

GOVERNMENT OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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REGULAR PUBLIC HEARING

+ + + + +

MONDAY

JUNE 12, 2023

+ + + + +

The Public Hearing by the District of Columbia Zoning Commission convened via videoconference 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, Data Specialist

OFFICE OF ZONING LEGAL DIVISION STAFF PRESENT:

HILLARY LOVICK, ESQUIRE
DENNIS LIU, ESQUIRE

The transcript constitutes the minutes from the Public Hearing held on June 12, 2023.

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

Case No. 22-25

Office of Planning 4

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

(4 p.m.)

CHAIRPERSON HOOD: Good afternoon, ladies and gentlemen. We are convening and broadcasting this public hearing by video conferencing. My name is Anthony Hood. Joining me this evening are Vice Chair Miller. Commissioner May and Commissioner Imamura. We're also joined by the Office of Zoning Staff Ms. Sharon Schellin and Mr. Paul Young who will be handling all of our virtual operations. We ask all others to introduce themselves at the appropriate time.

Copies of today's virtual public hearing notice are available on the Office of Zoning's website. Please be advised this proceeding is being recorded by a court reporter. It is also webcast live by WebEx and YouTube Live. The video will be available on The Office of Zoning's website after the hearing. Accordingly, all those listening on Webex or by phone will be muted during the hearing and those who have signed up to participate or testify will be unmuted at the appropriate time. Please state your name and home address before providing oral testimony on your presentation. When you are finished speaking, please mute your audio so that your microphone is no longer picking up sound or background noise. If you experience difficulty accessing WebEx or with your telephone call-in, please call our OZ hotline number at 202-727-0789 to sign up or to receive WebEx log-in or call-in instructions.

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1 All persons planning to testify either in favor,
2 opposition or undeclared, we encourage you to sign up in advance.
3 If you wish to file written testimony or additional supporting
4 documents during the hearing, please be prepared to describe and
5 discuss it at the time of your testimony. The hearing will be
6 conducted in accordance with provisions of 11 Z DCMR Chapter 5
7 as follows; preliminary matters, presentation by the Petitioner,
8 in this case the Office of Planning and the Office of Zoning,
9 which has up to 60 minutes, then we will have the report of other
10 government agencies, report of ANCs, this is City-wide, testimony
11 of organizations and individuals, each the organizations will
12 have five minutes and the individuals will have three minutes
13 respectively, and we'll hear in order who are in support,
14 opposition or undeclared. While the Commission reserves the
15 right to change the time limits for presentations if necessary,
16 it intends to adhere to the time limits as strictly as possible
17 and notes that no time shall be ceded. Again, any issues, please
18 call the OZ hotline number 202-727-0789. Also joining us our
19 Office of Zoning Legal Division, Ms. Lovick and Mr. Liu.

20 The subject of this evening's case is Zoning Commission
21 case No. 22-25 Office of Planning text amendments to Subtitles
22 I, X, Y and Z Rules of Practice and Procedures. Again, today's
23 date is June 12, 2023.

24 At this time, the Commission will consider any
25 preliminary matters. Does the Staff have any preliminary

1 matters?

2 MS. SCHELLIN: No preliminary matters. The Office of
3 Planning, Jennifer Steingasser and myself will do a joint
4 presentation and we'll start off -- I'll start off with the
5 changes that we made since the last hearing when we asked for
6 the postponement, and if Jennifer could be brought in, I'll see
7 if she's got anything preliminary, if you don't mind before we
8 start.

9 CHAIRPERSON HOOD: Okay. No problem. With that I'll
10 turn it over to you all to begin whenever you're ready.

11 MS. SCHELLIN: Okay. Thank you. Mr. Young, could you,
12 oh, you've got her. Great.

13 Jennifer, do you have anything preliminary before we
14 begin? You're on mute.

15 MS. STEINGASSER: No, I don't. Thank you.

16 MS. SCHELLIN: Okay. So we'll start it with the
17 PowerPoint presentation if Mr. Young could bring that up.

18 Next slide. Okay. So this is just a quick summary.
19 These changes are to Subtitle C, I, X, Y, and Z.

20 Next slide, and I'm going to go through these fairly
21 quickly. The theme is basically corrections and citations,
22 notice and timing, clarification and reorganization. We made
23 about 17 changes to the initial vehicle since the April 3rd, 2023
24 notice of public hearing.

25 Next. So Subtitle C, Chapter 10, and these were, by

1 the way, I just want to say these changes that we made were in
2 response to what the public suggested. So these were not changes
3 that other than there was one correction that was a total error
4 that OZ and OP not be subject to racial equity. But the rest of
5 these, I believe, were all in response to the public that we made
6 these changes.

7 So Subtitles C Chapter 10, the Inclusionary Zoning
8 Sections 1001.4 and 6, and this was just changes in citation and
9 numbering just, you know, typos. Subtitle I Chapter 6, Section
10 617, pages 3 and 4 of the public hearing notice.

11 Next.

12 MS. STEINGASSER: Sharon? I hate to interrupt. We
13 didn't have a lot of practice time on this. These are not the
14 changes that we made in response to the April public hearing
15 notice.

16 MS. SCHELLIN: Oh, okay.

17 MS. STEINGASSER: These are summary changes that are
18 in the current public hearing notice.

19 MS. SCHELLIN: Okay. Okay. So I need to go over those
20 then. Let me go over those real quick. I thought you included
21 them in your presentation. Okay.

22 MS. STEINGASSER: (Indiscernible).

23 MS. SCHELLIN: Okay. Let me just, okay. Paul, you can
24 take that down for a second. I just want to briefly go over
25 those changes so that everybody hears the changes that we did

1 make in response to that, asking for that first permit (phonetic).
2 I'm sorry, Jennifer, I thought you included those.

3 So besides some minor changes in lettering and
4 numbering, some of the changes are the changes that we made based
5 on what we heard from the public. The major ones, like I said,
6 there were some minor ones, but we clarified in both Subtitles Y
7 and Z that modifications without hearing are modifications that
8 can be determined without witness testimony and moving on to
9 Subtitle Z where a lot of the changes were made on Chapter 3 PUD
10 application requirements.

11 We removed public school plan from the title of Section
12 302. We removed previously proposed additions to Section 304.1,
13 which would have exempted map amendments filed by ANCs or OP or
14 OZ for racial equity analysis requirements. We clarified that
15 an updated racial equity analysis is required for second stage
16 PUD applications.

17 Moving on to Chapter 4, contested cases for set-down,
18 scheduling and hearing. We increased the time period for
19 submitting an ANC set-down form from 30 to 40 days. We then
20 increased the time from when a case is filed to the time in which
21 it can be considered for set-down from 35 to 45 days. We required
22 any separately filed public agency reports to be filed at least
23 ten days in advance of a public hearing. We clarified that OP
24 reports on campus plan and medical campus plan cases shall
25 include a comp plan consistency analysis.

1 Then moving on to Chapter 5 rule-making cases,
2 scheduling rule-making cases for hearings and reports and set-
3 down procedures. We clarified that OP and OZ petitions shall be
4 also subject to review and set-down approval procedures. We
5 increased the same time periods for the set-down form from 30 to
6 40 days and the separately filed agency reports shall be filed
7 ten days prior to a hearing.

8 Moving on to Chapter 7, reconsideration of final order,
9 consent calendar, technical corrections to adopted rules and
10 modifications without hearing to contested orders, case orders
11 and plans. We deleted the references to a motion for re-argument.
12 We clarified the definition for filing both a motion for
13 reconsideration and/or motion for rehearing. We clarified the
14 standards for determining whether an application qualifies as a
15 modification without hearing, and last but not least, allow the
16 applicant or any other party to submit a draft order for
17 modification without hearings and bar responses to the draft
18 orders, as is now the policy in the regulations. So that was
19 just a quick rundown of the changes that we made and advertised
20 for this hearing.

21 So now we can proceed with the report. Jennifer, you
22 want me to go first or is this yours?

23 (Pause.)

24 MS. SCHELLIN: Can't hear you.

25 MS. STEINGASSER: I'll go ahead and start.

1 MS. SCHELLIN: Okay.

2 MS. STEINGASSER: And then I'll pass it off to you.

3 So, as Sharon was pointing out that there are, can we
4 go back one slide, Paul, please? So based on the thematic
5 summary, most of the changes to the rules and procedures following
6 the categories such as corrections and citations, meaning that
7 there are things missing or they have the wrong citation or a
8 citation is missing within. So there's really no substantive
9 meaning to those.

10 There's notice and timing, some of which Sharon just
11 touched on, which had to do with extending the time available for
12 referrals from the Office of Zoning to the ANCs and then for the
13 ANCs to get their set-down report back and then there is also an
14 extended time for when the case can be considered for set-down
15 as well as the extended time for modifications. And then the
16 third general theme is clarifications and reorganizations. Some
17 of some of the text does nothing more than clarify longstanding
18 practice of the Commission or reorganize a paragraph or a
19 regulation so that it matches the format of the chapter that it's
20 in and the 17 changes that Sharon just went through were the ones
21 that have been made to the original notice of public hearing, all
22 based on public input that we got in April for that hearing.

23 Next slide, please. So starting with the, I'm kind of
24 moving early through the notice of public hearing and we started
25 with Subtitle C. Those were also citation corrections and

1 numbering. They included some changes to Subtitle C Chapter 10
2 Inclusionary Zoning and some citations and Subtitle I, and those
3 can be found on pages 3 and 4 of the public hearing notice.

4 Next slide, please. Subtitle X gets a little bit into
5 some reorganization of how the relief is written. Clarifies that
6 the Zoning Commission has the authority to allow uses that might
7 otherwise not be permitted as a matter-of-right and draw for a
8 reference a case, it was last year where we, it was originally
9 an industrial zone. They did a PUD and then they came back and
10 wanted to put in a bakery and that bakery was to serve City-wide
11 so it was considered an industrial use and the Zoning Commission
12 amended the order and allowed that to go forward. So this allows
13 for that to be explicitly called out.

14 The FAR also is aggregated when it includes more than
15 one zone in a PUD. The way the regs are written it talks about
16 buildings, but we have always, at least in my 20 years with the
17 Commission, have considered aggregation both by zone districts
18 and buildings. So this just clarifies that practice and it also
19 clarifies that a variance granted within the PUD shall be
20 considered flexibility against which the Commission weighs
21 benefits and amenities.

22 There's also a reference to prehearing and hearing
23 procedures in Subtitle Z Chapter 4. So as a result of that
24 reference, we've taken out the repetitive reference and
25 requirements that were subsequently in Subtitle X, and then

1 there's some correct citations in Subtitle X regarding variances.

2 Next slide, please. So this is what I'm going to pass
3 off to you again, Sharon, Ms. Schellin, regarding the Board of
4 Zoning Board of Adjustment's rules and procedures and these kind
5 of focus on the changes in the public hearing notice from pages
6 6 through 14. There's no slides for that.

7 MS. SCHELLIN: Yes. So basically just, I don't think
8 I need to go through every one of these. I know you've read the
9 record. What we did here was it's really that a lot of it was
10 notices and memorializing some of the changes that or putting in
11 writing the practices that have been done for many years and so
12 for the, what we've got here is basically going through and doing
13 that and getting rid of -- I know there's been big confusion on
14 the notice. People seem to think that we've taken away the
15 process for people to file applications by mail. We have not
16 accepted applications by mail since 2012. So we have not changed
17 that process at all. Since we first went electronic all
18 applications are submitted electronically in 2012. We have it
19 set up so that if a person that wants to submit an application
20 or just something into the record and they do not have access to
21 a computer, that they can come to the office and we have a
22 designated person who will scan their application and upload it,
23 help them upload it in our office. We have not had anybody do
24 that.

25 Initially it only seemed to be happening for the BZA

1 when Harry Homeowner was filing an application on their own.
2 Most people seem to be saving PDFs themselves these days and
3 they've not had any issue. So I can't tell you the last time
4 someone walked into our office and said they needed assistance
5 in filing an application. So we haven't, like I said, we have
6 not accepted mail-in applications since 2012. We have provided
7 a way for people who don't have access though to come into the
8 office and still file their application. So I just want to make
9 that clear because that seems to be a theme over and over and
10 over in the record to still allow applications or still accept
11 mail-in applications or submissions and I think that there's a
12 confusion there.

13 So anyway, we clarified that and what we also did is
14 we took away the requirement of ten copies of full sets of plans
15 for both the Zoning Commission and the BZA and two sets of two
16 full copies of the complete application. We found since Covid,
17 Covid just caused a lot of changes across the City, that we no
18 longer need those hard copies. It's a waste of money and time
19 and copying and we found we were no longer in need of those. So
20 we got rid of that requirement. That is all we did as far as in
21 these notice provisions that we did over and over is we got rid
22 of that and everything else pretty much is the same. It may have
23 been reworded, but we were really just getting rid of the need
24 for these hard copies and so that's pretty much what that is.
25 And we changed the timing I think for modification of an

1 application from, before you could not modify an application less
2 than 20 days prior to a hearing, we changed that to 30 days.

3 We also have a, I think for the BZA and then the consent
4 calendar items with and without a hearing, we changed the name
5 from consequence and significance to with a hearing and without
6 a hearing for modifications and we went through that and pretty
7 much I think that's it, other thing going through the
8 reconsideration portion, which we have already touched on that
9 we -- the changes that we made there and there were a couple of
10 fees that had to be updated, and in each section also we added
11 the racial equity analysis, not to BZA, I'm sorry, so forget
12 about that. That's Zoning Commission, I'm jumping ahead.

13 Jennifer, is anything else that may need to be
14 mentioned?

15 MS. STEINGASSER: I don't think so, no.

16 MS. SCHELLIN: Okay.

17 MS. STEINGASSER: So can we go to the next slide,
18 please, Mr. Young? So with the Zoning Commission, we did a
19 similar kind of holistic look through the rules and procedures.
20 They start on page 15 of the public hearing notice for those
21 following at home.

22 Can we go to the next slide, please. And I started
23 with this particular section as an example. It includes several
24 changes that we have been proposing through here, both it
25 references a modification with a hearing as opposed to a

1 modification of significance. That's one of the things that we
2 have proposed for the BZA as Ms. Schellin just referenced, and
3 also for the Zoning Commission that rather than have the
4 modification of consequence, which does not require a hearing and
5 a modification of significance, which does require a hearing, we
6 have proposed just having a modification with a hearing or
7 modification without a hearing, so the Commission can determine
8 whether there is value in hearing from witnesses having a hearing
9 or not, the same as currently has the consequence and significance
10 but there's a lot of confusion of those terms and we think this
11 is very helpful in letting people understand what's happening.

12 The other interesting part of this is it gets to the
13 issue of August and whether August counts in the days when we're
14 talking about the notice requirements for the ANC through the
15 notice of intent to file through the referral from the Office of
16 Zoning or for the prior to set-down and it clarifies that the
17 month of August does not count and practically it hasn't been
18 included in 15-20 years that because not only does the Zoning
19 Commission not meet in August and the City counsel doesn't meet
20 in August, but the ANCs also don't meet in August and so it
21 recognizes that there is not a genuine opportunity for an ANC to
22 hold a meeting and consider whatever might be referred to them.
23 And then it also includes exact reference to lessees within the
24 boundary of, in this case, a PUD could also be a rezoning, but
25 it talks to the issue of the lessee within the boundaries and

1 all of those lessees and tenants should get notice. It doesn't
2 go as far as some of the other proposals which have actually
3 suggested that tenants within all buildings within 200 feet of
4 the boundary, which would be very, very difficult and very onerous
5 to even get that information. But this does recognize that the
6 owner of a property, if there's a building that is within that -
7 - that the owner has control of, they should have some way to
8 provide information to those tenants and lessees.

9 So we've expanded that and then we've also recognized
10 the very long practice and that's currently in the Code that if
11 there are a residential condominium or cooperative with more than
12 25 units, that you can serve the board of directors of that
13 association.

14 Next slide, please. It also references what Ms.
15 Schellin just went through with the Board of Zoning Adjustment
16 regarding deleting that ten copies of paper, paper copies of
17 drawings that we delivered and that the information can all now
18 just be continue to be electronically filed and only two sets of
19 mailing labels need to be provided.

20 It also clearly states that a racial equity analysis
21 relevant to the comp plan in compliance with the Zoning
22 Commission's recent racial equity tool and that it's available
23 on the website included as part of that planning (phonetic) and
24 we think this is a very important element, No. 1, in including
25 it in the application requirements and No. 2, how it's referenced,

1 the fact that it doesn't specify exactly what has to be done. It
2 references the racial equity tool and allows the Commission then,
3 as we work with this tool to modify that tool without having to
4 go through a full zoning regulation amendment zoning process.

5 When the Commission adopted that racial equity tool,
6 we had those roundtables and then you had kind of an announcement
7 at meetings and you talked about the fact that as we work with
8 this tool, you may even need to fine tune it in the future and
9 so that reference in the way it's both required that it be done
10 and then it's reference where it's located is very important.

11 Next slide, please. And then this again just
12 references the lessee which we found very important and also
13 there's up at the top the pages where in the public hearing notice
14 information can be found.

15 Next slide, please.

16 MS. SCHELLIN: Jennifer, I just want to jump in real
17 quick.

18 MS. STEINGASSER: Yes.

19 MS. SCHELLIN: On that lessee information, that's
20 already in the regs. So we just put it somewhere else. So I
21 just want to clarify that we just added that to each of the
22 sections to make sure the lessees were not left out. But it's
23 already in the regulations.

24 MS. STEINGASSER: It's already in the --

25 MS. SCHELLIN: I just wanted to clarify that.

1 MS. STEINGASSER: And that's a perfect segway to this
2 slide, which just shows that that information is repeated at each
3 section, each type of case, and that might be in front of the
4 Commission, the PUDs and design review, campus plans, including
5 medical campus plans, air space developments, zoning map
6 amendments.

7 Next slide, please. So the referral (indiscernible)
8 referral and feedback on contested cases, this is important. It
9 starts to show that the map amendment, it says originally set for
10 contested cases enumerated except for map amendments. We removed
11 those, so all map amendments would be considered subject to this
12 provision and referral to the affected ANC, including with the
13 ANC set-down form.

14 Next, please. So this gets to also what Ms. Schellin
15 was talking about in the BZA. It's also reflected for the Zoning
16 Commission. It unifies that language between the two chapters
17 so that every -- it is all the same and is all familiar. It
18 expanded the time of referral and when an application an actually
19 filed with the Office of Zoning, now it's referred to the ANC
20 with 40 days from the date of the application as opposed to 30
21 and, again, excluding the month of August. We think that's very
22 important because of some of the concern we've heard both in the
23 original public hearing notice and in the record about this sense
24 that there's been less opportunity for consideration and then
25 this shows that we've actually expanded this at the request of

1 an ANC to allow more opportunity and longer time for consideration
2 of the application, and then again, the 45 days prior to the set-
3 down.

