GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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IN THE MATTER OF:	:	
TEXT AMENDMENTS TO REQUIRE THE PROVISION OF AFFORDABLE HOUSING-INCLUSIONARY ZONING	:	Case No. 04-33

Monday,
August 1, 2005

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 04-33 by the District of Columbia Zoning Commission convened at 6:30 p.m. in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, Carol J. Mitten, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice-Chairperson
KEVIN HILDEBRAND	Commissioner (AOC)
GREGORY JEFFRIES	Commissioner
JOHN PARSONS	Commissioner (NPS)

OFFICE OF ZONING STAFF PRESENT:

SHARON SCHELLIN	Acting Secretary

OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY
STEVEN COCHRAN
ART RODGERS
JENNIFER STEINGASSER

D.C. OFFICE OF THE ATTORNEY GENERAL:

ALAN BERGSTEIN, ESQ.

OFFICE OF THE DEPUTY MAYOR:

STEPHEN GREEN

This transcript constitutes the minutes from the public hearing held on August 1, 2005.

P R O C E E D I N G S

6:30 p.m.

CHAIRPERSON MITTEN: Now I'll call to order our continuation of the hearing in Zoning Commission Case No. 04-33, which is the inclusionary zoning text amendment under consideration.

Many of you have been with us for a couple of nights, and so tonight we'll continue. We have a few people who have signed up testify that hadn't been given the opportunity previously.

After we take that testimony, then we will move into the presentation by the Office of Planning. I just want to remind folks of a couple of things. One is that people representing organizations have five minutes and individuals have three minutes.

We'd like you to turn off your beepers and cell phones, if anyone still has those on, so as not to disrupt the hearing. I think that's pretty much all I need to remind you about.

So let me call the folks who are on the list. Steve Green is on the list, but I don't see him. He's not hiding somewhere, is he?

Gloria Hightower. You need to fill out two witness cards also, if you haven't done that yet. You need to give those to the recorder before you testify.

We'll call up panels of four.

Joyce Evans. Mary Sutherland. Leslie Steen. Okay. I'd like to have you four folks at the table now. Bring your cards up with you and get at least the first one filled out before you sit down.

The first one that gets their cards filled out gets to go first. That may or may not motivate you to write faster. I'm not sure.

(Pause.)

CHAIRPERSON MITTEN: Ms. Steen, why don't you go ahead? I need you to turn on the microphone and introduce yourself, name and address.

MS. STEEN: Leslie Steen, 3001 Veazey Terrace, N.W., Washington, D.C. Good evening, Commissioners. Thank you for the opportunity to testify. I'm Leslie Steen, a resident of the District of Columbia for 28 of the last 34 years.

The past eight years I've lived in the Van Ness area. Prior to that, I lived in Logan Circle. My profession is housing development. Six months ago, to further the work of affordable housing, I became the Vice President of Policy and Business Development for the Housing Partnership Network, a national membership organization for the largest non-profit developers across the country.

Prior to my current work, I was the founding president and CEO of Community Preservation and Development Corporation, a developer of multi-family housing. In the 15 years under my leadership, CPDC developed over 3,500 units of housing, principally in this metropolitan area.

I've been a developer of housing since the mid-70's, market rate and affordable, home ownership and rental, and as a for-profit and non-profit. Over the past 15 years, I've specialized in rehabilitation of existing housing, both in deteriorated neighborhoods and strong markets.

Inclusionary zoning is one of the most important tools that exists today, to provide our city with economic integration. Without it, we will continue to concentrate low income households in less desirable locations.

In the past decade, it has been clearly demonstrated that significant mixed income developments crossing the country, that low income households proper in mixed income environments, and that the community as a whole is strong and healthy with the diversity of incomes.

It is clear that where affordable housing is completely integrated into the market rate housing, it is indistinguishable and provides environments in which low income households can prosper. A properly, a broadly-applied and successful inclusionary zoning program is critical to achieve economic integration and to provide housing necessary to support the growth of our businesses.

To this end, I support the implementation of a mandatory inclusionary zoning program. Further, I'm here to strongly support the proposal put forth by the Campaign for Mandatory Inclusionary Zoning.

While I want to commend the Office of Planning on undertaking this initiative and their fine work, I submit that there are a few areas in which their proposal is lacking.

In particular, I want to emphasize the need to include properties that are acquired, rehabilitated and lost as affordable housing. The ability of households to afford the inclusionary zoning rents and condo fees and third, the need to include households earning 50 percent of median income in high-rise buildings.

CHAIRPERSON MITTEN: I need you to give us your closing thought now, and we'll take your written testimony, if you'd like to submit it.

MS. STEEN: Thank you. It's critical to

cover these important shares of the market. Without including rehab, we will be losing vast amounts of affordable housing here in the District. Fifty percent and eighty percent of median income can afford -- there's a chart in my testimony -- can afford the operating expenses that would be needed to carry those units. We should not do it for that reason.

CHAIRPERSON MITTEN: Okay. I've got to cut you off now. Thank you. But please submit your written testimony for us. Ms. Hightower. Would you turn on your microphone for me?

MS. HIGHTOWER: Okay. Thank you. Modern technology. Good afternoon, Zoning Commissioners. I am Gloria Hightower and it is my first time being privileged before you.

I want to first commend you for hosting such an important and critical hearing for a law that is designed to protect the housing purchasing and renting opportunities for low and moderate citizens at large.

It would be remiss of me not to share my importance of why I'm attending this hearing, as the new president of the L Street Cooperative Association, Inc.

For the record, I am also an original cooperative member, who desired to demonstrate how an affordable coop could successfully transit into a condominium.

In addition, I wanted this process to be a role model in the District of Columbia. In doing so, I am -- I only worked with the board by attending the meetings. In review of the counselor selected for our best interest, the third most regarded one in D.C. from Eisen and Rome, which was Rick Eisen, he did nothing to help, but to destroy a successful effort that the residents of the District of Columbia allowed him to do in representing our facility, to transit into an affordable condo.

If I had known what other professionals later shared, his representation would not have been successful. Rick Eisen played a two-folded role in the process of our property being illegally transferred, while serving as the settlement agency for Tenacity.

After learning two months later how the contract had been wrongfully executed, which violated our housing cooperative by-laws, it was also noted how DCRA, District of Columbia Consumer and Regulatory Affairs, somehow oversighted their lawful responsibility by granting our property to any developer, as annual required reports today remain outstanding since 1999.

Knowing this information, both how the Department of Consumer and Regulatory Affairs and the Department of Community Housing and Development did not act responsively, in accordance to District law, since Rick Eisen, on the Advisory Committee of DCHD was involved, let it be known that one week ago counsel requested for an investigation, from both District agencies, regarding impropriety, which can be proven, in the name of the great God I serve, without reasonable doubt.

What's troubling and most insulting to my integrity is how they signed me out for educating my fellow cooperative members about their rights, not to allow Tenacity to convince them to settle, knowing they had executed the purchase of our coop with an illegal contract, and were able to purchase as D.C. laws were negligent.

Yes, we have a new counselor in need of assistance, working for those of us who have not given up to defend our housing and ownership rights. Moreso, I shall continue to capitalize upon every political, media and legal facet to expose this type of unforeseen purchasing of properties that Tenacity has, from Bethesda, employed in D.C., with the illegal assistance of Rick Eisen, which now serves to displace some of the same residents who enabled them to come in and discuss with the members how best to proceed with ownership and reconstruction of the 919 L Street Cooperative Association.

No, I am not a Section 8 resident. However, as hard times are facing me, I feel like I need to be. But as a proud, black and gorgeous female --

CHAIRPERSON MITTEN: We haven't had testimony like that before.

MS. HIGHTOWER: Thank you. Mr. Jeffries, I didn't mean to upset your day.

(Laughter.)

MS. HIGHTOWER: I am publicly here to announce the need to immediately sanction the mandatory exclusionary zoning law. Such a privilege shall enable low moderate District residents with the opportunity to benefit from the same city from which they have raised their children, continue to pay our taxes and invest in the stability of our community.

I am an arts educator for District of Columbia youth. For 11 consecutive years, I'm always on Fox Morning News, promoting low income youth to transit from their secondary schools on to postsecondary education.

Tonight commissioner, this law falls in your hands. As many like me have come out, as educators that advocate for the successful career development of disenfranchised youth.

CHAIRPERSON MITTEN: You need to close it out.

MS. HIGHTOWER: Okay, I'm about there, and have worked tirelessly to preserve a Washington landmark. I ask you to look at us here today and allow our presence, as well as fact wars, to demonstrate how this law will begin to reinstate the capitalization of home ownership and renting for those who meet the low and moderate federal income guidelines. Thank you all.

CHAIRPERSON MITTEN: Thank you, and if you have some written testimony --

MS. HIGHTOWER: Yes, I do. Yes, I do.

CHAIRPERSON MITTEN: Okay. That would be great. Thank you.

MS. HIGHTOWER: Thank you.

CHAIRPERSON MITTEN: Ms. Evans.

MS. EVANS: Good evening. My name is Joyce Evans and I live in 919 L Street, me and my son. It was a cooperative.

We had three developers to come in to

convert it into a condominium. Tenacity was chosen, and they told us that everyone who lived there will be able to buy their unit at an inside price, 6.5 percent.

Since December of 2004, we have been in court, not because we owe back rent. The some stated possession of your unit. I am a Section 8 participant, and I've been having Section 8 since '85. I've been living at 919 for 11 years.

I'm here because I'm against this law, because they stated to us that we will be able to purchase our units. We have senior citizens in the building. We have handicapped people. They have even took the senior citizen people to court, to get their units, and offering us money to move.

They're going to refinance me off of North Capitol Street, the same agreement that they gave me at 919 L Street. But now, I am not good enough to live in 919 L Street. I will finance you here up on North Capitol, Brookland Condominiums. I think it's unfair. That's all.

CHAIRPERSON MITTEN: Thank you. Before we hear from Ms. Sutherland, I just wanted to clarify something, because I'm not sure that you fully understand what is before our Commission tonight, which is an amendment to the zoning ordinance that would actually, when new construction occurs of a certain size that has residential units, that a certain component would be set aside for affordable housing.

It doesn't relate to conversions. I just wanted you guys to be clear about that.

MS. EVANS: Okay.

CHAIRPERSON MITTEN: Ms. Sutherland, we'll hear from you now.

MS. SUTHERLAND: Thank you. I'm Mary Sutherland. I'm president of Rhode Island Avenue through P Street Neighborhood Association, and president of COPE, Citizen Organized Patrol Efforts.

I'm here just for support of Mrs. Hightower and Ms. Evans, in regards to the problems that they are currently going through at 919 L Street, N.W. I can understand your statement, what's you're saying, but just to add a little more light to it, it's really frightening to know that you are a lifelong resident here, but yet you're being pushed out.

In actuality, you have no one that is really protecting your interest at all. I'm like the government has failed in all avenues, because I don't personally feel that you have to go to court after court after court and fight your battle because you were given misleading information.

You have some development think that you're so uneducated that they can just say something to you and you believe it, but to find out it's totally different.

So who's actually here to represent 919? It's like Ms. Hightower said. You're singling out one person? Why? Because she has a voice, and she is very active in what is going on within that community.

CHAIRPERSON MITTEN: Thank you, Ms. Sutherland. Any questions for this panel? Any questions?

(No response.)

CHAIRPERSON MITTEN: Thank you very much. Okay, now I see Steve Green. Steve, would you like to come forward now? Jose Andrade. Okay. Oh, okay. Denise Rodriguez. Okay, we'll get you -- I'll go through my list first and then we'll pick you up.

Acaule Edwards, and I'm sorry. I probably pronounced that wrong. Robert Pittman. I don't see Robert. Joseph Paul. Joseph Paul? Donald Person. Mr. Andrade, why don't you go first?

Well, actually I should ask. Which of the three of you is going to take the five minutes for the

Youth Action Research Group? You as individuals? Is anyone speaking on behalf of the Youth Action Research Group.

MS. YADIV: I guess we were under the mistaken assumption that they --

CHAIRPERSON MITTEN: Can I get you on the record and state your name. Just turn on that microphone there, and just turn it on. There you go.

MS. YADIV: My name is Anu Yadiv with Youth Action Research Group. My question is, if we're representing all of us, then only one -- we all get five minutes together?

CHAIRPERSON MITTEN: No. One person gets five, as representing a group, and the balance of the people get three as individuals. So somebody just needs to declare who gets the five.

MS. YADIV: All right.

CHAIRPERSON MITTEN: Who gets the five? So why don't you go first if you're going to take the five.

MS. EDWARDS: Okay. My name is Acaule Edwards, representing the Youth Action Research Group. Well, I'm here today because mandatory inclusionary zoning will address my concern about the effects of displacement and lack of affordable housing of D.C.

residents.

When they built the Columbia Heights Metro Station, which is across the street from my apartment building, the property value of my building went up. Developers came and wanted to buy our building.

They were just planning on evicting us out the building, but according to the guidelines, they said we could get a tenants association within 45 days to try to buy the building, which we ended up doing, creating the Trinity Towers Tenant Association.

My parents and myself were part of getting people together to talk about purchasing our building. The people in our building elected a President, treasurer and board of directors. This company came and bought the building for us and we ended up staying.

I feel there needs to be affordable housing in Columbia Heights, to ensure that low income residents are able to stay in the neighborhoods that they already reside in, and not evicted due to gentrification.

The message that the city is sending to young people and their families is that the city doesn’t care about them, and all they care about is pushing low income people out of the city and bringing in upper middle class "people of higher status," and sending D.C. into this ultimate hot spot.

When developers come to your neighborhood and start pushing low income people out of their buildings, to build some $7 for a small cup of coffee shop, especially if they already have one in their community, instead of making housing more affordable and renovating the buildings that are falling apart.

You feel a sense of powerlessness, especially as a young person, because we don't have any say-so in what is done with our community. I would like to see the mixing of different incomes, so that lower income people would be able to live in nicer homes, to be able to afford them, and recommend that the policy makes sure that affordable housing will be put in the same building or area or site.

The Campaign for Inclusionary Zoning proposal needs to be passed to ensure that working families in D.C. are able to stay in their communities. Thank you.

CHAIRPERSON MITTEN: Thank you. Now we'll hear from Mr. Andrade.

MR. ANDRADE: My name is Jose Andrade. How are you doing today? As a community activist, I have been deeply concerned of what is to become of my neighborhood. Obviously, gentrification is the apex of my neighborhood worries.

I acknowledge that battling gentrification has proven too difficult and stressful a task. The fact is compromising is better than fighting against it. One major compromise would be the inclusion of the inclusionary zoning regulations.

The inclusionary zoning regulation will provide affordable housing for underprivileged individuals, help stop the eradication of the cultural scene already in the neighborhood, and most importantly, preserve ethnic diversity.

The inclusionary zoning regulation will ensure that low income individuals will be able to afford and maintain decent housing. From January 1999 to March 2003, the sales price of homes have rise four times faster than the average income.

This means that some people are not going to be able to keep up with the increasing flow of prices. This can be very dangerous for ethnic groups. One of the frightening effects of gentrification is that neighborhoods are sometimes wiped out of the existing people, and are scattered to different places, far from their native neighborhood. Hence the extermination and genocide of the existing culture.

Inclusionary zoning regulations eliminates this problem substantially. The fact is that the regulation requires affordable units to be built within the complex, and not in some far-off, isolated area.

The culture of the people who live there is preserved, due to inclusionary zoning regulation, and at the same time, mixing of the newcomers into the complex, thus creating more diversity.

This is important for the sake of diversity of both ethnicity and economics. As it is known, diversity is what makes America exist. It is only fair to help preserve it.

Another key component is the affordability of the units. The inclusionary zoning regulation requires that the rental units stay affordable for 50 years, which is ample time and longevity to ensure coming generations to be able to live in the neighborhood. A shorter time frame may discourage people from moving into the units.

The Zoning Commission must act out of righteousness and put this proposal into place before anyone else gets displaced.

CHAIRPERSON MITTEN: Thank you. Ms. Rodriguez.

MS. RODRIGUEZ: Hello. My name is Denise Rodriguez, and I live on 3105 Mount Pleasant Street, N.W. I'm with the Youth Action Research Group.

When it comes to inclusionary zoning, I feel that this is a major step that needs to be done. My family was constantly being moved from place and place, because of having to worry about next month's rising rent.

It's bad enough that my mother has to struggle to raise four children by herself, with no one even to give her a dime for the rent. So then I asked myself, what's so nice about living in D.C. A place where you grew up living there, when you won't be able to afford it in the long run.

Based on my experience of being evicted, I feel like I didn't have a home. I felt lost and confused. Because of the fact that I didn't have a stable place to live, I didn't feel stable mentally. I wanted a place where I felt comfortable and I couldn't find it, and felt frustrated and it built up inside.

I couldn't concentrate in school, and I also felt powerless because I couldn't do anything about it. As a D.C. resident, I have suffered from moving place to place because of gentrification.

When it comes to the issue of gentrification, it makes our capitol look disgusting and ignorant. The injustice of our D.C. residents having to struggle to find an affordable place to live is unfair.

Inclusionary zoning can provide affordable housing for those who need it. But this does not mean that the developers will build these homes out in the middle of nowhere. This means that the agency will allow the developers to construct the same number of units within the same ward or within two miles.

This creates more of a diverse community, rather than having ethnicity segregated. The thought of me not being able to keep affordable housing for the next 50 years is extremely important. Oh, hold on. The thought of me not being able to afford a house by the age of 30 scares me.

This is why I think that being able to keep affordable housing for the next 50 years is extremely important for our future residents, as well as our families. I believe that this proposal should be passed, because we have to look at the big picture of what the future will bring, and how D.C. will look like as a whole if we didn't pass it.

CHAIRPERSON MITTEN: Thank you. Mr. Person.

Would you turn on your microphone for me. There you go.

MR. PERSON: Good afternoon. My name is Mr. Donald Person. I'm a member of ACORN, an organization to fight back. I live at 3318 Sherman Avenue, N.W. here in Washington, D.C.

I am here tonight to support the Campaign for the zoning proposal. This proposal is very important in my neighborhood, because not everybody makes $80,000 a year. Not everybody make $100,000 a year. We have a lot of low income and moderate people in the Washington area.

For example, in my apartment building, we have people 70 and 80 years old, senior citizens, and these developers are coming in and trying to kick them out. These people don't have anywhere to go. I'll tell you, where are these people going? I'm asking that question tonight.

Do you go into the street like a homeless person? How will you feel seeing a 80 year old person homeless on the street. So I support the mandatory zoning law tonight.

I realize that all apartment buildings are going through difficult times. I realize that all apartment buildings are going through unprecedented changes.

We must put our emphasis on people. It's the people that made this town. It's the people that live in this town. It's the people that's being kicked out of this town, and we are really fed up with this. We are here tonight to put our emphasis on people, somebody that can back us up on this situation.

