seems like, as I believe
22 they mention in their letter, and I'm going off the top of my
23 head, that they want to be heard. And I think there's some
24 confusion around the retail piece, and I notice they mentioned
25 about Howard and Captain's Bookstore. The signage issue, I

1 believe, as Ms. Schellin's already stated, the Applicant -- I
2 think that's why we held it off, so they can work back and address
3 some of the concerns WECA had.

4 I see one outstanding point here. I don't know whether
5 I would take it off of the -- I mean, the modification of
6 consequence and make it a modification of significance. I don't
7 think it rise to that level, but I do understand WECA wants to
8 be heard. Now, everybody else, I believe, is in -- other than
9 Mr. Brown representing the party in opposition, I think for the
10 most part the ANC is in support. But what concerns me about the
11 ANC report quickly is it's four zero to three. What was the
12 three? But anyway, let me open it up. I don't think it really
13 rise to that level, but let me let me hear from others. I'm kind
14 of on the fence.

15 Commissioner May?

16 COMMISSIONER MAY: I don't have any problem with this
17 proceeding as a modification of consequence. Ask for us is --
18 the change --

19 CHAIRPERSON HOOD: Commissioner May, 'you're going in
20 and out. You're going in and out on me. You might want to get
21 up close like I do.

22 COMMISSIONER MAY: Okay. Yeah, I don't have any problem
23 with this proceeding as a modification of consequence. I believe
24 it's a straightforward matter for us to decide based on the
25 information we already have on the record.

1 CHAIRPERSON HOOD: Okay.

2 Vice -- Commissioner Imamura?

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I am
4 of the opinion that this is a modification of consequence as
5 well. So ready to move forward.

6 CHAIRPERSON HOOD: And Vice Chair Miller?

7 VICE CHAIR MILLER: Thanks. Thank you, Mr. Chairman.
8 I concur with Commissioners May and Imamura that this is a
9 properly a modification of consequence. I think we have enough
10 in the record to make a decision. I don't think we would gain
11 any additional information that would change anything in a public
12 hearing, so. And there is a cost to the Applicant of if we were
13 to start all over with a modification of significance in terms
14 of time delay and the bookstore being open when this fall semester
15 begins, so. So that's where I am. Thank you, Mr. Chairman.

16 CHAIRPERSON HOOD: Okay. Thank you.

17 I would just echo I -- while I didn't think I probably
18 would get a whole lot, but I -- while I wouldn't think -- I think
19 what I'm hearing from WECA is that they want to be heard. Now,
20 if this is not the right context, and I've heard from all my
21 colleagues, I would just ask this because I think it's pretty
22 straightforward. But I wanted to vet it out more. Some other
23 things may have come up. I hear you loud and clear. But let me
24 just say to the Applicant and to WECA, continue to work on it so
25 there's a full understanding exactly what's going on, just like

1 you did the signs. All right. So I don't have anything else to
2 add to that. I won't be voting against this; I'll be voting in
3 favor. But I wanted to throw that out there to see where
4 everybody was. So would somebody like to make a motion?

5 VICE CHAIR MILLER: Well, I just wanted to discuss --
6 before we -- well, we can discuss it after the motion as well,
7 but I just wanted to say that I think this is neighborhood-
8 serving retail as set forth in the order that we approved. A
9 bookstore, even though it contains textbooks, this will contain
10 a lot of -- that students can get online in terms of their --
11 the textbooks they need for class, but there's a lot of other
12 books and other services that are being offered. It's 'an amenity
13 in a neighborhood. The bookstores is currently hidden in the
14 basement of the university center. I think this will activate
15 the I Street retail corridor that we envisioned as part of the
16 GW campus plan. And I think it's consistent with our order and
17 with the campus plan. And I agree that the Applicant and the
18 opposition party, WECA, should work -- continue to work together
19 on outstanding issues. They were responsive to some of the size
20 issues on the signage. I think they reduced the signage. You
21 want to know that that's a bookstore when you're walking by and
22 that it's GW's, so. And George Washington University, that takes
23 up a lot of room unless you just put GWU. But anyway, I'm
24 supportive of this going forward. Thank you, Mr. Chairman.

25 CHAIRPERSON HOOD: Thank you for those comments. I

1 would agree with you, Vice Chair, but again I understand WECA's
2 -- the intensity of use, I think is what I read in their
3 submission part of it. So anyway, any other questions or
4 comments? If not, I guess we can move forward with a motion.

5 COMMISSIONER MAY: Mr. Chairman?

6 CHAIRPERSON HOOD: Yes?

7 COMMISSIONER MAY: I would make the motion that we
8 approve Zoning Commission Case 06-11Y/06-12Y BXP 2100
9 Pennsylvania, LLC, modification of consequence of a PUD at Square
10 75, and ask for a second.

11 VICE CHAIR MILLER: Second.

12 CHAIRPERSON HOOD: It has been moved and properly
13 second. Any a further discussion? Not hearing any, Ms. Schel-
14 -- yes?

15 COMMISSIONER MAY: I would just want to say I agree
16 with what's been said up until now, and I do think this is still
17 a viable retail use that is consistent with our order. And so
18 you know, it's only a question of the sign and the entrance. And
19 these are minor, almost minor, modifications, certainly no more
20 than a modification of consequence. That's it.

21 CHAIRPERSON HOOD: Okay. 'All right. Any further
22 discussion?

23 Ms. Schellin, could you do a roll call vote please?

24 MS. SCHELLIN: Commissioner May?

25 COMMISSIONER MAY: Yes.

1 MS. SCHELLIN: Commissioner Miller?

2 VICE CHAIR MILLER: Yes.

3 MS. SCHELLIN: Commissioner Hood?

4 CHAIRPERSON HOOD: Yes.

5 MS. SCHELLIN: Commissioner Imamura?

6 COMMISSIONER IMAMURA: Yes.

7 MS. SCHELLIN: The vote is four to zero to one to
8 approve final action in Zoning Commission Case No. 06-11Y/06-
9 12Y. Third mayoral appointee position vacant, not voting.

10 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

11 Let's move to the next case, which is 22-21, Zoning
12 Commission Case No. 22-21, 2229 M Street, LLC, consolidated PUD
13 and related map amendment at Square 4465. Ms. Schellin?

14 MS. SCHELLIN: Our new exhibits since the hearing are
15 Exhibit 43, which is an OP supplemental report; Exhibits 45
16 through 47D, the Applicant's post hearing submissions; Exhibit
17 48 was the letter from NCPC advising the project falls under one
18 of their exemptions from review. This case is ready for the
19 Commission's consideration of final action. Thank you.

20 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

21 And right briefly, at our hearing we talked about
22 considering a darker color for building façade, how the Applicant
23 was able to reduce the height of the project. There were some
24 questions about coordination with National Park Service on the
25 walkway to allowing some additional space, and the proffer for

1 free shuttles for residents. I will say I really appreciate the
2 presentation on how to clean the color, deal with dirty colored
3 materials. That was very helpful. And it was a one -- I think
4 it was a one- or two-pager on how to clean the stucco. I'm not
5 sure who else asked for that, I believe I did, a building cleaning
6 consulting company explaining the procedures for cleaning stucco
7 material. Someone else may have asked for it, but I really
8 appreciated that.

9 Let me open it up for anyone. Any questions or
10 comments?

11 Let's go Vice Chair Miller.

12 VICE CHAIR MILLER: Thank you, Mr. Chairman. Yeah, I
13 too appreciate the Commission -- the Applicant's responsiveness
14 to the Commission's comments at the public hearing, including the
15 color and cleaning of the stucco material, the information on the
16 free shuttle bus and updated architectural plans, and the updated
17 racial equity analysis. And I just want to remind, just for the
18 benefit of the public and ourselves, this is an all-affordable
19 senior housing unit. I think it's 92 residential units and
20 they're partnering with Housing Up Development, a nonprofit
21 affordable and supportive housing developer, which could be a big
22 benefit to the neighborhood and this district as a whole. 'Thank
23 you, Mr. Chairman.

24 CHAIRPERSON HOOD: Commissioner Imamura?

25 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I

1 agree with all the comments made by Vice Chair Miller. I
2 certainly want to highlight, of course, the free shuttle service,
3 but more importantly that in OP's supplemental report I wanted
4 to just highlight that, you know, the application would allow for
5 more older residents and specifically older black residents to
6 remain in the upper northeast. And I think that's very important
7 for this affordable housing project. So I'm prepared to vote in
8 favor.

9 CHAIRPERSON HOOD: Okay.

10 And Commissioner May?

11 COMMISSIONER MAY: Yeah, the darker color on the
12 penthouse, you know, it's a little better. It's still not dark.
13 It's still a light color. But I'm not going to fuss anymore
14 about that. I do appreciate the improvements of the western
15 facade. I think that looks a lot better. And the -- as far as
16 coordination with the National Park Service, we just asked for
17 them to do that, they didn't have to respond with anything, so I
18 think -- I'm assuming that that's happening. And yeah, otherwise
19 I was entertained by the description of how they will clean the
20 building with the workers rappelling down the side of the
21 building. I'd like to know when that happens because I want to
22 watch. Anyway, I'm otherwise in favor. Well, I am in favor of
23 final action tonight.

24 CHAIRPERSON HOOD: Okay. Any other questions or
25 comments? Would somebody like to make a motion on this one?

1 COMMISSIONER MAY: Sure. I'll make the motion that the
2 Zoning Commission take final action to approve Case No. 22-21,
3 which is 2229 M Street, LLC, consolidated PUD and related map
4 amendment at Square 4465, and ask for a second.

5 CHAIRPERSON HOOD: Second.

6 COMMISSIONER IMAMURA: Second.

7 CHAIRPERSON HOOD: Give that to Commissioner Imamura.
8 It's moved and properly second. Any further discussion? Not
9 hearing any, Ms. Schellin, would you do a roll call vote, please?

10 MS. SCHELLIN: Commissioner May?

11 COMMISSIONER MAY: Yes.

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: Commissioner Hood?

15 CHAIRPERSON HOOD: Yes.

16 MS. SCHELLIN: Commissioner Miller?

17 VICE CHAIR MILLER: Yes.

18 MS. SCHELLIN: The vote is four to zero to one to
19 approve final action in Zoning Commission Case No. 22-21, the
20 third mayoral appointee position being vacant, not voting. Thank
21 you.

22 CHAIRPERSON HOOD: Thank you, MS. Schellin.

23 So now we'll go to the hearing action. We're taking
24 this out of order as we stated at the very beginning. This is
25 where hopefully things don't go south with me getting the order

1 correct. So I'm first going to go with Zoning Commission Case
2 No. 21-23, Office of the Attorney General text amendment to
3 Subtitle I. This is to apply IZ to non-IZ D zones. Is that Mr.
4 Kirschenbaum and Ms. Steingasser? Whenever you're ready, you may
5 begin.