4 Can we next slide?

5 MS. SCHELLIN: Jennifer, one other thing to add to
6 that. You did hit on it. Since then there have been a few more
7 submissions. I've seen one that said it should be 60 days, but
8 I think it's important and maybe some of the ANCs are confused,
9 maybe they're not, that it's because there was, I don't think it
10 was from an ANC, saying that this violates the ANC's great weight.
11 But the ANC says the Commission knows it's giving great weight
12 prior to the Commission making a -- taking final action and at
13 the time of set-down, the ANC set down form. That's all they're
14 supposed to submit, not their report. That is not giving great
15 weight and so we just want to clarify for anybody out there who
16 is bringing that up that the Commission does not give that form
17 great weight. It is not giving great weight. It is only an
18 opportunity for the ANC to weigh in whether they think the case
19 should move forward with the hearing or not.

20 I just want to put that out there because I think that
21 in some of the comments, there may have been some confusion
22 between the ANC being given great weight with that set-down form.
23 Thank you.

24 MS. STEINGASSER: Again, this gets to supplemental and
25 modification filings and it extended that date from public

1 hearing back from 20 days, which is what the current level is to
2 30 and that's intended to give the ANC, the public and the Office
3 of Planning, and all government agencies an opportunity to
4 actually review the modification order as it comes through and
5 that -- and then provide the Zoning Commission with whatever
6 information is necessary. The 20 days is very, very tight. We
7 think 30 days will provide a little bit more breathing room and
8 an opportunity to coordinate as necessary on whatever that
9 modification may be.

10 So in summary, the time frame increases were ten days
11 for referral to the ANC and ten days prior to set-down and then
12 of course, the time frame for the modification is another ten
13 days.

14 Next, please. So this this is a very controversial
15 one, and I want to talk to it directly. This is the one, and
16 this is regarding rule makings, and this is the one where OP and
17 OZ were not subject to -- the allegations where we were not
18 subject to set down racial equity and that is just not the case
19 and I'm sorry it got read that way. As we go through I'll explain
20 what these sections are. You can see where we were trying to
21 avoid that. But we are completely subject to a set-down report
22 and of course, any petition, any matter before the Zoning
23 Commission is subject to any kind of comp plan analysis through
24 a racial equity lens.

25 Can we go to the next slide, please. So the question

1 I'm asking is, okay, so what are Sections 500.3, 4, 7, 8, 9 since
2 it says that we're subject to only to 6 and above. So 500.3 is
3 the Office of Zoning's referral to OP. So in this scenario OP
4 files a case with the Office of Zoning, and the Office of Zoning
5 is then required to refer it back to us. We would then be
6 required to review our work a second time and provide the same
7 information. So we were trying to break that loop by this. 500.4
8 is a statement that says the Zoning Commission determines whether
9 a petition after reviewing the application, should proceed as a
10 contested or rulemaking case. The reason we originally proposed
11 this one is because the issue is also addressed in 513 and 500.9.

12 The .7, Office of Zoning referral of the ANC set-down
13 report to the affected ANC. Because this is a rulemaking case,
14 there is no affected ANC. All ANCs are affected and it's a City-
15 wide application rulemakings are, so the timing also the ANC
16 report is .8 and then .9 is where the Zoning Commission decides
17 set-down and I will agree that section should be included in
18 this, so we may need to tweak this one again.

19 If we can go to the next slide, please. Thank you So
20 these are the three that I just referenced. So 500.4 says that
21 notwithstanding the filing of a petition, the Commission may in
22 its own motion review and determine the designation. Well, the
23 question is when would you be doing that? When would this case
24 be before you for you to decide that. So then when we look at
25 500.9, again the references after considering the petition and

1 the Office of Planning recommendation, which is the petition
2 itself and the ANC, the Commission may determine at a public
3 meeting to dismiss the petition for set-down for a public hearing
4 or other proceedings.

5 So, again, here we get to that issue of is it a
6 contested case or rulemaking case? Should it be set down or not?
7 And then finally on Section 500.13, again, it brings up the matter
8 if it's set-down for a hearing, the Commission at the same meeting
9 confirms whether the matter will be heard as a contested or
10 rulemaking case. So we were just trying to avoid the duplication
11 of this consideration. Obviously, 500.4 and 500.13 are not so
12 onerous and we're happy to work with the Office of Zoning's Legal
13 Division to figure out how best to make that clear again.

14 So if we can go to the next slide, please. So then
15 continuing on through that same section, under the rest of the
16 sections 500.10 through 500.16 there show the administrative
17 three Zoning Commissioners must be present in voting if the case
18 is dismissed or denied without a public hearing and the order
19 stating such needs to be issued and the explanation if the case
20 is dismissed, the petition is dismissed and modified, there needs
21 to be an explanation and if set-down, the Zoning Commission shall
22 confirm again if the matter is rulemaking or contested. That was
23 the section we just saw above. Notification of petitioner that's
24 set-down, again, that comes from the Office of Zoning to either
25 itself or to the Office of Planning, the scheduling of the hearing

1 and then of course the standard rulemaking case on parties.

2 So that's all we were trying to do. We were not trying
3 to be funny. We were trying to be clear and kind of keep the
4 looping of Office of Planning issuing a report that they had to
5 get referred back to us or the Office of Zoning issuing a report
6 to itself, then having that get back to us and obviously we do
7 weigh in and we are subject to the same kind of criteria that
8 has to be filed with any application, same analysis, comp plan
9 through a racial equity lens, and should the Office of Zoning
10 file an application it would be the same and we would all, you
11 know, work to move that forward. So that's what that section
12 was about.

13 Can we go to the next slide, please, or is that the
14 last one? Yes, that is the last one. So that takes care of my
15 presentation and kind of gives you a summary of what these
16 regulations are supposed to do and how they're supposed to
17 streamline, unify the language, correct errors and citations and,
18 again, recognize the current state of how we accept filings,
19 information, and the recent racial equity requirement. With that
20 I think --

21 MS. SCHELLIN: Yes. I think just real quickly though
22 maybe two other things to address very quickly on seeing that
23 there was some comments about having all cases, even
24 modifications, without a hearing file like current contested
25 cases are done, you know, do a notice of filing as opposed to a

1 notice of intent and that way when a case is, if the Commission
2 decides it's not a modification without a hearing then it could
3 go straight to set-down and the reason why we did not adopt that
4 is it goes back quite some time when we used to have just
5 modifications, minor modifications and modifications that is
6 minor mods or modifications -- and what we were finding in some
7 cases is that Applicants were filing for minor mods knowing they
8 were not minor, that they were modifications that needed a hearing
9 and they were sort of, you know, so then the Commission of course
10 knowing they were not minor would say, like this is not a minor
11 mod, and it would get moved to the hearing action portion of the
12 agenda and they would get set-down and a lot of this case from,
13 you know, they had talked with OP, OP didn't think the case was
14 right to go forward when the hearing was set-down and so by doing
15 it the way that they were doing it they more or less jumped the
16 line, it jumped them in front of the line with the cases that OP
17 was already working on knowing that OP was not ready to set it
18 down, it gets set-down without an OP set-down report, and so this
19 was a problem, and so when the 2016 regs were done, that's one
20 of the reasons or the reason, not one, it is the reason why
21 modifications of consequence do not allow an applicant to go
22 straight to set-down. They have to go back and follow the
23 regulations for a modification of significance.

24 So the recommendation that's in the record from a view
25 that says, if everybody just files like it's going to be a full

1 contested case, then they don't have to wait. But that's a
2 problem and we see that practice coming back and so that's why
3 we did not adopt that.

4 Also we see that is basically if you're going to go
5 through all of that, then why do we have this consent calendar
6 option which is supposed to be for modifications that do not
7 require a hearing. They're not supposed to be anything that
8 requires a hearing and so it's supposed to be a simplified
9 process. No hearing, no witnesses, it's only supposed to be
10 the applicant, the ANC which is an automatic party, and any other
11 parties to the original case. It is a paper process. It's
12 supposed to be simplified for modifications that do not require
13 a hearing. It is up to the Commission to decide whether they
14 think it needs a hearing or not, and so that was our other reason
15 for not doing that and our reason for not recommending that
16 everybody and anybody be allowed to provide comments on those and
17 I don't know if the Commission recalls this, but one of the
18 reasons why the initial case 2019 and 2019 --

19 MS. STEINGASSER: 1905.

20 MS. SCHELLIN: Sorry, 1905 was filed because that was
21 one of the asks from the Commission, that non-parties not be able
22 to file and the same thing for the over and over request for
23 reconsideration. It's been asked that that be extended to 30
24 days instead of ten days and that regardless of whether a court
25 case or an appeal has been filed in the D.C. Court of Appeals,

1 they feel that they should still be able to file a request for
2 reconsideration and also that anybody, whether they're a party
3 or not, be able to file a request for reconsideration.

4 Some of that was requested by the Commission, that we
5 file that text amendment and we did, and as far as the 30 days
6 we do not agree with that. We think that ten days enough time.
7 By the time the Commission takes action, the parties know that
8 the action is and if they want to request a reconsideration, they
9 can be working on that even before the order is out and ten days
10 seems to be plenty of time to do that and that's where we stand
11 on that.

12 Jennifer, any other big issues that you recall in the
13 record that we did not address?

14 MS. STEINGASSER: Yes. There's the question of whether
15 racial equity should become its own chapter in the zoning
16 regulations --

17 MS. SCHELLIN: We do not.

18 MS. STEINGASSER: -- and we do not recommend that.
19 Again, it gets to that issue of being able to interpret the data,
20 interpret the comprehensive plan, the information that's
21 available and provide that to the Zoning Commission.

22 There was also in one of the recommendations somewhere
23 was that tenants, that there be an automatic party designation
24 for tenants of buildings and we don't recommend that either.
25 Basically anything that ties the Commission's hands in exercising

1 your authority or your own discretion, we're not going to
2 recommend. The Zoning Commission has certain authorities and
3 certain jurisdiction to look at certain information and make your
4 own decision, and the issue of whether someone should have
5 automatic party status without any opportunity for the Zoning
6 Commission to consider that application and consider what that
7 standing would be, we don't recommend that. The inclusion of a
8 new chapter for focus solely on racial equity, I also think is
9 not appropriate. It, again, ties the ability to interpret the
10 racial equity data and the way you use your tool and it also puts
11 an enormous burden on agencies that are not under the control of
12 the Commission or that of the recommending agency and it also the
13 way it was presented created a bit of a, again, as to the nuances
14 of this process and when things have to be done, what has to be
15 available to make an application and if all of this work has to
16 be done by another agency prior to an applicant being able to
17 use that data to make their application, it puts an unpredictable
18 amount of time on an applicant, so we don't recommend that.

19 Again, we think it's important that the Zoning
20 Commission, it's your tool. The comp plan clearly states it's a
21 Zoning Commission's tool and how you use it, and how you adapt
22 it I think is better served in the way the Commission has done
23 that work, and obviously the Office of Planning stands with the
24 Office of Zoning in our ability to support whatever the Commission
25 does in terms of racial equity including providing the data, the

1 census track information, all of that is currently available on
2 our website under a tab called racial equity which the data is
3 there and it's updated and it's available for working and
4 obviously we share whatever data we have in terms of that
5 background.

6 I'll just keep going if somebody doesn't nod their head
7 or something.

8 CHAIRPERSON HOOD: I'm really just waiting for you all
9 to tell me that you're finished and once you all are finished
10 and how we're going to --

11 MS. SCHELLIN: I think that's it.

12 MS. STEINGASSER: I think we're done.

13 MS. SCHELLIN: We're done.

14 CHAIRPERSON HOOD: You all are done?

15 MS. SCHELLIN: Any questions?

16 CHAIRPERSON HOOD: All right. Well, let me first of
17 all thank everyone for all the work that they've done. I don't
18 know if Commissioner May knows, I'm trying to think this is maybe
19 our second or third rodeo with this, 20 days, 30 days and 90
20 miles, so we're kind of coming back to some. The only thing
21 that's changed with the exception of a few of us is some of the
22 people who commented changed, but some of the issues are still
23 the same.

24 I will tell you right off, I think the way we've gotten,
25 even I know we're now changing things for modifications of

1 consequence to modification of significance, we're taking that
2 out and I get it. I think what this initiative, at least for me
3 when I asked 1905 was it four or five years ago when we started
4 and wanted to see some things done, it should have been done
5 then. Would have prevented some of the issues we have now but
6 I won't go down that road. I'm going to leave that alone. But
7 I will tell you that I think some of the things that we have now
8 are just enhancing and making things better.

9 But I wanted to save my comments and hear from my
10 colleagues. I wrote down a number of notes of how we got here
11 and let me just start off by saying August is out of the question.
12 We used to meet in August and I've always said this. The
13 residents of this City have told us on the Zoning Commission for
14 my 25 years, because the first two years we used to meet in
15 August, if you want to get something over on the residents of
16 this City, do it in August. Well, they say July and August but
17 we decided ourselves to take a break in August because we used
18 to go the whole year.

19 So I appreciate the findings that we've come back to
20 the conclusion that we're done in August because, as you
21 mentioned, Ms. Steingasser, the ANCs, community groups take a
22 break. They don't get paid for this so they're -- so I don't
23 like anything in August so that's just me. But I'll hear from
24 others.

25 Let me open it up to my colleagues. I do have some

1 more I'm going to follow up on. What I think I'm going to do
2 is, let's see how the first round goes and if not I'll put a time
3 on the second round. Let's see how it goes.

4 Commissioner May.

5 COMMISSIONER MAY: You don't need to put a timer on me.
6 You know, I appreciate the analysis that's been done in this
7 comparison and I'd say it does get a little bit confusing and I
8 can understand why members of the public are not necessarily
9 reading everything exactly the way you have tried to explain it.

10 So at this point, I'm mostly interested in hearing from
11 members of the public who may be here to testify to see whether
12 they have questions or comments or if there are areas where they
13 are still confused and I think maybe it may even be helpful as
14 we hear those questions to have the Office of Zoning and Office
15 of Planning actually respond in real time to clarify anything
16 that needs clarification and then if we, you know, that way we
17 can sort of boil it down to where there are real substantive
18 issues, because I am not going to try to sort out through this
19 lengthy list of what are mostly administrative and language
20 changes that don't really affect or don't really make substantive
21 changes to the way we process cases.

22 So I mean, that's my take on things, but that's pretty
23 much all I have to say. I don't really have any specific
24 questions at this moment.

25 CHAIRPERSON HOOD: Thank you, Commissioner May.

1 Commissioner Imamura.

2 COMMISSIOENR CIMAMURA: Thank you, Mr. Chairman. I
3 appreciate Commissioner May's comments, always straight and
4 direct to the point. I don't have any questions, just some
5 general comments that I'd like to share.

6 First off, building off Ms. Steingasser's last comment
7 that she continue to talk more about zoning. I always appreciate
8 a person who's an impassioned advocate for good zoning, so.

9 I also just want to thank Ms. Schellin for, at the very
10 beginning early on for clearing up some misinformation that's out
11 there in the public. Zoning is complicated. It's imperfect. As
12 Ms. Steingasser described it it's a nuanced process and it is
13 evolving. So Mr. Chairman said this is not the first rodeo, the
14 second or third with Commissioner May and Vice Chair Miller on
15 this. So I think the public should know that there are seasoned,
16 experienced professionals behind this, subject matter experts
17 that are here to, you know, make improvements and serve the
18 residents of the City, and that regulations, policies and
19 practices, particularly in zoning, will continue to evolve. So
20 this won't be the last change and we'll see many more.

21 Appreciate the analysis. As Commissioner May described
22 as well, I think bringing greater consistency certainly as Ms.
23 Steingasser described between some of the practices and policies
24 between the BZA and Zoning Commission, just some of that language
25 there, avoid duplicative statements. I think it's up till why

1 500.4, 9 and 13 and really I think the heart of this is, as to
2 Ms. Schellin's point, that it's really about simplifying what's
3 a complicated process and so, you know, for those that are
4 participating tonight or want to express their particular
5 interest, thank you for participating in the process. It's very
6 important. But I think essentially this seems pretty
7 straightforward to me, Mr. Chairman.

8 So those are generally the notes that I have and
9 certainly one comment about racial equity and I guess the idea
10 of making it an individual chapter. I would say I certainly
11 wouldn't want to break (phonetic) down racial equity to just one
12 chapter. So it applies across the board. So that's my particular
13 viewpoint, and I'm interested to hear Vice Chair Miller and his
14 comments.

15 CHAIRPERSON HOOD: Thank you. Vice Chair Miller.

16 VICE CHAIR MILLER: Thank you, Mr. Chairman, and I
17 generally concur with your comments and those of my colleagues
18 thus far, and I appreciate the Office of Planning and Office of
19 Zoning bringing forward this case which, despite the criticisms
20 of it, I think in general do increase the clarity, transparency
21 and efficiency of our zoning operations and procedures and
22 practices. It's, in many ways it's clarifying existing practices
23 that just haven't been set down in writing and in other cases
24 expanding timeframes and other procedures that will further
25 public participation, which we welcome. We welcome public

1 participation. I think anyone who's watched our hearings, well
2 almost everyone would agree with that and that we often make
3 changes as we have throughout this long case and previous case
4 have made changes throughout in response to inconsistencies or
5 corrections that needed to be made or further clarifications.

6 So I also don't really have any questions at the time.
7 I read the public, the comments in the record from the public,
8 from the Office of the Attorney General and ANCs thus far, and
9 I'm interested in hearing testimony today from the from the public
10 ANCs and the Office of the attorney General.

11 I think it would be helpful, as Commissioner May said,
12 as we hear comments for OZ and OP to comment in real time in
13 response to the testimony that we receive today. But also, I
14 think in the record after this hearing today, it would be good
15 to add in the record a chart that has the Office of Zoning, Office
16 of Planning responses to each of the recommendations, any
17 recommended changes that have been made to what's been proposed
18 in the latest iteration. It'd be useful to have that in the
19 record.

20 It also would be useful, I think, to have in the records
21 if it isn't already there, the PowerPoint that you presented
22 today, although it was pretty summary in its headings and you
23 provided more information verbally but I think even having the
24 PowerPoint that you had would be useful to have in the record or
25 some modified version of that.

1 So that's all I have, Mr. Chairman, at this time and
2 I'm looking forward to hearing the public testimony and us getting
3 on with the case. Thank you.

4 CHAIRPERSON HOOD: Okay. I want to thank everyone for
5 their comments, but I also want to just say a few things on what
6 I've read in this record. The issue about racial equity, that
7 (indiscernible) disputed it, but nobody's disputed it. So, you
8 know, even if that, that's not even a discussion, so anyway.

9 And I would agree with the format and the way that
10 we're going because we don't really have a track record on this
11 yet, and even I think the tool we have now is great and it's
12 definitely a great start, there may be things that we realize
13 that may come to (indiscernible) for us later on down the road
14 and one of the things that concerned me when I was reading this
15 was the 30, the 40 day, 35 or 45 days, about 15 or so years ago
16 we were at 40 and 45 and I will say look at the way, I'm saying
17 this to the public and I would hope that -- I'm sure OP probably
18 has it recorded it somewhere in the OZ -- look at the discussion
19 that we had, I think it might even go further than that with
20 Jeremea Manhill (phonetic) and her appointment here. We grappled
21 with that. We grappled with minor modifications and we heard
22 from the residents of this City who said you all are taking too
23 long.