There is an affordable housing crisis here in D.C., and it can be stopped. It can be stopped, with the zoning laws that are here tonight that we are proposing. I'm here tonight to support that law.

So I thank you all for giving me the time and opportunity to consider speaking on this zoning proposal. If there are any questions, I would be glad to answer them.

CHAIRPERSON MITTEN: Thank you. Are there any questions from the Commission for this panel? You have a question? Mr. Hildebrand.

MR. HILDEBRAND: Yes. I'd like to get your idea on the duration of affordability. In your testimony you say that 50 years is extremely important, but also a sufficient amount of time. I'm assuming that you're talking there about residential or rental units that are under the affordability standards.

Do you feel that the -- what do you feel is an appropriate time for the length of affordable housing to stay affordable?

MR. ANDRADE: Well, 50 years is ample time. But as time change, so does politics. So it might have to be renewed.

MR. HILDEBRAND: I guess we've heard that Montgomery County was able to produce 12,000 units of affordable housing in the 30 years of their program. But of those 12,000 units, only 3,000 are now affordable. I mean, how does that youth of the city feel about what would be an appropriate guideline if we were to establish an affordability time frame?

MR. ANDRADE: Can you rephrase the question please?

MR. HILDEBRAND: I was curious just to get your impression. Do you feel that 20 years is an adequate amount of time to set as a length of time that a property will stay affordable?

MR. ANDRADE: No, I don't. If it was up to me, it will be forever.

MR. HILDEBRAND: Thank you. Thank you very much.

CHAIRPERSON MITTEN: Okay. Any other

questions? Thank you all for taking the time, and if you have any written testimony -- oh, I guess most of you did submit written testimony. Yes. Thank you. Okay.

All right. I have Mary Cuthbert, but I don't see Mary. Is Mary here? Diane Caldwell? Okay. Then I'll ask for anyone who didn't happen to sign up but would still like to testify. Oh, Robert Pittman. I see you now. Okay. I had called your name earlier. I wasn't ignoring you. Anybody else who'd like to come forward?

I'd just remind you, you need to fill out two witness cards and hand them in as you come forward.

MR. PARSONS: As an individual?

CHAIRPERSON MITTEN: As an individual. Let's see if we might -- yes, take one of the seats there. We might need a few people to sit in the seats up front and wait for a second panel. Mr. Pittman, since you seem to be done first with your cards, would you turn them in and then you can go first.

MR. PITTMAN: Thank you very much. Madam Chairman.

CHAIRPERSON MITTEN: Would you turn on your mike for me?

MR. PITTMAN: Madam Chairman, Mr. Vice Chairman, members of the Commission, staff and to all present, my name is Robert Pittman, and I represent the Linden Neighborhood Association.

I'm here tonight because of the H Street overlay, and the special inclusionary zoning which was our understanding that was set down for this special hearing.

CHAIRPERSON MITTEN: That in fact was not. We haven't set down anything related to inclusionary zoning for H Street yet.

MR. PITTMAN: Okay, okay. Well then in that case, it was unclear. Staff had indicated that it was a part of this, and so I guess I will conclude by saying that the best way to do this --

CHAIRPERSON MITTEN: Are you in favor or you're not in favor of it.

MR. PITTMAN: The best way do to this, we support the concept of inclusionary zoning for the city, and I'll just conclude by saying that we hope that you will not have a special inclusionary zoning for H Street at this time.

With that, thank you very much for the opportunity to testify and I'll provide my testimony.

CHAIRPERSON MITTEN: Okay. Thanks, Mr.

Pittman. Okay, I don't know your name. So who has turned in -- have you turned in your cards?

MR. SHANNON: I have, yes.

CHAIRPERSON MITTEN: Okay, good. So you can go next.

MR. SHANNON: Thank you. My name is Vernon Shannon. Good evening, members of the D.C. Zoning Commission. My name, again, is Vernon Shannon. I am the pastor of the John Wesley African Methodist Episcopal Zion Church, the national church of our denomination, located at 1615 - 14th Street, N.W., Washington, D.C.

I come before you in support of the Campaign for Inclusionary Zoning proposal, Case No. 04-33. I thank you for the opportunity to address you on this vital issue.

I speak to you because I know that affordable housing is a critical issue affecting our members and working families. Our members, whose ancestors gave full measure of their blood, sweat and tears for the building and making of this city.

It is no secret that many of our members have already been forced to move out of this city, because they could no longer afford to live in the city of their birth. If you notice the cars parked around our church on Sunday mornings, you will notice that the majority of the cars are from Maryland, and many are from Virginia.

These are members who once lived in Washington, but who because of soaring housing prices now live outside of our city. One of the historic churches of our city, a church that has contributed significantly to the stability and vitality of the city, is moving out of our city, away from the legacy and stones of tradition and heritage laid by its members. This is a major loss to our city, a loss that cannot be replaced.

Madam Chairman, Mr. Vice Chairperson, members of this Commission, if the inclusionary zoning proposal is not passed by your Commission, what will be the implications inferred by its defeat? I would suggest to you that not to pass this proposal is to infer that it is all right to make a distinction between the peoples of our city, a distinction between those who can afford to live in this city and those who cannot.

If we make this distinction, are we not giving birth to a desperate generation, who will some day rise up and create discomfort for those who can afford to remain in our city?

How long do we think people will accept an attitude that says "Move out of our city if you cannot afford to live in our city." Madam Chairperson, the simple fact is that for the working class, incomes have not risen in tandem with housing prices in the District.

From January 1999 to March 2003, the price of homes for sales have risen four times faster than incomes. In the same period, the price of rentals rose three times faster.

Madam Chairperson, is our city dividing its people between the haves and have-nots? Are we not building an invisible wall that not unlike the Berlin Wall, that divided the east from the west? Who will step on the stage of justice and say, with the force of law, tear down these walls of injustice and division, so that we might truly have one city, wherein all can live in peace with justice for all.

Around the world in an our own nation, we have seen what happens to people when they are marginalized, dispossessed, disinherited and pushed out. They become desperate, angry and will do anything, including taking their own life, to retaliate.

I believe that the proposal on mandatory inclusionary zoning is a good beginning for our city, and will provide hope for many who will be forced to move away. And, it will help our city become stronger and more supportive of working families, and will become a microcosm of the global community.

Thank you for allowing me to testify here this evening, and I pray that you will do the right thing by approving this proposal. Thank you very much.

CHAIRPERSON MITTEN: Thank you. Ma'am, would you like to go next.

MS. FRANKLIN: My name is Audrey Franklin, and I'm here as an individual. I just want to say greetings to all of you on the Zoning Commission. You might say I live in an expensive part of N.W., but I live -- I'm divorced, and I live with my ex-husband, and I really need to get of his house.

I did not get anything from the house because it's heir property. So that means I'm really -- and I work at Walter Reed, so I still work. But I'm not making a lot of money. I need to move out and I cannot afford market rate.

I went to the DCHA, and they did show me something but I turned it down because my thing is, just because I'm low income, why I do I have to live in a shabby area of the District. I think just because you're low income, we deserve decent housing, just like anyone else who can afford more.

I also applied in Maryland. You know, people moving out of the city. That has been stated before. I've even applied in Maryland to the public housing. But of course, they have to help their own residents first. I understand that.

I've been looking for market rates that I can afford, and believe it or not, I found a place. Guess where? In Elkton, Maryland. That's 90 miles from here. I can afford that rent, but that's a bit too far to be traveling to get back and forth from work.

Also, places way in Fredericksburg, Virginia. So affordability does exist, but not anywhere near the District. Thanks.

CHAIRPERSON MITTEN: Thank you. Sir? Would you turn on the mike for us? There you go.

MR. ABDUL-MALIK: Good evening. My name is Imam Johari Abdul-Malik. I serve as the president of the Coordinating Council of Muslim Organizations in the Greater Washington area, representing approximately 250,000 Muslims, and approximately 55,000 Muslims who live inside the District of

Columbia.

Myself, I live at 1342 Rittenhouse Street, N.W., Washington, D.C., and I'm here to testify in support of mandatory inclusionary zoning.

I probably should mention to you that in addition, I share the chairmanship of the Muslim Alliance in North America and I'm a founding member of the Muslim Advocacy Commission in the District of Columbia.

I'm also on the Mayor's Interfaith Council and I have to mention to you that I am not here on behalf of the Mayor's Interfaith Council. But as a person who has worked in the District of Columbia, for about 30 years now we've put on in the month of Ramadan a Feed the Needy Program, in cooperation with one of the downtown churches, First Congregational Church.

I can tell you the number of women that we feed in that dinner program who are homeless is escalating. Therefore, addressing the social issues of poverty and homelessness is very important to me and members of my faith.

The Muslim community and the affordable housing movement share common goals of social justice, equal opportunity and fair treatment. Suffice it to say that since the *Brown v. Board of Education* decision, that now we're moving to a society in which it will be again separate but unequal.

As my sister just testified, to live 90 miles away from Washington to find affordable housing is no doubt separate, and inherently unequal. In fact, in the history of Islam, you'll find the principles rooted firm in the stance against economic exploitation. That's what it will be.

When the Prophet Mohammed began his teachings in Mecca, he shook the foundations of the economic structure at that time, to say that the rich do not have a right to oppress the poor. Islam teaches that the community has an opportunity and a duty to help its impoverished to overcome the holds of poverty and to learn to support them.

This inclusionary zoning measure is a way that we can demonstrate the cooperation between those who have been blessed with advantage, that they might be their brother's keeper.

In our community, the community's objective is to help poor people through their hardships. I was struck by the statement of the young man, who was asked "Do you think 30 years is long enough?" He said "I would like to see it last forever." Clearly, it indicates that there should be some reevaluation, to determine that the stock of housing that is affordable remain part of the fabric of the diversity of Washington, D.C.

Not only is it important that people of different backgrounds and different cultures and different religions live in the same neighborhoods, it is imperative that we live on the same street, in the same apartment building, to go to the same schools.

The racial and religious struggles result from a lack of understanding and acceptance. People of different beliefs need to interact on a daily basis, in order for us to thrive as a multicultural society.

Mandatory inclusionary zoning creates mixed income, multi-racial, multi-religious communities that benefit every person living in that community. There is a community of the human spirit, a commonality among them, regardless of our faith, traditions, ethnicity and social status.

It is important for our children to gain that understanding by living with people of different incomes and different faiths. The Muslim community teaches that the standard of justice should be meted against not only other people, but for us to have that standard of justice even amongst ourselves.

1,400 years ago the Prophet Mohammed said something that is still applicable today, and that we should forever accept. None of you has faith until you love for your brother or your sister what you love for yourself.

Therefore, I urge you to accept and pass the Campaign proposed for mandatory inclusionary zoning. Thank you very much.

CHAIRPERSON MITTEN: Thank you. Any questions for his panel? We don't allow applause or acting out. I appreciate the fact that you're enthusiastic, but that's just not part of our decorum here.

MR. ABDUL-MALIK: That's probably my fault.

CHAIRPERSON MITTEN: Well, you know, you guys are so inspirational that you just cause this spontaneous reaction. Any questions? Okay. Thank you.

Okay. I think we have a few more folks. You can turn that in to staff. Okay. We have one more chair. Is there anyone else who'd like to testify? Did you turn in your cards, your witness cards? Okay. Than you can go first, since you've turned yours in.

MS. ROCKER: Good evening. My name is Aliya Rocker. I'm 23 and I live at 230 Rhode Island Avenue in Ward 5. I support the Campaign for Mandatory Inclusionary Zoning's proposal for the District.

For the past year, I have worked for the Generations Program at Children's National Medical Center in Washington, D.C. I'm a home visitor, and every day I visit mothers who live in D.C. and P.G. County. We talk about child development, their physical and mental health, as well as community resources.

Over the past few months, the hot topic has been finding them a place to live. According to one of our case managers, out of 250 young women, at least half are in need of housing. There is clearly an affordable housing crisis in D.C. Many of the mothers I talk to are on a waiting list to obtain Section 8, and in the meantime they live in overcrowded houses with other family members.

If they aren't so lucky, they shuttle from house to house, depending on who will let them stay. Others go home to crowded shelters, knowing that once their time is up, they may be on the streets.

Some of these young women are married and half full-time jobs. Others are still in school and working part-time jobs. All of them are working to the best of their ability, to make sure that their children have a better life then they do.

For the past year, I have been living in a one bedroom apartment in Rhode Island Gardens. Even though I graduated from Howard University and have begun a career, and am dedicated to helping young women in D.C., I can’t afford to continue living in my building. Not to mention that none of my friends live in D.C. on their own. Either they had to move to Maryland, or have to find roommates to make ends meet.

This is problem for everyone, including those who go to work every day to improve the lives of others, like myself. The city should want to be rich in the energy, passion and brain power of young professionals. It makes no sense that I can’t live in the city I’ve come to love.

Does D.C. not want to be draped in te potential of those who see ways of bettering their communities, and who’ve taken the steps to do so? Hard-working people whose families have lived in the District for generations have also contributed to their communities for years, and we all deserve to live here.

If my clients and I have somewhere

affordable to live, we would cherish it. I have friends and colleagues who have chosen to begin their families and careers in D.C., and if given a chance to own a piece of the District, we would value that opportunity.

We want to live here. We want to contribute. We will invest ourselves in creating hope for all of D.C. We are looking for somewhere to set up a home, and once that need it met we can finish meeting other needs, as well as nurturing others to do the same.

It is important for for-sale units are affordable for 20 years, and that rental units are affordable for 50 years. We must build a stock of affordable housing in the District, so that moderate income professionals have some hope of finding a home.

Please make sure that some of the units are also offered to the Housing Authority, so that my clients and their children have a better chance for a few rooms of refuge. Mandatory inclusionary zoning can help this crisis. Please give us a chance to make a life in D.C. Thank you.

CHAIRPERSON MITTEN: Thank you, Ms. Rocker.

MS. WHITEMAN: Good evening, Chairperson.

CHAIRPERSON MITTEN: You need to turn on the mike. Sorry. Thanks.

MS. WHITEMAN: Good evening, Chairperson, members of the Commission. I am Nicola Whiteman, Vice President of Government Affairs for the District of Columbia, for the Apartment and Office Building Association. I am a Ward 7 resident and reside at 542 23rd Place, N.E. near Benning Road.

AOBA is a non-profit trade association representing owners and managers of more than 40,000 apartment units in over 60 million square feet of office space in the District. AOBA, both multi-family and commercial, have been active in providing affordable housing opportunities in the city.

Our housing provider members represent the entire spectrum of the industry, from participants, small and large, in the Section 8 program. For example, from the newest market rate buildings downtown, which also included affordable housing commitments.

Many of our commercial members have satisfied similar commitments and through office building and sales transactions have also played a substantial role in charging up the housing production trust fund.

AOBA's members share the concerns of many in the District regarding the continuing need for innovative and tangible measures to maintain and increase the amount of affordable housing in the city.

An inclusionary zoning policy is, of course, one such measure to be considered. However, as Harvard University's Joint Center for Housing Studies has cautioned, it is not a silver bullet to overcome the difficult challenges faced by families seeking to escape from poverty or the realities of the housing market.

This approach should not be casually adopted. Careful consideration of factors, such as the condition of the housing market, population to be served, financing, number of units and community context must be evaluated.

Notably, both the Director of the Office of Planning, Anna McCarthy, and Council Chairperson Linda Cropp describe inclusionary zoning as only one of the many strategies that are currently being examined as a tool for solving the District's affordable housing problem.

Great care must be taken on how to embrace an inclusionary zoning proposal, particularly as it relates to properties in need of substantial rehabilitation. While there are numerous issues with adopting a mandatory inclusionary zoning policy, the extension of such a policy to the substantial rehabilitation of existing residential buildings will be particularly detrimental to the continued investment in such properties.

Almost 70 percent of the District's existing rental housing stock was built prior to 1960. This represents a critical demand for investment in capital improvements if we are slow the decline and loss of the District's predominant housing, privately-owned apartment buildings.

The District thus has a clear imperative to promote the rehabilitation of such properties. The vast majority of the city's rental housing stock is also under a stringent rental control scheme, under which substantial rehabilitation of a building is a complex and lengthy process, and subject to conversion and sale restrictions that impede or add to the cost of rehabilitation.

All of our members are facing increasing costs, particularly rising utility and labor costs, and a market which is increasingly favorable to luxury condominiums. Our multi-family members in particular are being assessed based on the value of nearby condominium, with little or no consideration for those buildings subject to rent control limitations.

Thus, multi-family providers are increasingly facing the difficult decision of whether to convert the buildings to luxury condominiums in an effort to better meet these rising pressures.

While we recognize the political pressures to address the real need for affordable housing in the District, a mandatory policy and certainly a policy applicable to buildings in need of substantial rehabilitation is not the solution to this problem.

In formulating an inclusionary zoning recommendation to remedy the shortage of affordable housing in the District, we urge the Commission to adopt a proposal with a clear and explicit exemption for substantial rehabilitation.

Despite increased market and legal pressures, AOBA members want to continue providing rental housing in the District. Absent such an exemption, however, and with the stringent rent control regime and conversion and sale restrictions, the District will soon experience a significant decline in this rental housing stock. Thank you.

CHAIRPERSON MITTEN: Thank you. Sir?

MR. KUHN: My name is Paul Kuhn, commonly known as Luke. I'm here on behalf of Mayday D.C. I support this proposal, but like others have said, 50 years is not enough. It should be in perpetuity.

To give you an idea of how bad the housing crisis is in this town, I used to be a bike messenger. The place where I started my day by going to this little café and get a soda in the morning, there were apartments for rent above it.

The rental cost for those apartments was equivalent to one month to four months of what I was paid as a bicycle messenger. I've seen too many people made homeless by gentrification in this town, by these kind of outrageous rents. I've seen most of the city that I once knew and love destroyed.

Now I'm part Native American, and this stuff has been going on for 500 years. My ancestors had to make things awful rough on those who came for their land. Gentrification today, it's a modern version of what went on in Kentucky and Ohio and further and further west until people were pushed into the Pacific Ocean. This city is going to have people being pushed into the Anacostia River.

This proposal is the first ray of hope that I have seen since the formation of homes, not jails, that something's going to be done about this. I've long believed that if developers were told if you'll set aside five floors for affordable housing, we'll let you build as high as you can get the building to stand up. Our affordable housing problems would be over, because they'd be chomping at the bit to do it.

Because unlike prairie land, you can make more real estate by building up. Short of that, given that that would be a controversial proposal, I favor the inclusionary zoning proposal as it stands, with the alteration to change the 50 years to perpetuity.

What is affordable today should be affordable tomorrow, and because the clock ticks from 49 years to 50 years you shouldn't hut somebody with a four-fold rent increase.

CHAIRPERSON MITTEN: Thank you. Ma'am?

MS. LEAKS: Thank you. Good evening, commissioners. Thank you for the opportunity to express our support for the Campaign for Mandatory Inclusionary Zoning proposal, Case No. 04-33.