6 MS. STEINGASSER: Good Evening, Chairman Hood, and
7 Commissioners. I'm Jennifer Steingasser with the D.C. Office of
8 Planning. With me tonight are Art Rodgers, senior housing
9 planner, and Jonathan Kirschenbaum, development review
10 specialist.

11 Thank you, Mr. Young.

12 The Office of Planning is very supportive of affordable
13 housing and efforts to increase housing both in the downtown and
14 citywide. And we recognize the city is experiencing and has been
15 in affordability crisis, which has been compounded in recent
16 years by the COVID-19 pandemic. We need to do everything we can
17 to avoid limiting the creation of housing and affordable housing
18 in the downtown and across the city. And when we look at
19 amendments like this, we analyze them for whether they will
20 produce affordable housing or whether they will become an
21 obstacle to housing. And we applied that lens to this case. And
22 in this case, we concluded that we recommend that the case not
23 be set-down for a public hearing. And after analyzing the text,
24 OP found that the application of the proposal would result in
25 circumstances that are inconsistent with the comprehensive plan

1 with the potential to discourage new residential use and hamper
2 the economic recovery of the downtown.

3 There's a variety of tools that are currently available
4 and used for the production of housing. And in recent years,
5 the Zoning Commission, while we're not recommending this
6 amendment to the IZ, there have been several significant
7 movements brought forward by OP and approved by the Zoning
8 Commission, which have strengthened the inclusionary zoning and
9 affordable objectives of our housing program.

10 Starting in July of 2021, IZ Plus was adopted, which
11 increased the amount of affordable units in IZ that would result
12 from map amendments that were not related to a planning and
13 development. There was IZ XL Phase 1 which followed and that
14 applied IZ to previously exempt zones that had the capacity for
15 bonus density and it also simultaneously raised the height of non
16 type one construction from 50 to 85 feet, and that brought in a
17 significant amount of by-right development into the -- it
18 expanded the IZ standard from 8 percent to 10 percent for those
19 non type one constructions. And then IZ XL Phase 2, which applied
20 IZ to buildings converted from nonresidential use to residential
21 use in those zones where IZ applies. And the Commission may
22 remember that under the original IZ program, conversion of
23 nonresidential buildings to residential use was exempt from IZ,
24 and IZ XL Phase 2 closed that loop. And then the Commission
25 created four new housing-focused mixed use zones which worked

1 with IZ Plus in expanding the amount of IZ that would be captured
2 through map amendments unrelated to PUD's in the medium to high
3 density zones. And those are significant. And I put those out
4 there for the context that we looked at all of these and we look
5 at the IZ program as a very important program, but in this case,
6 we could not conclude that this particular map -- this particular
7 text amendment would not result in inconsistencies that the
8 comprehensive plan that would actually defer and deter the
9 construction of housing. And with that, I'm going to go to Art
10 Rodgers to talk through our -- the actual economic analysis and
11 our modeling.

12 Art?

13 MR. RODGERS: Good evening, members of the Commission.
14 Could we move forward a couple of slides?

15 MS. STEINGASSER: Oh, I'm sorry, I forgot about that.

16 MR. RODGERS: I think we want to go to Slide 5. Good
17 evening, members of the Commission. I'm Art Rodgers, the senior
18 housing planner for the D.C. Office of Planning. This slide
19 simply provides the basics of the District's program, including
20 the requirements, targets, and flexibility. I'm sure the
21 Commission is familiar with the program, but most relevant to our
22 recommendations tonight is IZ's provision of a 20 percent bonus
23 density, including adjustments to height (audio glitch) and lot
24 occupancy in order to ensure that bonus density is available. Go
25 to the next slide please?

1 This slide illustrates the growth and location of the
2 program's annual production since the first project delivered in
3 2011 and through fiscal year 2022. I'd like to highlight the
4 increase in units at 60 percent of the median family income,
5 that's the light blue, resulting from the 2016 amendments that
6 shifted toward deeper affordability to better serve rental
7 households. The chart also shows the program is continuing to
8 produce units at 50 percent of the MFI through the penthouse
9 requirements, PUDs, and a few projects that were approved prior
10 to the 2016 amendments. The map on the right demonstrates that
11 IZ is delivering units across the city, particularly in areas
12 that are attracting market rate interest. By the end of FY '22,
13 the IZ program has produced almost 2,000 affordable units. Recent
14 production is supported by the fact that 88 percent of the
15 projects received bonus density, averaging 17 percent. Next
16 slide please?

17 This slide provides the base zoning conditions for the
18 D zones. The purple areas are zones where IZ currently applies,
19 and the orange areas are those that were exempted from IZ due to
20 the inability to provide bonus density. These zoning conditions
21 date back to 2002 in the old downtown development district, where
22 housing was exempted from FAR or could purchase TDRs for use in
23 the receiving zones, which are now the D-5 zones. ZR '16 both
24 relieved housing of having to purchase TDRs and enabled housing
25 to sale -- for -- enabled housing to sell the housing credits,

1 the new TDRs if you will, to further support the development of
2 housing in the D zones and central Washington. Next slide?

3 This is perhaps our most important slide, and it goes
4 to the heart of OP's concern. OP has always tried to balance
5 the impacts of IZ to within plus or minus 3 percent of land value
6 to avoid creating distortions in the market. Consistent with our
7 past analyses, OP did research into development costs through
8 independent sources, such as CoStar and RSMeans, we worked with
9 stakeholders, and we attended events such as the CFO's annual
10 real estate forum. Three inputs became very clear and perhaps
11 the most important: land values for office and downtown core
12 used to exceed \$300 per square foot, but have since fallen to
13 where housing developers now feel they can convince some property
14 owners to sell at around \$150 per square foot. In order to
15 achieve that price for land, housing must optimistically average
16 \$5 per square foot in rent or \$5,000 a month for a large two-
17 bedroom. Applying IZ would reduce that average rent from \$5 to
18 \$4.75 per square foot. This seems like a small percent drop,
19 but because construction costs and the cost of borrowing are
20 relatively fixed, the price of land is the only thing that can
21 absorb the impact of reduced revenue. This causes the 19 percent
22 or more reduction in land value, dropping what housing can pay
23 for land from the 145 -- \$146 per square foot down to \$119 per
24 square foot. This would threaten housing developers' ability to
25 get investors and convince property owners to sell. Even owners

1 of distressed properties may decide to wait and hope for the
2 recovery of the office market. These properties sitting vacant
3 for extended periods may have negative impacts on the value of
4 adjacent occupied buildings and threaten the economic, health,
5 and vitality of downtown.

6 I'm now going to turn it over to Jonathan Kirschenbaum,
7 who will present OP's review of the consistency with the
8 comprehensive plan and the analysis of racial equity.

9 MR. KIRSCHENBAUM: Next slide please?

10 So OP has several concerns that the proposed amendments
11 are inconsistent with the comprehensive plan, given the lack of
12 balance between increased IZ requirements and the lack of
13 incentives like IZ bonus density. Our primary concern is that
14 policies of the comprehensive plan consistently use language like
15 balance, incentives, and encourage when discussing affordable
16 housing requirements on production. This slide in front of you
17 contains several policies reflecting these concerns, while our
18 set-down report contains additional policies. The comprehensive
19 plan calls for regulatory incentives or public funding to balance
20 the requirements for providing affordable housing. The petition
21 does not provide any bonus density, like increases in maximum
22 permitted height or floor area ratio to help cross-subsidize the
23 provision of IZ units. This is inconsistent with the policies
24 of the comprehensive plan regarding affordable housing.

25 In addition, with regards to housing production,

1 whether it be market rate or affordable, the comprehensive plan
2 calls for more housing units to be built overall. As exhibited
3 by Mr. Rodgers, OP's economic modeling suggests that land values
4 could be significantly reduced, which will likely limit housing
5 production. Discouraging housing production conflicts with the
6 policies of the comprehensive plan. Next slide please?

7 OP was able to aggregate certain demographic data, like
8 total population and housing units to match the exact geography
9 of our downtown zones using the decennial census from 2010 and
10 2020. And that data is in the two tables in front of you. The
11 first table shows that the D zone popular- -- total population
12 increased 82 percent between 2010 and 2020. The D zones also
13 saw large increases in the white, black or African-American,
14 Asian, and two or more races' populations during this time period.
15 These increases were generally all larger when compared to the
16 District, especially for the black or African-American
17 population, which increased 42 percent in the D zones, while the
18 population decreased 6 percent District-wide. The second table
19 shows the number of housing units in the D zones also increased
20 81 percent between 2010 and 2020, which is a substantially larger
21 increase when compared to the District. Next slide please?

22 The comprehensive plan analysis through a racial equity
23 lens indicates that the proposal on balance would be inconsistent
24 with the comprehensive plan because it would discourage housing
25 production. Significant negative impacts on the housing market

1 and downtown could occur because the proposal could limit the
2 ability to produce new housing and could impact the District's
3 ability to increase the downtown population as part of the recent
4 comeback plan. And lack of new housing could also increase
5 housing costs for existing housing in downtown. Fewer housing
6 options and more expensive housing that could result from the
7 proposal could make housing in the D zones less attainable,
8 particularly for lower income and middle-income households. The
9 proposal could also negatively impact the ability for downtown
10 to economically revitalize from the COVID-19 pandemic, because
11 less housing means fewer new residents. Downtown will not be
12 able to achieve an appropriate mix of uses to support an adequate
13 residents-to-jobs ratio without additional residents and housing.
14 The proposal would significantly reduce land values and does not
15 provide bonus density to balance the requirements of IZ. There
16 are no proposed alternative ways to compensate for requiring
17 affordable housing when there's no available bonus density, nor
18 are there any incentives that would encourage housing
19 development, especially in light of competition from alternative
20 land uses such as office and hotel. The analysis of demographic
21 data and the policies of the comprehensive plan work together to
22 demonstrate that the proposal would not provide more affordable
23 housing, but instead significantly discourage housing production.
24 This would be inconsistent with the comprehensive plan. Next
25 slide please?

1 With regards to the District achieving its housing
2 goals, the District is on pace to deliver the 2019 goal of 36,000
3 total units by 2025. More specifically, the central Washington
4 planning area, which comprises the majority of the D zones, has
5 already exceeded its overall total housing unit goal. With
6 regards to affordable units, the central Washington planning area
7 has achieved about 40 -- excuse me, has achieved 45 percent of
8 its affordable housing goal and is estimated to reach most of
9 that goal by 2025. There is a portion of the D zones that also
10 extends into the lower Anacostia waterfront near southwest
11 planning area, which is also very close to meeting its overall
12 housing unit goal. This planning area has achieved 52 percent
13 of its affordable housing production goal and as you can see on
14 the table in front of you is estimated to far exceed this goal
15 by 2025. Speaking about rents in general, when adjusted for
16 inflation, rents are actually lower today than they were in 2016.
17 This can be attributed to an increase in more housing units and
18 options throughout the District, but particularly in the central
19 Washington planning area.