24 So, you know, we started off at 40. We went to 45 and
25 I think now we're down to 30, now we're going back to 40. We

1 need to start, I think what we have done now is all it needs to
2 be is tweaked, as one of my colleagues has already mentioned. I
3 think it works, and then when I read about the redistricting, I
4 haven't seen any proof yet that there's been -- and I've been
5 involved in, I've retired from redistricting for 30 years, this
6 is my, I've retired from that. This was my last time, this last
7 redistricting. I don't see where it's been a major problem.
8 This Commission has always been amenable.

9 What I'm looking for is stuff to stand the test of time
10 after Anthony Hood and Peter May and Rob Miller, Commissioner
11 Imamura, Ms. Steingasser and Ms. Schellin have gone, and I know
12 things may be tweaked then but what we're trying to do is improve
13 upon it and I just see us going back and forth 45 days, this take
14 years (indiscernible) we go back down to 30.

15 So, and these are comments that this Commission had
16 heard form the residents of this City and I look at what OAG sent
17 out to all the ANCs and I appreciate the ANC, the four or five
18 that I read, that responded. I think we had some legitimate
19 things that we had looked at, but if it's not improving this
20 process that's what it's all about for me and I'll leave it at
21 that.

22 So I would agree with Commissioner May, and I'm hoping
23 that we can do real time responses and I want us all to be
24 respectful of each other's positions because I'm sure there's
25 some very valid points that I may have missed that are going to

1 be discussed. So let's try to real time responses, and let's
2 see how that goes. Okay.

3 So with that, Ms. Schellin, let's bring out -- do we
4 have any other, I think I'll go to the government first. Any
5 other government agencies? And then we'll hear from the ANCs -
6 -

7 MS. SCHELLIN: I know we have OAG, Lily Bullitt.

8 CHAIRPERSON HOOD: Okay.

9 MS. SCHELLIN: I don't think there were any other
10 government agencies. The ANCs are considered public, considered
11 part of the public in rulemaking cases. They're given, the ANCs
12 are given five minutes. Any SMDs are given three minutes, they're
13 considered individuals. So just Ms. Bullitt.

14 CHAIRPERSON HOOD: Okay. Ms. Bullitt, you may begin.
15 Good afternoon.

16 MS. BULLITT: Good afternoon. Thank you, Mr. Young.
17 I appreciate that.

18 Good afternoon, Commissioners. My name is Lily
19 Bullitt. I'm here on behalf of the office of the Attorney
20 General. Our written comments can be found in the record at
21 Exhibit 34, and our presentation today is at Exhibit 36. Our
22 recommendations have been updated to reflect the changes that OP
23 and OZ have made to the petition since the April 3rd hearing.

24 OP and OZ have proposed some very positive changes
25 here, you know, recognizing that ANCs don't meet in August and

1 updating the citations. These will all contribute to the clarity
2 of the regulations. We're glad to see that. I recognize that
3 this case is a long time in the making, that it's been, I believe,
4 2018, 2019 since it was first proposed. This is truly a once in
5 a five year opportunity to address these procedures here and so
6 that's kind of why OAG is taking the opportunity to think about
7 how these procedures can be improved holistically. We're trying
8 to build off what OP and OZ have proposed here.

9 So next slide, please, Mr. Young. Thank you. OAG's
10 recommendations in this case all revolve around encouraging
11 greater and more equitable public participation. To do this, we
12 propose one uniform procedure for cases for the Board and a
13 uniform procedure for all cases before the Commission. This
14 uniform procedure will provide early substantive notice to ANCs
15 and the wider public. As a result of this early engagement,
16 opposition can be addressed sooner when feedback is able to be
17 incorporated into the project and lengthy appeals can be avoided.
18 These recommendations will also bring further clarity and
19 transparency and efficiency to the zoning approval process.

20 Next slide, please. So there are many changes in this
21 case, as we heard today. I'm not going to discuss all of them.
22 I'm just going to focus on these few highlighted areas, But
23 there's more detail in our written comments.

24 So, next slide, please. First, I'm going to discuss
25 the prehearing procedures. OAG's main concern with the

1 prehearing procedures as they are written now and as they are
2 proposed 22-25 is the lack of substantive notice to the general
3 public early in the zoning approval process. So by the time the
4 majority of people become aware of the case, the application is
5 already fully baked and unable to accommodate feedback or
6 concerns. OAG is proposing substantive notice to the wider public
7 at the time the application is filed and the case record is
8 created.

9 Next slide, please. Under the current regulations,
10 notice to ANCs occurs at a different time than notice to the
11 public, and then both of those times occur at different times
12 than when the application is filed and the project plans become
13 publicly available and the case record is created. So it is
14 really difficult for a member of the public to find out that a
15 case is happening, review the application and then contact their
16 ANC with their opinion before the agency weighs in on a project.
17 It makes it difficult for ANCs to independently assess a project
18 before weighing in at set-down and because, well, applicants may
19 meet with agencies before filing, they're not required to provide
20 the full project plans at those ANC meetings before set-down.

21 So at set-down under the regulations, the Commission
22 is required to determine whether there is enough information in
23 the application to advance to a hearing and it's also required
24 to determine whether the applicant needs to modify the project
25 plans, the project design, but ultimately the information that

1 the Commission is getting at that point at set-down typically
2 only reflects the ANC's opinion after meeting with the applicant
3 at a time when their constituents are not yet on notice and when
4 the ANC may not have had the full application package available
5 to it and so it has to rely on the applicant's representations
6 to the ANC. Applicants may provide this full information to it,
7 it may not, but what we're trying to do is provide a minimum
8 standard that all applications have to meet.

9 Once an application is set-down and a hearing is
10 scheduled applicants tend to move at a much quicker pace in order
11 to get the final zoning approval as soon as possible. We hear
12 all the time that time is money in real estate, and in order to
13 get approval, applicants need final plans to present to the
14 Commission, they keep changing their plans and the Commission
15 needs to know what it is approving. The problem with this is
16 that once an application is set down, it very quickly becomes
17 hard for the applicant to change its proposal and thus to
18 incorporate any feedback it receives. So anyone who finds out
19 about a case and raises valid concerns after set-down, not before
20 set-down, is much less likely to have those concerns addressed.

21 OAG hears all the time about a member of the public
22 learning about a project merely a few days or a few weeks before
23 the hearing date and by that time the application is already
24 fully baked and cannot accommodate valid concerns. So anyone in
25 opposition at that point are more inclined to file an appeal in

1 order to have their concerns addressed. The appeal process, as
2 we know, is lengthy and can delay zoning approval by two or three
3 years, and it rarely ends with any party truly happy and getting
4 what they wish.

5 So in order to encourage public engagement at a time
6 when the application can't accommodate feedback OAG is proposing
7 amendments that would increase substantive notice to the wider
8 public earlier in the process. Our recommendation is that all
9 application types before the Commission should have the same
10 requirements. Right now, each case type has a different set of
11 processes and procedures. Some cases require NOI, some require
12 set-down. Some cases can skip one or both of those steps. Some
13 can change what type of case they are halfway through the process
14 and all of these varied procedures make it difficult for the
15 public to understand a case's requirements and what opportunities
16 they have to participate.

17 So to further encourage public participation and
18 transparency OAG is recommending that all cases undergo one
19 uniform process and as part of that uniform process, OAG proposes
20 three changes from the current regulations. First, to provide
21 substantive notice to the general public at the time the
22 application or petition is filed. Second, to require the
23 applicant or petitioner to meet with ANCs after the application
24 or petition is filed and third, to strengthen tenants' ability
25 to participate when their homes are the subject of a case.

1 Next slide, please. So this slide illustrates OAG's
2 recommendation of the one uniform process for all cases before
3 the Commission. I'll talk about the Board in a moment. The red
4 text at the bottom is what we're proposing to change. Everything
5 in black is what is already a requirement in the zoning
6 regulations. Essentially what we're doing is, as I said, is
7 early substantive notice. So what do we see as early substantive
8 notice? Currently, the first step in the process for most cases,
9 the first notice that goes out under the current regulations is
10 the NOI or notice of intent to file an application. The NOI
11 doesn't say much. It really just gives a heads up to everyone
12 that receives it that an application is coming. It also contains
13 lots of legalese, which is difficult for non-zoning experts to
14 understand. There's terms like FAR and PUD and setbacks and if
15 you're not familiar with this world, it's very difficult to
16 understand.

17 Those who receive an NOI and wish to seek more
18 information have difficulty doing so because there's no public
19 case record yet. There's not a case number and so they call OZ
20 and are asking about this case OZ may not know because the
21 application hasn't been filed. They can't go look it up by
22 themselves and so really the only option is to contact the
23 applicant or petitioner and in that case, they're then relying
24 on the applicant's representations to them, which is usually very
25 good. But if you've got one bad actor, then it cannot be good.

1 So we're just trying again to just even the playing field, make
2 a minimum baseline requirement.

3 So what OAG is proposing that the first step in the
4 process is a substantive notice with information on how to access
5 the full application package, which typically contains
6 information in plain English. This would be the zoning plans,
7 the applicant's statement of support of their project, things
8 that are easier to understand if you're not a zoning expert and
9 that notice can go out at the time the application is filed and
10 the case record is created.

11 When would this substantive notice go out? OAG
12 proposes this is the first step in the process. We do not want
13 to lengthen the process. This is already a lengthy process as
14 it is. So we're proposing that the notice of filing be at least
15 80 days before the set-down, which is currently when the NOI goes
16 out. I would note that even under the current regulations, which
17 only require 35 days between the filing and set-down, most cases
18 are not set-down for at least three months anyway and so really
19 in effect our proposal to increase it to 80 days would not have
20 any effect in practice. It would allow the ANC more time to
21 review an application and it would give the public longer to
22 review the application and reach out to the ANC.

23 We hear very often that ANCs don't have enough time to
24 meet and confer prior to offering their opinions about set-down
25 and that they definitely don't have enough time to conduct

1 constituent outreach prior to set-down. We understand that the
2 updated proposal in this case increases the time from 35 to 45
3 days, but OAG still does not see this as enough. If cases are
4 not set-down for three months as it is, why not give that three
5 months time to the public and the ANCs to review. What we are
6 proposing, again, will not increase the length of the process,
7 but will allow significantly more time for ANCs and the public
8 to review and weigh in on cases.

9 So who would get the substantive notice? OAG is
10 proposing that the initial substantive notice be sent to the
11 wider public. Under the current regulations, the NOI only goes
12 to ANCs and property owners within 200 feet. So a neighbor who
13 lives maybe 300 feet away, which they very well may still be on
14 the same block or just one block over, may not get this initial
15 head's up about the case. So OAG is proposing that this notice
16 go to the wider public by extending the time that the property
17 is posted or is proposing that the property be posted as soon as
18 the case is opened when the application is filed, and that anyone
19 who is in the neighborhood, but maybe not within 200 feet, has
20 the opportunity to learn about the case and participate. OAG
21 suggests the notice of filing is also sent to tenants within 200
22 feet and anyone who registers for notice in advance, we'll talk
23 about that more in a moment.

24 But I just want to address an issue that was raised
25 earlier today about property owners being able to notify the

1 tenants. That is absolutely possible, but it doesn't always
2 happen and there's no requirement for property owners to notify
3 their tenants. So it's very possible that tenants living within
4 200 feet don't actually receive notice, even though they would
5 be the ones directly affected by a development near them on the
6 same block.

7 Furthermore, I see mail all the time that is addressed
8 to, you know, that doesn't name by name, but it says resident of
9 203 X Street, Northeast. Address information is available and
10 OAG believes it should be utilized for notification purposes.

11 Next slide, please. So this is our recommendation for
12 the BZA prehearing procedures. Essentially, they're the same.
13 We're seeking early substantive notice when the application is
14 filed. We are proposing that notice be at least 60 days prior
15 to the first public hearing on the case. This includes 60 days
16 posting on the property. Under the current regulations, posting
17 occurs only 15 days prior to the public hearing and again, this
18 would not extend the process because even under the current
19 regulations, Board cases are not typically heard for three months
20 and 60 days would also ensure compliance with the ANC Act which
21 requires 30 business days, 30 business days for a new resident,
22 which is 30 days total.

23 Next slide, please. So I want to highlight just a few
24 aspects of our recommendation which we are proposing be changed.
25 The first is our recommendation that OZ maintain a system that

1 allows interested persons and organizations to register on OZ's
2 website in advance to receive notifications of case filings and
3 public meetings or hearings. So for example, if there's a member
4 of the public who is interested in their community's development
5 and wants to be involved in zoning cases, but who may not get
6 notice of the case because they don't live within 200 feet or
7 aren't able to regularly attend their ANC meetings this would
8 allow them to register in advance to receive notice through their
9 email.

10 Under the current regulations, that person likely
11 wouldn't receive notice until just 40 days before the hearing,
12 at which point the project is much more solidified and it's
13 difficult to incorporate any feedback at that point, and this, I
14 understand that OZ's website already contains a similar
15 capability as you said before, and I understand it doesn't always
16 function as intended so OAG is recommending that this system be
17 incorporated into the regulations in order to maintain this
18 system and to ensure that the opportunity is available.

19 We would also like to expand what registrants can be
20 notified of, so that would include case filings and public
21 meetings and hearings just to ensure that those who wish to stay
22 involved can truly be involved and making it easy for them.
23 Ultimately, this will help notice become more effective by
24 reaching those who wish to participate.

25 Next slide, please. Thank you. OAG is also

1 recommending that applicants and petitioners be required to meet
2 with ANCs in the period after filing the application and petition
3 and before the first hearing or set-down meeting. So for the
4 Commission, that's the 80 period for we're suggesting and for the
5 Board it's the 60 day period that we're suggesting.

6 This requirement should apply to all cases including
7 rulemaking cases. Under the current regulations and as they are
8 proposed in this case, there is no requirements for petitioners
9 of text amendments and rulemaking map amendments to meet with
10 ANCs. So text amendments and map amendments are extremely
11 impactful. They could affect property values and future
12 development plans and we believe that the same requirements to
13 meet with ANCs for those cases should be implemented for
14 rulemakings as well.

15 Because petitioners may affect many, sorry, because
16 petitions may affect many ANCs petitioners should be able to
17 fulfill this requirement by meeting with multiple ANCs at the
18 same meeting to make it a bit easier on them, and OANC, the Office
19 of ANCs, could help facilitate that. This requirement will ensure
20 that applicants meeting with ANCs also happens at a time when the
21 public is on notice and has meaningful information available to
22 it because the case record is created at that point. Many
23 applicants and petitioners meet with ANCs prior to filing their
24 petition or application, and we don't want to prohibit that or
25 limit that in any way. We think that's good. We simply want to

1 create a minimum requirement that allows ANCs to have all
2 information available to it before it offers its support so that
3 at least provide one opportunity for the ANC to review all the
4 information that's in the record and then ask questions of the
5 applicant or petitioner.

6 I will also note that there's proposed language in
7 Subtitle I, Section 300.8 that OAG believes should be addressed
8 just to ensure that applicants include a statement of their full
9 community engagement, including what they have done up to that
10 point and then also what they plan to do in the future.

11 Next slide, please. So again, as part of the uniform
12 procedures for both the Commission and the Board OAG recommends
13 making it easier for tenants to participate if their building is
14 the subject of an application. So first, we are recommending
15 that tenants have automatic party status in cases that affect
16 their homes or where their homes are the subject of a case. Under
17 the current regulations, tenants would almost certainly qualify
18 for party status. They would just have to file in advance for
19 it and if they don't, they could miss their opportunity to
20 participate as a party. Many of these tenants from what we see
21 in previous cases have difficulty again being notified of a case
22 and then actually understanding the requirements to participate
23 as a party.

24 We are recommending this hand-in-hand with our other
25 recommendation that applicants make reasonable efforts to meet

1 with tenants of the building that is the subject of a case. So
2 together, automatic party status and this is the new requirement
3 would ensure that tenants receive actual notice and a meaningful
4 opportunity to participate in a case that could displace them
5 from their home.

6 Furthermore, it would allow tenants to raise issues to
7 the applicant and the Commission before the hearing and thus
8 would avoid surprise opposition at the hearing. So raising issues
9 earlier allows for early resolution and thus avoids delays in the
10 back end of the process.

11 Also OAG recommends to sending notice to condo owners
12 no matter the size of their building. There's language in this
13 case that says if a building is 25 condos or larger, then notice
14 can be sent to the condo board. Under D.C. law there's the only
15 requirement that condo boards have to meet once a year. Many of
16 them do meet more, but that's not required. We just want to
17 ensure that people who are living and who are near a development
18 and who are going to be affected by a zoning case will actually
19 receive notice.

20 Next slide, please. Finally, OAG recommends that the
21 Commission decline to adopt a proposed changes that would require
22 all applications to be filed electronically. There's very much
23 a digital divide in D.C. and not everyone has access to computers
24 and internet and that faction not include residents from the
25 zoning processes. I heard today an explanation that applications

1 are still accepted in person, and if that is the case, I encourage
2 that to be incorporated into the regulations, just so that's
3 clear to the public in advance.

4 Next slide, please. Okay. So moving on to this area
5 of modifications In this case OP and OZ are proposing to change
6 the language from modifications of significance and consequence
7 to modifications with and without a hearing. I personally think
8 that's great. I have to look up which if consequence is more
9 important than significance every time I'm here after these cases
10 and I think this change makes it much clearer and easier to
11 understand and thus more accessible to the public.

12 Next slide, please. OAG does have two concerns about
13 modifications. First, OAG recommends clarifying the definitions
14 of modifications of with or without a hearing. There was an
15 attempt to do this in the updated proposal, but I believe there
16 might have been an error that could have some unintended
17 consequences, which I'll discuss in a moment, and OAG's second
18 concern is procedural.

19 So an applicant who applies for a modification without
20 a hearing for which the Commission or Board later decides requires
21 a hearing clearly has to start the application process all over
22 in order to meet the regulations of those requirements. That's
23 not good for the applicant typically. As I mentioned, time is
24 money and they are not inclined to start all over so they've
25 already filled the notice requirements by the time that meeting

1 comes, it's easier for them.

2 So to avoid the scenario of having applicants have to
3 start over and to make the process more transparent and efficient,
4 OAG suggests that both types of modifications go through uniform
5 notice and set-down processes that I discussed earlier and then
6 at the set-down meeting or the public hearing, the Commission or
7 Board determines whether the application requires a hearing. If
8 so the Commission could schedule one at that time and if not, if
9 a hearing is not required, the Commission can vote on the case
10 at that time because the applicant has already met all the notice
11 requirements.

12 Again, we do not want to delay this process. Time is
13 money and this process is long enough as it is, so this change
14 would take pressure off of the Commission because it would not
15 have to delay a case if it determines a hearing is required.
16 Furthermore, this would allow the public the opportunity to voice
17 their opinion on what the impacts of the modification may be, and
18 thus the Commission is more informed in their decision on whether
19 a hearing is needed.

20 Under the regulations as proposed by OP and OZ in this
21 case, only parties to the original case are able to file comments.
22 This is particularly problematic because parties to the original
23 case may have moved away and are no longer affected, while new
24 people may have moved in and will be affected. So for example,
25 if a private school is seeking a modification to their plan and

1 someone who lived near the entrance to the building and had
2 comments about the traffic and how it would be impacted by the
3 traffic, if that person moved away, they would receive notice of
4 this modification, but they likely wouldn't participate versus
5 the person that moved in would not receive notice and would not
6 be able to participate, even though they would be equally as
7 affected by this modification as the person who originally had
8 party status and this seems fundamentally unfair since this
9 relationship is essentially, to the school, is essentially the
10 same as an old neighbors was.