My name is Linda Leaks. I work with the District of Columbia Grassroots Empowerment Project, a non-profit, also called "Empower D.C." I live in Ward One. Empower D.C. is a community-based, grassroots organizing project.

Our mission is to assist low and moderate income residents, to overcome the multitude of barriers that mute their voices around policies and decisions that directly impact their lives, like the shortage of housing that they can’t afford.

As you have heard time and time again, there is an affordable housing crises for low and moderate income residents of the District of Columbia. What I suspect, however, is that you have not heard a lot about or experienced, either personally or through close acquaintances, the devastating impact of having to pay more than half of your little income for housing, or having to choose between your housing payment, your medicine or food, or having to double up or triple up with family or friends, or go into a shelter, if you are lucky, because there is a waiting list in the District of Columbia for shelters.

Because Empower D.C. is on the ground daily, we are in the neighborhoods daily. We can feel and touch. We can see up front and up close what happens to individuals and families who are threatened with the lack of affordable housing, and are threatened with displacement.

We see the emotional damage. We see the family disintegration. We see the psychological hysteria. We see growing desperation. It is real. The problem is huge. The impact is equally as detrimental.

You understand that if you are not personally affected, and if you don't see the impact firsthand on a daily basis, then you could very easily become desensitized to the phrase "affordable housing crisis," and not recognize the urgency for a solution.

We support mandatory inclusionary zoning, but we clearly recognize that mandatory inclusionary zoning is just one little tool, one small opportunity that is available right now. We urge you to take advantage of it before it's lost.

We are particularly supportive of having a lengthy affordability control period. We support the Campaign's recommendations of 20 years for owner-occupied, even though some of our members believe the period should be in perpetuity.

We support a 50-year affordability restriction on rental, even though some of our members believe it should be in perpetuity as well. Because there is such a large deficit of affordable housing currently, we have lost more than 5,000 units in the last few years.

We especially find it critical to have restrictions on the equity-sharing at the end of the affordability period, so that others who may be in the same boat as the seller was 20 years earlier, can have the same support and opportunity as the seller had.

Having a stock of affordable housing for everybody who needs it should be a moral imperative. We certainly don't need any incentives or temptations for speculators.

Commissioners, we want to urge you to hear the plea incorporated in the Campaign's recommendation of 40 percent of inclusionary units, being made accessible to people whose incomes are 30 percent of AMI or lower.

It is this group that is suffering the greatest in today's affordable housing crisis. It is this group who has been in perpetual affordable housing crisis since the early 80's. It is this group who has the least option and closest to the state of desperation. Clearly, the market won't correct the housing crisis. Intervention is the only way affordable housing will be made available to everyone who needs it.

In closing, I want to encourage you to go down into the neighborhoods and talk with the people directly impacted by the affordable housing crisis.

I suggest that you visit the Pinnacle at the corner of Benning Road and Maryland Avenue, visit the

Ivy City Apartments, located on Mount Olivet Road, visit the remaining low income residents on the 1300 block of Kenyon Street, or visit any of the expiring Section 8 properties and talk with the people who are so fearful of losing their affordable housing.

CHAIRPERSON MITTEN: I need you to wrap up.

MS. LEAKS: Thank you so very much.

CHAIRPERSON MITTEN: Perfect. Thank you. Are there any questions for this panel?

MR. JEFFRIES: Yes. Ms. Whiteman, just a question for you. In your testimony, you said that you wanted the Commission, you urged the Commission to adopt a proposal that had an exemption for substantially rehabilitated buildings. How do you define substantial rehabilitation?

MS. WHITEMAN: Well, I realize that much of this question was raised at the prior hearing, and I had meant to attach a definition. It is defined by statute under the Rental Housing Code. What I can do is submit that to the Commission.

MR. JEFFRIES: Thank you.

CHAIRPERSON MITTEN: Anyone else? Okay. Thank you all for taking the time to come down. Okay. Anyone else who'd like to come forward, please do so now.

(Pause.)

CHAIRPERSON MITTEN: Why don't you go ahead and get started?

MS. JASPER: Hi, good evening. I'm Robin Jasper. I'm with Greenbaum and Rose Associates. We're developers in the District. I was also Vice President of Operations at Jubilee Enterprise when we developed 1,100 units of affordable housing in far southeast, and maintained those properties over time.

I agree with all of the prior testimony concerning crisis in affordable housing. I think the affordable housing needs in the District are extraordinary. I think that steps are being taken to address them, but there's a much greater need.

I think that there are several elements of an affordable housing strategy that works, and they include an adequate amount of affordable housing for working families and senior citizens and civil servants, something that's been mentioned a lot.

Include tax relief from skyrocketing assessments that affect homeowners in areas where they can't afford to stay. That's something that folks have talked about a lot.

They provide adequate tools to enable planning and zoning officials to be sensitive to community concerns about unit mix and neighborhood density, and that they don't further complicate development issues for affordable housing developers, which is already quite a complex area to work in.

What concerns me about the current proposal that's pending is that it might have a chilling effect on residential development in the city. I think that in the development community, we've already heard cases where people have been looking at residential versus commercial development, and the pending proposals throw a lot of uncertainty into which would be an economically viable alternative for developers.

I think it is useful to remind folks that D.C. has not always had the kind of residential development market that it's had over the last few years. From 1990 until 2000, D.C. lost nearly 4,000 units of housing, while the inner suburbs at the same time added 123,000 units of housing.

So the notion that the residential development boom in D.C. is, you know, kind of a train that's left the station and can't be stopped, I don't think that's accurate necessarily.

In our own company, we have certain land, and we have been offered, you know, opportunities to sell that property. We would most like to see that property be residentially developed, but we've been told that if we were to sell it with the current proposals pending, we would have to take -- reduce the sale price by $60,000 a unit for every unit of affordable housing that would need to be included.

So I think it has a very real impact on developers and for developers who have property in areas that would keep the downtown kind of vital and promote the kind of residential development that has helped to kind of change the fortune of the city.

I think it potentially has a chilling effect, and I think that the Commission should really seriously consider that before they move forward with the proposal.

I think what would be important elements of the housing strategy would be continuing to fund affordable housing production through subsidies in the housing trust fund and things like that, to provide city and federal land within the District to promote the development of more affordable units and mixed income communities and, I would add, in areas and with good access to good schools, and to implement an inclusionary zoning program that's very narrowly tailored so that it doesn't have a chilling effect on development.

CHAIRPERSON MITTEN: Thank you. Sir?

MR. FLINTROP: Good evening. I want to start by saying that as someone like many of those in the audience this evening, have been here for these three days of hearings, I really express my appreciation to all of you for both your tenacity and your attention.

I don't think that any of us, regardless of what you do, are going to say that you didn't give a public an opportunity for input, that you haven't been listening. So I appreciate that very much.

Good evening. My name is Richard Flintrop. I'm a 15-year resident of the District. I reside at 123 Thomas Street, N.W. in Ward Five.

I'm a policy analyst at the Health Families Thriving Community Collaborative Council, and I'm appearing before you this evening on behalf of the Collaborative Council, which provides advocacy training and support for the seven HFTC cooperatives in the District.

Our Council is comprised of three members representing each of the seven collaboratives. In addition, four organizations participate with us as associate members, including the Center for the Study of Social Policy, the Consortium for Child Welfare, D.C. Action for Children and D.C. Children's Trust Fund.

The seven collaboratives have been providing a range of neighborhood-based family support-centered services to families across the District since 1997, in partnership with the Child and Family Services Agency, the city's child welfare agency.

In addition to our work with CFSA, the collaboratives have become a major resource for the Community Partnership for the Prevention of Homelessness, serving families and their children who enter the system of care with similar family supportive services.

Over the past three years, the collaboratives have been providing services as well to fathers under the D.C. Fatherhood Initiative, under a contract with the Department of Human Services.

The Collaborative Council strongly endorses the adoption of a mandatory inclusionary zoning policy, as represented in the proposal submitted by the Campaign. I want to use my time before you today to stress the importance of moving as quickly as possible on this initiative, as every day the number of affordable housing units in D.C. is shrinking, affecting the ability of our most vulnerable families to find safe and affordable housing.

In fiscal year 2004, the seven collaboratives under contract with CFSA provided intensive case management services to over 2,000 families with over 5,600 children. In addition, we served another 175 families through the Community Cares program funded by the Community Partnership.

The single most difficult challenge we face in our effort to support these families is securing affordable housing. We succeed only because the collaborative each has at least one housing specialist on staff, who works to identify affordable housing and works with landlords to access this housing stock.

In addition, we help the clients develop the skills they need to become responsible tenants. However, in every corner of the city, we are facing a rapid reduction in the number of affordable housing units. Landlords are opting to convert Section 8 units to market rate rentals, or to convert the condos.

Federal policy is fueling the loss of project-based subsidized housing, and in the city where the market for high-end rental and condominium housing seems insatiable, there is little incentive for developers to utilize increasingly scarce land for low or moderate income housing.

Most of the clients we serve are long-term residents of D.C., and they want very much to raise their children in the neighborhoods they call home.

However, unless the city moves quickly to adopt a comprehensive strategy to sustain existing affordable housing, and to assure that new development includes opportunities for residents of all income levels, we will close the door to families such as those we serve. In the long run, we will be a poorer community if that happens.

I also want to stress that this is an issue of personal importance to the staff members of the collaboratives across the city. We collectively employ over 140 individuals. Our service model incorporates a mix of both professional and paraprofessional staff.

The average salary of our 70 family support workers in our network is under $35,000 a year, which I would say is a higher salary than they would make in many other non-profits in the city.

Most of these staff are D.C. natives and reside in the neighborhoods in which they work. For many, their current position is their first opportunity to enter the workforce, and to begin to establish a solid financial future.

However, these individuals, even as they build a credit history and set money aside for home purchase, are facing a growing challenge when attempting to find affordable housing in the neighborhoods in which they grew up and worked.

These dedicated workers and thousands like them in dozens of other non-profits across the city deserve the same opportunity to benefit from investment in homes that most of us are realizing.

We recognize that the adoption of an IZ policy is not a silver bullet, but it would be a big next step and send a message that we see a future for the city that provides housing opportunities for families of all income levels.

Listening to the testimony today, it seems as if there's more wolves here than they are in Montana. I would urge you to not listen to the wolf criers and instead act quickly to see that the mandatory IZ policy becomes law in D.C. Thank you.

CHAIRPERSON MITTEN: Thank you. You can go ahead.

MS. SNEED: Good evening, Commissioners. My name is Sharon Sneed. I'm a resident of the District of Columbia. I'm a tenant of the Cavalier Apartments that is located at 3500 - 14th Street, N.W., in Ward One.

My apartment is a Section 8 building and houses 230 units. I am a supporter of mandatory inclusionary zoning. There is an affordable housing crisis in D.C., especially for low income and moderate income people, which can be eased with the adoption of mandatory inclusionary zoning policy.

It will be good for the D.C. and my neighborhood to make this happen. For the past three years I have been troubled, wondering what will happen to me and others like me if we lose our affordable housing.

I am on a fixed income. My only means of income is SSI. I support Housing Authority purchasing inclusionary units, so that people in my income will have an opportunity to benefit as well.

My neighborhood is a diverse one. Everyone in my neighborhood has managed to live beside one another, and we have come to the conclusion that everyone deserves a place to live, a decent place to live.

All around me I have seen condos being built, just to accommodate the wealthy, while the low and moderate income tenants are being pushed out.

What I am seeing is condo overkill. We must not forget that we are a country that should not have a single soul homeless, but yet we close our minds and hearts.

If am put out on the streets because our policymakers wishes to ignore me and others like me, then our city is going to slip into the future backwards. Please, for all our sakes, open your hearts and make sure that owners and developers expand housing opportunities for everyone. We are a strong nation. Let’s not show the rest of the world that we do not care about our own.

Let’s set the example. Please support mandatory inclusionary zoning, so that everyone can have a piece of the American pie. I also too am a member of Empower D.C.

CHAIRPERSON MITTEN: Thank you, Ms. Sneed. Ms. Hargrove.

MS. HARGROVE: Good evening. Should I give these to someone? Is it a procedure to give it to the recorder? Thank you.

I’ve been listening to the obvious fact that is the reason why we’re all here. There is a terrible problem, we all know, a crisis in fact, with the provision of moderate and low income housing.

However, I think we also need to think of this issue in terms of land use planning, where it will go, how we will do it and therefore the comments that you will see in that paper that I gave you, which are really resolutions but they're more adequate than my simply spinning them off, raise a number of issues that we hope will be addressed before this whole thing gets into law.

I realize that many of the problems that the Zoning Commission faces are problems that will really have to be resolved with the Council, because this business of how long these units will be available is a very crucial part of the picture, and also the type of subsidization that will be provided. So there's still many factors to be worked out.

I just returned from a trip and would like to share with you a couple of comments. We have kind of come up with these scheme that we have before us, with three general areas where we would put this type of housing.

The first would be around, close to transit stops, you know, within a half of a mile. The second would be some of the defined areas that are already in the comprehensive plan, that would best be described as redevelopment areas.

The third, of course, would be the R-4 and R-5 zoning districts. Since we're not supposed to talk about a particular neighborhood, I nevertheless can talk about the effect on the zoning aspect of this. Therefore, my citizens association has asked that I do just that.

We must recognize that the comprehensive plan should be the guide to where we put things and how we do it and how much of it. The comprehensive plan has labeled a number of neighborhoods one way, but the zoning is another way.

We have to face that very directly, in spite of the fact that there are sentences associated with the comprehensive plan, which indicate that there is some latitude in the way we zone these areas.

But given the Zoning Act itself, which says that the zones that it puts forward, many the districts I think is the language it uses, should in general match the character of an area. We have to deal with that very seriously when we put forward proposals like this. In the case of the R-4 and the R-5 areas, we have a situation in which there is a very severe mismatch, in many instances, at least between the row house neighborhoods and the zoning that is covered over the row house neighborhoods.

There's some discussion of this in the paper I've given you, but given that factor, we can't rely on zoning alone as being the appropriate device to determine where we would be willing to take perfectly sound housing, much of which has been rehabilitated and some of which is historic District housing, and say it would be okay to additions onto the top of them or out behind them, to the exclusion of the open space requirements of the zoning regulations, and to the exclusion also of reasonable standards for protecting this very valuable resource.

So the first exhibit I would offer you tonight is an exhibit of some buildings that have been bastardized, if that's the best way of putting it, that are in R-4, R-5 zones. Most of us feel that this proposal, if it's not handled correctly, will exacerbate the trend that developers are utilizing right now, to shoehorn as much as they possibly can, sometimes we think illegally, sometimes by stretching the zoning regulations, into these houses.

You will see that they exist in several districts. They exist in R-4, they exist in R-5B, they exist in R-5D, which is in itself a strange story, since R-5C was suddenly made R-5D without the related map cases to determine who should be R-5D and who should be R-5C when those things were changed in recent years.

So I would call your attention to this, and hope you will look at these pictures right now, so that you can see some of the things I'm talking about. You will see huge plywood superstructures on the top of what were formerly beautiful row houses. You will see horrible additions at the rear, in contradiction to, say, R-4 zoning.

You will see houses that are being demolished on streets where we had hoped the houses would be preserved, and in particular in Reed-Cooke, where there has been some inclusionary zoning as you well know.

The formula has not worked as similarly to the problem we have with low-yield coops, as you know, because the housing reverts to a market rate status rather than the original status of being subsidized -- no, not subsidized, but a scheme to provide for a low or moderate income housing component.

In Reed-Cooke, for example, it had always been hoped that the streets like Kalorama Road would be redeveloped in accordance with the new zoning.

CHAIRPERSON MITTEN: I need you to give us your closing thoughts.

MS. HARGROVE: I will try real quick. The housing on the side streets where the row houses are would be retained for families.

Finally, Exhibit B is about what exists in Scotland, where they are trying a number of innovative things, but at the same time carefully protecting the areas of their city which can be described as potentially gracious, fine housing which should not be messed up in any way. Thank you for your attention.

CHAIRPERSON MITTEN: Thank you. Any questions for this panel. I have a question for Ms. Jasper, and I could have asked this of other people, but since you’re here and you mentioned it yet again.

This has to do with the strength of the housing market. If we don’t have a strong, robust housing market, what ingredients are missing?

MS. JASPER: Well, I’m not saying that we don’t have a strong, robust housing market now. I think I’m saying that the current housing market isn’t guaranteed to continue in the future.

D.C. was very resistant to the growth in the housing market during the 1990's, the regional growth, and it wasn’t until the last three or so years that D.C. really picked up and started to go the way it’s going now.

There's nothing that says that's written in stone, and that that will continue forever. I think as you know, in these days capital is highly mobile, and people will do business where they feel they can make money and they can have transactions close easily.

One thing that's interesting about the District is there are 642,000 jobs in 2004 in the District. But yet only 282,000 D.C. residents hold those jobs.

So what that suggests, I think, is that you don't actually need to live in the District. People who are employers in the District are not concerned that if the housing isn't in the District, that people will leave those jobs, they won't be able to find employees.

So I think the capital for building housing is highly mobile in the region, and it's been the change in the District's finances and the way that it's run and things like that that have really attracted, as well as growth in the federal government, that have attracted more housing development back to the District.

But there was a huge barrier to getting that done, because I mean you saw how the District lost absolute numbers of housing units in the 1990's, and the region around just boomed. So I think you have to be very careful about how you do this, first to really accomplish the objectives you want to accomplish.

You have to think about what those are, the housing for working families. Is it really from high taxes? Is it, you know, senior citizens housing, all of which are very important.

Then you have to say "Okay, and also we need to understand that this is not something that's guaranteed going to happen for the future. How do we do this carefully, to make sure that development continues to be incented in the District of Columbia?"

CHAIRPERSON MITTEN: Okay, thank you.

MR. HOOD: I just have a question for Ms. Hargrove. You're still on the Comprehensive Plan Task Force?

MS. HARGROVE: Yes.

MR. HOOD: The other night we received testimony that we should wait until they come out with, I guess, your final report. That discussion, has this come up in the discussions in the task force?

MS. HARGROVE: Yes, it has come up, because it's come up in the following way. We have a law right now. We have an existing comprehensive land --

we have an existing land use map. We have a policy map.

The land use map is ignored completely these days. There’s not one in here. I pointed out in the earlier zoning session, whereas there was actually, with all the mistakes in it, a great deal of work that went into it.

I know that in Ward One alone there were over 40 amendments with one cycle, to be sure that the proper designation was put on the proper block. In that instance, the effort was to see that the predominant land use for that block would receive a category that best, you know, showed it, in terms of the zoning.

So for many people, it seems very strange to be receiving proposals like this, important as they are, without being sure that we have the small area plans that were supposed to come after the ward plans were done, to indicate which areas would be suitable for what.

I directed you to Scotland, which is another capital city, to Edinboro, in particular to show that they are undergoing the same kind of process as are many cities, because there’s a dearth of low and moderate income housing available for people who need it.