20 And I will now turn it back over to Mr. Rodgers, who
21 will talk about the housing downtown tax abatement. Thank you.

22 MR. RODGERS: Next slide please?

23 It's important for the Zoning Commission to be aware
24 of other efforts the District is pursuing to achieve affordable
25 housing goals in central Washington. The FY '24 proposed budget

1 significantly expands number of market and affordable units that
2 would be supported by the housing and downtown tax abatement from
3 hundreds to thousands. OP's analysis of the impacts of IZ without
4 bonus density led us to conclude that it is not the right tool
5 for achieving our goals in D zones. Given these constraints,
6 other tools such as the proposed tax abatement are more
7 appropriate for achieving the District's affordable housing
8 goals.

9 This concludes my remarks. And now, Jennifer
10 Steingasser will address the recent comments to the record and
11 close our testimony.

12 MS. STEINGASSER: Excuse me. Next slide please?

13 So we realized that there were at least three comments
14 submitted to the Zoning Commission since yesterday. We would
15 like to address those specifically. One was requesting that the
16 Zoning Commission set the case down despite the OP recommendation
17 and proceed with the public hearing. And we'd point out that
18 our number one -- our recommendation remains the same and that
19 the Zoning Commission throughout this process has asked that the
20 Applicant provide economic impact and economic analysis that
21 shows how the proposed text would affect the properties. The
22 last time this was requested was in March of 2022. It's now 2023
23 and that information has not been provided. So we don't see that
24 there's anything in the record that would substantiate continuing
25 this and having a public hearing. Can we go back to Slide 3, I

1 think it is?

2 So during this entire analysis and review of this case,
3 OP has done substantial outreach. During the summer of last
4 year, we held four focus groups with affordable housing
5 developers, housing advocates, downtown developers, and the DC
6 Grassroots Planning Coalition. We held each of those specific,
7 while others were -- could attend, we wanted to be able to focus
8 on the issues raised by each of the four groups. And at no point
9 was information provided highlighting how this proposal would
10 actually work in the downtown. We then followed up with a general
11 roundtable, that was open, you know, citywide roundtable, in
12 November on housing in the downtown and district wide. We
13 received testimony from 12 organizations, 2 individuals, and had
14 over 80 participants. And again, no information was provided,
15 no data provided, that showed how this would work without having
16 some kind of negative impact on the downtown housing market. Can
17 we go back to the last slide now please?

18 So we also feel that extending the case would add more
19 uncertainty to an already challenging market. This text
20 amendment has loomed out there for what -- we're now, you know,
21 16 months with no assurance to the development community or to
22 the housing providers that this -- that there is certainty. And
23 we feel that it's appropriate to dismiss this case and not set
24 it down.

25 Also, there was issues raised about applying the

1 inclusionary zoning to all of the zones, then allowing relief by
2 special exception. And we think on it's face that is a bad way
3 to proceed. We think on it's face this text amendment doesn't
4 work. We think it'll have an adverse impact on the housing
5 market, as we've shown in more detail in our report, but also in
6 summary through this presentation. It'll provide an unnecessary
7 delay to someone getting their building permit. It would be at
8 least four to six months to get before the BZA. And once the
9 order's issued, now the project is subject to appeal. It seems
10 like it's an intentional delay of game that would have nothing
11 but an adverse impact on the process. And it would also then
12 result in increasing the costs of the projects, both in time,
13 soft costs, and then just the carrying cost of land, in interest,
14 which would have the effect of discouraging housing production
15 again. So on its face, we think that applying IZ and then just
16 providing a case by case relief is not a responsible way to go.
17 And with that, we're available to answer any questions.

18 CHAIRPERSON HOOD: Thank you very much to the Office
19 of Planning.

20 I'm going to start off with just a few comments. As I
21 review this again and looked at some of the comments that were
22 made, I thought about Vice Chair Miller. Everybody's trying to
23 take credit for D zones and IZ applied -- Vice Chair Miller said
24 just maybe six, seven years ago, we've been talking about this
25 for a while, but I notice all the other people, OAG, everyone

1 else, not just OAG, and the conversation we have been pushing OP
2 to talk to us about D zones because we felt the need. The birth
3 of that whole conversation came from the D.C. Zoning Commission.
4 Now, I'm not necessarily saying I'm favorable of what I'm hearing
5 in this report, but one of the problems that I have when I look
6 at -- and I took a lot of time trying to read through what our
7 Office of Attorney General, who knew when they represented us as
8 counsel, knew that was in our minds. So don't try to paint this
9 broad swath picture now that you are the ones coming up with this
10 because you weren't. And then it says the Zoning Commission
11 should not decide the merits of the petition without holding a
12 public hearing at which it can receive additional data and input
13 from a broad swath of stakeholders, including landowners,
14 developers, downtown workers, residents, and community groups.
15 So my question to OAG, and I know they're listening, since now
16 that you've gotten into this, which is fine, because a lot of
17 stuff I see that you present I agree with, but it's how you do
18 it, have you talked to any landowners, developers because you
19 have not produced a report. You haven't produced anything for
20 us. So it's not that we are against having a hearing. It's not
21 that we are against moving forward. This idea came from Vice
22 Chair Miller. I caught onto it, we want to make it work. So if
23 it doesn't happen in D zones, Ms. Steingasser, if say we were to
24 deny this and we don't push this, because here's the thing,
25 unintended consequences will be a problem. People say okay,

1 well, I'll wait them out and go develop in Boston like I know
2 some people are already probably doing. What other things that
3 we can do -- because I've always said -- even what we deal with
4 here in affordable housing, as far as I'm concerned, it's still
5 not affordable. It doesn't get to the people who are low income
6 and a lot who look like me. It doesn't get there. We talk about
7 it, but it doesn't get there. So what other things, what other
8 initiatives -- and you don't have to answer them all, but I'm
9 going to be wanting to know what other initiatives are we doing
10 elsewhere? That's just my dissertation because this obviously,
11 and I think my colleagues will agree, a lot of this came from
12 the ANCs in southwest why we really started pushing this in the
13 D zones, so IZ and the D zones. But I'll hold tight for a moment
14 and let others have a few words because I know we have some time
15 constraints.

16 Commissioner, let me go to Vice Chair Miller first.

17 VICE CHAIR MILLER: Thank you, Mr. Chairman. And thank
18 you Ms. Steingasser, Mr. Rodgers, and Mr. Kirschenbaum for the
19 Office of Planning report which we have been asking for since
20 this petition was first filed by the Office of Attorney General,
21 I believe, in the November or December of 2021, a year and a half
22 ago about. So I appreciate you coming forward. I appreciate a
23 lot of things. I appreciate that you had a November 1st public
24 roundtable on affordable housing generally and there was a focus
25 as well on whether -- or at least the testimony, a lot of the

1 testimony, did focus on in that November hearing that you just
2 had a few months ago on whether inclusionary zoning should apply
3 to downtown. So I appreciate you doing that. And earlier public
4 roundtables, I think back in 2020, you had a similar kind of
5 roundtable. And yes, the Chairman is correct, we as Commission
6 and individual commissioners have been talking about whether
7 inclusionary zoning should be expanded. And we've expanded it
8 in a number of ways, thanks to the Office of Planning's great
9 work and outreach in consultation with us and community
10 stakeholders. But one of the ways we've been talking about it
11 for years, I think 'going back to ZR '16 even, I think it came
12 up repeatedly that whether inclusionary zoning could be expanded.
13 And of course we've asked the Petitioner, Office of Attorney
14 General, our former counsel until a year and a half ago, to
15 provide an economic impact analysis, which they had not done,
16 which is disappointing because a petitioner -- we've asked for
17 that -- we asked for that from the beginning. The Chairman asked
18 for that specifically. And I think that would be important to
19 have if we ever get to a point of having a public hearing. The
20 Office of Planning report in this case talked a lot about the
21 balancing, all the balancing that this particular program,
22 inclusionary zoning Program, tries to do. It can't do -- this
23 is one little program in the affordable housing toolbox of the
24 city that we have just a bit of control over. It was never
25 designed to get it deeply affordable housing, but it was designed

1 to get mixed income neighborhoods throughout the city and to try
2 to compensate where it could with additional bonus density, which
3 is why the downtown was excluded from the outset of the
4 inclusionary zoning program, because downtown is at the maximum
5 density. It has other incentives to even produce any housing,
6 market rate housing. That was a rezoning that was done 30 some
7 years ago, where this Commission, I wasn't on it, but I think
8 the Chairman might have been there at the end of it, on the
9 downtown development district rezoning, which was a very big deal
10 at the time in the early '90s, in the midst of a national, maybe
11 global, downturn in the economy, maybe not quite facing the
12 challenges that we're facing currently and that are looming ahead
13 of us with this economy and the COVID post, not post COVID, people
14 are still dying from COVID, but the COVID telework, remote work,
15 office work, downtown issue is not going away.

16 I'm kind of rambling here, but your own report cites a
17 28 percent, I think it cited somewhere a 28 percent decline. I
18 don't know if that was current or expected decline in office
19 values downtown central Washington, maybe as a result of the
20 COVID remote work situation we have where the vacancies downtown,
21 office vacancies downtown are predom- -- are large and we haven't
22 even begun to see the effect of those office leases. I mean,
23 when they stop paying the rents, those leases are going to be
24 expiring and they're not going to be renewed because many, many
25 people in these are office type jobs that we have in downtown

1 Washington can be done remotely. And that's just the reality.
2 But you cited a 28 percent figure, in your report I think, decline
3 in office values, which I don't think was reflected in the chart
4 that you have on Table 2 on Page 8 of your report, which talked
5 about the sub-zones in downtown Mt. Vernon, Gallery
6 Place/Judiciary Square, NoMa/Union Station, and Capitol Gateway,
7 and so I mean, in that chart you're showing in every case but
8 Capitol Gateway, Buzzard's Point, which is where this issue has
9 come up in individual cases where we've approved housing that is
10 exempt because the D-5 zone extends all the way down South Capitol
11 corridor next to the southwest neighborhood. You don't think of
12 downtown there, but your own chart before you even do the 28
13 percent decline in office value because of COVID remote work was
14 the one area that was where office was less valuable than
15 developing housing if I'm reading it correctly. But if you apply
16 the 28 percent -- I think the 28 percent isn't applied in that
17 chart, is that correct, Mr. Rodgers? You're not showing in that
18 chart the 28 percent decline expected from COVID remote work,
19 current economic challenges, is that correct, that this chart
20 does not, on Page 8, where you show office being much more
21 valuable except in the Capitol Gateway/Buzzard Point sub-zone,
22 you don't -- you're showing that office is more valuable in every
23 case, but if you apply the 28 percent, your projected decline in
24 office value, land value due to the current economic situation,
25 it would be lower in every case, except maybe Mount Vernon is

1 still a little bit higher. But Gallery Place/Judiciary Square
2 goes -- the office land value goes below multifamily, the NoMa/
3 Union Station goes below, and Capitol Gateway already was below
4 and they go even further below.