11 So for this reason, we think it's important to allow
12 public comments on modifications. I will note that the Commission
13 would still retain the ability to disagree with comments or to
14 not grant party status to a new neighbor. That's very much fully
15 within the jurisdiction of the Commission but we think that
16 opportunity would help the Commission make a more informed
17 decision.

18 Next slide, please. So turning back briefly to the
19 difference between modifications with and without a hearing, this
20 is the language that OP and OZ have proposed. The original
21 provision that is crossed out at the top there refers to
22 modifications of significance, which is now modifications with
23 the hearing. However, the language of the proposal includes the
24 definition of modifications without a hearing. So OAG is
25 concerned that the language as it is written would allow

1 applicants the ability to seek a change in use, change to
2 proffered public benefits and amenities, change in required
3 covenants or additional relief or flexibility from the zoning
4 regulations that was not previously approved. They'd be able to
5 seek all that without a hearing. ANCs in the public put lots of
6 time and effort into negotiating public benefits and amenities.
7 These are important defining aspects of an application in the
8 final order, and they should not be changed without a hearing.

9 We have reached out to OP and offered to help in
10 incorporating some of the proposals and we just want to reiterate
11 that we are willing to continue working together going forward
12 just to get this language correct and ensure that there's no
13 unintended consequences here.

14 Next slide, please. As I have mentioned, OAG is
15 recommending that there be uniform procedures. This includes
16 uniform procedures regardless of who the applicant or petitioners
17 are.

18 Next slide, please. So the only instance where an
19 exemption from these uniform procedures is needed is where OP is
20 the petitioner that submits its petitions via an OP set-down
21 report. In that case, OP would not need to submit a separate
22 set-down report because the application and set-down report are
23 one and the same. In this situation, OZ would also not have to
24 refer the application back to OP because OP was the one to submit
25 it in the first place. All other procedures should have the same

1 uniform requirements.

2 Next slide, please. So along these lines, OAG is
3 concerned about the language proposed in Subtitle Z Section 500.1
4 which exempts OP and OZ text amendments from certain
5 requirements.

6 Next slide, please. In effect, these exemptions would
7 mean that OP and OZ text amendments would not have to have a
8 public case record created, that's Section 500.3. That's an
9 important aspect of public participation and transparency, and
10 OAG believes that exemption should not be passed. Furthermore,
11 it would take away the Commission's ability to determine whether
12 the case is a rulemaking or a contested case. This has
13 implications on public participation and whether the public can
14 seek party status. I understood that was addressed earlier and
15 that this provision is or this ability also exists in other
16 provisions that OP and OZ text amendments are not exempt from.
17 If that is the case, I'm confused by why it was exempted here
18 and I just think there's a little bit of confusion. If you're
19 exempted from one provision but not another that require the same
20 thing about what the requirements are and I encourage OP and OZ
21 to address this just to bring further clarity to the regulations.

22 Next, OP --

23 CHAIRPERSON HOOD: Ms. Bullitt, Ms. Bullitt, Ms.
24 Bullitt.

25 MS. BULLITT: Yes.

1 CHAIRPERSON HOOD: Hold tight, and I'm going to try
2 something. Hold tight. Don't take, you all hold on tight.

3 Let's address that now, and I'm just trying to see
4 something and see if this works. Let's address that now what
5 Ms. Bullitt just mentioned, Ms. Steingasser and Ms. Schellin in
6 real time, as Commissioner May said, let's address that right now
7 so we can clear that. Can we go back to that last slide that
8 Ms. Bullitt was just mentioning? No, that wasn't the one. Maybe
9 it was the one before. Maybe I should have kept my mouth shut.

10 Ms. Bullitt, can you get me back on the slide you were
11 on when you said it needs to be clear. Let's do that right now.

12 MS. BULLITT: Sure. I believe it's slide 18, Mr. Young.
13 The next one, right, yes that's the one.

14 CHAIRPERSON HOOD: Okay. Now, Ms. Bullitt, what I'm
15 going to ask, I'm going to ask you a question. I'm going to ask
16 what your understanding is of what you -- how you think we need
17 to straighten that out? Let's do that.

18 MS. BULLITT: Sure. I actually think from what Ms.
19 Schellin and what Ms. Steingasser said earlier today, that we may
20 be on the same page on this issue, that there does need to be
21 some further clarity in regards to this provision because in this
22 case OP and OZ text amendments are exempt from Section 500.3,
23 sorry, 500.4. The ability for the Commission to determine that
24 a petition is a contested case or a rulemaking, but that the
25 Commission's ability to do that also exists in other provisions,

1 I think that's a bit later in the 500 section and it's a, I
2 believe it's a bit confusing to the public reading these
3 regulations about why the Commission would be exempt from this
4 and one provision and not exempt in another and I think Ms.
5 Steingasser mentioned that earlier that the workshop this
6 language a little bit. I don't know if Ms. Steingasser or Ms.
7 Schellin wants to address that or if, I don't mean to misinterpret
8 what you said.

9 MS. STEINGASSER: If I'm following correctly, yes, we
10 were trying to avoid the repetition of having it both be referred,
11 being filed and then referred back and then being filed again and
12 then the issue of whether the Commission would determine it a
13 rulemaking or a contested case. That button is hit three
14 different times in this section. But as we stated n our
15 presentation, we're happy to work and make sure that it's clear
16 that OZ and OP are subject both to set-down and to racial equity.

17 MS. BULLITT: Sure. Yes. So I think where the
18 confusion comes for me is does the Commission, under your proposed
19 changes to the regulations, have the ability for OP and OZ text
20 amendments to determine if it's a contested case or a rulemaking?

21 MS. STEINGASSER: Yes. Right now it's both in 500.4,
22 500.9 and 500.13 and we were trying to minimize, as I said, the
23 number of times that issue was touched. But we're happy to put
24 back in 500.4, which is the very first time it's there so people
25 are comfortable that it's right up front.

1 MS. BULLITT: I think that would just make it clearer
2 just for consistency's sake. But yes, I think we're on the same
3 page about that.

4 CHAIRPERSON HOOD: Okay. Thank you all. Okay, Ms.
5 Bullitt. Let's keep moving.

6 MS. BULLITT: Sure. Thank you, Commissioner Hood.

7 So next, another exemption is that OZ text amendments
8 would not be referred to ANCs. So just practically thinking
9 through what that means, cases like this, like 22-25, which
10 significantly affects ANC's roles and responsibilities in the
11 zoning process, would not need to be referred to ANCs and so they
12 wouldn't necessarily have a notice that this is happening, if
13 there's a case that's affecting their roles and responsibilities.

14 So OAG recommends not adopting that exemption and then
15 finally, the proposed language also exempts ANCs from filing the
16 set-down form within 40 days. So again, this exemption is a bit
17 confusing. Does this mean that ANCs have longer to file the form
18 or do they not file the form at all because the case is not
19 referred to them? I think there just needs to be a bit more
20 clarity in terms of the exemption from section 500.8.

21 CHAIRPERSON HOOD: Ms. Bullitt? Let me stop you again.
22 I don't know if Ms. Steingasser about ANCs not being notified or
23 if the OZ, a text amendment. If I can ask Ms. Schellin, or
24 somebody, even Ms. Schellin. I think that's Ms. Schellin's. Ms.
25 Steingasser, if you want to comment, you can.

1 MS. STEINGASSER: I just want to start by saying that
2 the creation of a public record won't happens. The case can't
3 be filed and not just, Office of Planning's not just sending it
4 over to an individual. We're filing it into the Zoning Commission
5 record. It will be given a case record and just like this case,
6 notice was sent out to all the ANCs, it's required that all the
7 ANCs be notified. So, if Ms. Schellin has anything other to
8 add.

9 MS. SCHELLIN: I think that the whole thing was we're
10 memorializing the practice for ANC and I mean for OP and OZ text
11 amendment cases, that the case not have to wait, you know, for
12 the period of time for ANCs to submit a set-down form. That this
13 has been the practice when OP files their case they submit the
14 form, I'm sorry, an OP set-down report at least ten days prior
15 to a meeting and it goes on for set-down. We've changed it for
16 map amendments that those will go through the process and
17 referrals. But for text amendment cases the practice has been
18 and we want to, and that's what we're trying to memorialize here,
19 is that when OP files its set-down report, it goes on to an agenda
20 and is considered for set-down without waiting the time period
21 for it to be referred and to wait for set-down reports because
22 most of the time it is District-wide issues or is it's District-
23 wide affected and there are not really what we consider as
24 affected ANCs because it's District-wide and the set-down form
25 again is not giving great weight. The purpose is whether the

1 case should proceed with a hearing or not and so we just wanted
2 to memorialize the practice that's been around since I've been
3 here, 21 and a half years, and not that that's a good reason,
4 but it keeps from holding up anything that we need to get moving.

5 Sometimes there are requests from the public. It's not
6 just, you know, from us, you know. OP usually, they bring the
7 majority of the text amendments and so that was what that was
8 for and it doesn't mean that an ANC can't submit something if
9 they choose to do so, they could certainly do it if they want to
10 and if we receive a set-down form within the ten days before the
11 Commission considers it, then yes, we'll put it on there. But
12 it is not meant to hold up the text amendment process. That's
13 it. Because there are no parties.

14 CHAIRPERSON HOOD: All right. Let's keep moving. Thank
15 you.

16 MS. BULLITT: Sure, sure, and thank you for that.

17 I just want to reiterate that I think the creation of
18 a public case record should still be a requirement and that the
19 exemption (indiscernible) for that and then I also just want to
20 clarify that the effect of this is that ANCs essentially wouldn't
21 be able to comment at set-down for OP and OZ text amendments
22 which OAG is against. We think that should be part of this
23 process and have the ability to comment.

24 Next slide, please. So similarly, there's proposed
25 language in Subtitle Z Section 502.1 that exempts map amendments

1 submitted by OP or an ANC for providing notice to property owners
2 within 200 feet. Map amendments can be extremely impactful, as
3 I've said, and we think notice should be provided the same as
4 every other place, including to property owners within 200 feet.

5 Next slide, please. So I'm going to turn now to racial
6 equity requirements. OAG is glad to see that the racial equity
7 analysis requirement from the comp plan is being incorporated
8 into the regulations. However, the OAG recommends bringing even
9 further clarity to the process in the regulations and I just want
10 because I know there was some discussion about this earlier that
11 we don't want to limit the reach of racial equity in any way. We
12 just want to be sure that the process of the racial equity
13 analysis is clear in the regulations. So I'm going to talk about
14 that more.

15 Next slide, please. So OAG just suggests laying out
16 the racial equity procedure in the regulations to clarify the
17 process and what is required of applicants at what stage of the
18 process. The OZ racial equity tool that is on the website right
19 now, there is some ambiguity about who is supposed to do what
20 and where in the process and OAG believes that there could be
21 more clarity brought and codified into the regulations.

22 We are making four recommendations which will advance
23 the racial equity goals of the comp plan. First, the current
24 racial equity tool requires applicants to retrieve data from OP.
25 It doesn't say which stage of the process this should occur and

1 OAG recommends that applicants and petitioners retrieve this data
2 prior to filing an application. That way, the applicants and
3 petitioners can use the disaggregated data to identify
4 communities that have been burdened by racial inequities and
5 direct their community engagement to those communities in the
6 process of finalizing their application.

7 Second, OAG suggests that OP Community Planning section
8 provides data dating back to at least 2000. In discussing racial
9 equity, the comp plan states that, "Implementation strategies
10 should be targeted in proportion to the historical trauma and
11 disproportionate outcomes experienced by those communities."
12 Historical trauma can only be understood and disproportionate
13 outcomes can only be understood by looking at data over time, not
14 just a current snapshot.

15 Third, OAG recommends that the data be gathered from
16 census tracts within a quarter mile of the subject property.
17 Currently, the OZ tool requires data from the planning area.
18 Planning areas are quite large, about equivalent to a ward and
19 may not reflect the specific neighborhood level trends the comp
20 plan is seeking and finally, OAG recommends that a narrative be
21 included with the data to explain the data, including oddities
22 and historical events and events that may have shaped the data.
23 So for example, if a census tract changed shape and the
24 demographics drastically changed as a result this could be
25 explained in this brief narrative. If there was a racial covenant

1 or redlining in the area, the narrative could cite that as a
2 reason for the current demographics or change in demographics and
3 in this way, the historical trauma and disproportionate outcomes
4 can be more fully understood as required by the comp plan.

5 Next slide. So this is an outline of what OAG
6 recommends codifying into the regulations. Again, it's just the
7 procedure and so like the substance of the OZ tool would not be
8 changed. The only thing that we're seeking to change is in red
9 in this slide and everything in black is already a requirement
10 in the zoning regulations on the OZ website, OZ tool.

11 So just to reiterate, the data should inform the
12 community engagement and thus be gathered as the first step in
13 the racial equity process and the data should be more holistically
14 understand trends over time to the specific neighborhood.

15 Next slide, please. Furthermore, OAG encourages OZ to
16 consider what role racial equity analysis will take before the
17 Board of Zoning Adjustments. The comp plan envisions that racial
18 equity tools that are used "as part of the development review
19 process." The BZA plays a significant role in the development
20 review process, and thus we encourage the use of racial equity
21 tools before the Board as well.

22 Next slide, please. OAG has some concerns about
23 amendments to the rehearing and reconsideration process.

24 Next slide, please. We're encouraged to see that the
25 updated proposal incorporates a distinction between rehearings

1 and reconsiderations. We just recommend further clarifying the
2 relief that would be granted in each situation. So in the case
3 of a rehearing, the relief that would be -- the relief would be
4 a new hearing limited to the impacts of newly discovered evidence
5 and in the case of a reconsideration, the relief would be a
6 revised order.

7 Furthermore, OAG recommends opening up the rehearing
8 and reconsideration process. So currently the D.C. Court of
9 Appeals or DCCA allows non-parties to the underlying zoning case
10 to bring an appeal. However, under the proposed regulations non-
11 parties are not allowed to file for rehearing or reconsideration.
12 So if a non-party has an issue with an order their only recourse
13 is to file an appeal before the D.C. Court of Appeals which can
14 delay zoning approvals back to two or three years, sometimes even
15 more. We do not want to encourage appeals. We think zoning
16 issues can be addressed before the Commission and before the
17 Board in a much shorter time frame.

18 Next slide, please. The proposed language in 22-25
19 also takes away the Commission's ability to review an issue with
20 its order after an appeal has been filed. So if there was even
21 a minor mistake in a final order and someone appealed that to
22 the D.C. Court of Appeals, the Commission would not be able to
23 go back and correct the order itself because it loses jurisdiction
24 over that as soon as an appeal is filed. This is true of the
25 current regulations for the Board and the OAG recommends changing

1 all of this to allow a full 30 days for anyone to file for
2 rehearing or reconsideration. This will allow the Board or the
3 Commission to address those issues themselves.

4 The 30 days is in line with the D.C. Court of Appeals
5 rules which allows appeals to be brought for 30 days. But that
6 30 day period is paused if someone brings a motion for
7 reconsideration or rehearing. So essentially the D.C. Court of
8 Appeals is giving 30 days to the Commission and the Board to say
9 this is your time to review these orders, really get them perfect
10 before we'll take it on and we don't want to limit that time. We
11 think that 30 days should be implemented to its fullest.

12 Next slide, please. The proposed language in 22-25
13 also takes away the Commission's ability to review an issue with
14 its order after an appeal has been filed. So if there was even
15 a minor mistake in a final order and someone appealed that to
16 the D.C. Court of Appeals, the Commission would not be able to
17 go back and correct the order itself because it loses jurisdiction
18 over that as soon as an appeal is filed.

19 This is true under the current regulations for the
20 Board, and we, OAG, recommends changing all of this to allow a
21 full 30 days for anyone to file for resharing or reconsideration.
22 This would allow the Board or Commission to address those issues
23 themselves. The 30 days is in line with the D.C. Court of Appeals
24 rules, which allows appeals to be brought for 30 days, but that
25 30 day period is paused if someone brings a motion for

1 reconsideration or rehearing. So essentially, the D.C. Court of
2 Appeals is giving 30 days to the Commission and the Board to say,
3 this is your time to review these orders, really get them perfect
4 before we'll take it over (phonetic) and we don't want to limit
5 that time, we think that 30 days should be implemented to its
6 fullest.

7 Next slide, please. So that is all for my presentation
8 today. I know that it was a lot. I'm happy to take questions
9 or respond in writing, whatever is best for everyone. This is
10 our contact information. If anyone has questions about anything
11 I mentioned today or any issue and thank you for listening and
12 for your time.

13 CHAIRPERSON HOOD: Thank you so much, Ms. Bullitt, and
14 I know you know racial equity is something that we're still
15 grappling with. Does the equitable language section practice
16 racial equity?

17 MS. BULLITT: In what sense? We understand that this
18 is, I don't know if you're trying to get to a specific point,
19 but we understand that racial equity requirement is a requirement
20 for all zoning actions and so we are attempting to incorporate
21 some of these racial equity data and processes in our comments
22 and recommendations going forward, yes.

23 CHAIRPERSON HOOD: The first sentence of your question,
24 your first sentence of your response to me led me to understand
25 that you know exactly what I'm saying and so does the public, so

1 thank you. Let's talk about the notice of intention to file
2 cases.

3 You mentioned that some things should happen earlier.
4 Is it true that -- I noticed it in the past, I pretty much know
5 the answer to what I'm asking -- is it true that a lot of these
6 cases, not all, but more than none are held to be baked and
7 created with the community involved?

8 MS. BULLITT: I think that the definition of what you
9 mean by community is is what we are all grappling with and what
10 our proposal seeks to do is to widen that definition of community.
11 So to have, the more people that can be involved when the
12 application is getting baked and that can have their voices heard
13 at that point will reduce appeals later down the line and reduce
14 the surprise opposition at hearings and will make everyone
15 happier with the application when it reaches the Commission or
16 the Board.

17 CHAIRPERSON HOOD: It depends on, I want to have this
18 dialogue with you because I heard over my years and experience
19 is sometimes the best teacher, I've heard other stories, well,
20 why is Anthony Hood who lives in Ward 5 involved with something
21 that's in my neighborhood and I live in Ward 8. So you hear it
22 both ways so, you know, and this Commission has trying to adapt
23 to it all the way around and now we're hearing it going back to
24 the way that we heard that we have, we actually came away from
25 some years ago. So I'm just curious.

1 So all in the milk ain't clean sometimes when you come
2 here and you say you all should do this when in fact it probably
3 was done and because of the residents of the City didn't want
4 other people interfering with stuff when they live right around
5 the corner, and you've got somebody who lived way clear across
6 town, that becomes a problem.

7 So what I need OAG and others of legal minds to help
8 me work is to help me find something that's going to stand the
9 test of time because I can tell you, that argument can go both
10 ways. So in this scenario, let's find a way to where it'll work
11 if we can do that, because just changing it back and forth, we
12 can back up with the community not being able to have it,
13 especially the ones that are most affected, not being able to
14 participate and help bake a case and that's another problem.
15 We'll be back here next year and we're changing it back. So,
16 you know, let's think about these things when we're saying we're
17 going to analyze it and also be brought to (indiscernible).