They're trying to come up with things, and they also have an inclusionary zoning plan as well, which you can read about. But most importantly, they target by neighborhoods.

They have maps which show where they think they can build the units and how they want to build them. They very much protect the areas that are already built and that are stable and could be considered, in our terms, as conservation areas.

That's the clinker here. If we go about putting in something which allows this to happen anywhere it may land, we can have the kind of things I tried to show you in these exhibits. We believe that will encourage more of that.

I think it would be a shame to lose much of the inner city of glorious housing that we have, which is a marvelous thing for tourism and for the future, irrespective of who can live there. Many of us are priced out of them, either to buy them or to live in them, because of the taxes. But at least they'll have the resource for the future, long after any of us, you and me, are gone.

MR. HOOD: Let me ask you. How can we -- it seems like it's a sense of urgency. That's what I've been hearing for the past three nights and I know there's a sense of urgency of how to to get to this point.

You're saying -- well, I wouldn't necessarily say this, but someone a couple of nights ago said that we should hold off, and you kind of concur with that person, who said we should hold off until the revision is done and look at this a little more strategically.

How can we speed up things? Because as time goes by, you know, things are getting done and we're losing -- from what I see, we're losing time. And also make sure we include this element. Is there any way that we could maybe speed something up here --

MS. HARGROVE: I really think the Planning Office itself could, if it wanted to, take the current comprehensive plan map, which is supposed to at least be reflective, to some degree. That's a little study that would have to be done, although the conclusion already by Barry Mayer has been that there is, in some instance, a close association.

Ward Three is so easy, Ward Four is so easy, and much of Ward Seven and Eight, oddly enough, are so easy because there's so much R-1 housing.

But for areas that are complicated like the inner city, some of them are labeled "moderate density" but have an R-5D zoning designation, which is an outrage.

Since the plan presumably is supposed to guide the zoning, it would have been nice had we had the staff and there was not enough staff for some years at the Office of Planning, to follow through with the map itself, to try to make the map better, but also to follow through with zoning cases to remedy some of these problems. There's just no excuse for losing that valuable resource. We can never replace that resource.

MR. HOOD: Okay. Thank you, Ms. Hargrove. Thank you, Madam Chair.

CHAIRPERSON MITTEN: Anyone else? Mr. Hildebrand.

MR. HILDEBRAND: I have just a follow-up question with Ms. Jasper. To what extent is the current housing market being driven by frustration with commuting distances and time, and the rising cost of energy and gasoline? Do you see that as being an economic engine that will continue to churn housing that's close to work opportunities in the District?

MS. JASPER: I'd love to have like a scientific answer that was something other than subjective. Most of the data I got, for what I spoke about tonight, was out of "Housing in the Nation's Capitol." So this is completely opinion.

You know, the data shows, which is all I -- I don't even want to opine -- the data shows that people are highly mobile. Renters in the region are highly mobile, that only -- the District is one of the places with the lowest mobility, and 60 percent of the people who live in the District have lived in their homes for less than five years.

I don't think -- I mean I just don't think it's a huge concern. I think that, you know, as transit changes, Dulles Toll Road, you know, the railway, Dulles railway coming in and all sorts of other things. I just, I mean I'd be making it up, to guess how much of a driver it was.

But I'd be surprised if it was that enormous, in terms of driving people into the District. I think education is the biggest thing that drives people out of the District, the school system, and the lack of a community college system and things like that.

I think those people who leave the District for those reasons, once they have families or whatever, are not coming back for a very long time, regardless of commutes, etcetera.

MR. HILDEBRAND: Thank you.

CHAIRPERSON MITTEN: Anyone else. Okay. Thank you all very much. Okay. Before we go to the Office of Planning, anyone else? We'll pick up anyone who's left over on the back end. Mr. Hellman.

(Pause.)

CHAIRPERSON MITTEN: Go ahead.

MR. HELLMAN: Thank you. My name is Jay Hellman. I'm a developer in Washington. I'm listed as an opponent, but I have to preface my comments by saying this is apple pie and motherhood, so how can you be an opponent?

I think the nature of my opposition is based upon being able to achieve what we're trying to achieve. I mean, I think everybody is entitled or should be entitled to good housing.

What I've done in my comments that I have submitted, which are being handed out, is I have written down a lot of thoughts that relate to why I think this is particularly challenging, and why the Zoning Commission does not have the tools to solve this problem.

I started at the very beginning with a couple of quotes, which add a little humor but also a lot of truth. One of them is there ain't no such thing as a free lunch. So if you do something that appears to be a free lunch, it would be very important to figure out who's really paying for this, because the law of unintended consequences is always lurking.

The second one is if you ask the wrong question, you'll get the wrong answer. I think that the question of affordable housing and zoning are not the real correlated issues, which brings me to my next one. If the only tool you have is a hammer, all the problems look like nails.

The Zoning Commission is a one-trick pony. You've got zoning. The problem of affordable housing is much bigger and much more complex than zoning, and I didn't have an elegant comment to make until yesterday, when I was listening to NPR and a documentary about the GI bill.

I'm glad that I'm later, so that I listened to a lot of people's testimony, because this is at least the fifth draft of my comments that I have submitted. But I didn't submit the other ones.

The GI bill had four components. It had money for education. I mean, there are an awful lot of people that went to college that never would have gone to college but for the GI bill. What that did was it gave them the ability to pay for housing.

The second was the GI bill provided for low cost mortgages, and the third had to do with health insurance and the other unemployment compensation. But all of those added up to making somebody able to pay. In thinking about that, I ask of all of the homes that have been built in D.C. that we call unaffordable, are any of them vacant?

Are they occupied by human beings or are they occupied by Martians? I mean is a human being that can afford to pay for housing less of a human being? And again, I start with apple pie and motherhood.

We have an imbalance. We've got a successful economy here. We generate more jobs than we build houses. That's why the price of housing is up. So if you just thumb through my points, and I want to bring you to two things very quickly.

In my other handout, there were two diagrams. One is called short-term versus long-term, and it talks about rent control. In the short run, what rent control did was it controlled rents. In the long run, what it did is it slowed the production of new housing and it accelerated the decline of existing housing.

So the ability to make mistakes, well-intentioned mistakes, is rampant.

The second one is something that relates to my study of computer and communication technology, and how it relates to work and jobs and patterns of land use. There's an article, which I didn't make copies of, but it's in the May issue of the *Urban Land* magazine that just came out. It's called telecommunities.

But a number of you have known me for a long time and have known my research in the evolution of computer and communication technology, and how it's changing the nature of work, the character of buildings and patterns of land use.

But this diagram about the time domain and the space domain is very critical, and it relates to a comment that was just made by another speaker, about you don't have to live in the District to work in the District.

Most of the District looks like the suburbs. If I dropped you out of a helicopter out at Foxhall Road and took the blindfold off, I challenge you to tell me you're not in Great Falls. I mean, what do you see? You see big homes, large land, large lots and big trees.

So we have to think more systematically, and I made another point in here about jobs and housing. There was an article in the *Post* just the other day about an entrepreneur here buying a whole town in Canada. There wasn't a human being living there.

CHAIRPERSON MITTEN: You need to give us your final thought.

MR. HELLMAN: My final thought is this is much bigger than the Zoning Commission. I'm not suggesting you don't do anything, but you can't solve this one by yourself. So please look at my comments, and I'd be delighted to, you know, respond to anything that anybody would ask.

But I think I've included a lot of important points for thinking about.

CHAIRPERSON MITTEN: Well, before you go, let's see if anybody does have a question.

MR. HELLMAN: Okay.

CHAIRPERSON MITTEN: Does anybody have a question? I think maybe we would after we've had a chance to digest this.

MR. HELLMAN: There's a section in my comment, the TDRs. I mean, I was abolished on an error in TDRs. I was trying to build a mixed use project at 601 New Jersey Avenue, using the HR overlay, and I got outbid by somebody buying the land, because he had a $3 million subsidy from a defective TDR program.

It's not that you didn't intend well. You didn't understand what you were doing.

CHAIRPERSON MITTEN: Well, we'll read that too when --

MR. HELLMAN: I understand. Please, it's in there.

CHAIRPERSON MITTEN: Okay, thank you.

MR. HELLMAN: Thank you.

CHAIRPERSON MITTEN: Okay. I think we're ready now. Is the Office of Planning ready?

(Pause.)

CHAIRPERSON MITTEN: Are you guys going to give us any more paper, any fresh paper? A few leaves of fresh paper. Okay. I just wondered if we, you know.

(Off the record discussion.)

CHAIRPERSON MITTEN: Don't tell me you forgot the chart?

MR. PARSONS: We brought along copies of our presentation, just in case the technology didn't work.

CHAIRPERSON MITTEN: We're going to need

that anyway, so why don't you hand that up. This is there PowerPoint, whatever it is. Whatever they propose to change. Take your time.

(Pause.)

CHAIRPERSON MITTEN: We'll take a seventh-inning stretch.

(Whereupon, a short recess was taken.)

CHAIRPERSON MITTEN: Whenever you're ready.

MS. MCCARTHY: Thank you, Madam Chair and members of the Commission. The Office of Planning is deeply concerned with the very serious affordable housing problem our community is facing.

CHAIRPERSON MITTEN: Could I just interrupt you. I'm sorry. Could you just state your name for the record for me?

MS. MCCARTHY: Okay. For the record my name is Ellen McCarthy. I'm the Director of the Office of Planning. We are very concerned with the serious problem, the serious affordable problem +that the community is facing.

However, in the interest of time, we believe that the previous witnesses have presented the scope of this problem effectively.

So we wanted to proceed directly to outline our proposal for mandatory inclusionary zoning, in the interest of getting to this and being able to ask what will probably be some questions the Commission would like to address at the end.

We are pleased to recommend to the Commission that you adopt certain principles for establishing an inclusionary zoning program in the District of Columbia. The Office of Planning began working on this in 2003, but we were heavily influenced by the Campaign for Mandatory Inclusionary Zoning in the development and revision of some of our original concepts of our proposal.

The Campaign has been one of the most progressive, thoughtful, organized and articulate citizen groups I have had the privilege of working with in my nearly 30 years of working in the planning profession. OP and the Campaign are recommending proposals that are similar in most respects.

The primary differences are twofold. One, that the Office of Planning targets slightly higher household incomes, but only in higher density commercial zones, to recognize the need to provide slightly more favorable ratio to address the different cost structure and land expectation structure that exists in those zones.

Secondly, the Office of Planning provides more flexible forums of compliance. So we will get into the details of that in just a moment.

But I also would like to thank the members of the development community, who have contributed hundreds of hours of feedback and constructive suggestions, to both the Office of Planning and the Campaign for Mandatory Inclusionary Zoning, in our joint meetings.

We are particularly thankful to those who are able to review and help us calibrate our economic model, including representatives from Adams Investment Group, Affordable Housing Developers, Alan Myers Architects, Cunningham and Quill, Davis Construction, Eakin Youngentob Associates, Esocoff and Associates, JBG, the Mayhood Company, Metropolis Development Corporation, Neighborhood Development Corporation, Paradigm, PN Hoffman, Somerset Development, and additional assistance provided by Jeremy Rubenstein from Metro, Jeff Sherman from Trammel Crowe, Don Deutsch from Faison, Mark Silverwood from Silverwood Realty and co-chair of the Urban Land Institute Task Force on Workforce Housing; Michael Darby of Monument Realty, Jeff Gellman of Greenstein DeLorme & Luchs PC, Merrick Malone from Metropolis Development Corporation and Chris Smith from the William C. Smith Companies.

We are grateful to the members of the Campaign and to the development community or meeting for countless hours, to try to come to a consensus on this program.

While we may not have reached complete agreement on every facet of the program, I think we all would agree that we are much closer to this than when we started.

Tonight, we are going to discuss the four principle components of inclusionary zoning program, and we will follow this with a working session with the Office of Planning economic model. Mr. Cochran.

MR. COCHRAN: Thanks very much. For the record, my name is Steven Cochran, and the Office of Planning is pleased to be presenting this presentation in almost living color. We are minus our red tones. So just assume that what you see in black may well be red.

What we're seeing now here is a map of the distribution of market rate and affordable housing in the city. In previous testimony, various people have spoken to the decreasing affordability in housing in the Washington resident market.

What we're looking at here is that affordable housing is built in distressed and emerging neighborhoods, and market-rate housing is built in transitioning and stable neighborhoods. The blue dots are the affordable housing units. The black dots are the market-rate housing units.

With the help of my red laser pen, I can now make the black dots red, but I'm not going to go through all of them.

The notable exceptions to this pattern of the affordable housing being built in distressed and emerging neighborhoods and the market-rate housing being built in transitioning and stable neighborhoods is in projects that are intentionally preserved for affordable housing, in redevelopment land agency land in the Columbia Heights neighborhood.

The pattern of where the black and the blue are located demonstrates the difficulty that we've had in achieving diverse neighborhoods with traditional financial subsidies. As an aside, only six percent of the units that are shown in blue -- these affordable units, are actually affordable to households earning between 60 percent and 80 percent of AMI. So even with the programs that we have developed, we have had considerable difficultly reaching those targeted income groups that we will discuss later in the inclusionary zoning proposal.

There are four components to the design of our inclusionary zoning program. We're going to look at household incomes that are targeted, what the percent of the affordable units are that is required. I will go into an extensive analysis of bonus density, and finally we'll be looking at flexibility in the relief process.

We're looking at -- you'll see that these changes as we go through the presentation, so that we can follow where we are. First looking at target incomes. As with the Campaign for Mandatory Inclusionary Zoning, we've chosen 50 percent and 80 percent of area median income.

Now we've done this because there is a demonstrated need for this. The previous testimony from many other people, as well as our OP presentation set down on the map that we just looked at, demonstrate that need.

We've done it because there are already standards for certifying and tracking of those income groups in other HUD and DHCD programs. Finally, it dovetails with other District programs, such as HPAP and mortgage assistance, that use the 50 and 80 percent income levels.

There's also a demonstrated need because we're finding that, as a percent of the population, incomes below $60,000 are declining while incomes greater than $60,000 are increasing. You can see it in 1990. First, this is the 60,000 line across here, which was again to have been red.

As a percentage of the households earning less than $60,000 was almost -- well, a little over 78 percent in 1990. It decreased to 61 percent in 2004. Now let's look above 60,000. It was almost 22 percent in 1990. It's gone up to 39 percent in 2004, excuse me.

So we've seen that there's an escalation in the incomes over 60,000 and there's a decrease in the incomes below 60,000. That rate of decrease is actually, I hate to use this contradiction, but the rate of increase in the decrease is significant for the incomes below 60,000. We're getting to have a more skewed income distribution than we used to have.

When we're looking at the target income group of 50 percent to 80 percent of AMI, we're looking at workforce housing. We're looking at 50 percent of AMI, these are sample job descriptions for the types of households that might be earning 50 percent of AMI.

Pharmacy technicians, medical technicians.

If we're getting up to a family of -- a household of three, we're looking at a dental assistant with two children and so on so forth, security guards, also having dual incomes in this instance, with two children. There may have been veterinary assistant with three children when you get up to a household of the size of five.

Now when we're looking at 80 percent of AMI, a single family household would be, say, a graphic designer, a single family house, excuse me, of one head of household with a child would be 57,000. We'd have a pharmacist with two children, with three and so on and so forth down to a family of five.

MR. RODGERS: Commissioner, we're going to be skipping through. Steve and I will be presenting this. My name is Art Rodgers, also at the Office of Planning.

As Steve mentioned, one of the things that we wanted to do was make sure that this program, the inclusionary zoning program, would dovetail with other programs.

So we want to make the Commission aware that this would dovetail with existing programs, in the form of the Home Purchase Assistance Program through DHD, mortgage financing through the D.C. Housing

Finance Agency, and then also the real estate tax abatement that was proposed or enacted in the Housing Act of 2002, and is looking to be extended by the Deputy Mayor's office.

There were several considerations that we wanted to make sure we achieved in designing the inclusionary zoning program. We wanted to make sure we produced the affordable units. We wanted to make sure that there was an effective number of affordable units produced for the program.

We wanted to make sure that as the construction type of a project changed, from a lower density stick-built construction to a higher density steel and concrete construction, we wanted to make sure that we matched the requirements to the specific economics of those projects.

Then finally one of the things we wanted to make sure we achieved was we wanted to enable residential development to continue to compete for land in commercial zones. I think you will see testimony earlier that it's only recently that this has happened. So this was a specific goal that we wanted to make sure that we achieved in designing our program.

To quickly summarize some of the

requirements that we came up with, in row house developments, we're proposing that, and the way we expressed it is the percent of affordable units required in the inclusionary zoning program would be the greater of ten percent of the minimum, or ten percent minimum of the matter of right development, or 75 percent of the bonus density that was achieved.

We wanted to make sure that we were able to one, have an effective program, but two, leverage that bonus density, as it got greater and greater, that we used that bonus density to the full extent possible.

In functional purposes, this is very similar to what the Campaign proposed. For low-rise developments such as garden style apartments, it's the same requirement.

But then based on the economic analysis that we'll go into a little bit later, for high-rise, we decided on eight percent of the matter-of-right development of the project, or 50 percent of the bonus density achieved.

Just a quick definition -- yes. Eventually you heard us referring to lower density zones and higher density zones. Those kinds of phrases are not actually used in zoning regulations. But what we mean by this is shown on this chart.

The lower density zones for residential are R-1 and R-5B. In all other zones, the commercial and mixed use zones, we're talking about C-1 and C-2A for lower density zones.

Now when we're looking at higher density zones, both in our presentation and in our report, for residential we're talking about R-5C to R-5E, and for all the other zones, I'm not going to list all those, but you can see it goes from C-2B up, CR, the SPs and some of the W zones.

These distinctions are, in many respects, the same ways that you can track distinctions between construction types, with the lower density zones actually being stick-built construction, and the higher density zones being steel or concrete frame construction.

This is important, because OP's modeling determined that different targeted incomes and a different percentage of affordable units needed to be set aside for high-rise construction than for low-rise construction.

For the most part, the incomes targeted by the construction types are the same for the Campaign's proposal and for OP's. But we do get to a difference down here. What that says in red is "Commercial and mixed use zones, 100 percent of requirement."

The Campaign’s proposal says household incomes for a high-rise project in commercial zones should be, have the requirement split. 50 percent of the requirement should be for families earning 50 percent of the AMI; 50 percent of the required affordable housing should be for families earning 80 percent of the AMI.

OP suggests that when we get to these higher density commercial zones, that 100 percent of the requirement be for households earning 80 percent of AMI. This again is an important distinction, because it’s one of the elements of OP’s proposal, that’s intended to keep the certain mixed use zones, especially the C-3C, competitive for housing.

This is one of our attempts to address the testimony that refers to the fragility of the housing market.