5 CHAIRPERSON HOOD: Vice Chair Miller? Vice Chair
6 Miller?

7 VICE CHAIR MILLER: So I'm just having trouble
8 understanding --

9 CHAIRPERSON HOOD: Vice Chair Miller?

10 VICE CHAIR MILLER: Yeah.

11 CHAIRPERSON HOOD: I hate to cut you. I hate to cut -
12 - I hope -- I know you -- hope you remember all that because I'm
13 getting ready to do something that Commissioner May has a hard
14 stop.

15 VICE CHAIR MILLER: I apologize.

16 CHAIRPERSON HOOD: So no, no, no. I hate -- I was
17 trying to wait for your thought, so. Hold it. Hold that.
18 Remember everything you said so you can pick up where you left
19 off. Let me interrupt and go to Commissioner May, and hopefully
20 he'll be able to leave his last decisions on this case and others
21 with Ms. Schellin. Okay. Right quick. And I'm sorry about
22 that.

23 Commissioner May?

24 COMMISSIONER MAY: Thank you very much. I have a few
25 quick questions for the Office of Planning. The first one is,

1 you know, you cited that these two neighborhoods that are largely
2 affected are on track to meet their housing goals. Can you
3 explain to me why that's an argument against applying
4 inclusionary zoning as opposed to applying -- that it makes sense
5 to do it because it's -- they're already on a roll and we can
6 just sort of tap that energy?

7 Any one of you?

8 MR. RODGERS: Jennifer, would you like to me to do it

9 MS. STEINGASSER: Yes, if you don't mind.

10 MR. RODGERS: Sure. So I think the key point is that
11 it's sort of like a do no harm. We are on progress to achieve
12 our goals through a variety of means. And I want to point out
13 that the estimates that DMPED provided in the comeback plan of
14 the percent of the goals that will be achieved are not based on
15 some extrapolation; they're based on the actual pipeline of known
16 projects that we expect to deliver in the next couple of years.

17 COMMISSIONER MAY: Okay.

18 MR. RODGERS: And so I think the key thing is that we
19 are achieving the goals and -- but we don't want to cause harm
20 by trying to apply tools that may not work.

21 COMMISSIONER MAY: Okay. All right. Next thing is you
22 mentioned the mayor's comeback plan and how that may provide
23 incentives to develop housing in a more effective way in these
24 downtown areas and help deal with the economic downturn. Is that
25 actually -- I mean, that's just a plan at this point, right,

1 there's no funds appropriated toward that yet?

2 MR. RODGERS: Funds were appropriated in the FY '23
3 budget, and in the FY '24 budget they've been dramatically
4 expanded to achieve about 7,900 if we round up close to 8,000
5 units by FY '28.

6 COMMISSIONER MAY: Oh, okay. Good. Thank you. And
7 then you mentioned all of the different all the outreach that
8 you've done, and it included housing advocates. Can you
9 characterize generally what you've heard from the housing
10 advocates? Are they, you know -- do you think that they're --
11 they have a contrary view, are they in line with OAG, are they
12 in line with your perspective, are they all over the place, some
13 sense of that?

14 MS. STEINGASSER: I would say they were neutral when
15 it comes to IZ in the downtown zone. They're -- the housing
16 advocates and the nonprofit housing providers don't typically
17 rely on IZ as part of their funding stacks, their capital stack,
18 or funding mechanisms to get to their programs.

19 COMMISSIONER MAY: Okay. All right. Thank you. Well,
20 I appreciate those answers to those. Those are the questions
21 that were not totally clear to me in -- from the presentation
22 and materials we could see. My thought on this at this point is
23 that I think that the Office of Planning has the right perspective
24 on this. This is not to say that there couldn't be something
25 that might happen in the future that would indicate or provide

1 an opportunity for the kinds of incentives that could be balanced
2 against requiring inclusionary zoning, but it seems to me that
3 since there isn't that availability of incentive right now that
4 it does not -- it doesn't really make sense. And I believe that
5 it's, you know -- as this is currently being proposed by the
6 Attorney General that yeah, it would be problematic for us to
7 even set this down for a hearing for the reasons that the Office
8 of Planning had stated, one being the inconsistency with the
9 comprehensive plan or the potential inconsistency with it, but
10 also for the uncertainty that it would introduce if we were to
11 entertain this idea.

12 It's also be sort of odd for us to like wait 'til that
13 point to have some of the basic information that we should have
14 now. And I think the lack of any kind of data from the Attorney
15 General supporting their contention that this should be adopted
16 and would not have a damaging effect on the progress that is
17 being made and the progress that can be made, I think that's
18 really problematic. If they could produce that, we could see it
19 and maybe, you know, maybe then the issue of comp plan consistency
20 can be ameliorated enough to be able to proceed to a hearing.
21 But as it is right now, I don't think this is ready for a hearing.
22 So I would vote to dismiss it at this point.

23 CHAIRPERSON HOOD: Thank you, Commissioner May. If you
24 can make sure Ms. Schellin knows that -- well, we heard it, but
25 just in case you have to do that hard stop. But anything else,

1 Commissioner May?

2 COMMISSIONER MAY: That's it for me.

3 CHAIRPERSON HOOD: Okay. Thank you.

4 Vice Chair Miller I really apologize, but I know he has
5 a hard stop, so I apologize. If you can remember everything,
6 I'm coming back to you.

7 VICE CHAIR MILLER: I'll defer to Commissioner Imamura
8 and come back since I've talked a long time and I didn't ask --
9 I was about to ask a question, but I can do that after. And I
10 think we may need to bring this up -- since Commissioner May has
11 to leave, I think we should maybe bring this up at our next
12 meeting as well so that we can have a full four-fifths of us
13 dealing with it, so.

14 CHAIRPERSON HOOD: So I think he's put his position out
15 there. I don't want this to linger on. I don't put people on
16 promised land, but I have some questions that I do want to ask
17 Ms. Steingasser. That's why I wanted you to finish. But if you
18 want to yield to Commissioner Imamura. Another month or however
19 long just leaves people on promised land or hope land; however,
20 I don't know where I fall now. I do have some concerns about
21 the D zone, but I want to ask Ms. Steingasser, but I want to be
22 courteous to my colleagues.

23 So Commissioner Imamura?

24 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. Thank
25 you, Vice Chair Miller as well. I'm not an orator, so I'll be

1 brief and succinct as best I can. I'm of the position that I
2 think we ought to reach a resolution tonight. And if it is a
3 no, no just means not right now. And I think Commissioner May
4 had made the point of, you know, if there's a way to, you know,
5 offer some kinds of incentives there, I think we're all in
6 agreement that the -- about the housing crisis in the city. So
7 everybody's looking for creative solutions here.

8 I just want to thank Ms. Steingasser, Mr. Rodgers, and
9 Mr. Kirschenbaum for the deep research and analysis and the
10 extensive outreach that you've conducted. I think that your
11 report -- I appreciate its thoroughness and as well as your
12 delivery tonight I think was made with surgical precision. And
13 I am persuaded by your report and concerned about the potential
14 inconsistencies with the comp plan and the collateral effect that
15 it would have. But as Commissioner May has pointed out, as you
16 all have pointed out, as everybody knows, that the OAG has not
17 provided their economic analysis. So it's very easy to discount
18 one's homework when you haven't turned in your own homework. So
19 with that, those are my thoughts, Mr. Chairman, and I yield back
20 to Vice Chair Miller.

21 CHAIRPERSON HOOD: Commissioner Imamura, I'm going to
22 have to use that one in another scenario that I'm in, you don't
23 turn in your own homework and you discount another homework. I
24 like that. Thank you. So if you hear it again, just know that
25 I got it from you.

1 Vice Chair Miller, I'm coming back to you again.

2 VICE CHAIR MILLER: Okay. I'll try to be succinct in
3 terms of my questions to the Office of Planning. On the chart I
4 was talking about, does it -- is it -- does that chart not reflect
5 the 28 percent decline in office land value that you're projecting
6 as a result of the current economic conditions? I just wanted
7 to clarify my understanding of what that chart is saying in terms
8 of office value-land value versus multifamily land value in the
9 downtown area. It does not already include the 28 percent, is
10 that correct, Mr. Rodgers I'll ask you, you're the' math guy?

11 MR. RODGERS: So I think there's two things. So first
12 of all, the data comes from CoStar. So to that extent, it is
13 their best current estimate. I think the important thing about
14 --

15 VICE CHAIR MILLER: Does it include the 28 percent
16 decline or not?

17 MR. RODGERS: It does not. But I think the important
18 thing that we left out of our report, and if so requested, we
19 could amend it to make it clearer, is that the 28 percent decline
20 is over a number of year- -- expected over a number of years. So
21 it's not being what's being felt right now, it's'' over the next
22 several years. And the other thing I would just highlight is
23 that the chart also doesn't show -- it's the current value of
24 housing -- it doesn't show the 20 to 30 percent decrease in the
25 value of the land for housing in those areas as well.

1 VICE CHAIR MILLER: Okay. Thank you for that response.
2 Does the Office of Planning have any suggestions for incentives
3 that could be provided in the downtown area to offset zoning
4 incentives? We realize that you got the tax abatement proposal
5 of the mayor's, which is great, amongst other programs for the
6 comeback, downtown D.C. comeback program. But I don't think any
7 of those funds have been allocated yet, even if appropriated in
8 the current fiscal year. But do you have any -- are there any
9 incentives we could offer? Parking? I know we've -- we reduce
10 a lot of parking, but if we eliminated it entirely, for example,
11 just to throw out something off the top of my head, I mean, I
12 don't know. You're very -- you're familiar with what regulatory
13 zoning burdens there are that maybe we could offer. Are there
14 any that we could offer that would -- any -- are there any
15 incentives we could offer in downtown that aren't currently
16 offered if we were to proceed with some form of this proposed
17 case?

18 MS. STEINGASSER: Well, there is an outstanding case
19 also filed by the same Applicant about parking, and we will be
20 bringing that back to the Commission this spring as we continue
21 to analyze where parking -- in those areas where parking is still
22 required, because we have in, especially in the downtown, already
23 relieved almost 100 percent of the parking requirements. But we
24 are looking at that parking text amendment next. So you will be
25 seeing that. That'll be coming back. And obviously, we continue

1 to look at scrubbing the regulations and looking for anything
2 that serves as an obstacle to housing. So if we -- we will
3 continue to do that and report back on anything we find. So you
4 will be hearing on parking and we'll continue to look at other
5 regulatory structures that would be hindering IZ.