18 But one thing I will say on a very positive note, which
19 made me very happy, when I heard you say that you all are going
20 to continue to work with OP. I think that that's a big plus. I
21 actually support that 100 percent and I'd like to see that done
22 before it comes to us, however the Attorney General sees fit and
23 the director of the OP sees fit. I think that'd be very helpful,
24 not just for the Zoning Commission, but the residents of the
25 City. So I really appreciate those comments.

1 All right. So with that, let me open it up to my
2 colleagues.

3 Commissioner May.

4 COMMISSIONER MAY: Yes. So the first question I have
5 is on the uniform procedure. I mean, I appreciate what you are
6 trying to do, but I have to wonder whether doing away with the
7 notice of intent is actually beneficial to the public because
8 what you're doing is you are saying, well, don't even file the
9 application until it's fully baked. Don't let the public know
10 about it until it's fully baked and so therefore, by the time
11 the public sees the process, the development of the project, the
12 concepts, whatever it is, it would be much more advanced than if,
13 you know, there had been this 45 day advance notice, which, you
14 know, I know it's necessarily easy to affect a project at that
15 time but, you know, the ANCs are put on notice. The applicant
16 is known, their attorneys are, you know, are engaged. There are
17 ways for people to affect a project before the application is
18 filed and you're kind of taking that away. You're basically
19 saying, oh, let the whole thing right up front is if everything
20 is fully baked at that moment of notice of intent. So it seems
21 like you might you might actually be hurting the public's ability
22 to affect a project by requiring that all of that application
23 material upfront.

24 MS. BULLITT: Yes. I think, we don't it as eliminating
25 the NOI, we see it as pushing the filing application earlier and

1 in effect what this would do was allowed these discussions that
2 are happening right now before the application is filed to happen
3 much more publicly and so right now, applicants tend to meet, you
4 know, around the time an NOI is filed, to meet with ANCs but the
5 public is not yet on notice and so they don't know to reach out
6 to the ANC.

7 COMMISSIONER MAY: I'm sorry. So the ANC is a public
8 body, or, you know, does it not, you know, do they not notify
9 their constituents of these things when they are of import?

10 MS. BULLITT: I think there's a varying level of ANC
11 public engagement and what we want to do is just provide more
12 public notice earlier in the process so that takes -- the ANCs
13 have a lot of responsibility. It's a, they don't get paid for
14 their work and so by allowing more public substantive notice
15 earlier in the process, that can almost notify people in the
16 public and then those people know to go to their ANCs and check
17 in on the meetings and be involved in these conversations because
18 people don't always do that. They're busy and they're not able
19 to attend the ANC meeting.

20 COMMISSIONER MAY: But it sounds like, I mean, it sounds
21 like you're more interested in there being notification than in
22 there actually being the full application filed. I mean, a notice
23 of intent is a heads up; right? It's a heads up, hey, we're
24 going to do something on this property. It seems to me that
25 that's a good thing and I don't know why you would want to, you're

1 effectively doing away with it because you're saying --

2 MS. BULLITT: No.

3 COMMISSIONER MAY: No, you are. I'm telling you that's
4 what you are doing. You're advocating for doing away with the
5 notice of intent, you are basically just saying the application
6 has to be filed 45 days earlier.

7 MS. BULLITT: So as I mentioned, the notice of intent
8 only goes out to ANCs and property owners within 200 feet and so
9 we're trying to make the notice that goes out at that 80 day
10 period be much more substantive than what is currently included
11 in the NOI and we're trying to have it reach more people.

12 COMMISSIONER MAY: Okay. Well, but what I'm saying is
13 that I think you're doing -- you're not doing that. If you want
14 there to be more information at the notice of intent stage then
15 maybe you need to focus on what happens at the NOI stage, rather
16 than requiring everything up front because I think you're kind
17 of shooting yourself in the foot.

18 The, let's see. Hold on a second. I had another
19 question. One second. Actually, no, I think that's it for my
20 immediate questions. Thank you.

21 MS. BULLITT: Thank you.

22 CHAIRPERSON HOOD: Okay. Thank you.

23 Commissioner Imamura?

24 COMMISSIONER IMAMURA: I think that I would like to
25 hear what Vice Chairman Miller has to say. I'm not sure that, I

1 think that I understand the intent of the presentation
2 (indiscernible) attempting to do here so I'm not sure I quite see
3 it the same mind as Commissioner May but I'm curious about Vice
4 Chair Miller and his set of questions. I will say though this
5 has now come before the Commission a few times, her presentation
6 and delivery. I know the Zoning Commission is not always easy
7 to come before but it's getting better, so. So, Mr. Chairman,
8 I'll get back and may have some additional questions after Vice
9 Chair Miller.

10 CHAIRPERSON HOOD: Thank you. Vice Chair Miller.

11 VICE CHAIR MILLER: Thank you, Mr. Chairman. I actually
12 do not have any questions at this time. I appreciate Ms. Bullitt
13 and also the Attorney General providing the comments that you
14 provided in this case thus far. I appreciate the Office of Zoning
15 and Office of Planning's responses thus far to those comments and
16 I look forward to their further in, on the record in the record
17 responses after this afternoon's hearing today.

18 I guess my only comment on this, it's really neither
19 here nor there in terms of what you're proposing but on this
20 whole fully baked question, I don't think anything is fully baked.
21 We really have an ongoing case where we were at proposed action
22 a month or so ago and we said, go back. We're not going to do
23 it, we're not going to do it unless you do it a different way.
24 We don't even know if we'll do it that way but we're not doing
25 it this way. You got to try another way. I mean, there's a lot

1 of opportunity for public, what I'm trying to say is there's not
2 a lot of opportunity for public participation in the current
3 process and a lot of opportunity for changes as a result of that
4 public comment in the current process and it's not even fully
5 baked, as you are well aware even after we issue our written
6 order because the appellant, well there's a current, there's a
7 reconsideration and there's a current reconsideration process
8 which has been utilized and there's also a appeal process which
9 delays things for years.

10 I'm not sure that the proposal you made allowing all
11 parties to, allowing anybody to -- allowing non-parties to do
12 rehearing or reconsideration will prevent appeals which was part
13 of your argument, because if we can deal with it in the rehearing
14 or reconsideration by ourselves, maybe the issue would be taken
15 care of.

16 Just off the top of my head, it seems that the people
17 who appealed did participate in our hearings from what I, this
18 is just anecdotal, I have not done any analysis. It might be
19 useful to have analysis but I think those who appeal either were
20 parties because we made them parties or they participated in the
21 hearing and they didn't get what they wanted, even if some changes
22 were made and the only other thing I would say is, no, I'll leave
23 it at that.

24 But I do appreciate your providing all the work that
25 you've done to provide constructive changes and I appreciate

1 OZ/OP effort to clarify and change things as a result of your
2 comments, and your willingness to work together with OP and OZ
3 as we go forward in refining this process to make it as public
4 participation meaningful as possible. So I don't have any
5 questions, Mr. Chairman, at this time.

6 CHAIARPERSON HOOD: Thank you, and I will just say
7 again, Ms. Bullitt, thank you for the last part which I'm very
8 happy to hear you say it, by working with the Office of Planning
9 and helping us with the legalese and whatever the case is to get
10 to where we need to be.

11 Now some of the issues that I'm looking at in your
12 PowerPoint, and I appreciate all the work that's put in. But
13 for me, I see some unintended consequences as well there and the
14 catch is with OAG, OP, OZ and the residents we can come up with
15 a better outcome and I think we always do and I don't even have
16 a vote. I was thinking about what the Vice Chair said
17 (indiscernible) I have a vote here all the time. I'm not always
18 that satisfied with the outcome. So that's just the way life
19 is. But I try to get as close as possible and we always try to
20 do the best we can for residents in the City.

21 So thank you very much and we appreciate you answering
22 our questions, because at the end of the day, it's about the
23 residents of the City, so thank you.

24 All right. Ms. Schellin, do we have any other
25 government reports?

1 MS. SCHELLIN: No, sir.

2 CHAIRPERSON HOOD: Okay.

3 CHAIRPERSON HOOD: Okay. And now we just go to the
4 list; right?

5 MS. SCHELLIN: Yes, sir.

6 CHAIRPERSON HOOD: Okay. So I'll let you and Mr. Young
7 work on that, maybe pull up four up at a time.

8 MS. SCHELLIN: Four at a time? Okay.

9 CHAIRPERSON HOOD: Yes.

10 MS. SCHELLIN: Did you want to call the ANC
11 representatives first or just in the list?

12 CHAIRPERSON HOOD: Let's call our ANC. If we have any
13 ANC representatives, they work hard. Let's call them first.

14 MS. SCHELLIN: Yes. Those who are representing the
15 full ANC --

16 CHAIRPERSON HOOD: Yes.

17 MS. SCHELLIN: -- as they signed up. So we have, by
18 the way there are none in support so I'm going to go straight to
19 the opposition list. Mr. Young, if you would, bring up Chuck
20 Elkins, Sabrina Roads, I have her as 5D 02. So I don't show her
21 as representing 5D, so I can't bring her up. She just signed up
22 as 5D 02. So next would be, let's see in opposition. He seems
23 to be the only one in opposition that is representing an ANC.

24 CHAIRPERSON HOOD: Okay. Commissioner Elkins, you may
25 begin.

1 ANC COMMISSIONER ELKINS: Thank you, Mr. Chairman, and
2 Members of the Zoning Commission. I'm Chuck Elkins. I represent
3 Wesley Heights near American University and it's good to see all
4 of you again. I'm testifying here on behalf of the ANC 3D
5 Commission.

6 Now, as you know, some of the most important decisions
7 about how our City can grow and thrive are made right here in
8 the Zoning Commission and the BZA and these applicants with a
9 vision of how to do things better come here and plead their case,
10 and we should all be encouraging that. But at the same time, I
11 know you want to hear about any potential impact on any new
12 development on those who live nearby.

13 So the question is, how can your regulations encourage
14 the presentation of the best arguments on all sides of any case
15 and to give you an answer to that question from a neighborhood
16 perspective, let me start with an analogy from my own experience
17 at the Environmental Protection Agency that I believe you will
18 find directly on point.

19 In the first ten years after the EPA opened its doors
20 in 1970, agency officials would hold meetings or hearings on
21 proposed policies. Industries such as the automobile industry
22 or the power companies would come in and sit on one side of the
23 table, and the environmental groups like the Sierra Club would
24 sit on the other and present their arguments and it really helped
25 us to hear the issues on both sides presented by people who really

1 cared about the outcome and who knew they would be up against
2 formidable opponents across the table.

3 But when Ronald Reagan came into office, the
4 environmental groups stopped coming in most cases, and this was
5 a huge loss. He asked them to come back but they said no, can't
6 you count on us, can't we count on you to make the right decision
7 without us and we responded, of course, we'll do our best. But
8 it would be so much better if we didn't have to wear two hats in
9 our discussion with industry.

10 First, your environmental hat when we asked the
11 industry the tough questions you should be asking and then our
12 decision maker hat when it's so important for us to demonstrate
13 that we're being fair to everyone and not simply pursuing some
14 predetermined policy of the applicant.

15 So I suspect that here at the Zoning Commission in a
16 similar way, when an ANC or a neighborhood association fails to
17 show up, you don't think, well, too bad for them. Instead, I
18 imagine you're thinking too bad for us, the Zoning Commission.
19 Because even when you do your in-depth analysis of the case and
20 I know you do because I've watched you, it helps if the ANC is
21 here providing you with a neighborhood point of view and if they
22 don't show up, you're left to do their staff work and if you ask
23 tough questions, you appear to be wearing two hats. In short,
24 it's important to all the potential parties to show up and have
25 done their homework.

1 But the current procedures do not encourage this
2 outcome. The applicants are ready. They've been preparing for
3 months, if not for years. But the ANCs and neighborhood groups
4 are hearing about this at the last moment, so to speak, and
5 despite their best efforts, are struggling. As you know, ANC
6 Commissioners are volunteers. Most of us hold part time, full
7 time jobs, often requiring more than 40 hour week and most ANC
8 work gets done in the evenings after the kids are put to bed or
9 on weekends.

10 In addition, there's not the institutional memory
11 (phonetic) you normally find in D.C. agency. Last January,
12 approximately 50 percent of the ANC Commissioners were brand new
13 on their jobs and I don't need to tell you that zoning cases can
14 be complex and are not for the faint of heart. So if we're all
15 in agreement, and it's really important to have ANCs and
16 neighborhood groups able to participate effectively in your
17 hearings, how can your regulations empower them procedurally so
18 they can perform effectively? And in my view, it comes down to
19 timely involvement. But what does timely mean?

20 In the ANCs three days previous submitted testimony,
21 which is Exhibit 28, we laid out a number of recommendations and
22 included the mathematical case for why a minimum of 45 days notice
23 is required if your regulations are not going to inadvertently
24 disenfranchise an ANC. In short, the current regulations give
25 the applicants lots of flexibility about what to tell ANCs and

1 when and if they're focused on only their self interest, they're
2 not very eager to tell us much and certainly not early on.

3 Now, I heard the discussion earlier today about whether
4 we should get rid of the NOI. I think I would recommend we don't
5 get rid of the NOI but that we broaden it because otherwise you're
6 counting on the ANC to actually to inform the community about
7 what's going on because these NOI go to so few people. ANCs do
8 not normally have email addresses for everybody in their
9 neighborhood. They don't have a big budget and so please don't
10 put it on the ANCs to be able to reach out to the community.
11 That should be on the applicant and it needs to be broader.

12 So just to finish up. We were heartened by the proposal
13 by the Office of the Attorney General to provide early substantive
14 notice of cases to ANCs and others in a way that really would
15 not slow down the process for the applicants and may even speed
16 things up in in many cases because issues can get resolved even
17 before we all show up in the hearing. So there has to be some
18 serious consideration into giving more substance to the ANCs and
19 the community early. Thank you, Mr. Chairman.

20 CHAIRPERSON HOOD: Thank you, Commissioner Elkins, and
21 I always thank you for all the work that you do. Straight to
22 the point, I was able to review your submission and even through
23 all of that, you still gave us an acknowledgement so I appreciate
24 your mentioning and having it in your testimony.

25 But we will continue to do as you have in your

1 testimony, but the key is after we've gone that's what I'm looking
2 at. After we've gone, what's going to stay to continue to help
3 ANCs, as you mentioned, about EPA, what's going to stay and as
4 you see that's fluid too. So anyway, I don't have any questions
5 for you, but I just want to thank you and the ANC and your
6 community for all you do.

7 Let me see. Commissioner May, any questions.

8 COMMISSIONER MAY: I do not have any questions. Thank
9 you very much for your testimony.

10 CHAIRPERSON HOOD: Okay. And Commissioner Imamura, any
11 questions?

12 COMMISSIONER IMAMURA: No questions.

13 CHAIRPERSON HOOD: And Vice Chair Miller. Any
14 questions?

15 VICE CHAIR MILLER: Thank you, Mr. Elkins, Commissioner
16 Elkins, for your testimony. Very thoughtful.

17 ANC COMMISSIONER ELKINS: Well, thank you very much and
18 I hope you will look at the other recommendations in our written
19 testimony. I didn't have time to deal with them today. Thank
20 you.

21 CHAIRPERSON HOOD: Thank you. We appreciate it and
22 tell your colleagues thank you as well.

23 All right. Ms. Schellin, do we have any other
24 Commissioners?

25 MS. SCHELLIN: No other full ANC representatives. Four

1 opposition, we have an undeclared but that comes later.

2 CHAIRPERSON HOOD: Okay. Let's go with the next, I
3 guess people in support, persons in support.

4 MS. SCHELLIN: No one in support.

5 CHAIRPERSON HOOD: No one in support?

6 MS. SCHELLIN: No. That's what -- he was in opposition.
7 That's why we went straight to opposition.

8 CHAIRPERSON HOOD: Okay. Okay. All right. Well,
9 let's go to persons in opposition.

10 MS. SCHELLIN: Yes. So persons in opposition. We
11 have, okay, Margaret Dwyer with Ward 3 Housing Justice, Parisa
12 Norouzi with Empower D.C., Sabrina Roads, Laura Richards and that
13 should be four.

14 MR. YOUNG: I only have the first person and the last
15 person on.

16 MS. SCHELLIN: Margaret Dwyer.

17 MR. YOUNG: Margaret Dwyer -

18 MS. SCHELLING: And --

19 MR. YOUNG: -- and Laura Richards. Those are the only
20 two I see on.

21 MS. SCHELLIN: Okay. So Margaret Dwyer and Laura
22 Richards. How about Deirdre Brown?

23 MR. YOUNG: I do not see her.

24 MS. SCHELLIN: Jamila White?

25 MR. YOUNG: No.

1 MS. SCHELLIN: Susan Lang?

2 MR. YOUNG: No.

3 MS. SCHELLIN: With Ward 3 Housing Justice, although I
4 just called someone else who was with Ward 3. Valerie Jablow?

5 MR. YOUNG: Yes.

6 MS. SCHELLIN: Okay. How many is that now? Three or
7 four?

8 MR. YOUNG: That's three.

9 MS. SCHELLIN: Okay. Nicholas Delledonne?

10 MR. YOUNG: Yes, that's four.

11 MS. SCHELLIN: That's four? Okay. Thank you.

12 CHAIRPERSON HOOD: Okay. Thank you. I think we start
13 with Ms. Dwyer first; correct?

14 MS. SCHELLIN: Yes.

15 CHAIRPERSON HOOD: Okay. Ms. Dwyer, you may begin.

16 MS. DWYER: Good afternoon. I'm Margaret Dwyer. I'm
17 testifying on behalf of Ward 3 Housing Justice, and I submitted
18 testimony earlier for the initial hearing that was scheduled in
19 April but everybody's (indiscernible) especially because I wanted
20 to say how much I appreciate that the Zoning Commission and the
21 Office of Planning have listened to community concerns and that
22 changes and improvements have been made to the proposal.

23 However, Ward 3 Housing Justice, which is a grassroots
24 organization working for more truly affordable housing and
25 economic opportunity in Ward 3, urges further significant

1 changes. Our members and supporters like me and lay volunteers.
2 We're not land use or zoning experts or attorneys or developers
3 with large professional staffs. So it matters greatly to us that
4 zoning procedures be clear to average community members.

5 We appreciate the guidance that OAG has put out, and
6 we agree that there should be more uniformity of procedure across
7 cases regardless of their classification. A simple, clear,
8 reliable system to sign up to receive notice, I would love that
9 personally, and more opportunities for community participation,
10 not fewer. We want to see simple, clear notice, emailed and
11 mailed to the widest possible interpretation of interested
12 persons and groups, including renters and we want to see
13 opportunities required for public participation at set-down so
14 that thoughts that are raised there can be aired and conflicts
15 can be resolved more easily. We've seen a lot of very cumbersome
16 appeals in Ward 3 and they're not helpful to anyone.

17 We're also very committed to improving ANC processes.
18 We'd like to see all applicants required to present at the ANC
19 and greater, more specific expectations for how ANCs
20 meaningfully share notice and discussion of proposals in their
21 jurisdiction.

22 We also strongly urge the Zoning Commission not to
23 accept the proposed amendments to Subtitles Z Section 500, which
24 would result in keeping OZ and OP only text amendments from
25 important public discussion at ANCs and public case records.