MR. RODGERS: This next table is just sort of a refresher. We’ve used it before. It looks at the other jurisdictions that have inclusionary zoning, Montgomery County, San Francisco, so on and so forth.

The other thing I would want to say at this point about this slide is just a reminder that each of these jurisdiction tailor their inclusionary zoning program to the specific goals and the type of development that they have in their jurisdiction.

So I think it's very important to recognize that each inclusionary zoning program should be different, depending on the factors facing that jurisdiction.

MR. COCHRAN: Okay. So let me summarize. For the residential zones, we have income targets being evenly split, at 50 and 80 percent. For the residential zones, the required square footage decreases as the zones become more intensive, and the construction type changes.

Now for the commercial mixed use zones, the income targets are evenly split again in the lower density zones, but they're targeted only to 80 percent of AMI in the higher density commercial zones.

The required square footage again decreases as the zones become more intensive, and the construction type changes.

Let's look at some examples of what happens in an R-5B zone. We've got stick-built construction. There's an affordable housing requirement that's the greater of ten percent of matter-of-right FAR, or 75 percent of the bonus achieved.

We have a 50-50 split between 50 percent and 80 percent of AMI. Now if we go to a higher density commercial example, say a C-2B zone, we're looking at steel or concrete construction.

We're looking at an affordable requirement of being the greater of eight percent of the matter-of-right FAR or 50 percent of the bonus achieved, and all units being, going at 80 percent of AMI, for the affordable units. I can go back into more details on that later, if you wish.

MR. RODGERS: There are a couple of things when we looked at the bonus density, that we wanted to make sure we analyzed. One, we wanted to make sure it was available, that in the different zoning or districts across the District, that a bonus density could be achieved, at least on a theoretical basis.

We discovered that in some areas, we would have to make some minor adjustments to the zoning envelope. We wanted to make sure it was efficient.

So we looked at the PUDs that the Office of Planning had worked on, and we discovered that the amount of affordability that we were able to achieve through a PUD, and the amount of bonus density that we had to give up, were not as efficient as what a mandatory inclusionary zoning program might achieve.

Then finally, we wanted to make sure they were effective. We wanted to make sure that there was sufficient economic value in the bonus, to balance the requirements of inclusionary zoning.

So what we're going to go into now is analyzing the bonus density, primarily for the availability, and then also for the economic feasibility of it.

In most zones of the District, achieving a 20 percent bonus density is possible. This chart is rather big, but it's about as simple as we could get it. Just to follow it, you have the zoning FAR of the District. You have the lot occupancy and the zoning height, and you have the number of floors that you, the minimum number of floors you need to achieve your maximum FAR permitted by the zoning.

We then made the assumption, well how many more floors could we fit into the height of a building. If you assume just an 11-foot average of a floor to floor, you could in many cases fit an extra floor into the zoning envelope.

That would allow you to achieve, in most cases, greater than a 20 percent bonus density. So this made us feel somewhat comfortable that there was the availability of that bonus density to be achieved.

In certain areas, in the areas of the District that are controlled by lot sizes and things like that, the R-3 and the R-4, we looked at development patterns. Right now, the minimum size, for instance, for an R-4 is 18 feet wide.

But in many parts of the District, there's a pattern of narrower lot widths, going to down to 14 feet and in some cases even smaller. Also in the case of recently-approved PUDs, there's the use of 14-foot wide lots. That is the way that we would accommodate the bonus density in the lower zoning categories of R-3, R-4.

In some cases, developers expressed interest in doing row houses in the R-5A districts.

Now there are some zones that we needed to make some adjustments to lot occupancy and height, in order to accommodate that 20 percent bonus. Fortunately, we do have our blue color, so you can see how we made those adjustments in the CR, the C-2 zones, the waterfront zones and the special district zones.

The basic changes that we wanted to do, we wanted to make as small a change as possible, and in most cases, the changes we made are smaller than what's permitted by a PUD. Then the other thing that we looked at, for instance, in the waterfront zones were access to the waterfront as a priority for pedestrian access and so on and so forth.

We would rather permit greater height than increase lot occupancy and decrease the amount of access to the waterfront. In other areas, that was less of a concern, and so we would change the lot occupancy slightly.

In most cases, they're the smallest increment

possible we could make, to achieve that 20 percent bonus density.

Moving onto the economic analysis, there were four major assumptions and in the report there are a bunch of other assumptions that the analysis makes. First of all, we wanted to try to maintain a project's return from what was originally proposed as a market rate project, and then maintain that return once the inclusionary units were added.

Another major assumption is the bonus density does not actually increase land value. We hold land value the same. So for a given piece of property, the same purchase price for that land would hold throughout the different analyses.

Some developers argued that a bonus density actually increases land value, and but if from OP's perspective, that if that bonus is also balanced with the requirements, there should be no change in land value.

One of the major --

(Simultaneous discussion.)

CHAIRPERSON MITTEN: Those developers didn't come down and testify.

MR. RODGERS: What's that?

CHAIRPERSON MITTEN: Those developers didn't come down and testify.

MR. RODGERS: No, they didn't.

(Laughter.)

MR. RODGERS: One of the other assumptions is that there's a linear relationship between the inclusionary zoning bonus and the revenue gap between the affordable units and the market rate units. This is kind of difficult to explain, but essentially, as you know in housing and development in general, location is very important.

In some areas of the District, land values for housing are $90 to $150 a gross square foot for a development. That's land value.

The idea of the model is that as those land values change, the difference in the market rate unit prices and the affordable unit prices change in the same proportion. So the greater the land value and the greater the purchase price of a market rate unit, the greater the gap between that and the affordable unit.

So there is a balance between the bonus density and the difference in the affordable unit and the market rate unit.

Then finally, the major assumption is that bonus density -- okay. I didn't explain the third assumption very well. The model primarily focused on a project for high-rise condos. It used a land value of $90 per gross square foot of the project. And a market rate unit of $525 a square foot, and an affordable unit of roughly, say $200 a square foot.

In a different area of the District, where land values might only be $30 a gross square foot. So presumably, the value of the bonus is less than the areas where it's $90 a square foot.

In areas where it's $30 a square foot, the purchase price may not be $525 a square foot for a market. It's smaller. It's less. It's maybe 400, 375. So that gap that has to be made up by the bonus density is smaller.

This is a major assumption, but from a lot of the developers who looked at it, and marketing professionals, they thought it was relatively robust, that this pattern did hold true throughout the District. So that gave us some confidence that the developers were telling us that yes, this pattern holds true.

So that the -- the point of all of this is, is that we didn't want to affect development in the District where land values were less. We didn't want to retard the amount of development going on in areas that are just starting to see a revitalization. So those land values are less. So that's the important point to be made about that assumption.

Then quickly, and you heard testimony on it the first night, I believe, that just because you're adding bonus density to the project, it doesn't increase on the margin the construction costs of a project. There is economies of scale in adding the bonus density. You're not changing your roof structure in most cases. You have the same landscaping. So there's no increase in construction costs.

CHAIRPERSON MITTEN: Is there a decrease at the margin if there is --

MR. RODGERS: Well certainly I think it's fair to assume that there's a decrease for the affordable units, because we're not requiring that the affordable units have the same -- you know, granite countertops and hardwood floors and things like that.

So certainly there's a decrease for the affordable units. You still have to build the concrete around them, but you don't have to provide them with the stainless steel appliances and the higher-end finishes that you would for a luxury condominium. So there is a savings there.

A lot of the people we spoke to, we're not willing to say that there was a decrease in construction cost, but they were certainly comfortable with the fact that there was no increase. Let me put it that way.

Now the inputs to the model were just as important as the model itself. And again, these were developed through the interviews with the development professionals that Ellen mentioned previously in her testimony.

Primarily, the inputs were the value of the land throughout and across the District, and that varied by low-rise development and high-rise development. The hard costs varied between 90 and 120 dollars a gross square foot, and 140 to 200 dollars a gross square foot.

I would want to point out that these were verified not just by the developers. These were verified by construction estimators and by architects also.

So the revenues typically for low-rise varied between 375 and 425 a marketable square foot, and 475 and 800 a marketable square foot for high-rise.

Then finally, most of the developers tried to reach a return on their costs, of somewhere between 18 and 23 percent. That was fairly consistent. Beyond 23, you know, 23 percent return on cost, basically other things started to eat it up.

Land value. The land owners got smart and said "Hey, there's a lot of money to be made. Let's increase the cost of our land." In pricing the affordable units and seeing just what kind of revenue we are generating, and I'm just going through a condominium development right now, we looked at 30 percent of the income limits.

We used the 30-year conventional mortgage, assuming a five percent down payment, and a 6-1/2 percent mortgage rate, which is about 90 basis points higher than the current mortgage rates.

And you can see the purchase prices that resulted on that. Again, these are -- the purchase prices also vary because of the different occupancy assumptions. So if you have a studio, you have one person. If you have a one bedroom, you would have two people affording the unit, and so on and so forth.

We did five different development types and multiple scenarios for each development type. We did it for a 20-unit row house. We did a 25 unit low-rise condominium. We did a 25-unit low-rise rental project, 150 unit high-rise condominium and a 200-unit high-rise rental project.

I'm just going to quickly summarize what the results, the impacts on the developer's return, their internal rate of return and also what would be the theoretical impact on the land. Again, this was for a high-rise condominium project.

So the base case, just a market rate building, there was a return on cost of 21.2 percent. The Campaign's proposal decreased the return on cost slightly to 20.1 percent. OP's proposal of 50 percent of the bonus density reduced it to 20.9 percent.

The OP Scenario 1 actually, which is 100 percent of the units at -- of the affordable units at 80 percent of AMI, actually increased the return on cost a little bit. So that the bonus density offered actually created some value.

Then the last scenario was 60 percent of the bonus at 80 percent of AMI. Again, we’ve talked about protecting the ability of housing to compete for land in the commercial districts, the high-rise commercial districts, I should say.

So it seemed to us that, for instance, the OP Scenario 1 might be a very conservative way of making sure that housing could continue in the commercial districts.

Just to show you how this changed a development project, and again, this is a high-rise condo project. The market rate project had a total development cost of almost $400,000. It had revenue for an average unit of $488,000. That means a profit of over $89,000 and a return on cost of roughly 22 percent.

The OP Scenario 1, which was again all of the affordable units at 80 percent of AMI, the average -- again, this is the average for the project, because the land costs were held constant, the average land cost for a unit would be $76,000. That reduced the total development cost for an average unit by roughly $20,000.

MR. JEFFRIES: Excuse me. What's the price per square foot assumption in the revenue?

MR. RODGERS: For the market-rate project?

MR. JEFFRIES: Market rate.

MR. RODGERS: For the market rate, the price per square foot was $525.

MR. JEFFRIES: 525.

MR. RODGERS: Yes. And so the average unit would be roughly 850 square feet. Now because of the affordable units, the average price did drop by, you know, roughly $20,000, but -- oh, I'm sorry. Yes.

It dropped, the average price dropped to $460,500.

MR. COCHRAN: 67.

MR. RODGERS: Yes. 467,500. Profit, because there was a result of a commensurate decrease in development costs, held constant, and there was actually a slight increase in return on costs. Now these numbers vary from our report slightly, just because of rounding the numbers to make them at least a little simpler.

Now just so -- a last couple of comments about the economic analysis. The model is sensitive to a couple of things, and we thought we'd highlight the effect of interest rates on the model.

Over the past couple of years, interest rates have a varied between 4.9 percent and 7.8 percent. For our model, we used 6.75 percent. As I said, it's about 90 basis points higher than the 5.84 that it is right now.

And when that is -- when that affects the purchase price of the affordable units, the purchase price drops from an average of about $162,000 to $148,000. Now that does affect return to an extent.

The last thing I would say about the strength of the housing market, just some estimates from COG. Right now, in plainer terms, there's a balance in the region of 1.6 jobs to households in the region.

Now because of development capacity, over the next 25 years in the region, COG is estimating that we're roughly going to get 1.2 million new jobs, but only 658,000 new households.

Now that's a new ratio of 1.8 households -- I'm sorry, 1.8 jobs to households. So over the next 30 years, the number of jobs are going to continue to increase at a faster rate than the number of housing units.

So that's just going to continue to drive up the cost of housing in the region. So certainly we think the strength of the market is going to continue.

MR. COCHRAN: So we've covered three out of the four components of our design. We've looked at the target incomes. We've looked at the percent of affordable set-asides. We've looked at bonus density.

But what about flexibility and relief? We've had an opportunity to listen over the last year to the Campaign and to the developers. The Campaign has been particularly concerned that there be diversity in the affordable housing units throughout the city.

The developers have been concerned that there be predictability to the process. At the same time, they've also wanted flexibility to the process. So we've been trying to balance out those things with diversity and predictability, with flexibility.

We think we've come up with a process for granting relief or allowing -- not so much granting relief, but allowing for alternative methods of achieving the objectives of the program in certain respects.

There are two venues for this. We've got the Zoning Administrator and the Board of Zoning Adjustments, and there are three types of relief that could happen in these two venues.

This is outlined in much more detail in Section 5 of the OP report, which begins on page 17 if you want to follow along with me. We have partial relief, which is administratively granted. You know that the zoning regulations already allow for two percent administrative flexibility to be given by the Zoning Administrator.

We propose that that be also applied to this program. I believe that we had a typo in our report where we said five percent. That was meant to be two percent flexibility for that.

We're also looking at allowing the Zoning Administrator certain ability to be flexible when there's a change in building type.

If the affordable housing requirements force a change from, say, stick-built to steel frame construction, the Zoning Administrator could apply the lower percentage of affordable ability required for that, from 75 percent to 50 percent of the bonus density.

We're also looking at situations where the developer may need, because of various considerations, to move some of the affordable units off-site, because of certain opportunity costs and efficiency that might be generated by moving the affordable units off-site.

But again, we're trying to achieve diversity within the same neighborhood. So what did we look at? We looked at if the developer needed to move less than 50 percent of the requirement off site but was still able to deliver that within the same census tract, we feel that by looking at the census tract, we are achieving diversity within the neighborhood.

Even if we can't get all of it on site, we're still getting 50 percent or more on site. In such a situation, the Zoning Administrator would be empowered to grant that kind of flexibility.

The final situation where the Zoning Administrator would have flexibility would be if a developer had already had the proposal heard by a public body, in this case the Historic Preservation Review Board. Up to a certain extent, the Zoning Administrator would be granted flexibility and that percentage, basically a fifth of the requirement.

If there are certain decisions made by the Historic Preservation Review Board that reduces the developer's ability to deliver bonus -- to achieve bonus density. Let's say that they can achieve four-fifths of the bonus density that we've allowed, but not that final fifth.

Then the Zoning Administrator would be

empowered to proportionately reduce the affordability requirement, up to four-fifths of the affordability requirement.

So if you've got -- if you're between, say, 80 percent and 100 percent of your requirement, but somewhere in there, you would be able to have the requirement reduced proportionate to the amount of bonus density you say that you're able to achieve.

But once you go below that four-fifths of your requirement, then you go into the full process of having to go to the Board of Zoning Adjustments for hearing.

Let's talk about that. If you go below the four-fifths, you would then have -- you'd be in this moderate category, moderate flexibility, but again, proportionally reduced.

That would have to go to the Zoning Commission for a consent agenda item, excuse me, to the Board of Zoning Adjustments for a consent agenda item.

We realize this would require certain legislation to allow that to happen. But this would be, if you're again, in that variable range, but you hadn't had an approval from a body like the Historic Preservation Review Board, then you'd come to the BZA for a consent agenda item.

You'd also come to the BZA for a consent agenda item if you wanted to move more than half of your requirement off-site, but it was still within the same census tract.

So again, we're trying to achieve the diversity, but get some flexibility. But speed up the approval process for that flexibility, as long as we're achieving the diversity in generally the same area, i.e., the same census tract, as the development is proposed for.

Finally, we get to a greater range of flexibility, where you're required to go for a full BZA hearing. This would be for units that are outside of a census tract, and for a buyout of your affordable requirement.

If we're looking at units outside the census tract, they could be built if you had demonstrated economic hardship to the Board of Zoning Adjustments, and they would have to be rebuilt with a premium.

By the way, there was a premium here also. We were looking at anything for greater than a half off-site, having to have a 50 percent premium. Again, this is explained in much more detail in Section 5.

But that premium would essentially be 150 percent of the required affordable square footage that you’re moving off-site. So let’s say you’ve got an affordability requirement of 20 units. You’re moving ten off-site. That means that instead of constructing ten off-site, you’d have to construct 15 off-site.

So we’re getting more units constructed if you’re moving them off-site, but within the same -- outside of the same census tract.

Finally, you could demonstrate economic hardship. You would have to demonstrate economic hardship if you were going for a buyout. The formula for the buyout is the difference between the sales price for the market rate unit versus the sales price for the affordable unit.

Okay. The last, is of course, full relief. You’d have to demonstrate that there’s no practical economic use of your property, and the Board of Zoning Adjustments could grant you full relief from the IZ requirements.

MS. MCCARTHY: Since this is an area that was addressed by several witnesses who were concerned about the buyout provisions and the provisions to permit off-site, I just wanted to see if I could stress that we are not looking to encourage this.

But it was clear to us in certain

circumstances, where you were talking about a condominium that was a luxury condominium that had such a high -- say you've got a condominium like one that we've seen recently, that's under construction for $700 a square foot, and the affordable rate would be approximately $200 per square foot.

We could go ahead. We could have that project generate the affordable units. In effect, we leave the difference between the $700 and the $200 on the table or off the table in that case, because the opportunity cost of what was given up doesn't go for any benefit.

Our thought was if we could still keep the affordable units within very close proximity to the building, but allow that increment of value to remain with the developer but require that increment to then create 150 percent more affordable units than would be the case if they were developed on site, that that was a trade-off that was worth thinking about.

Part of our inspiration on that was looking at the -- if you look up and down Connecticut Avenue, you will see, you know, many older apartment buildings. You may not know that some of those apartment buildings, were limited equity tenant coop conversions.

They're affordable, totally affordable buildings within a market rate context. They fit in quite well with the neighborhood. They're -- and yet they are providing, in effect, 100 percent affordability within a market-rate neighborhood.

That kind of situation, where you could then provide very high-end condominiums in a high-rise building along Connecticut Avenue but within a short distance of that, then have more units created. That was the reason that we were looking to create the possibility for doing something off-site. Thank you.

MR. COCHRAN: So that's how we're trying to be flexible, but how we are also trying to be predictable. Last week in the testimony, you heard some people saying that the process for granting this flexibility might be somewhat cumbersome.

Well, right now the zoning regulations have five programs that include an affordable housing components. It's in the Uptown Arts and Reed-Cooke overlays; it's in PUDs; it's in street and alley closings; and it's in the combined lot provisions for the DD.

Each program has different combinations of target income ranges; what constitutes low income and moderate income; what percent of household incomes can be allocated towards housing; and how long affordable units are restricted.