6 VICE CHAIR MILLER: When will we be getting a report
7 on the parking did you say?

8 MS. STEINGASSER: That will probably be coming to you
9 either at the end of April or the beginning of May.

10 VICE CHAIR MILLER: So there are some D zones that do
11 require parking. I mean, we -- in our earlier ZR '16 proposal,
12 we got rid of all the minimums and that was scrapped. But I
13 think we did keep some minimums in some of these D zones, right?

14 MS. STEINGASSER: There are some, depending on their
15 proximity to metro stations and priority bus corridors that may
16 have some residual parking requirements. And so we are looking
17 at that. The parking proposal that has been brought forward by
18 the Applicant actually extends beyond the D zones and is
19 applicable to all affordable housing and IZ properties.

20 MR. KIRSCHENBAUM: There -- if I could just add, there
21 are no parking -- so there are no parking requirements for
22 downtown zones except for areas west of 20th Street. So it's a
23 very, very small portion of the downtown zones that still have a
24 parking requirement. But generally speaking, there are no
25 parking requirements for downtown.

1 VICE CHAIR MILLER: Okay. Well, thank you. That's
2 very helpful to know. So yeah, if there are other incentives -
3 we' look forward to that report on the other -- on the parking
4 and reducing parking for other affordable -- for affordable
5 housing citywide. So that would be useful to have.

6 I guess, Mr. Chairman, I certainly do not want to
7 prolong uncertainty in an uncertain economic climate that we're
8 in, or I don't think we are the ones who prolong the uncertainty.
9 We've been asking for information both from the Petitioner in
10 this case and from Office of Planning for some time now. So I
11 don't think that we're the ones necessarily that has prolonged
12 any uncertainty, although we've talked about it and people say
13 we shouldn't even talk about it, that that creates uncertainty.
14 And I certainly don't want do anything that stops the production
15 of housing downtown. I mean, that was a big goal of the rezoning
16 that was done 30 years ago to get housing downtown and -- but we
17 didn't require affordable housing. I guess where I am is I would,
18 I -- we haven't had a public hearing on this topic, Mr. Chairman.
19 I realize that there may not be support amongst the Commission
20 at this point to schedule a public hearing. But we haven't had
21 a public hearing. The Office of Planning hasn't had a public
22 roundtable. It's come up at our other IZ case hearings, but it
23 wasn't on this case. And so I personally would like to have a
24 public hearing. I want to hear, I want economic data to come
25 forward. I wouldn't want to have that hearing scheduled unless

1 the Petitioner affirmatively provides some economic data in
2 response to the Office of Planning's economic data, economic
3 data, which we asked for from the outset when this case was first
4 filed a year and a half ago, so. But I personally think that
5 the downtown should participate in the equitable development of
6 mixed income housing throughout the city. It's never a good time
7 to put burdensome requirements, but land values are already
8 crashing. And not to say that I want to accelerate that crash
9 by throwing something else into the mix because I don't want to
10 do that, but so, you know, if I were going to be -- if there were
11 a vote to schedule a public hearing on this proposal, I would
12 want to alter the proposal to make clear that, A, it doesn't
13 apply at all the set-down rule that applies to map amendments,
14 for example, where the most restrictive proposal in a map
15 amendment proposed would be in place during the pendency of a
16 hearing. I certainly would not want that to be the case. I
17 would want the status quo to be the case. And I don't think it
18 does apply, the set down rule does not apply in a text amendment
19 like this case is. I also would want to make clear that there
20 should be a grace period before, a significant substantial grace
21 period, before any implementation of this if it were to go forward
22 with approval by the Zoning Commission, even after we schedule a
23 public hearing. So I would want to schedule the public hearing
24 with the -- with some kind of text or notation that it would not
25 be implemented in any event until some period of years after the

1 order -- an order approving it, if we got to that point, was
2 issued in order to not affect the financing of any projects that
3 are currently in the works. We know these projects take a long
4 time. And to allow the land values to adjust as they had to
5 adjust 30 years ago when the Zoning Commission did a rezoning,
6 basically a down zoning, of downtown to get whatever housing we
7 have there now. So I think it's important that downtown
8 participate. I'm disappointed that there wasn't a more breakdown
9 of the different zones, particularly the D-5 zones adjacent to
10 the South Capitol Street corridor where we -- where this has come
11 up so many times, where it's just market rate housing. We're
12 happy to see the housing, but nothing being offered except on a
13 few cases, a couple cases, where the applicant voluntarily threw
14 a bone to the ANC or to us. And we appreciate that they did.
15 But I think with the plummeting land values, office is just not
16 'going to be as attractive, and it's a modest 'effect. I've
17 heard different percentages. I heard that this could affect it
18 by 5 percent. I heard it could be affected by 20 to 30 percent.
19 I'm not even sure what OP's numbers are. I mean, different places
20 in your report where you say it has a different effect on the
21 land values if there were -- if this were to take effect. So I
22 guess I want more information. I want to see an equit- -- more
23 equitable city where downtown's participating in affordable
24 housing, where there's mixed income neighborhoods throughout the
25 city. So I realize there are' not the votes maybe to do that

1 this evening, but that's where I am, Mr. Chairman.

2 CHAIRPERSON HOOD: Thank you, Vice Chair Miller.

3 And let me just start off by saying I agree with
4 everything I heard from my colleagues. But I know this is --
5 and yes, I was around towards the end of the downtown zone when
6 Mr. Charlie Doctor and Terry Lynch, who worked very hard to
7 convince the Commission, I came in on the end of it. But I will
8 tell you that when I look at this, you know, my problem is we
9 pushed for this for so long that I don't necessarily want not to
10 hear from the public because to me the public wants to hear from
11 us, but like we mentioned earlier, we didn't get a report from -
12 - and I apprec- -- let me back up. What Office of Planning
13 presented to us, I think it was very thorough. It was good and
14 it gives me pause. But what I don't want to do, Vice Chair
15 Miller, is to put everybody, as I've always said, on promise
16 land. I think there's going to be a time, and the mayor's
17 comeback plan, I just -- I was just downtown on Tuesday, and I
18 watched how things were working. I went into one of the stores
19 I always go into, and it almost looked like it was empty. I
20 think we have bigger things to do to salvage what we have down
21 there by a lot of federal workers working at home. And I think
22 we are doing damage and unintended consequence to ourselves to
23 just proceed and put everybody on hope land and promise land. So
24 my proposal, because I do want to hear from the people, the people
25 want to talk, but before I do that, let me ask Ms. Steingasser,

1 when you all had your roundtable, was it just -- it was just on
2 affordable housing, it wasn't talking about the D zones or
3 anything, was it?

4 MS. STEINGASSER: It was on affordable housing District
5 wide, with focus on the downtown. So both.

6 CHAIRPERSON HOOD: Okay. Okay. Maybe I need to peruse
7 that. But you're right to a point, Vice Chair, we did not get
8 it ourselves, and I like to get it so we can manage it and we
9 can ask the questions and we can be the one getting the
10 information. But I don't think a hearing in this case to set
11 this down is the appropriate thing to do at this time. What I
12 do think, and I know people are going probably going to frown on
13 me, because I think what I'm getting out of all this, people want
14 to hear from the public. They want us to hear from the public.
15 And I, too, want to hear from the public. I know the Office of
16 Planning has heard from some of the stakeholders, but I want to
17 hear from them as well. Or if OAG can produce some of them who
18 agree with their plan as well, because they seem to have a lot
19 of taxpayer time to go around and cause chaos. And I said it,
20 because I think that if they -- and here's the thing, I don't
21 disagree with a lot of things OAG says, but I don't have anything
22 to back up the push back to try to get things to move forward
23 because some of those things, as you all, my colleagues, already
24 know, when they were our land use counsel, they' heard us talking
25 about these things. That's why I think there's some conflicts

1 there. But I'll leave that alone. So what I was thinking through
2 all of this and trying to do a coordinated effort because I think
3 this city is trying to do the right thing. I think OP, the mayor,
4 the residents are trying to do the right thing. But here's the
5 bigger problem for me. I sit here all the time for all these
6 years and talk about affordable housing, and I don't really see
7 where it's affordable, especially to people like me. And I've
8 said this before, and I got criticized for it. But the reality
9 is does it really meet the people who most need it? No. We sit
10 here and talk all this jargon about consistency with the comp
11 plan and this and that, but the people who need it, don't want
12 to hear about that. They're looking for homes. They're looking
13 for places to stay. They want to be a part of the community.

14 So Ms. Steingasser, not to just throw this out, if we
15 -- I will not be in favor of setting this down because of what
16 I've heard here tonight, Vice Chair Miller, I'll tell you that.
17 But what I am in favor of is doing what I did with -- what we
18 did as a Commission with the racial equity lens. I'm ready to
19 deal with this tonight. What I would like to hear for myself,
20 from some of those stakeholders, and it doesn't have to be
21 tomorrow or next week, it could be some time, but I'd like to
22 hear that conversation. Let's have that conversation and bring
23 everybody together, because right now we've got a group over
24 here, a group over there, a group over there. And Office of
25 Planning has done the legwork. So I'm asking both of my

1 commissioners, what do you all think, and I should have done this
2 while Commissioner May was here, about a roundtable so we can do
3 exactly what you asked for, Vice Chair, and we can get somewhere,
4 we can flesh out some of our own issues? I'm asking you, Vice
5 Chair, what do you think about a roundtable because I can tell
6 you I'm not a support of setting this down, not where it is now.

7 Well, think about it and I'll come back to you. Just
8 think about it. Just think about it.

9 Ms. Steingasser?

10 MS. STEINGASSER: Yes, sir.

11 CHAIRPERSON HOOD: If we are not going to do D zones,
12 now you know the Vice Chair and I, and I'm sure the commission
13 wanted this, it didn't 'come from OAG, I've said that a thousand
14 times, but what other things can we do to where we can really
15 start -- and I know you all are looking at it and trying, but -
16 - and I know we're a small piece of it, but what other out-of-
17 the box things can we do as a Commission to really get through
18 to the people that most need it? You know, we talk about
19 affordable housing and talk about 50 percent of the MFI, but
20 people can't afford that. Are there any things that along with
21 other things that -- and I'm starting to ramble, but -- that can
22 get us to where I think we need to be?