1 Finally, as we have previously testified in other
2 cases, we want to see the strongest possible racial equity
3 procedures that would be based on neighborhood-based historic
4 data to clarify the types of disproportionate outcomes which, in
5 areas like Ward 3, should not be defined just by displacement,
6 but also by systematic ongoing exclusion and we want to ensure
7 that impacted community members are meaningfully engaged and this
8 would mean including people who intend to live in Ward 3 or who
9 would like to live in Ward 3, but who have experienced exclusion.
10 Ordinary members of the public should be supported and encouraged
11 to participate in zoning decisions, and every avenue of
12 meaningful public participation should be strengthened.

13 Thank you so much for hearing me out.

14 CHAIRPERSON HOOD: Thank you very much, Ms. Dwyer.
15 Hold tight. We may have some questions. I think Ms. Richards
16 is next.

17 (Pause.)

18 CHAIRPERSON HOOD: Ms. Richards, can you unmute? Okay.
19 While Ms. Richards is working on that, let's go to Mr. Delledonne.

20 MR. DELLEDONNE: Thank you very much. Can you hear me?
21 I can't see myself.

22 CHAIRPERSON HOOD: Nick Delledonne. Okay.

23 MR. DELLEDONE: Can you hear me?

24 CHAIRPERSON HOOD: We can hear you.

25 MR. DELLEDONNE: So can make my face visible somehow?

1 CHAIRPERSON HOOD: Yes. Hit your, you see where it
2 says video?

3 MR. DELLEDONNE: Yes, yes.

4 CHAIRPERSON HOOD: Yes, hit your video. Just click it,
5 hit it once. It should show up.

6 MR. DELLEDONNE: There I am. I thought I saw them.
7 All right.

8 CHAIRPERSON HOOD: There you are.

9 MR. DELLEDONNE: Thank you for this opportunity. My
10 name is Nick Delledonne. I represent the Dupont East Civic Action
11 Association, which is dedicated to community engagement and civic
12 action and that is the very issue that we're talking about today.

13 I hope -- we wholeheartedly support the recommendations
14 of the Attorney General. The presentation that we just heard is
15 lucid and informative and in our best interest. But I think it's
16 a mistake to say that we have abolished the notice of intent when
17 all we have done is change the term to notice of filing, which
18 gives us the 45 days, the longer stretch of time to engage with
19 the community. That's the whole problem. This is arcane
20 information and it's very difficult to get the word out that
21 there's something that concerns the community. So the earlier
22 it gets to the ANC and their feeble efforts to notify their own
23 constituents, we'll have a little bit more time and other things
24 can come into play. So I think it's just a red herring to say
25 that we're getting rid of the notice of intent.

1 The brilliant resolution that the OAG proposed is that
2 it doesn't really limit the time before somebody could get a
3 decision or vote of the Appeals Court, but it utilizes it more
4 fully in the public so that where something might be operating
5 behind the scenes now the note -- the ANC will be notified of
6 the filing and the ANC can do whatever they're going to do to
7 notify the public which, as I say, was feeble to the past. So
8 please do not take this lightly. The work that the OAG has been
9 put into this is valuable and useful to the community.

10 I must say also that I think it is a foregone
11 conclusion, it is not a mathematical equation, but if you give a
12 little bit more time, as the OAG proposes, for the community to
13 be waken up to an issue that might be concerning to them. You
14 open the opportunities for resolution when people talk honestly
15 with one another before they're forced to the only resolution
16 they can find, and that is the Appeals Court. So, and that is
17 not a good option and the chance that we have of resolving things
18 earlier is enhanced.

19 I want to mention too that a reliance on digital means
20 may serve the Commission. Maybe everybody is aware of it but
21 there is a vast number of people who are being left behind because
22 they don't have an email address. The government has the street
23 address of all registered voters. All of them. If you're running
24 for office and you want to reach people who might vote for you,
25 you send them a postcard or a note by U.S. mail, not email

1 address. Who knows your email address? Tell me. Does anybody
2 really, as Commissioner Elkins explained, there's no way for the
3 ANC to know the email address of their constituents unless it's
4 been given to them. Well, how are you going to reach them?
5 What's the first step on that?

6 So this is a serious matter, and it may be that the
7 Zoning Commission is somewhat precluded or protected from the
8 harsh effects of it, because anybody that approaches the
9 Commission may have the tools that they need. But some people
10 are poor, some people are seniors and the whole process of
11 technology is terribly frustrating, as you know.

12 You have my written statement. I hope this is
13 sufficient. Thank you for the opportunity.

14 CHAIRPERSON HOOD: Thank you, Mr. Delledonne. Don't
15 go anywhere, we may have some questions for you. Ms. Richards,
16 are you ready?

17 (Pause.)

18 CHAIRPERSON HOOD: Are you still on mute? We can't
19 hear you. Can you hear me? If you can hear me shake your head.
20 Okay. Look on your, do you see your video button or, let me see
21 what it says. Do you see your mute and unmute button? It should
22 be at the bottom of the screen, like towards the middle. Okay.
23 Look on your keyboard. Do you see an X? You see like a speaker
24 phone with a X on it? Don't hit that. Hit the one next to it
25 and then there's one next to that which makes it get louder. Hit

1 that a few times and let's see if you come up with. Not yet.

2 MS. SCHELLIN: Mr. Young, can you unmute her?

3 CHAIRPERSON HOOD: I don't think she's muted.

4 MR. YOUNG: She was unmuted and still (indiscernible).

5 MS. SCHELLIN: Yes.

6 CHAIRPERSON HOOD: Oh.

7 MS. SCHELLIN: She was and now she's muted again.

8 CHAIRPERSON HOOD: Okay. So go back to what I -- okay.

9 Now you're unmuted.

10 MS. SCHELLIN: She's unmuted.

11 MR. YOUNG: Yes. I think it's microphone issues.

12 MS. SCHELLIN: We can't hear her.

13 CHAIRPERSON HOOD: That's what I'm saying. If she
14 turns that up. If the X --

15 MS. SCHELLIN: She has some audio issues is what it was.

16 CHAIRPERSON HOOD: Right. Okay. But what I'm saying
17 is, all I'm saying if she hits that X sometimes that'll, because
18 I do it too, so if we hit the X it'll take you off or we should
19 be able to hear you then if you hit that X one time. So hit the
20 X and see what happens. It may mute you again. If not, get we
21 give her the number where she can call in?

22 MS. SCHELLIN: Yes. I think it's her computer settings
23 because she's definitely unmuted.

24 CHAIRPERSON HOOD: Probably her microphone, as Paul was
25 saying.

1 MS. SCHELLIN: Yes.

2 CHAIRPERSON HOOD: Can you call the hotline, Ms.
3 Richards? 202-727-0789.

4 MS. SCHELLIN: I will email you the information to call
5 in. Okay?

6 CHAIRPERSON HOOD: Do you, does she have -- if you have
7 your email up in front of you shake your head. If not -- okay,
8 she has it.

9 MS. SCHELLIN: Okay. Let me email that to her. So
10 just give me a minute.

11 CHAIRPERSON HOOD: I just want to make sure that we
12 oblige what Mr. Delledonne said, and I want Mr. Delledonne to
13 understand. We understand about the email and we know we have a
14 population that doesn't have email and not computer savvy, and
15 actually all those kids today, I have to ask my granddaughter
16 how to do certain things, so we'll get there.

17 MR. DELLEDONNE: I understand.

18 MS. SCHELLIN: So, Ms. Richards, the email you got to
19 connect, the invite I sent you has the telephone number and
20 password in it. So you already have it. Okay. She can't
21 respond. Let me just resend it to her.

22 CHAIRPERSON HOOD: Just let her -- just let her call
23 in.

24 MS. SCHELLIN: Okay. I'll resend it to her.

25 MR. DELLEDONNE: Just tell her the phone number.

1 MS. SCHELLIN: Well, it's more than just that. We have
2 to give a password --

3 MR. DELLEDONNE: Oh, okay.

4 MS. SCHELLIN: -- and all of that. There's more than
5 just a password and more than just phone number.

6 CHAIRPERSON HOOD: While Mr. Young is working with Ms.
7 Richards, do we have anybody else, Ms. Schellin?

8 MS. SCHELLIN: We still have Ms. Jablow up.

9 CHAIRPERSON HOOD: Oh, is she? Okay. I didn't see
10 her. I don't see her. Ms. Jablow? Oh, there she is. There
11 she is. Would you like to unmute and we'll take your testimony
12 while we're getting Ms. Richards straight?

13 MS. JABLOW: Okay. I am Valerie Jablow, a Ward 6
14 resident since 1991 testifying about case 22-25 as a D.C. public
15 education advocate.

16 I submitted written testimony before I knew there was
17 any revision to the original proposals. This ironically
18 underscores why I'm testifying now. Public inclusion is not
19 prioritized in D.C. planning. If it were the revisions would be
20 clearly marked and dated on your website as revisions.
21 Regardless, I appreciate this hearing now.

22 Since 1991, I witnessed how development that most D.C.
23 residents did not have any say in or benefit from that's taken
24 over every corner of our City. If you were genuinely concerned
25 about racial equity in D.C. the first thing is always more, not

1 less public voice and inclusion. The first iteration of the
2 proposed rules appeared to limit public voice and processes
3 already tilted by D.C. (indiscernible) development. For
4 example, last year Ward 8 residents who were harmed (phonetic)
5 by a charter school development petitioned the Zoning Commission
6 to have D.C. charter schools, all of which are private non-profit
7 businesses, declared private for the purpose of land use and
8 development. This amendment would have ensured some public
9 oversight voice through the BZA process.

10 Right now, the only public process in D.C. charter
11 school land use and development is notification that the schools
12 are hoping to start, expand or locate somewhere. The public can
13 only comment on that, not direct, reject, petition or choose it
14 and the people in charge are not directly answerable to the
15 public. But OP's set-down report for that case mentioned none
16 of that and had factual errors. On the basis of that flawed OP
17 report, the Zoning Commission dismissed the petition and as a
18 result of that dismissal, the Zoning Commission did not hear
19 public testimony to correct the record.

20 At the February 23 D.C. Council Oversight hearing,
21 Commission Chair Anthony Hood noted that BZA review for charters
22 would put a, "undue burden" on forward on them while Zoning
23 Director Sara Bardin testified that the Commission is required
24 to view (phonetic) all decisions through a racial equity limits.
25 At the same time, no City planner has noted the undue burden that

1 charter development in D.C. places disproportionately on Black
2 residents, Black neighborhoods and the majority of Black schools.

3 In my written testimony to you, I've outlined several
4 examples for this undue burden. Charter schools locating largely
5 (phonetic) in Black neighborhoods where taxpayers neither knew
6 about nor wanted them. But this afternoon I was told that because
7 I didn't submit that written testimony 24 hours ago, it was not
8 accepted. Talk about undue burdens. Given how the public voice
9 has been excluded from a lot of D.C. development and even hurt
10 by it, I urge you now to ask how is the public served by limiting
11 public voice in D.C. development as the first iteration of these
12 rules did, and possibly this iteration too and by not accepting
13 the testimony of the public when there is no voters (phonetic),
14 that not submitting testimony 24 hours ahead will result in it
15 being rejected. Thank you.

16 CHAIRPERSON HOOD: Thank you, Mr. Jablow. We
17 appreciate you being persistent. I know we dealt with that in
18 the Oversight hearing and we're dealing with it now, so I
19 appreciate your being so persistent. Don't go anywhere. We may
20 have some questions for you. Did we get Ms. Richards straight?

21 MS. SCHELLIN: She's calling.

22 CHAIRPERSON HOOD: Oh, okay. Is there anybody else,
23 Ms. Schellin?

24 MS. SCHELLIN: Yes. Did you, anybody have questions
25 for Ms. Jablow before we remove her and move on to --

1 CHAIRPERSON HOOD: No. I was going to try to get
2 everybody, just I was going to try to run through everybody, so
3 hopefully --

4 MS. SCHELLIN: I don't think you have room for
5 everybody.

6 CHAIRPERSON HOOD: Okay. Well, let's see. Let's do
7 this. Do we have any questions for Ms. Dwyer, Mr. Delledonne
8 and Ms. Jablow?

9 Commissioner May.

10 COMMISSIONER MAY: For Ms. Jablow. Is whether the
11 testimony that you just delivered is the testimony that you tried
12 to submit in advance, or is there a more detailed statement that
13 you were trying to submit to the record?

14 MS. JABLOW: There was a more detailed statement, and
15 I revised it because I was frankly stunned when I was told that
16 my written testimony was emailed too late and couldn't be
17 accepted.

18 COMMISSIONER MAY: Yes. I'm sorry about that, but
19 those have been the rules for quite some time and it's not
20 uncommon as that has been a deadline.

21 MS. JABLOW: I appreciate that.

22 COMMISSIONER MAY: But we are interested in hearing
23 more about it and, I don't know, Mr. Chairman, I'd be willing to
24 accept her testimony into the record at this point. The full
25 statement.

1 CHAIRPERSON HOOD: I actually was going to do that, I
2 was going to -- yes, and we can do that, Ms. Jablow, so we will
3 get your testimony. Okay.

4 Commissioner Imamura, any questions of either one of
5 our witnesses?

6 COMMISSIONER IMAMURA: No questions, Mr. Chair.

7 CHAIRPERSON HOOD: Okay. And Vice Chair Miller?

8 VICE CHAIR MILLER: No questions. I appreciate each
9 of the witnesses' testimony and yes, we often do accept into the
10 written record testimony from witnesses, even though they didn't
11 meet the deadline that's in the hearing notice or in our rules,
12 we usually do that. We almost always do it and we will look
13 forward to reading the more detailed statement of Ms. Jablow at
14 that time.

15 Thank you Ms. Jablow, Ms. Dwyer and Mr. Delledonne for
16 your testimony.

17 CHAIRPERSON HOOD: And let just direct one thing. I
18 would make sure is correct, a clarification. We make the
19 decision, not our Staff. Once somebody tells us that we make a
20 decision. The staff follows the rules. We follow rules too but
21 we can waive our rules, the Staff can't. So I just want to make
22 sure that's out there.

23 I don't have any questions for anyone but I want to
24 thank each and every one of you for giving us insight of how you
25 think we make changes and what changes you believe we should

1 make. So I appreciate that, and thank you for taking the time
2 to come down and let us know that, so thank you.

3 MS. SCHELLIN: And Chairman Hood, we do have her
4 testimony, she emailed it so we can go ahead and upload it.

5 CHAIRPERSON HOOD: Yes. Let's put it in the record.
6 I'd like to see it.

7 MS. SCHELLIN: Yes. We can do that now.

8 CHAIRPERSON HOOD: Have we got Ms. Richards? Maybe she
9 needs to log off and come back on.

10 MS. SCHELLIN: I think she's on the phone. Instead of
11 calling in, she's on the phone with Mr. Young. So I think that
12 she should either log off or call in, so yes.

13 All right. I will give Mr. Young the next group which
14 we have. Next would be, actually maybe there are not that many.
15 Jeanne Cooper, Chris Otten and actually I take that back. They
16 are the only two in opposition. Then we move on to the undeclared
17 which there's only two if you want to go ahead and call them up
18 also.

19 CHAIRPERSON HOOD: Yes. Let's do that and when Ms.
20 Richards gets ready, we'll go back to her.

21 MS. SCHELLIN: Okay. Mark Eckenwiler and it was
22 actually Jamila White who I think we've already checked and she's
23 not here. Ms. Bullitt has already testified, so that will be
24 the end, Mr. Eckenwiler.

25 CHAIRPERSON HOOD: Okay. You can call, I thought you

1 said Chris Otten. Is it Chris Public, is that, okay. Chris
2 Public.

3 MR. OTTEN: That's me.

4 CHAIRPERSON HOOD: Okay.

5 MR. OTTEN: Can you guys hear me?

6 CHAIRPERSON HOOD: Sure, Mr. Public.

7 MR. OTTEN: I don't know why that came up that way.
8 It's great to see everybody on the Commission. Everybody's
9 looking really healthy for the summer, even Commissioner May and
10 especially Ms. Schellin.

11 Everybody, I want to just bring to the table today the
12 fact that we want wider public engagement, public notice and less
13 vagary in the regulations. I think that's what, Commissioner
14 Hood, you're trying to get at as far as a lasting legacy here
15 and some of the things kind of startled me in that view, in that
16 vein.

17 I mean, for example, if the text amendment were to go
18 through as written now, what I was hearing all, you know, earlier
19 was, hey, because of the public response to this case things have
20 changed and gotten better and it was great to have a public
21 hearings. Well, if these changes are made, there would be no
22 public case record, there would be maybe not like a hearing as
23 we're having now that's as clear because notice might not be
24 going out. Referral of the petition to the affected ANCs would
25 not happen. I mean, it just seems strange that we're moving

1 backwards in terms of engagement, whether that's a map amendment
2 submitted by OP or ANCs they don't have to provide notice and
3 text amendments submitted by OP, OZ are apparently exempt from
4 sort of public engagement, public notice, public sort of
5 participation, like no case record, for example. It just seems
6 startling to see that and to that end I would love to submit, I
7 unfortunately also didn't apparently get my testimony and on
8 time. I tried to submit it last night. But, so I would love
9 for you to see.

10 I had a legal student do some kind of jurisdictional
11 analysis and some analysis of some of the cases here in D.C.
12 We're stepping backwards it really seems. We want to see wider
13 public participation because, as you know, I've been involved in
14 some of these appeals. That is the absolute worst way to get at
15 the compromises and the benefits and the things that we want to
16 see in this development that benefits people and doesn't harm
17 people before you all, not before a court and so all of the
18 prefaced stuff, more notice, more participation would allow for
19 that, more data, and so when I hear things like, you know, we're
20 sticking with a 200 foot notice requirement, that's just not
21 enough. I mean, depending on where you measure it from the site
22 to the surrounding neighborhoods and what's surrounding it like,
23 it doesn't hit like nearly half a block and what, we know these
24 major, major PUDs, think Union Market, think the wharf, think
25 Shaw. These have major, major impacts to the surrounding three,

1 four, five blocks, perhaps further depending on if it's public
2 property or not. So the 200 foot thing is sort of, that's archaic
3 and jurisdictionally it seems way behind what other jurisdictions
4 are doing in terms of notice.

5 I also want to point out the sense that, and I hope
6 you'll be able to take my testimony in because I know I'm going
7 to run out of time on this, but basically the racial equity. We
8 heard earlier from OP we don't really want zoning regs, that
9 would be onerous on agencies, but when I read the cases some of
10 them, I mean, OP has now perfected the boilerplate language in
11 all cases that I've seen now that magically says all ZC cases
12 and PUDs are racially equitable, and this is in the face of 60,000
13 Black folks being (indiscernible) from D.C. over the last 20
14 years of welcoming new neighbors and build baby build centered
15 in your Commission.

16 So I just think the racial equity stuff, that kind of
17 staying away from it, pussyfooting around it, is sort of
18 representative of also eliminating notice and participation. But
19 profoundly, the Subsection 405 public agency review. I mean, we
20 want more clarity around this so the legacy, so there is clarity
21 for ANCs about what agencies are involved and what agencies will
22 be asked to weigh in, so that the ANC can engage with them. The
23 public can engage with the ANCs. It's almost like OP is like
24 no, we'll just take care of it, we got it, we got it. But we've
25 seen in the case law the OP doesn't have it and OP is your right

1 hand to tell you whether or not these PUDs and these map
2 amendments will fly, will benefit and certainly not harm existing
3 residents.