What OP is proposing is a minimum affordable housing requirement that would apply as part of this IZ program. We would then work to have this same minimum affordable housing requirement apply to PUDs and we'll work with you and the Council to bring the other programs into alignment with these requirements.

We believe this will make the process more predictable, actually, than it is now.

Just wanted to give you a quick example of what we're talking about, in terms of being -- of diversity in close proximity to the site where the project is happening. Let's go back to that first -- these are all the --

MR. RODGERS: They won't show up.

MR. COCHRAN: They won't show up? Okay. This one is the census. This is a map of D.C., with all of the boundaries for the census tracts. We have two samples. One is over here, and that's outlined in red again, in Adams-Morgan, and one is in Ward Five in Brookland.

You can -- sorry. It's not working tonight. Different versions of PowerPoint. The Adams-Morgan example shows you that in a dense area, you essentially have five or six blocks that may be within a census tract.

Whereas in a less dense area like Brookland, you’re going to go up to as many as 50 blocks. But that’s still what we view as what a neighborhood would consider to be its neighborhood, something that’s in close proximity to the site. So we think that census tracts are an appropriate nexus for that original project site.

The major aspects, in many of these respects, both the Campaign and OP, are the same. Both of us are looking at ten units being the trigger point. OP is looking at it being a ten unit expansion, ten units of new construction and ten unit expansion of existing buildings, as opposed to ten units of rehab. If a building expands, then it would also be covered.

We’re both looking at up to 20 percent bonus densities. We’re looking at off-site flexibility, with a premium. We have limited administrative flexibility and we provide for BZA hearings, both consent hearings with empowering legislation, and economic hardship hearings.

For the lower density zones for residential, we’ve got ten percent of the matter-of-right or 75 percent of the bonus density achieved, whichever is greater. The same thing is true for lower density zones in commercial or mixed use zones.

We’re looking at a split between half of the units going at 50 percent of AMI and half at 80 percent of AMI for both the residential zones and for the lower density commercial zones.

When we get up to higher density zones, we’ve got some differences. We’re looking at the greater of eight percent of the matter-of-right FAR, or excuse me, density, or 50 percent of the bonus achieved. For all other zones, we’re looking at the same. Eight percent or 50 percent of bonus density achieved.

The differences are in the higher density residential zones. We’re looking at half going to 50 percent of AMI, half going to 80 percent of AMI in the residential zones. But in a major difference with the Campaign, we’re looking at only 80 percent flat-out for all of the affordable units in the higher density commercial or mixed use zones.

Okay. So major differences between OP and the Campaign, the higher density and commercial development areas have lower requirements. We have more off-site flexibility but within a very limited area. There are differences in the minimum percent of the affordable units, and there is a difference in the control periods that apply to the for-sale units.

That concludes our testimony, unless Ellen wants to say some final words on next steps, and where it is in the context of other programs.

MS. MCCARTHY: Just briefly, in terms of next steps. Inclusionary zoning, as many have said in the last week, is not a panacea. It is, though, an important tool for achieving affordable housing for workforce households that are not reached by the District’s current housing programs.

The amount of housing it can deliver will be dependent on market conditions, and on where you, the Zoning Commission, map inclusionary zoning in the next stage of the process.

But inclusionary zoning is one of the recommended strategies of the Comprehensive Housing Strategy Task Force, which was established by the Mayor and Council to develop housing policy.

The task force expects to complete its report in the fall, and we’ll address the full range of tools that are available to create affordable units, tools such as those which have created or have in the pipeline already 17,000 units of affordable housing that have been created in the first five years of the Mayor's term.

The task force and the Office of Planning recognize inclusionary zoning as an important tool in this overall kit bag, and we urge the Commission to adopt the Office of Planning's proposal to implement mandatory inclusionary zoning.

I would like to introduce Steve Green, the Director of Development in the Office of the Deputy Mayor for Planning and Economic Development, to present the official position of the Williams Administration with regard to the mandatory inclusionary zoning proposal.

MR. GREEN: I haven't been introduced to having official positions. Hi. My name's Steve Green. Good evening, Madam Chair and other members of the Zoning Commission. My name is Stephen Green. I do serve as the Director of Development in the Office of the Deputy Mayor for Planning and Economic Development.

I am pleased to offer testimony in support of the Office of Planning's proposal for mandatory zoning, mandatory inclusionary zoning.

This Administration is and has been committed to the production and preservation of affordable housing over the last five to six years, and has delivered over 17,000 units of affordable housing in the past five to six years.

We acknowledge, however, that there is more work to be done. While there has been a significant increase in the resources that have been dedicated to the production of affordable units, largely through the Housing Act of 2002 and the Housing Production Trust Fund, there is in fact a need for additional resources.

However, one of the attributes, as Ellen just mentioned in the inclusionary zoning program is in fact the creation of affordable units, largely funded through the increase in density.

We believe the time is appropriate for the implementation of a mandatory regime that encourages the inclusion of affordable housing in places where we would otherwise not have affordable housing, while balancing the need for the District to maintain its robust housing market.

In addition to adding to the overall production of additional affordable units, we believe that one of the byproducts in inclusionary zoning is the creation of affordable units where they might not otherwise have been created, leading to a higher level of economic integration.

To this end, the Office of Planning’s endeavor to craft a plan that maximizes the number of affordable units while invoking reasonableness in evaluating the costs to developers.

So that over the course of the last two years, OP staff has met with members of the Coalition for Mandatory Zoning, and the non-profit and for-profit development community, to come as close as we can to bringing both -- both bringing those on both sides of the issue together.

The result has been a reasonable mandatory regime that achieves a balance between creating real affordable housing opportunity and real economic development opportunity. The affordability levels are consistent with those needed to address the demand for workforce housing.

This includes librarians, nurses, school teachers, firefighters, those we rely on to deliver services in the District. We are pleased to be able to increase the number of housing opportunities for this group.

The elements allowing flexibility in compliance gives us a plan that we believe can withstand legal scrutiny, and serve the goal, the overall goal of achieving mixed income neighborhoods.

The for-profit development community expressed their concerns about costs, and OP's plans addresses these concerns, providing opportunity for administrative review for projects not able to bear the cost of the affordable unit, narrow, off-site development opportunities and the ability to contribute directly to the Housing Production Trust Fund in lieu of building the affordable units.

We support the extensive and thoughtful analysis articulated in OP's proposal. I would like to emphasize that for just a minute, because I think that the number of meetings -- Ellen Heigel (phonetic) had mentioned this in her testimony.

The number of meetings that have gone on over the last two years you would have, have been extensive. It has been a large collaboration, and I believe has been productive process that results and the proposal before you today.

Each of the housing agencies in the economic development cluster in the Executive Office of the Mayor have been involved in the development of this plan, and support effective and efficient administration of the plan.

When implemented, the inclusionary zoning program will create opportunities to leverage existing homeowner incentives, and assistance programs to assist homeowners in finding new opportunities.

We expect to be able to make available funds accessed through the HPAP and the EHAP, the Employee Housing Assistance Program, in conjunction with the creation of new, affordable home ownership opportunities.

We will work to maximize interagency coordination, to ensure those who are able to take advantage of these new opportunities will be prepared for the responsibility of home ownership with the existing home ownership council and programs supported with District funds.

We are well-placed to utilize existing tools to buttress the inclusionary zoning regime. We, as well as other housing agencies, believe that one of the critical elements of success of this program, however, is the ability to implement and monitor the program.

We have had preliminary discussions about monitoring the program, with a new program monitoring component, while using existing programs at the Department of Housing and Community Development.

Either methodology will require dedicated funding to ensure initial determination of compliance and ongoing compliance.

This monitoring program could in fact be patterned after similar monitoring programs, such as that which is used in the low income tax credit program, which has been quite successful over the last 19 years in creating long-term affordability, ensuring compliance with those requirements throughout the area and actually throughout the country.

Further, we will work with the Zoning Commission, District agencies and the District Council to ensure that funding is adequate to maintain a quality monitoring regime.

In closing, we understand that neither the for-profit Development community nor the housing advocate community supports each and every element of the plan put forth by the Office of Planning. But we believe it is critical that there is a balance of the benefits and burdens of any inclusionary zoning plan, and that the plan before you achieves that fine balance.

A critical element of the proposal before you is the economic burden of the affordable units is being paid for through the bonus density, and not by the land value. It has been a result of a lengthy and inclusive process, and we urge you to adopt it. Thank you again for the opportunity to appear before you today. I'm happy to answer any questions.

CHAIRPERSON MITTEN: Thank you. I think we're ready for questions for the Office of Planning or Mr. Green. Mr. Parsons, would you like to go first?

MR. PARSONS: Okay. Ms. McCarthy, you have been quoted in other forums by saying if these regulations were in place, approximately 780 units would have been created in the last five years. I just want to get your point of view on that quotation, and whether that is in fact what you believe?

MS. MCCARTHY: That is what I believe. I'm sitting next to the author of that prediction or that analysis. So he can go into more detail. But I do -- I would like to say, since the *Washington Post* story published a map, and it alleged was that the numbers of units that would have been created, that, you know, I'm mystified as the source of those numbers.

It was like saying "Well, these are the housing units that would have been produced. Therefore, let's just take 15 percent of them or ten percent of them and say 'That's how many units we've missed over the last few years.'"

It's just not the case. When we did our estimate, we looked very carefully at where there was additional density that was available to provide. That's not every place in the city, and we looked at projects that were over ten units and we tried to be very specific to the proposal that we were looking at. That's how we came to that particular number.

MR. PARSONS: So you did some analysis of other cities, Cambridge, a couple of others, San Francisco, and they came up with similar numbers, which to me are not very impressive. But we've been reminded we're a one-trick pony here.

(Laughter.)

MR. PARSONS: What Mr. Green is talking about is there are many other programs that are being brought to bear on the whole issue. But I'm not impressed with 100 to 150 a year as a result of this. Not that I can change it, but I just wanted to make sure that was your prediction.

A couple of things we've been urged to think about, that I don't think you've mentioned, is to exempt commercial conversions.

That is, straight commercial properties that are being converted to residential, that we shouldn't do anything to deter that from happening. That we should vest all projects that are ongoing before we set these regulations in place. Some encouraged us to exempt C-3C as well.

So that's three questions. But what do you think about those?

MS. MCCARTHY: In terms of exempting commercial conversions, we certainly, you know, having assessed what the benefits are to the District tax revenue-wise from residential projects versus a commercial project, we certainly would want to support whatever we could that encourages projects or properties that are zoned commercial to the use for residential purposes instead.

That's why we went with the higher, with the 100 percent 80 percent AMI units in high density commercial zones, as a way of encouraging that.

So I don't think we would be opposed to that provision. We just haven't looked at it in detail to see if that would be -- if that would cause any other problems that aren't immediately apparent. But we'd be happy to take a look at that further.

Let me see. That was question number one, and question number two was?

MR. PARSONS: To vest ongoing projects that are not encumbered with these regulations.

MR. COCHRAN: We had suggested that when we had the opportunity to talk about map amendments, we had suggested that the vesting not apply. So the implication is that of course anything underway would be exempt from the proposal.

MR. PARSONS: And how would we define "underway"? Existing building permit, I'm thinking about or it I was thinking about it.

MR. COCHRAN: Probably existing building permit.

MR. PARSONS: I would think it would have to be. I mean, you can't --

MS. MCCARTHY: At the point in time in which it's mapped. I mean right now, these proceedings that in fact set down, you know, two months ago, has essentially served notice, because the issue is, we know this is an important issue in terms of land prices and how they will anticipate the imposition of this.

So the fact that there has been a considerable point of time from the set-down until now, and there will be further time between now and when this is mapped, we're assuming helps be part of a process that keeps -- that has served notice to anybody acquiring land now for residential development later, that they take this into account when they consider what price they're willing to pay for it, and that the main issue what about those who have purchased land already in anticipation of developing it.

We actually had expected to hear more specific testimony from the development community about how they thought that need should be accommodated, and maybe if the record is open or maybe as we look at mapping this, some further input could be received as to what makes sense as the timetable to apply to that.

CHAIRPERSON MITTEN: Can I just build on what Commissioner Parsons was just asking about, which is in terms of the vesting provisions, I mean on the one hand, what is being represented to us from you all, as well as from the Campaign, is that the objective of this, and you know, if the text amendment passes, certainly the objective of whatever we would have crafted, would be that we're not -- we are not diminishing land prices.

Why are we bending over backwards to protect people who may have invested in a particular neighborhood, you know, between -- at the point that we ready the map, but haven't had the actual hearing?

Because, you know, if we craft this text amendment correctly, then the objective is that it doesn’t matter. It’s in place, it’s not in place. Your land price won’t change. So what are we protecting them from?

MS. MCCARTHY: That is certainly true. But what we have attempted to do in hours and hours and hours of analysis is to make sure that we are not diminishing anybody’s private property rights or value, that we’ve tried to balance that as much as possible.

But we also acknowledge that if we get that wrong, no affordable housing is going to be produced, and that we could seriously disturb a market that’s been very beneficial to the District.

So we -- in the course of balancing and wanting to get as much affordable housing as possible, we’re certainly not advocating -- you know, at one point in time, somebody had suggested "Well, why don’t we just say that this won’t go into effect for seven years," and then we wouldn’t even have to worry about bonus density. The land prices would accommodate that in the meantime.

That was a tempting alternative. But there’s a lot of housing that would be produced in those seven or eight years that would therefore be lost as an affordable unit. So we've been -- it's just a matter of balancing, and I don't think it needs to be a lengthy period.

As I've said, we've already served notice for two months, from the time that this was set down until now, that this was going to happen. So it's -- I guess it depends on the confidence level that we all feel at the end of this, as to whether or not what we've provided is going to equalize any hit to value.

MR. COCHRAN: Despite the feeling that there isn't going to be -- that the rate of return will be equivalent, we also have to acknowledge that by the time a developer gets to the building permit stage, they've already completed all their negotiations with their lender. Lenders are a bit jumpier than even developers.

If they've already gone through the negotiations, we don't think that we would want to hit them with a new requirement that might upset their lending agreement.

CHAIRPERSON MITTEN: I mean, I hear you. I guess it will be something, one of the issues that we'll have to wrestle with. I just don't know that a blanket exemption from the vesting provisions is the necessary extreme that we need to go to.

MS. MCCARTHY: I don’t think we’re necessarily talking about a blanket exemption. We’re not necessarily talking about a long period of time. It’s just a matter of let’s acknowledge the fact that there already has been a certain amount of period that’s transpired, and then what additional amount do we need?

MR. HILDEBRAND: Are you considering the time it takes to get a project from concept to construction document phase, where you could actually apply for a building permit? I mean, that’s not something that happens overnight. There is, for larger projects, it could be eight months to a year in the design process.

What happens to people who are in the process now, just starting?

MS. MCCARTHY: Right, and that was something we were mindful of. Originally, at one point in time, we were kicking around the idea "Well, if the property had been purchased by X date, that then it would not be suitable to requirements."

But because of the way that limited partnership purchase land and then partnership transfer, it really -- it wasn't clear that that was really a suitable marker to use. We haven't come up with anything better since.

I'm sorry, Mr. Parsons. You had a third question, too.

MR. PARSONS: Exempting C-3C.

MS. MCCARTHY: Yes. We would not be in favor of exempting C-3C. I think we've tried to put in provisions that would neutralize the special conditions and make it -- and try to make it more attractive to do residential development in C-3C, and we see that as a good potential zone.

MR. PARSONS: Okay.

MS. STEINGASSER: Madam Chair? If I could add to the vesting discussion, and I'm on the wrong side of the table here, and build on Mr. Hildebrand's comment.

One of the comments we're also hearing is the concern about PUDs that are in the process, where there's a long, upwards of a year of public process prior to even getting to a stage where they can move forward on a building permit.

So that's one of the other things we're looking at, is how to address those projects that have already purchased their land and have invested upwards of hundreds of thousands of dollars in their project, and trying to protect that process as well.

So that will also be one of the elements we're looking for comment back from developers, on how to address that.

CHAIRPERSON MITTEN: Okay.

MR. PARSONS: I do have a couple more questions.

CHAIRPERSON MITTEN: Sure.

MR. PARSONS: I'm concerned about the example you gave of adjustments to certain zones. I can't remember which one of the tag team dealt with that.

MR. RODGERS: It was me.

MR. PARSONS: Slide No. 21 or page 21, which has a chart showing these adjustments. I'm particularly concerned about the W zones, and maybe my memory may be not quite what it should be, but it's my recollection in the W zones that this kind of height flexibility isn't even available with a PUD.

That is, a PUD at W-2 and W-3, as I remember it, stays at 60 and 90, and are you suggesting for these purposes, then, we should increase these heights by 20 feet?

MR. RODGERS: I know in most cases, the

changes we were making were smaller than the PUDs. I think Steve is looking for the changes for the W zones and PUDs. In the case of the W-3 zone, we are going higher than the PUDs.

MR. PARSONS: That's what I thought.

MR. RODGERS: Yes.

MR. PARSONS: And I think it's true of W-2, and as I recall in W-1, you can go to 60, but you're only going to 50 here. So I'd only ask you to check that out.

MR. COCHRAN: The main reason that we did look at increasing height rather bulk in those zones was to preserve access to the waterfront; views and pedestrian ways to the waterfront.

MR. PARSONS: Well, I know when we did the W zone, we were quite careful about building heights. So I just wanted to caution about that.

We've also been told that we're going to need an agency to administer this. Have you thought about that? Is this that complex that we're going to have to create an agency or add staff to the Zoning Administrator, or is this going to take care of itself, as it has in other areas where we have incentives for housing?

MS. MCCARTHY: Our notion would be to place the major responsibility on the developer, to administer it, in terms of, as they do in the tax credit program, for the developer to ascertain eligibility of the people that are applying for the affordable units.

But there does have to be a monitoring function, to make sure that the developer has indeed done that, or to look at what the developer gathered as their proof. Steve, feel free to chime in, because he’s very familiar with that.

But what we have done, for example, the Department of Housing and Community Development, in their Housing Purchase Assistance Program, which we worked cooperatively with on the requirements for the first PUD with affordable housing at the Washington Clinic, they --

Because their level of affordability was 80 percent AMI and the units we were creating were at 80 percent AMI, they maintain a list of people who have applied or who are interested in participating in HPAP.

There are already mechanisms in place such as that where, at least for the 80 percent AMI, there are already people maintaining the list. There are already people monitoring that. It’s actually contracted out to a non-profit firm, and those mechanisms are already in place.

MR. PARSONS: So the answer's no?

MR. GREEN: Well no. I don't think you need an entire agency. I think you're going to need to add staff, and that's why I said in my testimony we'd work with you and the agencies to figure out exactly what that is, and to, you know, dedicated FTE to it.

I don't know exactly where, up front, where the best place is, whether it's in the Office of Planning, Office of Zoning, some combination as you set it up.