23 MS. STEINGASSER: Well, I don't know. I think zoning
24 is a very limited tool. And in many cases, it's really a hammer
25 when what's needed is a scalpel, you know, something that's more

1 surgical. The council has several other tools that they use, of
2 course, the power of the purse is number one. They have the
3 ability to do affordable rental covenants, the tax abatement on
4 housing in the downtown, there's local rent supplements, there
5 are' land dispositions, and of course the housing production
6 trust fund. And you know, maybe -- I don't have 'anything to
7 offer. You know, the Commission has done quite a bit, as we
8 tried to point out, and we didn't come to this conclusion easily
9 or quickly. I mean, we agree with you that IZ is a very limited
10 tool. It focuses on a very narrow slice of the population and
11 people want it to be so much more and achieve things that it's
12 just not cut out to do. Maybe we could talk with the Department
13 of Housing and Community Development and maybe this is a place
14 to get started. We could have an informational presentation on
15 just kind of what are the housing programs in the District so
16 the Zoning Commission can see where you fit within that overall
17 housing continuum, because there are a lot of housing programs
18 out there that are unrelated to zoning.

19 And another thing that might be helpful and we can
20 focus on this planning area is maybe we could update the housing
21 equity report specifically on the downtown and the Commission can
22 see that the downtown is participating in the affordable housing.
23 It's not participating in the standard way that we see it -- see
24 participation with IZ, but you know, they, as Art presented
25 earlier, this planning area is on track to achieve its housing

1 goals and achieve its 15 percent of all of its units. And it's
2 done through different tools through, more through, you know, the
3 public housing or the vouchers or the different kinds of things.
4 So maybe that would just be a place to start to -- so you didn't
5 feel so isolated in terms of where the Commission sits in the
6 housing.

7 VICE CHAIR MILLER: And Ms. Steingasser -- if I could
8 interrupt Mr. Chairman -- just on the housing equity report from
9 2019, you said the downtown and central Washington area is on
10 track to meet its goals, both, I think, housing and market --
11 market rate and affordable housing, is that correct, is that what
12 you said?

13 MS. STEINGASSER: Yes.

14 VICE CHAIR MILLER: But the mayor's comeback plan added
15 additional housing goals downtown, market rate housing goals.
16 There's no affordable housing requirement. But were there an
17 adjustment to the affordable housing goal when she added the
18 15,000 additional, was it 15,000 additional beyond what was the
19 original target for downtown, did the affordable housing part of
20 that equation get --

21 MS. STEINGASSER: I'm going to look to --

22 VICE CHAIR MILLER: -- get an increase? I don't think
23 it did. So when you say it's meeting the affordable housing
24 goals, it's the goal from the 2019, not the revised goal for
25 housing downtown.

1 MS. STEINGASSER: Right. I was talking specifically to
2 the housing equity report, the 2019 report --

3 VICE CHAIR MILLER: Right. So --

4 MS. STEINGASSER: -- and the projections that that
5 gave. And we could take that and update it in light of, you
6 know, obviously four years later and also in light of the downtown
7 -- mayor's downtown objectives.

8 VICE CHAIR MILLER: That would be helpful. I think
9 that would be very helpful because I think she's -- she has
10 announced a goal that increased the overall housing. And I'm not
11 sure we've -- we're reflecting properly in our charts the goal
12 for the affordable housing downtown, although I realize that
13 she's got in a big part of that program is the tax abatement that
14 would -- if you do 15 percent affordable housing in conformance
15 with basically the IZ guidelines, so. But I don't think that
16 that affordable housing target has been adjusted. So an update
17 of that reflecting the new comeback goal for the overall housing
18 would be appropriate, so we know how we are meeting it and whether
19 -- how realistic -- well, that's another question -- how realistic
20 is it that these tax abatements are going to be used, we don't
21 know I guess until you put out the regs and people start applying
22 for it, but okay. Thank you, Mr. Chairman.

23 CHAIRPERSON HOOD: Thank you.

24 I really don't -- you know, I hear us talk about it, I
25 got to say I hear affordable housing, affordable housing, I

1 tolerate it, I have to compromise. I understand that a lot of
2 other things that go into it, but I just don't think -- even with
3 the things that we try to initiate, and I appreciate, Ms.
4 Steingasser, you saying that there are other tools, maybe it's -
5 - maybe that's my problem. I don't know what all the other tools.
6 I will tell you, I started this down this road again a couple of
7 months ago. I don't know if you all remember. And I started
8 inquiring, I think I even inquired of the Office of Planning,
9 there are so many affordable housing advocates, it would be good
10 if everybody can get on the same page and we can achieve stuff
11 and work together because everybody's doing something different.
12 And I don't know if we're going to ever achieve and get to the
13 people that we need to get to. That's the goal. That's where
14 I'm trying to get to, people that need the most help. Council
15 has a piece, the different advocates have a piece, we have a
16 piece. And I've talked to Councilmember Bonds about it. You
17 know, I've been trying to figure out how do we get to the people
18 who need -- who want to stay over at the waterfront but who may
19 not be able to afford it, how can we get them housing over there?
20 I know the square footage is a lot more than what it is maybe
21 where I live because I can't even go to the waterfront and live.
22 So I'm just saying, you know, we need to -- and I don't know,
23 you know what, forget it.

24 So what do my colleagues think about the roundtable
25 idea? So -- because here's the thing, I believe that people want

1 to be heard. I'm not in favor of moving forward and putting
2 anybody on promised land for a set-down. I probably should have
3 asked this while Commissioner May was here, but I wanted to --
4 he's given his vote on this situation in front of us tonight. I
5 can talk again about a roundtable again previously. Look at our
6 track record for the racial equity tool. Look at how that it's
7 been helpful. And I know we have a lot of advocates who are
8 helping us to do that. Ms. Lovick has done a spectacular job to
9 the point where some of the advocates are even commenting on some
10 of the things that we've done in a positive way. And I think
11 that roundtable, as it gets to what you said, Vice Chair, about
12 us hearing from them, and then we can ask our questions from some
13 of the stakeholders, even though I know Office of Planning did
14 something to that term. So let me hear what my colleagues are,
15 Commissioner -- Vice Chair Miller, any comments on my request?

16 VICE CHAIR MILLER: I guess I'm not sure how that would
17 exactly work. It wouldn't be a roundtable on the case I guess,
18 it'd be a roundtable on the issue that underlies the case. I'm
19 in favor of hearing from the public, us hearing from the public,
20 and asking our questions to the public and the stakeholders, the
21 Petitioner, the Office of Planning, others, experts. I don't -
22 - I mean, I told you where -- I support setting it down for a
23 public hearing, with a caveat that it would not take effect if
24 we were even to get to an order until two or three years after
25 the -- so I would prefer that we just have one public forum where

1 we hear comment rather than possibly having two. I also want
2 that -- I also don't really want to schedule it necessarily unless
3 the OAG provides that economic data that we requested from the
4 beginning, and as the Petitioner, they should provide, and now
5 especially to respond with economic analysis to the analysis that
6 OP has provided, since we don't have the resources to do that on
7 our own. I mean, we could ask for that, but I don't think that's
8 -- I think that's a burden on our office that we just don't have
9 at this point.

10 So I mean, I guess I'm receptive to it, Mr. Chairman.
11 I appreciate you trying to come up with a middle ground here.
12 I'd be interested in Commissioner Imamura's comments. I'd be
13 interested in what maybe our counsels' comments as to how -- what
14 legal status it would have in terms of the case. I guess it --
15 I guess you're trying to separate it from the case since it
16 wouldn't be a public hearing on the case. I'm just a little bit
17 confused about that.

18 CHAIRPERSON HOOD: Okay. So let me just explain, then
19 I'll go to Commissioner Imamura right quick. Let me just explain
20 kind of like what we did with racial equity tool, we will come
21 up with the platform. We know what's out there. We know what
22 people are responding to. We know who probably have talked --
23 spoken with -- or we've been told who has had a conversation with
24 the Office of Planning. I'd like for them to have it with us.
25 We can solicit information. We can come -- we have excellent

1 legal counsel. They can come up with helping us with the
2 parameters. It worked then, why won't it work now. My objection
3 to having the case just lingering out there for two or three
4 years, we can do a roundtable and then we could put something
5 out there that's going to meet the measure. All that -- what
6 we're doing now, just having the case sitting there, and two or
7 three years later we're still putting people on promise land.

8 But let me go to Commissioner Imamura.

9 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I
10 appreciate Vice Chair Miller's passion. I think we all share,
11 as I mentioned before, this interest in increasing the housing
12 stock in the city. I'm not prepared to set this down. I'm
13 prepared to make a decision based off of the information that's
14 in front of us. My experience tells me that when somebody doesn't
15 show up with their homework, you've already asked for it, they're
16 not going to show up with the homework. I mean, I'm not sure
17 what makes anybody think that that's going to happen by asking a
18 second or a third or a fourth time. So I think the -- I think
19 citizen input and community group input is always good planning
20 as a process. I think what I've heard tonight, and I think the
21 general consensus is that maybe IZ is not the appropriate tool
22 here, but maybe there's something else. So has that been
23 considered, what are those options, how do we -- you know, why
24 can't we flesh that out a bit more? So I'm not convinced that -
25 - I mean, I think the input would be great, Mr. Chairman, to be

1 more direct. So I'm not going to talk in circles. So that's
2 where I stand. And I yield back.

3 CHAIRPERSON HOOD: Okay. All right. Thank you.

4 So with that, I think we are where we are. I know the
5 Vice Chair is where he is. I will be voting to not set this
6 down, especially as prescribed due to the information that we
7 have in hand. But I'm in -- I'm going to make a motion and we
8 can vote it up or down. I don't know if I should include the
9 roundtable because Commissioner May didn't leave that. I better
10 not include that, but I'm going to bring that back up again. Ms.
11 Schellin, at our next meeting, if you can remind me to bring that
12 back up, because I think that way we can resolve and hear from
13 the public and then maybe we can figure out other ways, even if
14 it's not in D zones, maybe other ways that we can get the
15 affordable component so the residents don't feel like they're
16 disenchanted, that feel like they're not being heard, and we
17 deciding the merits without the input because anybody knows my
18 record and the Commission's record, we never do that. So anyway,
19 I would move that we not set down and I'm sure that counsel will
20 help me get this all correct, but I will move that we not set
21 down -- just a second. I have to find it now. I'm having to go
22 out of order. I would move that we not set down on Zoning
23 Commission Case No. 21-23. I'm not going to say it's the Office
24 of Attorney General's text amendment. I'm going to say Zoning
25 Commission Case No. 21-23. Well, it is their amendment, but it's

1 our thoughts -- that we not set that down at this time and ask
2 for a second.