4 So we want more clarity. We saw the shift to go from
5 relevant agencies including a small list of those agencies that
6 would be involved in planning and review, to, oh, we'll just name
7 it some other agencies and we'll eliminate the list of agencies.
8 That's just not the direction we need to go. We need the list,
9 we need to clarify the list of agencies and then I just wanted
10 to point out.

11 Secretary Schellin earlier said, you know, back when
12 there was minor and major modifications into the regs and that
13 some applicants would file for minor modification when they
14 really weren't. Well, that's going to just happen now when, you
15 know, the same sorts of applicants will file for changes to orders
16 without a hearing and without witnesses, and when you start
17 changing orders without a hearing, those orders in theory,
18 especially there's a lot more notice and public engagement, will
19 have promises and benefits and things listed that people worked
20 hard to get at and you start changing things without order,
21 without hearings, without witnesses, without notice, that's a
22 complete step backwards.

23 So everything should have a hearing. Everything should
24 be put out and noticed and transparent. So we want to walk
25 forward, not backwards and we want to avoid appeals because

1 frankly this stuff can get done at the Zoning Commission. I've
2 seen it happen, but when there's less engagement and less notice
3 and then problems pop up at the end of the process because people
4 didn't hear or people want to be heard but it's too late and the
5 only choice they have is through some court process, that is not
6 beneficial to anybody, we know that, and so we want more clarity,
7 more notice, more transparency not less.

8 I'd love to submit my testimony because there's a great
9 memo attached from a law student that covers a lot of this in
10 much more detail than I just did. Thank you.

11 CHAIRPERSON HOOD: Thank you, Mr. Otten. If you can
12 hold tight we may have some questions for you.

13 Commissioner Eckenwiler. Chairman Eckenwiler.

14 CHAIRMAN ECKENWILER: Thank you. Can you hear me o
15 kay, Mr. Chairman?

16 CHAIRPESRON HOOD: Yes, we can.

17 CHAIRMAN ECKENWILER: Great. Thank you. Mark
18 Eckenwiler, Chair, ANC 6E appearing on behalf of the ANC.

19 Mr. Chairman and Members of the Commission, as stated
20 in our April 3rd letter, that's at Exhibit 23 in the case file,
21 ANC 6E agrees with many of the recommendations in OP's proposed
22 text and supports their approval, especially with respect to
23 improving notice to ANCs and to the public.

24 As noted in that letter, we also oppose a number of the
25 changes. But since I have limited time this evening, I'm not

1 going to try and cover everything that's set forth in that letter.
2 What I want to do instead is focus on some important BZA
3 procedural issues that are not addressed at all in this
4 rulemaking. I'd be happy to discuss the others during Q&A if
5 the Members of the Commission wish.

6 So starting with one, and Mr. Chairman, this is one,
7 you know, you and I have both seen, you know, on a number of
8 occasions for BZA where applicants come in. They performed
9 illegal work and they're seeking, after the fact approval for
10 that. The BZA should be required, without exception, to analyze
11 the application as if it were made prior to the initiation of
12 the work involved and that's what the Board says it does and, in
13 fact, the Board does not do that. So the regulations need to
14 make that clear and they also need to make explicit the Board
15 should not be allowed to consider the economic hardship of
16 removing illegally constructed alterations other than an estoppel
17 argument, basically, you know, they relied in good faith on
18 permits from DCRA.

19 The Board should also not be allowed to grant relief
20 on the theory that the applicant could hypothetically pursue some
21 other option that produced similar results, as the Board did
22 recently BZA 205-24 at 521 Florida Avenue, NE and just to be
23 clear, that restriction and none of the ones I'm going to talk
24 about should not be waivable under Y 101.9.

25 Second, Y 604.10 requires work to be carried out in

1 conformity with the approved BZA plans, but there's no recourse
2 if that doesn't happen and the Zoning Administrator refuses to
3 take action and that's something that we too have seen, we saw
4 that in the aftermath of BZA 18957. Some recourse is necessary
5 given the ZA's refusal to enforce. It is explicitly not a matter
6 subject to regular appeal, the BZA.

7 Y 602.4 allows BZA to reopen the record prior to making
8 a final decision. ANC 6E recommends that that be limited to one
9 time and that limit be made non-waivable.

10 Y 700.10 allows BZA to reopen the record sua sponte
11 after it issues its final order if they do so within ten days.
12 The Board has abused its authority by ignoring that time limit.
13 They did that in BZA 20163 reopening the record well after the
14 ten day deadline and not following any of the procedures for
15 waiving that rule. So our recommendation is make that time limit
16 that is sua sponte reopening of the record after issuance of a
17 final order non-waivable. You have to do it in ten days or you
18 cannot do it at the BZA, and more generally what unifies all of
19 these concerns is the fact that Y 101.9 grants the Board
20 extraordinary latitude basically to waive any and all of the
21 rules except for there's about five that are enumerated in that
22 section. But everything else is up for grabs and we are very
23 concerned that the Board has not been exercising that
24 judiciously.

25 In Subtitle Y Chapter 3, Y 300 requires BZA applicants

1 to include certain items in their application. There's an
2 enumerated list. It's very clear what they have to include and
3 yet time and again we have seen cases where not all the materials
4 that are required to be in the record, in the application are
5 present and the burden is always on us to complain to OZ Staff
6 and then have the applicant put those in. So our recommendation
7 is to add a provision to Y 300 and the companion provisions 301
8 through 303 stating that no hearing or decision meeting on a BZA
9 case may be scheduled or held until all required materials have
10 been filed and properly served and again, that requirement should
11 not be waivable.

12 And then finally, one technical fix and as with all of
13 these, this was listed in our April 3rd letter. Chapter 4 in
14 Subtitle Y, so that's the BZA chapter giving the variance of the
15 special exceptions, has a Section Y 407 that sets out the explicit
16 procedures and timing for motions practice. But there is no
17 parallel provision in Chapter 5 which regulates BZA appeals. So
18 Chapter 5 has a gap in it and, you know, the simple fix could be
19 add a cross-reference in Chapter 5 to Y 407 but that needs to be
20 done because right now there is officially no set of rules for
21 motions practice in BZA appeals.

22 So I'm going to pause there as I think my time has
23 almost run and be happy to answer any questions from the
24 Commission.

25 I appreciate the opportunity to testify. Thank you.

1 CHAIRPERSON HOOD: Thank you, Commissioner Eckenwiler.
2 Hold tight, we may have some questions and also don't take Mr.
3 Otten down either (indiscernible). Is Ms. Richards ready?

4 MS. SCHELLIN: I understand that she is calling in as
5 we speak supposedly so she can hear us, but she's still having
6 issues so she is calling in now. So you may want to go ahead
7 and go to your questions for the ones who are up now, because I
8 don't see her up yet.

9 CHAIRPERSON HOOD: Do we have anybody else that wants
10 to testify?

11 MR. YOUNG: Still have the one witness up.

12 MS. SCHELLIN: (Indiscernible).

13 MR. YOUNG: We still have Ms. Cooper.

14 MS. SCHELLIN: Oh, Ms. Cooper is up, yes.

15 CHAIRPERSON HOOD: Okay. Yes. Let's go to Ms. Cooper.
16 Let's go to Ms. Cooper. Ms. Cooper? Ms. Cooper is unmuted. Can
17 you hear us -- well, I can't see her. So while Ms. Cooper and
18 Ms. Richards are being straightened out, let's see if we have any
19 questions for Mr. Otten and Mr. Eckenwiler, Commissioner
20 Eckenwiler. Who else was it? Somebody else? Okay.

21 Let's to Commissioner May.

22 COMMISSIONER MAY: Yes. So since, Chris Otten, I would
23 like to say it's nice to see you, but I can't see you, and you
24 said it was nice to see us and you commented on us looking
25 healthy. So I'm curious what you're looking like. Can you turn

1 your camera on because I haven't seen you for a very long time.

2 MR. OTTEN: Yes. I'm sure not looking as healthy as
3 you guys.

4 COMMISSIONER MAY: I guess that's a no. You can't turn
5 your camera on? Oh, well.

6 MR. OTTEN: I don't think I can. My phone is busted.
7 It's really bad.

8 COMMISSIONER MAY: Okay. No worries, no worries.
9 Anyway, well maybe next time we'll get to see you. But thanks
10 for the compliment and appreciate your testimony, but I don't
11 actually have any questions, any other questions for you.

12 I do have a question for Mr. Eckenwiler, or
13 Commissioner, sorry, Chairman Eckenwiler. Every time I talk to
14 you I feel like it's a more exalted role. So, Chairman
15 Eckenwiler, you have become sort of the de facto expert on BZA
16 cases and ZA interpretations and misinterpretations and sort of
17 dogged pursuit of making people follow the recommendations and
18 so I'm always interested in hearing what you have to say in terms
19 of process recommendations. But I have to ask in this case since
20 really what the intent of the case was to clarify and to some
21 extent codify the practices in zoning regulations it sounds like
22 what you're talking about in terms of the BZA process improvements
23 might actually be best considered as a separate case and I'm
24 wondering if you've actually tried to pursue these things in that
25 form or whether you'd be willing to do that because it sounds -

1 - I know what you're talking about with some of these issues so
2 I'm just, and I can see that there might be something that could
3 be done.

4 CHAIRMAN ECKENWILER: I appreciate the question,
5 Commissioner. I could not disagree more. When the notice of
6 hearing, the initial hearing for April came out, it was an impetus
7 on us to think about the ways in which the BZA process does not
8 operate well or effectively at times and that, the issue that I
9 started with, the after the fact request that comes up time and
10 again, that is really a crucial, crucial omission in the rules
11 because it is a constant source of applications before the Board
12 and it really does need to be addressed. It is --

13 COMMISSIONER MAY: I'm not questioning that and I'm not
14 questioning the importance of considering the questions that
15 you're raising. I'd just like, where we are in the process of
16 this text amendment that, again, you know, my perspective is
17 really more about clarifying/codifying. It seems like you're
18 kind of hitched something on to that train that might be best be
19 considered in another format (phonetic), and so my question for
20 you is not is this important to do or is this not, the question
21 is have you considered actually trying to do a separate text
22 amendment on this and if we don't take it up here, we should be
23 willing to or interested in.

24 CHAIRMAN ECKENWILER: We have a very long list of issues
25 and frankly we exercise great discretion in limiting our comments

1 in this proceeding to things that bear directly on procedural
2 matters before BZA.

3 There's a bunch of stuff. If you want to file a shotgun
4 request for, you know, seed to nuts revisions to the zoning regs,
5 we can do that but it seems entirely within, properly within the
6 scope of this proceeding.

7 COMMISSIONER MAY: Yes. Okay. I get you're still not
8 really sort of answering me very directly, because I think you
9 talked about a bunch of things that are pretty well focused,
10 right, and have to do with, you know, the after the fact approvals
11 and things like that and, again, I think it's complicated to
12 hitch that car to this train and I'm not saying that the answer
13 to that is for you to do a shotgun request that covers everything
14 because I think what you see, even in this case, is a
15 demonstration that kind of do too much in a single text amendment
16 can lead to a lot of confusion.

17 So I'm just saying, if we don't take it up here I think
18 that these are, you know, a more focused attempt to address these
19 most urgent issues of BZA might be appropriate and what I do want
20 to say, I really do appreciate the fact that your testimony is,
21 as usual, thorough but well focused; right? You're not throwing
22 everything in the kitchen sink and every issue, you're focusing
23 on things that are important and I appreciate the fact that you
24 have done that here.

25 So that's it for my questions, Mr. Chairman.

1 CHAIRPERSON HOOD: All right. Thank you, Chairman May.
2 Let's go to Commissioner Imamura.

3 COMMISSIONER IMAMURA: No questions, Mr. Chair.

4 CHAIRPERSON HOOD: Okay. And Vice Chair Miller.

5 VICE CHAIR MILLER: Thank you, Mr. Chairman, and thank
6 each of you for your testimony. Do we have your written
7 testimony, Chairman Eckenwiler? Or did you submit? We have it?

8 CHAIRPERSON HOOD: Yes. Yes, we do.

9 CHAIRMAN ECKENWILER: It's Exhibit 23 in the case file.

10 VICE CHAIR MILLER: Okay. I need to look at that more
11 carefully. Thank you. Okay. Thank each of you for your
12 testimony.

13 CHAIRPERSON HOOD: Okay. Thank you. I do want to make
14 sure that we get Chris Otten's testimony. He had a young person
15 work on it, and I'd like to see that as well as Mr. Eckenwiler,
16 after the fact, it's been sticking with me and I understand even
17 if it's not necessarily germane to what we're doing today, I
18 think -- it's Exhibit No. 23 -- I think it's very important and
19 I'm going to ask the office of Planning, and I'm sure our legal
20 counsel, if it's not necessarily applicable to what we're doing
21 here today, I would like to make it applicable at some point to
22 figure out if we have to, revise and looking at another text
23 amendment or whatever we need to do. Some of this I think we
24 need to deal with so I would ask for the Office of Planning and
25 our legal counsel to look at Exhibit 23 and let's see how we can

1 get that started. Okay.

2 But I will ask this question, Mr. Eckenwiler. Do you
3 think this is what's going to happen where it says no waiver is
4 required? We tried that and people said we were very heavy handed
5 in another situation. I think it was the zoning, the "Herb
6 Franklin rule." We tried the heavy hand and said no waivers and
7 eventually that just dissipated. So do you think that's heavy
8 handed, because I see what you're saying, no waivers, and I'm not
9 saying I don't disagree but to others and to the public we look
10 like we're being very heavy handed.

11 CHAIRMAN ECKENWILER: So, Mr. Chairman, I didn't mean
12 to suggest and ANC is not arguing that there should be no safety
13 valve within the procedures for BZA. But the point is right now
14 the exception swallows the rule that almost everything except
15 those very few sections that are explicitly listed in 101.9, I
16 think you can count them on one hand, can be waived by the Board
17 and the Board is waiving lots of other things. It's waiving them
18 in ways that we think are profoundly procedurally unfair and
19 improper and so there do need to be some more stringent rules in
20 place and those should not be waivable.

21 The point is not clamp down with an iron fist and make
22 everything non-waivable, but there are some important points
23 borne out by our lived experience of hearings before the Board
24 where we would very much urge there to be some spirited action.

25 So I hope that makes clear the scope of what we're

1 proposing. It's not, you know, across the board, you know, delete
2 101.9. That's not the proposal.

3 CHAIRPERSON HOOD: Okay. All right Thank you, Chairman
4 Eckenwiler. I think I'm satisfied. All right. So let's do
5 that. I know OP and OZ and let's make it happen. I think it's
6 important.

7 Let's see now. But thank you, I appreciate your
8 testimony. Let's see if we can get now to Ms. Richards. Are
9 you ready?

10 MS. SCHELLIN: Ms. Richards, what you need to do if
11 you're using your phone for audio is press star 86, on your phone.

12 CHAIRPERSON HOOD: There you go.

13 MS. SCHELLIN: Okay. I think we can hear you.

14 MS. RICHARDS: Okay.

15 MS. SCHELLIN: There we go.

16 MS. RICHARDS: Okay. I'm delighted and thank you for
17 persevering with me and I think we've just had a wonderful
18 demonstration of some of the problems with technology and senior
19 citizens.

20 So the committee (indiscernible) would like to focus
21 on just a couple of rules and because a lot of what we are, or
22 has already been (indiscernible). Existing (indiscernible)
23 303.1(d) and that allows new uses beyond those prescribed in the
24 relevant zone. This, right now the rule says you may grant relief
25 from any development standard (phonetic), except for the use

1 regulations.

2 You have abandoned that and so now use regulations can
3 be aggregated. This is too elastic a standard. This will allow
4 any kind of use to a PUD. It's just development (indiscernible)
5 whenever there's a PUD application the applicant (indiscernible)
6 dozens and dozens of comp plan revisions and says, oh, all of
7 these are (indiscernible). So if you have dozens of comp plans,
8 then any ancillary use (phonetic) could mean there's an awful lot
9 of those. So (indiscernible) when a PUD ends (phonetic)?

10 If you want to allow use by exceptions then it should
11 provide at least that a non-contemplated use should only take
12 up maybe ten percent or so or (indiscernible) fraction of the
13 zoning envelope or the development envelope for that particular
14 PUD. The best thing we think would be to leave it alone.

15 Also, in addition to that problem, we've got increased
16 flexibility for traditional development standards. This is in
17 rule 3.14 and this now says that a PUD applicant can apply for
18 variance as part of the PUD and it will not -- have to no longer
19 have to comply with the standard for the variance which is some
20 hardship occasioned by the (indiscernible) shape of the lot. So
21 now the variance will be treated as part of the zoning flexibility
22 and there's no break on it so that someone could ask for
23 additional density through 3.14 and it's not even constrained by
24 the other provisions saying that the standard PUD bonus
25 (phonetic) density is 20 percent. So now you have 20 percent

1 density for PUDs plus IZ or IZ Plus and got your habitable
2 penthouses and now you can also come and like layer on some more
3 density and undetermined from that rule 3.14.

4 So where does it stop? So if we're going to do this
5 what's the meaning of a PUD? We have reached the point where
6 the only restriction left on some PUDs may well be the Height
7 Act. So please reconsider that. How can anyone have any kind
8 of confidence or predictability in planning and zoning if
9 everything may be waived with, you know, standards essentially.

10 On the PUD modifications, we covered that. I can
11 understand wanting to have just two classes of modifications but
12 I think if you want to do that then you should rigorously state
13 that only very basic almost technical modifications can be heard
14 determined without a hearing because right now the rule says that
15 such things where architectural features and open space are
16 located can be moved and they can be redesigned, and these are
17 very hotly contested PUD elements and I know everybody remembers
18 the fight over the size and the location of the open space at
19 McMillan Reservoir PUD and in my own neighborhood in Skyland, a
20 major use change was effected by modification without a hearing.
21 They changed the proposed retail Big Lots store to a medical
22 office building without going through the major or the
23 significant modification provision.

24 I'm concerned that too many things that now are
25 considered a modification of consequence will be zoned (phonetic)

1 down or treated procedurally like minor modifications. So if
2 we're going to go to the two category standards, let's have a
3 better or more rigorous dividing line between hearing and no
4 hearing and what is in the rule now.

5 I think you've probably got a sense of where the public
6 is on notice periods and access, so I won't go through all of
7 those again. I will just add that we do applaud the OAG's
8 proposal to codify the racial equity tool and that is something
9 that the Zoning Commission said it intended to do at the racial
10 equity roundtable several months ago, last Fall and the public
11 was looking forward to that. So it's disconcerting to hear that
12 you don't think it's a good idea. There's a certain weight to
13 having something contained in the regulations. So I hope you
14 will reconsider that.

15 Thank you.

16 CHAIRPERSON HOOD: Thank you, Ms. Richards. Do we have
17 Ms. Cooper? While we're trying to get Ms. Cooper together I just
18 wanted to respond to one thing. Ms. Richards.