I think the ongoing monitoring of that, which is where I think people get worried about, I really would argue that we ought to have a monitoring system, such that it's incumbent upon the developer to submit that, and it is therefore our job merely to review and to monitor and audit as is necessary, a function that can be combined, and it will take some staff, or can be actually third parties out.

But in fact I think the incumbent requirement ought to be on the developer, to provide that information in a format that we require, and then it is usually monitored.

It is in fact something done in the Section

42 program of the low income tax credit program, where all of that monitoring -- the incumbent requirement is on the developer, and it’s merely monitored by the IRS and audited on occasion. I think it’s pretty successful.

MS. MCCARTHY: As we indicated in our next steps, there are aspects of this where we’re going to have to go back to the Council and get them to create some legislation that will accompany this, that’s not within the purview of the Zoning Commission.

That is a point, I think, that we can also have the Council weigh in with resources.

MR. PARSONS: Sorry. I have one more question. Mr. Cochran, you’re not convincing me about the census tract thing. I think your example of Brookland showed that to me, this 55-block thing.

I mean, why didn’t you go to a single member district of an ANC, something a little more refined? Do those boundaries move around too much for you or is the census tract more stable?

MR. COCHRAN: The census tract is certainly it is -- it changes every ten years. But it’s also smaller, typically, than the single-member district. Excuse me. No, it is smaller than the ANC.

MR. PARSONS: Yes, it is.

MR. COCHRAN: But the single-member district may be smaller in some instances.

MR. PARSONS: I think it is.

MR. COCHRAN: I don't think we are necessarily wedded to census tract versus single member district.

MR. PARSONS: Thank you.

MR. HOOD: On that note, excuse me for interrupting, Mr. Cochran, so you're saying that you're going to -- we can fine tune that, because I do have a concern about the census tract. When I look in Brookland, you say 50 blocks. I thought the objective was to make sure that affordable housing, if we did it off-site, was at least in the surrounding area.

For example, the Watergate. When the Watergate was proffered, it went all the way across town somewhere, I believe in Ward One. It would have been nice to have been a lot closer than what it was. I'm hoping we can narrow that down.

MR. COCHRAN: We'd be very pleased to look at that. We felt that something like saying within the same ward was just not acceptable, which is one suggestion we've heard.

MR. RODGERS: I think one of the other

considerations is we also tried to balance the availability of land in a certain area to achieve the off-site development in a limited area.

So that's another consideration, that if the off-site function's going to work, it has to be that the land's sufficient in whatever that target area is, to accommodate. And on lower density, in an area that is of lower density, you're going to need commensurately more land to achieve for the off-site units. So that's the balance that I think also has to be considered.

CHAIRPERSON MITTEN: Go ahead, Mr. Jeffries.

MR. JEFFRIES: I just want to, I guess, go back to Commissioner Parsons' question about really just the business of how much affordable housing are we talking about, in terms of projections in the future if we have this program in place.

Ellen, you say 17,000 affordable units was created in the last five or six years without inclusionary zoning, with the PUD process and so forth.

What kind of -- excuse me?

MS. MCCARTHY: It was 17,000. There were 27 units of those that were created through PUDs.

MR. JEFFRIES: Through PUDs.

MS. MCCARTHY: For the most part, that was through low income housing tax credits, Housing Production Trust Fund, the city's full panoply of housing tools.

MR. JEFFRIES: Okay. So when you break that down, I mean we're talking in terms of the PUDs. The creation was about --

MS. MCCARTHY: Well, we only started using PUDs and we only started using incentive-based inclusionary zoning in the last two years. We're talking about basically from the start of the Williams administration, so almost six years, five and a half years of it.

MR. GREEN: Those 17,000 units. If you'd like, you can go on our website and get an address and affordability and a source of funding for each and every one of those units.

MR. JEFFRIES: Right, right.

MR. GREEN: I think one of the other things about that is of those 17,000, only 7,000 were new units. About 10,000 of those were the preservation of existing affordable units. So if we're talking about an inclusionary zoning program, it would actually be adding to that stock of affordable housing.

MR. JEFFRIES: Okay. So because the

concern, I mean obviously a number of developers testified the concern that, you know, the system really is not broken. I mean, obviously it needs to be tweaked. Perhaps we can increase the envelope and apparently your proposal here does talk about increasing the envelope, such that we can start to create more supply of housing, and that's appreciative.

But I just wanted to make certain that, you know, this program will create the number of affordable units that we anticipate, because while obviously, Mr. Cochran, I mean, you've been working on this and it looks very easy to you, I mean, in terms of the administration, you know, it does make one sort of step back a little bit, in terms of looking over just an additional layer of requirements in order to do housing.

I just want to make certain that there's going to be creation, enough creation of affordable units that we will see, recognizing that this is not the silver bullet and that, you know, this will not address all the affordable housing needs in the District of Columbia.

MR. COCHRAN: It's not just affordable units. It's the income groups targeted, which are different than moist of the other programs. It's also the location, the distribution of the units, as you saw from that one map, where there were the blue dots and the black dots.

The affordable units were not distributed throughout the city, in a manner that would likely happen with an inclusionary zoning program.

MR. GREEN: I need to emphasize that point, and I'll address the issue about the 17,000 units. We've made a significant effort over the last five to six years, to create financing commitments to the preservation. I think Art's point is well-taken.

Of that, approximately 10,000 are preservation of existing affordable units, and 7,000 units are new units to the inventory. Whatever the percentage is, you have to compare it to the 7,000 new units.

But as is pointed out, it is we have -- I don't believe that the effort to date has anywhere -- has made a dent in the demand for affordable housing. I believe that the market conditions in this city are different today than they were five years ago, and that the demand is increasingly a greater demand for the affordability.

I think from a public policy perspective, this is, as I put into my testimony, is the right time for creating this mandatory inclusionary zoning, albeit being an economically neutral law to the developer. Because I think in fact if you require it, it is imperative upon the public to actually pay for it at the same time.

And as Steve says, getting these units in places where we wouldn't get them otherwise is a very important part of it in trying to create and promote economic integration in the city. So I believe you're right. It's not a silver bullet. It's not a panacea, but it is in fact an important tool, as we look to now use the other tools besides pure cash, to actually increase the amount of -- to increase the production that we have of affordable units, remembering that in fact there are a lot of private market affordable units being lost to the inventory.

Because when I talk about that number of units, as cities go, the 17,000 units is probably higher on a per capita basis than any city I know. But in fact in this market, we are losing the non-government subsidized affordable units into this inventory.

So all we're doing is putting not even a drag on that. We're taking the additional density and trying to capture part of that, and make them affordable.

MR. JEFFRIES: You see, and this is the problem. I think before, you know, we throw these numbers around, and so much of these, we really should be looking at net numbers. I mean, you talk about the whole business of losing so much affordable units. I know there are a number of developers that have come in and made the comparison between the two.

But obviously, there’s more behind these numbers, and we really need to -- like the comparison between how much has been produced in the District of Columbia versus the Greater Metropolitan Area, which is, you know, probably an unfair comparison, you know, just given the size of the metropolitan area.

MS. MCCARTHY: Right. Well, yes. For example, when people look at Montgomery County and say "Oh look, affordable -- inclusionary zoning in Montgomery County has created eleven to twelve thousand units."

But a lot of those were Greenfield units and lot of them were townhouse units, that were relatively -- much easier to produce. It wasn’t high-rise construction, it wasn’t infill development. Those all were fraught with a lot more difficulty and expense.

But I think if you go back to Mr. Parsons' original comparison, one thing I was remembering, Mr. Parsons, that does put that 780 number in a different light is I believe when Art did that projection, that was based on the Campaign for Mandatory Inclusionary Zoning's proposal as it then stood, which had --

Which did not have the addition that we've put in, which at that point in time had a straight percentage as it does now, a straight percentage of affordability, and only if you then could do the 20 percent density bonus.

What we've said is by going more to a ratio between the density bonus that you can get and the inclusionary units, affordable units that you're required to provide, it expands the territory in which you might require affordable units, because you can't -- you're not limited to only those places where you can give a 20 percent density bonus.

So when we were originally looking at this, we were only able to identify, I think what Art was looking at originally, were only units that had been produced in areas that were either development opportunity areas, within a half mile of a Metro station, housing opportunity areas -- yes, either a quarter or a half mile -- and housing opportunity areas.

So that I think we have broadened the areas of applicability now. So if we're talking about, instead of 780 units over that period, you know, even 1,200 units over that period.

If we're looking at that as opposed to 7,000 net new instead of the whole 15,000, then I think it assumes a greater proportion of importance, especially when you factor in the other things about having it occur in higher rate market areas and without having to draw on other District government resources.

MR. JEFFRIES: And why ten units? Why not 20? Why not 15? What was the calibration between -- how did we come to that?

MR. RODGERS: I tracked real estate development for the office, and basically, I mean, the long and the short of it is that one, there has to be sort of a --

MR. JEFFRIES: I mean, is it projections? Are you saying that if it's 20, you're going to project less production of affordable versus ten? I mean what --

MR. RODGERS: I think a lot of it's going to be the availability of land. I mean, the larger you -- if you increase it to 20 units, you're going to have to have more land available for that site. There's lots of land out there.

MR. JEFFRIES: Absolutely.

MR. RODGERS: But not all of it is able to have 20 units on it. So if you keep it low, you currently expand the number of potential properties that can accommodate the bonus and the affordable units.

MS. MCCARTHY: And also didn't Montgomery County, until recently, was requiring a minimum threshold of 30?

MR. COCHRAN: Fifty.

MR. RODGERS: Well, Montgomery County was originally 50. Then they reduced it to 35, and now I think it stands at 20 for them. So they themselves are reducing it. In some jurisdictions in Massachusetts, it's as many as five units. So there's a whole range of --

MR. GREEN: In some ways, it's an arbitrary number. I think, I don't know --

MR. JEFFRIES: Is it arbitrary?

MR. GREEN: Art's got volumes of analysis, I assure you. I've seen parts of it and got a headache just listening to it. But at some point, though, the demand. I think as the District gets increasingly built out, the increasing demand is to lower that threshold as you grab some of that, in order to actually make it effective.

I think there will be more ten unit developments today than there would have been five years ago, because of actually what I consider to be the lack of availability of land. So I'm not sure that there's a scientific answer to ten versus 20.

MR. JEFFRIES: My other question here is on the model, and particularly construction costs. I mean, I don't know about you, but I've talked to Turner Construction and so forth. They're saying a one percent increase per month, you know, particularly for, you know, steel.

Then with the assumption that this is a robust market and that we will continue to be able to fetch sale price numbers 500 and above. The moment that number starts to pull back and the construction costs are in place, I mean, we're going to be impacting on profit here.

So what -- and I know that we can play with the model and so forth. But I'm just, again, dealing with the projections that we will stay in this wonderfully robust market, and perhaps for some reason construction costs will stand still. I mean, can you jut comment on that or Stephen, one of you?

MR. RODGERS: Well, yes. I think if you just take a normal, you know, market system of building housing, and you have, you know, four or five major components that go into developing the project. You have land, you have the costs of materials, you have the revenue that you can generate. Then you have the cost of debt and equity and things like that.

In a state where the cost of construction is going up and revenues are not changing and things like that, there's really only one thing that can absorb that impact, and that's the value of the land.

So even in a normal market situation, developers will start saying to the land owner, you know, I can't --

MR. JEFFRIES: So we're back to land prices.

MR. RODGERS: Yes. I can't pay you 90 bucks a square foot any more. If you want to sell your land in the next five years --

MR. JEFFRIES: It's all going back to land prices.

MR. RODGERS: You're going to take 85 or something. So I think that's an important thing to recognize, that every time we -- if we feel we have to tweak it, the program, every time there's a change in the conditions of the market, one, you'll introduce uncertainty on which direction you're going to tweak it. Then two, you know, there's always the value of land that can fluctuate.

MR. JEFFRIES: Okay, thank you.

CHAIRPERSON MITTEN: Can I just say, just ask you to validate what I'm about to say or disagree, as to the issue that Commissioner Jeffries raised, is that if construction costs change, if mortgage rates change and so on, because there is this linear relationship between the -- what you're asking in terms of affordability and the bonus that you're offering, there may be these market-wide impacts that affect land value, but it will affect all land value the same.

So those relationships will just kind of -- they may rise and fall, but they'll do it in proportion to what's going on in the market at large, not something that will be uniquely impacting projects that have -- that are affected by inclusionary zoning. Is that a fair statement?

MR. RODGERS: I think that's what I was trying to state. By just taking a normal market rate project, that irregardless, regardless -- I almost said irregardless -- regardless --

CHAIRPERSON MITTEN: Let the record reflect that he said "regardless."

(Laughter.)

MR. RODGERS: Regardless of an inclusionary zoning requirement or not, those are changes in the market that developers have to respond to. And, you know, and I think we've stated that inclusionary zoning works best in a strong housing market.

MR. JEFFRIES: And sellers of land have to respond to?

MR. RODGERS: Exactly, and we recognize that if there is some broad impact to the District, you know, land owners may not sell. They may say "Well, I'll wait a couple of years, until my land value goes back up."

GG But your point, Carol, seems very well-taken as exactly that, that this program doesn't necessarily impact, that you've designed a model such that it is -- that relative values fluctuate.

So I think the point you make is an absolutely important one for people to recognize, and I'm not sure that there's -- some developers recognize that, or they will more when you get down to the numbers.

But I think that you hear some testimony to the contrary sometimes, and it's in fact -- if you think thoroughly through the program and the way it's designed, and the fact that it's applicable where the density is available, that in fact, you know, your point is well-taken and is a valid one.

MS. MCCARTHY: Right. In fact, that was kind of a break-through for us, was when we were originally trying to figure out how to model what should be the appropriate percentage, we kept thinking "Well, but then what if this goes up or what if that goes down," until we realized, well essentially we're talking about just setting the framework, and putting the framework in place and letting that --

If we get the relationship of bonus density and affordable right the first time, then other factors adjust to keep that essentially on an even par.

CHAIRPERSON MITTEN: You're done, Commissioner Jeffries?

MR. JEFFRIES: You know, I know we're not deliberating. I know we're not deliberating.

CHAIRPERSON MITTEN: Oh, I need a long session for that.

MR. JEFFRIES: You most certainly will. It's just those who actually produce housing, who've actually produced housing, I'd just like to listen to them. And so I just --

CHAIRPERSON MITTEN: We can listen to them.

MR. JEFFRIES: Yes. So I hear what you're saying. I mean, I got it, but I just again, you know, there's a lot of information here to review, lots of numbers and so forth, and I think we will have some pretty long deliberations.

CHAIRPERSON MITTEN: We'll be rolling up our sleeves for this.

MR. JEFFRIES: Yes.

CHAIRPERSON MITTEN: Mr. Hood.

MR. HOOD: Yes. Madam Chair, I guess this would be suitable for Mr. Green, or whoever, whomever wants to answer. But the developers, at least from what I heard, say why put the burden on us? You know, I've heard that. That came through loud and clear.

It was also mentioned that they may wait us out, you know. They may wait the city out and not do anything, the residential developers. Do you think that would actually happen? I don't deal with this everybody, so I don't know.

You know, you come around and tell me that. I'm not a residential developer. The first thing I'm going to do is say "What are we getting ready to do," even though I do believe in the process and I like what I see in front of me to a point. We’re just crafting it and putting it together.

But to what extent do you think some of that is true, where the developers just -- and I don’t want to offend anybody, but I’m going to put it out there like this, because I’m not in the business, but would conform and get on board and start developing residential as opposed to waiting this out, or waiting the city out.

MR. GREEN: Well, it’s hard to predict developer behavior. I’m sure that you all have experienced that a lot. You know, in a rational environment there’s no incentive to wait it out because I believe that -- in act, for two reasons.

One, they’re crafted carefully and I think the one testimony earlier is be careful of the unintended consequences, and it needs to be deliberated on and thought through and to be validated. There are, in fact, not any significant unintended consequences.

That being said, a developer who has no incentive to do that. His cost of funds, you know, just the net present value of money trend or dynamic doesn’t warrant just land banking. Most developers aren't in the business of land banking.

They may in fact -- some developers who are doing that understand the program carefully, may in fact choose not to do something because they don't understand it. Often developers, though, I think generally they become quite experts at zoning, and this becomes just another matter of zoning.

Once they've mastered it, they'll figure out a way to work with it. Most developers just want the rules of the game to be established and get predictability and certainty, and they play within it.

Because in fact, as you said, this really -- if in fact there's an unintended consequence that relates to land value, the developers, merely a middle man between a product in the market place and the land. They're just playing the game in between.

Once the rules of the game are set, they'll be willing to play it. That being said, I do believe there are some developers who will misunderstand it, who will find it more complicated, you know. There's -- to say our District zoning regulations are uncomplicated probably is not a fair statement.

So they're already dealing with a complicated set of rules. This is, in fact, another complication. There's no question about that. So, you know, I'm sure there will be anecdotal evidence, but I don't believe there will be any broad market influence as a result of it, if in fact it's the -- it works as we intend to be. I think that it's always subject to perfection and refinement.

MR. HOOD: A final point on that question. If, and maybe this one will be for Ms. McCarthy, but if we craft something and put it in place, and a year goes by and I remember asking the question, I think, Thursday, about how many times Montgomery County had to change. I think they said 20 times and it was a year before they did the first one.

How long would it be before, I guess, Office of Planning or the Deputy Mayor's Office or somebody signals to the Commission "Hey look, we need to tweak this." Will we let it go two years? You may not even be able to tell me.

But I'm just curious. How long will we let it go, no residential development here in the city? If I take for face value what the developer says, how long will the developers, the community says "How long will we let it go before we come back to us and try to tweak it"?

That's just like asking you what the lottery's going to be, but --

MR. GREEN: Yes. There will be a winner any way.

MS. MCCARTHY: I can tell you that it will be utmost in our minds, and that as Art Rodgers mentioned, he is the person in the office that tracks development as well, and we do track it.

So we will be very closely monitoring to see whether there's any slowdown in the rate of housing production.

We would want to catch that long before we get to the point where there's no housing being produced. So as soon as we see there's been slowdown, then we would clearly go talk to people in that development community, see is it interest rates, is it, you know, something else.

MR. GREEN: We also in the Deputy Mayor's office spent a great deal of time interfacing with the business community, for largely that reason, to understand obviously that reason, to understand what is going on, what's happening and would do the same.

I mean, I think we responded to the development community several years ago, and I think the Office of Planning actually led that in the decoupling of some of the requirements in the combined lot program, in an effort to incentivize the creation of housing.

We listened to it, and did the regulations, did that at the same time we were doing the Housing Act. We created the tax abatement program. We did that in the matter of about a year. I mean, it took us about six months to listen to it and propose the bill and nine months later it was a bill.

So if you've got members of the executive branch that is committed to it, I think you can do this and remain attuned to it on an ongoing basis, and important -- you raise a good point. It's an important thing to do. If you want to really be clear that -- you want to monitor this, sort of the quantitative and the more qualitative effects of the program, not just the quantitative we try to do.