3 COMMISSIONER IMAMURA: Second.

4 MS. LOVICK: Sorry. Excuse me. Are you dismissing it
5 or denying it?

6 CHAIRPERSON HOOD: I'm dismissing without prejudice.

7 MS. LOVICK: Okay. Thank you.

8 MS. SCHELLIN: Deny set-down. So they're denying set-
9 down and dismissing.

10 MS. LOVICK: Okay.

11 CHAIRPERSON HOOD: Okay. Dismissing and denying -- I'm
12 not approving it.

13 MS. SCHELLIN: Denying the set-down will dismiss it.

14 COMMISSIONER HOOD: I'm not approving it.

15 MS. SCHELLIN: So it's denying set-down.

16 CHAIRPERSON HOOD: Okay. So denying set-down,
17 dismissing it, denying set-down, not approving it, all of the
18 above and ask for a second.

19 COMMISSIONER IMAMURA: Second to dismiss.

20 CHAIRPERSON HOOD: Okay. It's been moved and properly
21 second. Any further discussion? Not hearing any, Ms. Schellin,
22 would you do a roll call?

23 COMMISSIONER IMAMURA: Yes, Mr. Chairman. Sorry. I
24 think also just -- the record will reflect too that Commissioner
25 May had mentioned he was supportive of dismissal.

1 CHAIRPERSON HOOD: Okay. All right. So -- and I will
2 amend my motion to dismiss as well or whatever the legal term is
3 I need to put in there, I'll leave that up to the OLZ -- Office
4 of Zoning legal division. So it's been moved to dismiss and
5 seconded by Commissioner Imamura.

6 Ms. Schellin, would you do a roll call vote please?

7 MS. SCHELLIN: Yes.

8 Commissioner Hood?

9 CHAIRPERSON HOOD: Yes.

10 MS. SCHELLIN: Commissioner Imamura?

11 COMMISSIONER IMAMURA: Yes to dismiss.

12 MS. SCHELLIN: Commissioner Miller?

13 VICE CHAIR MILLER: No.

14 MS. SCHELLIN: I have a vote absentee ballot from
15 Commissioner May that says he votes "to dismiss, but if the motion
16 is to deny, I would vote to deny." So I believe the vote is to
17 deny set-down and to dismiss the case without prejudice; is that
18 correct?

19 CHAIRPERSON HOOD: Without prejudice, yes. So Ms.
20 Schellin, what I --

21 MS. SCHELLIN: So that would be three to one to one.
22 Commissioner Miller opposed and the third mayoral appointee seat
23 being vacant, not voting.

24 CHAIRPERSON HOOD: Okay. So what I am going to ask,
25 my ask now is, and I'm asking the commissioners as well, is that

1 we come up with a timeframe and I'm going to ask Office of Zoning
2 legal division if we need to talk later, but I would like to hear
3 from the public and I'm letting the Office of Planning know, OAG
4 know, the residents know, I do want to hear from the public about
5 not just D zones, but just period. And if they want to comment
6 on the D zones, I want to make sure that the public, as OAG
7 mentioned in their letter that we should not decide anything
8 without hearing from the public. I'll always hear from the
9 public, whatever the issue is. And I think we need to come up
10 with an announcement and put it out there and publish it, and
11 we'll hear from the public. It doesn't have to be next month,
12 next week, but I would like to hear from them soon. When I say
13 soon, in maybe four or five months, but we to get back on this
14 and see how we can kind of come to some kind of conclusion
15 together, hopefully. Anything else on this?

16 MS. SCHELLIN: Yes. And just to make it clear, we are
17 not soliciting anything from the public at this time because
18 there will be no record for them until we schedule.

19 CHAIRPERSON HOOD: Right. I'm not asking anything
20 because I've got to -- we got to wrap our arms around it, because
21 what I've heard is that people want to be heard. And I want --
22 not only do I want to hear them, I want to do like we did with
23 the racial equity lens, put it to application, apply it and make
24 it work. That's what I want to do.

25 MS. SCHELLIN: Yeah, I just wanted to make that

1 announcement for anybody who's listening. Correct. Thank you.

2 CHAIRPERSON HOOD: All right. So all right. And I
3 hope my colleagues -- I'm not speaking for my colleagues, I'm
4 just making that request. I'm sure at the next meeting if we
5 can put that on the agenda to have that discussion, Ms. Schellin,
6 I'd appreciate it.

7 All right. Now, let me see where am I supposed to go
8 back to now. Let's go to hearing action Zoning Commission Case
9 No. 22-23. This is the text -- Alan Gambrell, et al., text
10 amendment rules of measurement for lot occupancy and the
11 structure and required open space.

12 Ms. Myers?

13 MS. MYERS: Good evening, Commissioners. The Applicant
14 for this case submitted a proposed text amendment to modify
15 Subtitle B 324, which is the structures and required open spaces
16 section in the regulations. After considering the intent of this
17 amendment, the Office of Planning recommends also modifying B
18 312, rules of measurement for lot occupancy and B 100, definition
19 section. The zoning administrator has a long-standing
20 interpretation that considers the portion of a building that is
21 under four feet in height to be exempt from the building's lot
22 occupancy calculation. This interpretation is based on the
23 structures and required open spaces section, which allows for
24 short structures to be in required open spaces. This section is
25 not intended to regulate lot occupancy and the Applicant argues

1 that using it in this way has allowed for buildings to exceed
2 their lot occupancy limits without zoning relief. The section
3 that is intended to regulate lot occupancy is the lot occupancy
4 rules of measurement section. In order to address the intent of
5 this text amendment, OP worked with the Applicant and with the
6 zoning administrator to provide more clarity in this section.
7 This includes adding an exemption for decks and porches that are
8 under four feet in height. OP's changes also include relocating
9 the development restrictions in the yard definition section to
10 the structures and required open spaces section. This text
11 amendment should not impact racial equity in the District because
12 it would clarify how to measure lot occupancy, which is the
13 density control used throughout the city. In conclusion, the
14 Office of Planning recommends setting down Zoning Commission Case
15 22-23 with the Office of Planning's recommended text which is
16 supported by the Applicant. Thank you.

17 CHAIRPERSON HOOD: Thank you, Ms. Myers.

18 Before I go to my colleagues and myself, Ms. Schellin
19 is Mr. Gambrell available, is he on?

20 MS. SCHELLIN: He is not on. Well, let me refresh.
21 I'm sorry to make you refresh now.

22 CHAIRPERSON HOOD: Can I just ask -- if he's not on,
23 I'll just ask the Office of Planning.

24 MS. SCHELLIN: I don't see him.

25 CHAIRPERSON HOOD: So Ms. Myers, have you all been

1 working along with Mr. Gambrell with this alternative language
2 and did he agree to it?

3 MS. MYERS: Yes, we have. We've been working with him
4 since the end of the summer actually of last year. So it's been
5 a long road. And he's seen the last versions of it, and he's
6 very excited to get it moving towards set-down at this point.
7 But he's approved of the version that we have for set-down.

8 CHAIRPERSON HOOD: So okay, so that's -- so we would
9 only have to advertise the version that you all are proposing
10 working with Mr. Gambrell, correct, is that a fair statement?

11 MS. MYERS: That's my understanding. I don't think
12 this would be considered a whole new text amendment. It would
13 just be -- it's endorsed by the Applicant.

14 CHAIRPERSON HOOD: Okay. Great. Okay.

15 Let me open it up to any questions or comments.

16 Commissioner Imamura?

17 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. And
18 thank you, Ms. Myers, for your report and response to the
19 Chairman's question. I don't think that I have any other
20 questions other than I suppose if the Applicant is supportive of
21 it, punctuation is important, so they still want to add their
22 comma; is that right?

23 MS. MYERS: Well, we removed -- we recommended removing
24 a whole portion of the text that that comma would have related
25 to.

1 COMMISSIONER IMAMURA: Okay.

2 MS. MYERS: So it's not relevant anymore.

3 COMMISSIONER IMAMURA: Okay. Thank you. All right.

4 Nothing further, Mr. Chairman.

5 CHAIRPERSON HOOD: Thank you.

6 Vice Chair Miller?

7 VICE CHAIR MILLER: Thank You, Mr. Chairman and thank
8 you, Ms. Myers, for -- and the Office of Planning for working
9 with the Applicant in this case and the zoning administrator and
10 others to come up with a proposal that everybody is supportive
11 of, I mean, amongst yourselves and the Applicant at least. We'll
12 see what the public hearing brings. But thank you very much.

13 CHAIRPERSON HOOD: Thank you, Ms. Myers.

14 So let me move this along, colleagues. Somebody had a
15 -- okay. Let's -- I would move that we set-down Zoning Commission
16 Case No. 22-23 and the text that both the Applicant and the Office
17 of Planning have agreed upon, and ask for a second.

18 COMMISSIONER IMAMURA: Second.

19 CHAIRPERSON HOOD: Well, Petitioner, excuse me.

20 Moved and properly second. Any further discussion?

21 Not hearing any, Ms. Schellin, would you do a roll call
22 vote please?

23 MS. SCHELLIN: Commissioner Hood?

24 CHAIRPERSON HOOD: Yeah.

25 MS. SCHELLIN: Commissioner Imamura?

1 COMMISSIONER IMAMURA: Yes.

2 MS. SCHELLIN: Commissioner Miller?

3 VICE CHAIR MILLER: Yes.

4 MS. SCHELLIN: And I have an absentee ballot from
5 Commissioner May that says "I vote to set-down the text" whether
6 -- "if the Petitioner agrees with OP, then I support OP's revised
7 language." So he is in favor of set-down. So the vote is four
8 to zero to one to set down Zoning Commission Case No. 22-23 as a
9 contested case and the minus one being the third mayoral appointee
10 position, which is vacant.

11 CHAIRPERSON HOOD: Thank you, Ms. Schellin.

12 Let's go to Zoning Commission --

13 MS. LOVICK: It's a rulemaking.

14 MS. SCHELLIN: I'm sorry. You're right. Rulemaking
15 case. I wrote down rulemaking, but said contested.

16 CHAIRPERSON HOOD: Okay. So let's go to zoning time
17 extensions Zoning Commission Case No. 18-03A Dancing Crab
18 Properties, LLC and 10009 Field Road, Inc. two-year PUD time
19 extension at Square 1769.

20 Ms. Schellin?

21 MS. SCHELLIN: Yes, on this one, the Applicant's
22 requesting a two-year PUD time extension to begin construction
23 from March 1st, 2023, to March 1st, 2025. The Applicant's
24 justification for the extension is the amount of time it has
25 taken to go through the permit process, which they started in

1 January 2022. Exhibit 5 is an OP report in support. Exhibit 6
2 is ANC 3E's report in support. The ANC was the only party, so
3 the Commission may proceed with final action if they choose to
4 do so. Thank you.