19 MS. RICHARDS: Uh-huh.

20 CHAIRPERSON HOOD: The racial equity tool. When we're
21 doing anything, and I thought about that, when we're doing
22 anything to put in the regulations it takes a while to go through
23 the normal process to get it codified, to get it memorialized to
24 get it in our regulations. We still have to basically do this,
25 we still have to do the racial equity analysis and where we're

1 going to be going with this, and the changes for me can happen
2 on the drop of a dime. More or less the wading through, you go
3 through all of that, the notice and put it out there and have a
4 hearing, so I think the racial equity tool where it is now from
5 my standpoint is where it should be because what we have right
6 now in front of us it may change. Instead of me having to wait
7 six months to be able to put it in there in the regulations, we
8 can go ahead and continue because it's law. That's the way I
9 look at that and some of it now it's probably going to need to
10 be changed.

11 MS. RICHARDS: Possibly so. I mean, it is an evolving
12 process. Of course, I am, I just, and since you had indicated
13 this would be kind of an iterative process to make sure that I
14 have correctly understood the intent and impact of 3.14 on the
15 variance standard and 303.1?

16 CHAIRPERSON HOOD: Okay. Let me get the Office of
17 Planning, is Ms. Steingasser still here? Yes, she's still here.
18 Ms. Steingasser, you heard Ms. Richards and I have a few more
19 and then I'll open it to my colleagues, you heard Ms. Richard's
20 question, or if you could repeat that, Ms. Richards?

21 MS. RICHARDS: Certainly. There was some question as
22 to whether or not the public fully understood these regulations,
23 so I'm just clarifying that what I represented about 303.1 about
24 the ability to seek unfettered use restrictions in PUDs and 3.14
25 about the ability to seek extra density under the old variance

1 rule without any showing is correct?

2 MS. STEINGASSER: I can't concede to the word
3 unfettered. We are proposing that an applicant could come forward
4 and ask the Commission for permission for a use that wouldn't be
5 allowed as a matter-of-right in that particular zone. But it
6 would be limited to the PUD and it would be subject to the
7 Commission's determination that there's compatibility between the
8 use and the PUD and the PUD in the setting in the community it
9 sits in.

10 But, yes, we are proposing that and there was a case,
11 I think it was like a year ago, it was off New York Avenue, it
12 was an old industrial zone. It got a PUD for mostly residential
13 and ground floor retail and they came back and they wanted to
14 put in a bakery that served as the distribution for other
15 bakeries, you know, the main bakery --

16 MS. RICHARDS: Sure, sure, sure.

17 MS. STEINGASSER: -- were considered an industrial use,
18 even though it was fully compatible with the PUD but they did
19 need to get that as a use variance and we just thought it would
20 be easier to go ahead and acknowledge that, you know, the market
21 and the way things develop it's just so quick and so fast that
22 we can't, we really just can't regulate quickly enough to stay
23 on top of it. So when it comes to these PUDs there's an
24 opportunity for people and property owners and developers,
25 residents to come forward and ask for these things, but that they

1 would have to meet the standards and establish no adverse impact
2 on their neighborhoods.

3 MS. RICHARDS: Well, that's --

4 CHAIRPERSON HOOD: Let me interject something on that
5 case, Ms. Richards, and I think I understand where there's
6 confusion on that, and I think I know exactly which case Ms.
7 Steingasser's referring to. There was some input, that
8 particular applicant did reach out to the community and they did
9 get endorsed. I may be incorrect but I believe they did talk to
10 folks in the community. So I think that misnomer did not happen,
11 because any time you take out -- and if that's the case then I
12 may have some issues -- any time, I want to make sure we never
13 take out public notice as long as, and Ms. Steingasser I think
14 you will probably agree, as long as it's is close, but the
15 Commission has always, I believe, might not have been a decision
16 that everybody liked but the Commission has always took those
17 things under consideration because we live here too.

18 And another thing is, this text amendment, Ms.
19 Richards, you say we've heard from the community, we've heard
20 from some of the community. I mean, the ones that are
21 participating. Most of the time the ones who are fine with it
22 and I'm not saying this is a blanket statement, but the ones who
23 are fine with it, they said okay, fine, I don't have a problem
24 with it. So we have to balance all of that. Doesn't mean
25 everybody's against what's we're dealing with tonight, some

1 people may be for it. We have to try to balance it and make the
2 best decisions we can, so I'll leave it at that.

3 MS. RICHARDS: May I suggest that there be a more
4 rigorous standard for determining how additional use is not
5 contemplated may be added, other than compatible with the PUD and
6 is my understanding correct about 3.14, that additional density
7 may be sought under that rule without any kind of a showing under
8 the traditional variance standard?

9 MS. STEINGASSER: That section's been in the PUD
10 regulations for quite some time. What we proposed with this was
11 to allow it to be considered part of the flexibility because as
12 it stood, if they got the variance under the strictest read it
13 was no longer considered flexibility against which the PUD could
14 be evaluated.

15 MS. RICHARDS: Yes. But they had to meet the variance
16 standard that says, you know, you've got to look at the
17 topography, et cetera, and it's the standard you've taken out.

18 MS. STEINGASSER: Right. Yes. No, because the whole
19 idea of the PUD is flexibility and design and flexibility and
20 development. So it became a very odd restriction to have it meet
21 that very strict variance test. Once granted, there was no way
22 to like associate it with density (phonetic) or amenity to
23 compensate for that flexibility, so.

24 MS. RICHARDS: And one final to make sure I understand.
25 Is there any upper limit on the amount of density that may be

1 had under 3.14?

2 MS. STEINGASSER: Well, that would be up to the Zoning
3 Commission. None of this is matter-of-right. All of this is
4 amendments to a PUD which would trigger some kind of hearing, so
5 maybe we can make that more clear that these would be considered,
6 you know, modifications subject to a hearing.

7 MS. RICHARDS: Thank you very much.

8 MS. STEINGASSER: Okay.

9 CHAIRPERSON HOOD: Okay. Let me see if my colleagues
10 have any questions.

11 Commissioner May, for Ms. Richards? Commissioner
12 Imamura? And Vice Chair Miller?

13 VICE CHAIR MILLER: No questions. Thank you, Ms.
14 Richards, for your testimony. Appreciate it.

15 CHAIRPERSON HOOD: Thank you, Ms. Richards, we
16 appreciate your testimony.

17 MS. RICHARDS: Thanks again for working with me through
18 the tech issues.

19 CHAIRPERSON HOOD: And let me say this, Ms. Richards.
20 It's not just seniors that have a problem, I have problems, well
21 I'm a senior too, but everybody has problems sometimes getting
22 on and getting off, so, and we make sure we take that into
23 consideration, so thank you. Did we get Ms.?

24 MS. SCHELLIN: Ms. Cooper should be able, she's on the
25 phone. So, Ms. Cooper, do you want to try speaking?

1 MS. COOPER: Yes.

2 MS. SCHELLIN: There we go.

3 CHAIRPERSON HOOD: Okay.

4 MS. COOPER: (Indiscernible).

5 MS. SCHELLIN: Ms. Cooper, a little louder.

6 CHAIRPERSON HOOD: There you go. We hear you.

7 MS. COOPER: Okay. I was talking away. I could see
8 myself on everything, so anyhow. Good evening, Chairman Hood and
9 Commissioners. I am Jeanne E. Cooper, member of the United Church
10 of Christ Justice and Witness Action DC Team.

11 As an organization of UCCDC congregations concern about
12 equity, justice and fairness we are prepared to speak in
13 opposition to the proposed text amendments of Subtitles I, X, Y
14 and Z rules and practice and procedure in case 22-25. However,
15 we applaud the recommendations that have been considered and
16 presented -- recommendations for changes that have been presented
17 this evening.

18 In general, the Justice and Witness Action Network DC
19 Team urges the Commission to honor commitments set forth in the
20 comprehensive plan and the racial equity tool to operate
21 transparently, to advance racial equity, encourage greater more
22 equitable public participation and to be more mindful of and
23 intentional about advancing opportunities for the provision of
24 affordable housing across the spectrum of need throughout the
25 City of Washington, D.C.

1 Specifically, the Justice and Witness Action Network
2 DC Team joins the Office of the Attorney General and other
3 individuals and organizations who work toward the advancement of
4 justice, equity and fairness by emphasizing the importance of
5 taking the following actions when the Commission is reviewing
6 proposed change applications.

7 Transparent operations. As soon as applicants have
8 submitted proposed change applications, notifying neighboring
9 property owners, tenants and other stakeholders within a quarter
10 of a mile of the area to be affected, provide clear details about
11 the actions being proposed and encourage and provide ample
12 opportunity for questioning and opposing voices. Every resident
13 has value and early notification allows time for stakeholders to
14 think about and evaluate their needs, concerns and potential
15 benefits related to proposed actions.

16 Equitable public participation. Employ various means
17 of notification and outreach to City residents on who zoning
18 changes could and will have impact. In addition to electronic
19 means, which may be out of reach for some, use methods such as
20 the mail, door-to-door or notification community bulletin boards.
21 These methods will advance greater opportunities for dialogue
22 well before the usual first opportunity to present proposed
23 changes. Ensure that clear directions are given to residents on
24 how to register their comments.

25 Mindfulness of community cohesion. Awareness and

1 acknowledgement of the community's longevity and cohesive
2 characteristics are critical. Examine whether efforts will be
3 made to preserve such factors as historic significance, arts,
4 culture and other aspects that make up the fabric of an affected
5 community. Avoid the tensions that could build as an outcome of
6 the disregard, disrespect and alienation that established
7 community members may observe and feel. Tensions can lead to
8 resentment, anger and potential conflict and disruption of
9 cohesion can become a factor in escalating community violence.

10 Economic development and land use considerations. An
11 ever growing desire to maximize efficiency of moving people about
12 so as to afford a close proximity to work spaces and recreational
13 facilities, healthcare, grocery stores and other amenities, it
14 is only right that needs of all residents of a community where a
15 change is being proposed be considered.

16 Finally, scrutiny of impact on affordable housing. In
17 particular, the Justice and Witness Action Network DC Team
18 recognizes the urgent need for affordable housing across the
19 spectrum. Any proposed zoning change must avoid displacement of
20 residents as well as enhance accessibility to deeply affordable
21 housing. Zoning decisions should not become the contemporary
22 version of redlining and so I want to thank you for this
23 opportunity to speak to this issue today.

24 CHAIRPERSON HOOD: Thank you very much, Ms. Cooper.
25 Appreciate your testimony. Let's see if we have any questions

1 or comments.

2 Commissioner May? Okay. Commissioner Imamura?

3 COMMISSIONER IMAMURA: Thank you, Mr. Chairman. No
4 questions for Ms. Cooper. Thank you for your testimony.

5 CHAIRPERSON HOOD: And Vice Chair Miller?

6 VICE CHAIR MILLER: Thank you for your testimony.

7 CHAIRPERSON HOOD: Okay, Ms. Cooper.

8 MS. COOPER: All right.

9 CHAIRPERSON HOOD: Thank you. We're glad you were able
10 to get through. Thank you for your testimony.

11 Ms. Schellin, do we have anyone else who wants to
12 testify?

13 MS. SCHELLIN: No, sir. That was it. We do have Mr.
14 Otten's testimony --

15 CHAIRPERSON HOOD: Great.

16 MS. SCHELLIN: -- that was submitted earlier so we'll
17 add his along with Ms. Jablow's.

18 CHAIRPERSON HOOD: Okay. So let me just say this going
19 forward where I am. I want to really, like make sure we're not
20 taking out any public notice to residents because I've heard
21 that. I don't think that was our intent. I want to make sure
22 if we need to clarify that, that's all well and fine, let's
23 clarify that and some of the issues that we've heard -- I hope
24 that's not somebody who couldn't get on -- but some of the issues
25 that we've heard, I want to make sure we kind of exhaustively

1 look at them and I appreciate everyone's testimony tonight.

2 Anybody have any comments or questions or any closing
3 remarks or things they'd like to see? Vice Chair Miller.

4 VICE CHAIR MILLER: Yes. One aspect of the testimony
5 was the whole filing in person versus digitally. We require that
6 the filing be digitally, but as I understand from the Office of
7 Zoning that we do allow in-person filings. Can we put that
8 clarification in the regulations? Is that -- I don't think that's
9 currently, maybe it is currently in the regulations, I don't
10 know. But maybe that's something we could look at.

11 MS. SCHELLIN: I think it's more on the application
12 forms. That way, you know, we can always update it with the
13 forms, but as I said, I don't know where they're getting this
14 from because we're not changing, there is no change in what is
15 before you regarding filing of applications in-person, digitally,
16 whatever. Nothing has changed since 2012, nothing. This is the
17 way it's been since 2012.

18 VICE CHAIR MILLER: I understand that. But do our
19 regulations actually have the --

20 MS. SCHELLIN: I don't know, but we can look into it.

21 VICE CHAIR MILLER: -- clarify, that if they can't file
22 it digitally we would accept it in person.

23 MS. SCHELLIN: Right. They come in and we have a --

24 VICE CHAIR MILLER: I know we do. I know that's been
25 our practice but it may be having that, just that statement in

1 the, we don't want to necessarily encourage that but --

2 MS. SCHELLIN: We'll check.

3 VICE CHAIR MILLER: -- but when they can't do it, we
4 want to allow it.

5 MS. SCHELLIN: Yes. We have always said, well, since
6 anybody who doesn't have access they can come into the office and
7 we'll assist them in filing their application.

8 VICE CHAIR MILLER: Okay. We just may want to put that
9 in regs. Okay. Thanks.

10 MS. SCHELLIN: The other thing I heard that you asked
11 for, and I wrote it down somewhere, was that you asked, and I
12 was a little bit confused about whether you wanted one or both,
13 a chart stating, Commissioner Miller, the changes that we made
14 for -- you wanted a chart with the comments that were made and
15 our responses to it. I wasn't sure if you wanted both or --

16 VICE CHAIR MILLER: I was asking for the latter,
17 response to the comments that had been made. But the other chart
18 might be helpful too based on the testimony we heard today, but
19 there are going to be further changes as a result of what we
20 heard today and what we, in our further dialogue. So that's an
21 evolving chart too as we go through these iterations. But I was
22 asking about responses to the comments that are in the record
23 that have OZ/OP responses to those comments in the record as
24 well.

25 MS. SCHELLIN: A chart of the responses that we made

1 between the last hearing that we asked for postponement for and
2 then you want a chart of our responses to the comments in the
3 record thus far?

4 VICE CHAIR MILLER: I think that would be helpful to
5 me. I think it might be helpful --

6 MS. SCHELLIN: We've done it before.

7 VICE CHAIR MILLER: -- the public and I'll ask my other
8 colleagues if they think it would be helpful. I think it might
9 be.

10 COMMISSIONER MAY: Yes.

11 MS. SCHELLIN: We'll work with OP on that and then the
12 record will be closed and the public has a second bite at this
13 once proposed action is taken and a proposed rulemaking is
14 published. So there shouldn't be anything else other than Ms.
15 Jablow and Mr. Otten which we have both of theirs and we'll add
16 those to it.

17 CHAIRPERSON HOOD: Okay. So the record's closed, but
18 what I want is the legislative history that this Commission why
19 we did 200 feet if somebody can find that. I know it's out there
20 because I remember the discussion or maybe, but anyway all this
21 has been discussed. What I don't want to do is exactly what Mr.
22 Otten said. I don't want to go backwards and his in terms of
23 going backwards may be different from mine but let's just make
24 sure, I think he and I both agree we shouldn't go backwards.
25 Whichever way backwards is, I don't think we should do that, so.

1 MS. SCHELLIN: Sure.

2 CHAIRPERSON HOOD: So if we can get, that would be
3 great. It'd be good if we can find that whole record, I don't
4 know, these are different times. Anything else? All right.

5 Commissioner May.

6 COMMISSIOENR MAY: Yes. I just, I'm curious as to how
7 quickly we might be able to take this up for decision-making?
8 I'm sure Ms. Schellin's going to get to that, but.

9 MS. SCHELLIN: Jennifer, do you want to tell me how
10 quickly we could get? We actually started a chart on responses
11 but let me check with Jennifer. Let's see. I know I'm out of
12 town the 22nd and 23rd of this month. You want to?

13 MS. STEINGASSER: We can make this a priority in the
14 next couple of weeks to get it to, let's see. What's the last
15 meeting of this, the 29th?

16 MS. SCHELLIN: The last meeting of this month is the
17 29th. I think that we could probably, let's see, today is the -
18 -

19 MS. STEINGASSER: Yes. So we can get this assembled
20 and into the record on Friday, the 23rd.

21 MS. SCHELLIN: Okay. I'm out the 22nd and 23rd, but I
22 think that's doable. Worst case, the 26th you got, yes, the
23 23rd, I mean, then you'll have it. Yes. Worst case, first
24 meeting in July. That would give us a little more time. But
25 no, I think that's good. We'll make it happen if you guys are

1 good with that.

2 Commissioner May, is June 29th meeting, are you guys
3 good with that? June 29th.

4 CHAIRPERSON HOOD: Yes, that's fine. The 29th, if we
5 can meet everything, the 29th is good. Commissioner May, is the
6 29th good?

7 MS. SCHELLIN: I felt like you were going to ask for
8 something.

9 COMMISSIONER MAY: Yes. Yes, no, that's fine. I mean,
10 June 29th or first meeting in July. I don't think it makes much
11 difference. I just didn't want it to be, you know, like two
12 months when memories fade and things like that --

13 MS. SCHELLIN: And we --

14 COMMISSIOENR MAY: -- because it's a lot to reload any
15 time in this case.

16 MS. SCHELLIN: Right. And we did check, Ms. Lovick and
17 she can weigh in if she wants to, but we briefly looked at what
18 Mr. Eckenwiler, Commissioner Eckenwiler, has requested, the BZA
19 things that he suggested. We think that they can be included,
20 however we do want to look at those a little more and we do want
21 to discuss them with Director Bardin because they are BZA items
22 that she has not seen yet and so we do want to discuss those with
23 her and we're going to do that tomorrow or, you know, so, yes.

24 CHAIRPERSON HOOD: Either way, if you think you can
25 discuss it with her, either way at some point I want it to go

1 back to us.

2 MS. SCHELLIN: Yes.

3 CHAIRPERSON HOOD: Whether it's in this connotation or
4 the next one.

5 MS. SCHELLIN: Right.

6 CHAIRPERSON HOOD: All right. Anything else?

7 MS. SCHELLIN: No.

8 CHAIRPERSON HOOD: Okay, good. Thank you everybody for
9 all the work you've done with the clarifications,
10 misunderstandings, helpful hints or whatever the case you've
11 done, and I'm speaking to the public as well, but we appreciate
12 all the help in helping us get to this point.

13 The Zoning Commission will meet again on June the 15th.
14 The case is TM Associates, LLC and Washington Metropolitan Area
15 Transit Authority, Zoning Commission case No. 22-36. It will be
16 on the same platforms at 4 p.m.

17 So with that, I want to thank everyone for their
18 participation in this hearing tonight, and this hearing is
19 adjourned. Goodnight everyone.

20 (Whereupon the above-entitled hearing was adjourned.)

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C E R T I F I C A T I O N

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DCZC

Date: 06-12-2023

Place: Teleconference

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