5 CHAIRPERSON HOOD: Okay. Again -- thank you Ms.
6 Schellin.

7 As mentioned, the Applicant is requesting a two-year
8 time extension of deadline being construction of approved PUD
9 project from May 1st, 2023 to March 1st, 2025. They mentioned
10 build -- they alluded to building permits. This has elapsed as
11 far as notice to the parties, and I know sometimes it can be kind
12 of confusing and it can kind of take some time and it's a lot of
13 studying when you get building permits here in this city. I've
14 learned that firsthand. So what I would do, I would be in favor
15 of supporting this.

16 Let me hear from others.

17 Commissioner Imamura?

18 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'm
19 in agreement with you. I'm prepared to support. I mean, five
20 rounds of comments takes substantial amount of time. You have
21 OP support as well as ANC. You know, the Applicant has
22 demonstrated their stick-to-itivness, I would say. So I'm in
23 favor of providing a time extension.

24 CHAIRPERSON HOOD: Okay.

25 And Vice Chair Miller?

1 VICE CHAIR MILLER: I concur, Mr. Chairman.

2 CHAIRPERSON HOOD: Okay. So with that, I would move
3 that we grant the time extension as requested for Zoning
4 Commission Case No. 18-03A and ask for a second.

5 COMMISSIONER IMAMURA: Second.

6 CHAIRPERSON HOOD: Moved and properly second.

7 Any further discussion?

8 Not hearing any, Ms. Schellin, would you do a roll call
9 vote please?

10 MS. SCHELLIN: Commissioner Hood?

11 CHAIRPERSON HOOD: Yes.

12 MS. SCHELLIN: Commissioner Imamura?

13 COMMISSIONER IMAMURA: Yes.

14 MS. SCHELLIN: Commissioner Miller?

15 VICE CHAIR MILLER: Yes.

16 MS. SCHELLIN: And I have an absentee ballot from the
17 Commissioner May in support. So the vote is four to zero to one
18 to approve final action Zoning Commission Case No. 18-03A, the
19 minus one being the third mayoral appointed position, which is
20 vacant. Thank you.

21 CHAIRPERSON HOOD: Okay. Zoning Commission Case No.
22 13-14D. This is McMillan Parcel 2 Owner, LLC three-year PUD time
23 extension at Square 3128.

24 Ms. Schellin?

25 MS. SCHELLIN: Yes, the Applicant is requesting a

1 three-year time extension for the Parcel 2 building. This is the
2 second time request for more than one year, so a waiver of
3 Subtitle Z, Section 705.5 has been requested by the Applicant.
4 That section limits the second request to one year. The Applicant
5 stated its justification for the extension is due to significant
6 delays caused by litigation of approvals of the Commission and
7 the mayor's agent on historic preservation, litigation related
8 to permits issued by those approvals, and administrative delays
9 in the subdivision and property transactions required for the
10 Parcel 2 building. The Applicant stated the three-year extension
11 is needed in order to proceed with preparing permit drawings and
12 the extensive site work. Exhibit 6 is an OP report in support.
13 ANC 5E and 1E have not submitted reports. However, the requisite
14 30-day time period for them to respond has passed, and so the
15 Commission can proceed with final action if they choose to do so.
16 Thank you.

17 CHAIRPERSON HOOD: Okay. Thank you.

18 Let me ask, any objections to us waiving our one-year
19 rule, any object- -- I guess I can do that by general consensus
20 at least to start with. Okay. And I would just ask whoever
21 makes the motion to include all that in your motion. Any
22 objections?

23 Let me open up it for any questions or comments.

24 Commissioner Imamura

25 COMMISSIONER IMAMURA: Again, thank you, Mr. Chairman.

1 I think this is pretty straightforward and the Applicant has
2 certainly provided a well-documented justification for the time
3 extension. I'll say I think three years seems reasonable to me,
4 so.

5 CHAIRPERSON HOOD: Thank you.

6 Vice Chair Miller?

7 VICE CHAIR MILLER: I would agree, Mr. Chairman. And
8 if ever there was a case where administrative delays caused by
9 litigation after litigation after litigation after litigation by
10 the opposition in this case, which clearly was in opposition to
11 the affected Advisory Neighborhood Commission, the clear
12 direction of the mayor and council numerous times for this
13 McMillan project, it almost -- it lends itself to abuse of the
14 judicial process, sees that have been available to the opposing
15 parties in this case, which did not represent the views of the
16 affected Advisory Neighborhood Commission, I think not even the
17 citizens association and certainly not the ma- -- the elected
18 representatives of the mayor and the council. So yes, I think
19 it's just -- the time extension is justified. It's been a very
20 frustrating that this case, which has a zero -- Zoning Commission
21 Case No. 13-14D filed in 2013 I guess. We had first approved
22 it, I think, in '16. It's time for an extension and to move this
23 project forward. Thank you.

24 CHAIRPERSON HOOD: Okay. I don't have anything to add.

25 I think you and Commissioner Imamura covered it. Would somebody

1 like to make a motion?

2 VICE CHAIR MILLER: I would move, Mr. Chairman, that
3 we waive -- we do the waiver request that limits the second time
4 extensions to no more than one year to allow a second time
5 extension for more than one year, three years in this case, for
6 Zoning Commission Case No. 13-14D McMillan Parcel 2 Owner, LLC,
7 three-year PUD time extension at Square 3128 and ask for a second
8 of all that.

9 COMMISSIONER IMAMURA: Second.

10 CHAIRPERSON HOOD: It's been moved and properly second.

11 Any further discussion?

12 COMMISSIONER IMAMURA: Just to applaud the Applicant
13 for their stick-to-itiveness. Another good example of that.

14 CHAIRPERSON HOOD: Okay. Thank you.

15 Any further discussion?

16 Not hearing any, Ms. Schellin, would you do a roll call
17 vote please?

18 MS. SCHELLIN: Commissioner Miller?

19 VICE CHAIR MILLER: Yes.

20 MS. SCHELLIN: Commissioner Imamura?

21 COMMISSIONER IMAMURA: Yes.

22 MS. SCHELLIN: Commissioner Hood?

23 CHAIRPERSON HOOD: Yes.

24 MS. SCHELLIN: And then I have an absentee ballot from
25 Commissioner May makes the vote four to zero to one to approve

1 final action in Zoning Commission Case No. 13-14D, the minus one
2 being the third mayoral appointee position, which is vacant, not
3 voting. It sucks getting old, so that's what happens. I see
4 you, I know you, but your name slipped my mind.

5 COMMISSIONER IMAMURA: I almost thought it wasn't fair
6 that Vice Chair Miller get two votes here.

7 CHAIRPERSON HOOD: Well, she said M, I --

8 MS. SCHELLIN: I saw him, I knew him, but I just --
9 his name was just lost.

10 CHAIRPERSON HOOD: I thought you were going to call me
11 Mitten, Commissioner Mitten.

12 MS. SCHELLIN: Yes.

13 CHAIRPERSON HOOD: Chairman Mitten.

14 MS. SCHELLIN: Called yourself Mitten. That will never
15 be forgotten.

16 Last case.

17 CHAIRPERSON HOOD: Let's go to the last case, Zoning
18 Commission Case 04-14G. You talking about a case that's been
19 around, Vice Chair Miller.

20 Ms. Schellin?

21 MS. SCHELLIN: Yes. The Applicant is requesting a two-
22 year PUD time extension. They stated their justification for the
23 extension being that the second stage PUDs could not be filed for
24 phases three or four until the parameters of the property were
25 finalized with DDOT, which did not occur until January 2023.

1 While this is the first extension request for this portion of the
2 order, prior time extensions were approved as follows, there were
3 two other ones: 14-14A for a two-year extension in 2009, and
4 Order No. 04-14C for a one-year PUD time extension in 2013. ANC
5 8F has not submitted a report. However, the requisite 30 days
6 has passed, so the Commission can proceed with final action. And
7 those PUDs were prior to our 2016 regs taking effect.

8 CHAIRPERSON HOOD: Okay. And thank you, Ms. Schellin.

9 MS. SCHELLIN: When the new rules went in. Uh-huh.

10 CHAIRPERSON HOOD: And resurrected, I think, around
11 2008. I see here the newer version of the Florida Rock PUD, but
12 it started in the '90s, late '90s I believe, or maybe early '90s.
13 But either way, I think stuck with it all this time, I don't have
14 any issues, as noted by Ms. Schellin, with continuing the status
15 because of the issues they've had in this part with the granting
16 another two years -- I think they're asking for two years --
17 extension.

18 So let me hear from others.

19 Commissioner Imamura?

20 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. I'm
21 in agreement with you and prepared to support the time extension.

22 CHAIRPERSON HOOD: Okay.

23 Vice Chair Miller?

24 VICE CHAIR MILLER: I concur, Mr. Chairman.

25 CHAIRPERSON HOOD: Okay. So I will move approving

1 Zoning Commission Case No. 04-14G, Florida Rock Properties, Inc.,
2 two-year PUD time extension at Square 708, and ask for a second.

3 COMMISSIONER IMAMURA: Second.

4 CHAIRPERSON HOOD: It's been moved and properly second.

5 Any further discussion?

6 Not hearing any, Ms. Schellin, would you do a roll call
7 vote please?

8 MS. SCHELLIN: Commissioner Hood?

9 CHAIRPERSON HOOD: Yes.

10 MS. SCHELLIN: Commissioner Imamura?

11 COMMISSIONER IMAMURA: Yes.

12 MS. SCHELLIN: Commissioner Miller?

13 VICE CHAIR MILLER: Yes.

14 MS. SCHELLIN: I have an absentee ballot from
15 Commissioner May in support, so the vote's four to zero to one
16 to approve final action in Zoning Commission Case No. 04-14G, the
17 minus one being the third mayoral appointed position, which is
18 vacant.

19 CHAIRPERSON HOOD: Ms. Schellin, do we have anything
20 else before us?

21 MS. SCHELLIN: I have nothing else, and OP did not
22 advise of a status report, so I think that's it.

23 CHAIRPERSON HOOD: Okay. What I'd like to do is, first,
24 is say the Zoning Commission will be meeting again April the 3rd
25 on these same platforms, Zoning Commission Case No. 22-25, this

1 case brought by, I believe, Office of Planning and the Office of
2 Zoning, or it's just Office of Planning. Well, anyway. Tune
3 into these same platforms at the same time at 4 p.m. And I just
4 also too want to thank everyone who prepares us for these cases,
5 Office of Planning, Office of Attorney General, DDOT, and I
6 shouldn't get into names, everyone, our own staff, Office of
7 Zoning, Ms. Schellin, under the leadership of Ms. Barton, as well
8 as our Office of Zoning legal division. And if I left your area
9 out, I include you in my comments as well. So with that, I want
10 to thank everyone. And this meeting is adjourned. Good night.
11 Have a great weekend.

12 (Whereupon the above-entitled meeting was adjourned.)

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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: DCZC

Date: 03-30-2023

Place: Teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

GARY EUELL