CHAIRPERSON MITTEN: Well, I wanted to ask, since you may know other jurisdictions as well or better than Montgomery County. But Montgomery County is one that they -- and Mr. Hood just made reference to them, but they adjusted it about 20 times.

But at least from what I remember being represented to us, it wasn't to accommodate mistakes that they had made in terms of doing something damaging to the housing market. It was to actually reach deeper, to lower the number of -- you know, minimum number of units required, to lengthen the periods and so on.

Were there things that you're aware of that would -- I mean, what's the nature of the adjustments that were made?

MR. RODGERS: I think the biggest adjustment that they made, where they thought it might be damaging the market was in the high-rise areas. I think that was the -- as I said, in the areas where they thought it might be damaging the market, that was the biggest thing.

They've reduced the requirement and they increased the bonus density. In other jurisdictions, as I think was mentioned the other night for instance, jurisdictions had the voluntary program, and they said this is not working either. So a lot of jurisdictions have amended them.

One of the problems with San Francisco's original program was that it was very inconsistently applied, and actually they got letters of support from the *San Francisco Business Journal*, saying you know, make it mandatory across the board, just get it done, to provide more, as Steve mentioned, more predictability and certainty in the market, that developers would -- could understand the rules and then react accordingly.

So yes. I think, and the changes may not necessarily be in the direction of making market rate development happen more. It may be we may find it in the opposite direction. So we don't know.

CHAIRPERSON MITTEN: Okay. Mr. Hood, anything else?

MR. HOOD: Yes. Just two more quick questions. Ms. McCarthy, I think you heard tonight two people on the -- I think they're still on, two people that were on the Comprehensive Planning Review Task Force, who came and testified that this is not the right time. I know that the Office of Planning is doing a lot of work with them.

Why would you say -- because you're in front of us and you're making your presentation, why would you say that their statement is inaccurate, when you all are working along with them too? How are you balancing that?

MS. MCCARTHY: Well, I think if I take Ms. Hargrove's concerns, for example, which were a lot related to not wanting our proposals to change the character of a neighborhood and some of the pictures that she provided, that was exactly why we did the kind of analysis we were showing tonight, that by making some other adjustments in numbers of floors and whatever, we could accommodate increases in density, even in an R-4 kind of row house neighborhood, without having to go to a change in construction.

We’ve been really -- and that’s when you do go from stick-built or from an R-4 to an R-5B kind of construction, that’s another whole case that we’ve singled out in provisions in our requirements.

It is one that we’re concerned about, because we’ve -- when you look at the city and you look at what are some of the largest areas in which the density that’s provided for in the generalized land use map, is greater than what the current zoning is, one of the largest areas is Capitol Hill.

Now a substantial portion of Capitol Hill is protected by an historic district, but not all of it. The density designation is not a density which would permit up to R-5B, but which is mostly R-4 row house areas.

So that’s why when we met, we will look very carefully at whether the characters of areas and which ones of those areas should we map this on. Or if we didn’t map and it’s just specific neighborhoods, what provisions should we put into effect so that it will not, in and of itself, destabilize the character of a residential neighborhood.

But I think that if anything, given the theme of the comprehensive plan vision statement, a growing and inclusive city, my guess is that the Comprehensive Planning Task Force and the comprehensive planning process in general will be greatly challenged to identify or to include increased numbers of policies that promote the development of affordable housing, and promote the development of that housing throughout the city, not just clustered in areas where we're increasing poverty.

So I don't -- I feel very confident that the direction of what we're talking about in this inclusionary zoning proposal is entirely consistent with where the Council, in passing the vision plan, in the comments that we received from them and from the summit of 3,000 people that came to the Convention Center a few years ago.

I think it's very consistent with the direction that people want to see the comprehensive plan go. So I don't see an inherent contradiction or conflict there.

MR. HOOD: Okay. My next question, I'm going to preface this. Mr. Parsons used it. The

Zoning Commission is a one-trick pony. I'm going to preface this with "Forgive me. They know not what they do."

So I'm going to ask this question, and it may not sound right. But I'm going to ask this question. I think, I believe I heard testimony about 30 percent of the income. Why not, if we can, have we looked at lowering that 50 percent threshold to I think they said 30 percent of the AMI?

Why not maybe designate one or two units to 30 percent? It seems like 30 percent may have been a bad word, but I did -- I think I heard that. Maybe I dreamed it. I don't know, but anyway 30 percent. Has that been looked at?

MR. RODGERS: Yes. I think the important thing to remember is that there's going to be a gap between the market rate units and whatever the affordable units are set at. The larger that gap is, the more compensation you have to provide in the form of whatever it might be, and in the case we're looking at, bonus density.

If you start trying to reach lower incomes through providing bonus density, the more -- or the lower you go, the fewer units you're going to achieve. Now what the District can do, though, is step in with other subsidies. I think that's one of the provisions why there should -- why there's the ability to have the Authority to purchase a unit, and offer that unit to a lower income.

One of the important things we heard from the developers, though, is that there should be a consistency of ownership. So in other words, in a condominium building, if the Housing Authority purchases or a non-profit purchases the unit, that they should just write it down and then sell it to a target household.

The developers did have a problem with trying to mix tenants into home ownership buildings. That was one thing that they had a problem with. Montgomery County has done it. I think if the administration is effective, as far as tenants and things like that, then it can be done. But it was something the developers had a concern with.

So there's other ways. And also, for instance, at least for the home ownership programs, the fact that HPAP and the Housing Finance Agency can give reduced mortgages, reduced-rate mortgages, that also will reach lower incomes than just the 50 percent and the 80 percent that are targeted right now. So there's other ways of doing that.

MR. HOOD: Okay, thank you. Thank you, Madam Chair. Mr. Hildebrand?

MR. HILDEBRAND: Just a couple of questions. If the program were enacted, what would be the potential impact to the PUD process? Do you see that it will have a significant impact on the number of projects that come forward as PUDs?

MS. MCCARTHY: It won’t necessarily have an impact on the PUD process, in that if people were doing PUD -- we’re providing bonus density. We’re providing bonus density at what we hope is calibrated to be pretty closely matched with the cost of the affordable units.

So nobody is going to be relying on, at least not as we can see, that nobody’s relying on this program as a way of getting additional profitable density for a project.

If somebody wants to go forward with the PUD, instead of it being more subject to a negotiation in terms of the affordability requirement, as had been the case before, there will be this regime established, and they’ll know ahead of time what they’ll be required to provide in terms of an affordable housing component.

But that doesn’t mean if they were to come in for an increase in the base, with a PUD density above that, that there won't still be some margin of -- there may be enough perceived benefit to them to go ahead with the PUD process. They'd just know ahead of time what they're going to have to provide in the way of affordable housing as part of that.

MR. COCHRAN: They know the minimum that they would have to provide.

MR. HILDEBRAND: Uh-huh.

MS. MCCARTHY: Yes.

MR. COCHRAN: They will still be weighing that minimum against other amenities that are offered as part of the PUD process.

MR. HILDEBRAND: So there's still the gap between what's required in order to accommodate the inclusionary zoning, versus what they could potentially build under a PUD process?

MS. MCCARTHY: Right.

MR. HILDEBRAND: Okay. I guess what is the potential impact of eliminating the architectural review by automatically granting the additional height and density, without any mechanism to analyze the impact on specific areas?

MS. MCCARTHY: That's a concern that we have.

MR. HILDEBRAND: Particularly in the waterfront zones.

MS. MCCARTHY: In the waterfront zones? I mean basically any place, because we are talking about infill projects, and neighborhoods are very sensitive to infill projects if they're not designed sensitively to relate to the scale and character of the neighborhoods around them.

There were some developers even who argued that they didn't want to see this implemented without some architectural controls. We wrestled with that, and we just couldn't find a way to provide the density bonuses to equal the affordable housing, and still include a design review component without making it so perceived as onerous and additional delays and then having to provide more density to weigh against the additional perception.

So in the end, we recommended it without design review, but I have to say that's a concern that we have.

MR. HILDEBRAND: But again, except perhaps in the W zones, at heights and density increases less than a PUD would have?

MR. COCHRAN: Yes. With the PUD process, you have design review and you can have some impact on massing and ways of breaking down that --

MR. HILDEBRAND: Absolutely. But that's one reason we wanted to be sure that we were -- that any project was, in terms of massing and bulk, less -- had less impact on that than did a PUD, which of course requires profits from the review of the Commission.

MS. MCCARTHY: We could put in, you know, anti-IFIS regulations if you want.

MR. HILDEBRAND: Well of course, I wouldn't be in favor of that, because I'm not against anyone in the industry.

But that's another question I had. Mr. Green had mentioned that you would look to the development community to administer this program, I believe. Am I mistaken in -- am I misstating that?

MR. GREEN: I don't believe it's administer. I think it's incumbent upon the developer to provide the documentation to do it. But in fact we have compliance, administering it. But you know, at the end of the day, it's about housing, and that's what the developers do. They do the housing.

So, you know, all we're asking, all I'm asking from a compliance point of view is that we provide, through regulation, the appropriate sort of cogent forms that they would then execute and submit to the government. So I hope that clarifies it a little bit.

MR. HILDEBRAND: So for sale units, then, the condo association or whoever took over the project after the development was out of the picture, would fulfill that role?

MR. GREEN: Yes.

MS. MCCARTHY: I think what we had anticipated in the Washington Clinic Project was, I believe, the way that DHCD monitors compliance with the HPAP program, is to send out letters every year to the people that accepted the assistance, and maintain --

If the letters come back, they know that that person isn't living there any more, and they can investigate to see well, was it sold to somebody with a similar income restriction? Were all of the requirements honored?

To the extent that it's put as a covenant on the property, then it's also incumbent upon the closing company to make sure that the requirements of the covenant have been satisfied.

MR. HILDEBRAND: Okay.

CHAIRPERSON MITTEN: Okay. One thing that you all didn't address was the criticism that the

Campaign had, which is that your use of granting the bonus and calculating the affordability requirement in terms of square footage rather than number of units. Can you guys address that?

MR. RODGERS: Yes. Basically, most of the zoning categories in the District use FAR and square footage as their capacity. And so a unit count would vary, depending on what the developer was trying to do, what kind of market they were trying to reach. So that was one thing.

I mean, I think it is going to be more complex to do, to look at the square footage. That's probably true. But one we -- doing it that way, we get more square footage than what they proposed. The developer has the flexibility to use that square footage as they can for the affordable units.

But again, if your capacity, based on your FAR and your land size is, you know, 10,000 square feet, that's a square footage calculation, as opposed to a unit calculation.

So there's that, and then how the bonus density that you achieve in that sliding scale of the 50 percent of whatever's achieved, is going to be done in a square footage calculation.

So I think, you know, we ended up saying

"Yes, it's going to be more complex for us to review the documents being submitted, but that it's more in tune with the way we evaluate a project anyways."

CHAIRPERSON MITTEN: Okay.

MS. MCCARTHY: It also seemed to make it more easily -- to check more easily on compliance.

Also the evidence from DHCD surveys tended to be that the need was for larger units, not smaller units, and that by making it on a unit basis instead of a per square foot basis, there was an automatic incentive built in to have the affordable units be as small as possible.

CHAIRPERSON MITTEN: Okay. I got that. When you were just sort of teeing up some of the principles that were at work, and you used a couple of terms. I just want to make sure.

You used the terms "lower density zones" and "higher density zones," and then you designated those. But then you talked about two different kinds of construction, low-rise and high-rise.

You didn't go on to describe what you meant by low-rise and high-rise, but were you meaning that that would be interchangeable with low density zones -- lower density zones and higher density zones, or is there a distinction?

MR. RODGERS: The lower density zones were chosen based on the height that they permitted, and the assumption that most of those projects in the area that was of 50 feet of height or less, would be stick-built construction, so that it would be the wood frame construction.

When you go from a fourth floor to a fifth floor, you typically need to move from stick frame construction to steel and concrete. So those zoning categories were chosen based on the assumption of the number of floors that would be used to accommodate the project, the FAR of the project.

So the transition when you add that fifth floor, I think, happened based on our assumptions, happened in the C-2B, between C-2A and C-2B, and for commercial zones, and I can't remember off hand what it was.

MS. MCCARTHY: R-5A and R-5B?

MR. RODGERS: Oh, R-5B and R-5C in the residential zones.

CHAIRPERSON MITTEN: I got that part. But you didn't quite -- you didn't just nail it for me, which is are you saying that low-rise equates to those particular zones? Because are we dicing, are we slicing and dicing?

It's like we slice it one way, which is what zone are you in, and then we slice it another way, which is what kind of construction are you doing? Are we looking at both of those things?

MR. RODGERS: We are, in the sense that we also granted the Zoning Administrator the ability to approve a project, because under certain circumstances, a developer may wish to go with steel frame and concrete construction in a height of a four-story building. They may make that business decision to do that. So while we were using --

CHAIRPERSON MITTEN: What if the business decision is to get out from under these regulations?

MR. RODGERS: Well, they would still have the requirement for the steel frame construction, which would be that the eight percent of matter-of-right or 50 percent of the bonus density. So they're not getting out of it. They do have a reduced requirement.

MR. COCHRAN: And they have an increased cost in making that business decision.

CHAIRPERSON MITTEN: Yes, okay.

MR. COCHRAN: I imagine that when we do get around to writing the regulations, presuming you would adopt something, it would be based on the zone categories, and we would say something with respect to type of construction, only when it comes to the flexibility.

CHAIRPERSON MITTEN: Okay. Could we get a summary of all the PUDs that we've approved that have the affordable housing? Because we heard from one person in particular that look, what's going on with the PUDs? It was just great, we liked that. Nobody's upset about that. That's working well.

But in asking for that, I'd like to know like what was the base zone we started with, because how will we treat with -- you know, the fact of the matter is, is that they're getting the increase in density from the base zone to the new zone, plus whatever you get in the PUD.

So that full description, and then what the percentage of affordable units was, and then the other things that might have been -- the other accommodations that were made.

I want to talk a little bit about the flexibility that is being proposed. I have -- I guess I have a big concern about giving flexibility to the Zoning Administrator on something that's this complicated because, you know, I mean the Zoning Administrator tends not to have any kind of economic knowledge.

So that's -- oh, thank you. That's a tough one, and what's the -- you know, anecdotally I've heard that some developers come to the Zoning Administrator now, and they've built in the two percent flexibility. You know, like "Here's my project and the two percent's there."

So it's not even -- they're not even asking for it. They're assuming it. So I'd like you to -- I'll just kind of package all this up and then you guys -- I'll ask a more complex question and then you can address all that. So that's one part.

In terms of having flexibility to go off-site for up to 50 percent at the developer's discretion, I have a big concern about that, because how would we make sure that we don't do what we have been doing in the few housing linkage cases that we have, which is, for shorthand, letting the developers off cheap.

Because the idea with housing linkage is we're letting them support projects that are going to be affordable anyway, that are struggling. This is about new units that would not otherwise be affordable. So how do we protect against that?

In terms of letting the BZA be the arbiter of economic hardship, I have a serious concern with that, having experience myself on the BZA.

What order of magnitude of hardship would we be talking about? Because you can cook up just about anything at the margin. Mr. Jeffries is smiling about that maybe.

Then I would suggest that the idea that full relief would be ever granted, because we would be visiting through this percentage requirement, that we would create a situation where there would be no practical economic use of a property. There is no scenario where that could suggest.

So I think that should -- I mean, my purpose would be either argue that there could be such a circumstance, or take that one out of the mix. Those are all my concerns about flexibility.

MR. COCHRAN: Let me try to address the relatively easy ones, and I'll let Art address the other ones.

With respect to the two percent, we're dealing with much like we do with combined lot development, where yes, the Zoning Administrator has to be legally responsible for a program like this, because of various legal requirements.

But we advise the Zoning Administrator will respect to combined lot development. We check the calculations. We do new calculations, etcetera.

Our recommendation is that the Office of Planning advise the Zoning Administrator on this, and also provide the advice to the Zoning Administrator before the ZA actually signs off on it. So it's co-review, but the ZA has the legal responsibility for it.

With respect to --

MS. MCCARTHY: Like we do also, the DD requirements specifically require anybody that submits a project under the Downtown Development District overlay, to submit it to the Office of Planning at the same time, their application.

The Office of Planning is obliged to provide a memo to the Zoning Administrator, to indicate that the Applicant has met all of the Downtown Development District overlay requirements, before the Zoning Administrator is supposed to issue it.

Now I'll admit in practical application, applications have been approved without memos having been submitted from the Office of Planning, but that's an enforcement issue that we can deal with.

MR. COCHRAN: Now with respect to the two percent, I don't know what one can say about that.

I've heard the same things anecdotally.

But if you've already -- if you're already designed to the two percent, you haven't left yourself any more room, any additional to present, if you come up against the unexpected difficulty that was intended to be permitted by that.

CHAIRPERSON MITTEN: That's exactly right.

MR. COCHRAN: So I think that's just something that we have to live with, given that the Zoning Commission and the Office of Planning supported it, wanted to give the ZA that flexibility keep the process moving along.

MS. MCCARTHY: Well, I think the regulation, when it's written, can make clear this is not intended to be an automatic, that there has to be -- that it's discretionary upon the Zoning Administrator and there has to be some provision -- there has to be some good rationale as to why the two percent is being expected. So that you're clarified that it's not just to be an automatic pass.

MR. COCHRAN: Now with respect to your second question about the Zoning Administrator being empowered to approve up to, but not including, 50 percent of the requirement off-site, there is the problem that we do have now with what we sometimes call the "race to the bottom," in terms of the contribution to other non-profit groups, for the construction of the housing.

Something that was proposed actually by Mr. Green is something that we incorporated into our report, not that we didn’t incorporate many other things that Mr. Green suggested.

MR. GREEN: Yes. He’s got waterfront land in Florida for sale.

(Laughter.)

MR. COCHRAN: The same legal entity would be required to develop the housing off-site, as is actually doing the development. So you wouldn’t be partnering with a non-profit.

CHAIRPERSON MITTEN: Okay. I’ll have to think about that one.

MR. COCHRAN: Okay. Good. That enables me to move on to number three while you’re thinking about that.

CHAIRPERSON MITTEN: I mean, if that’s so good, can we change the housing linkage provisions please?

MR. COCHRAN: We would be very pleased to look into that.

CHAIRPERSON MITTEN: You’ve been asking for that. That's on your list, isn't it?

MR. COCHRAN: Yes. Okay. Do you want to address economic hardship, why the BZA shouldn't be --

MS. MCCARTHY: Right. I mean, it's in the list of things that the BZA is permitted to consider when they consider variances, is economic hardship. So we --

CHAIRPERSON MITTEN: I know. But I think they don't know what to ask for, so one form of guidance that we could incorporate would be what would have to be submitted.

Then once whatever they get, they don't know what to do with it. They basically accept developers' representations, without any kind of analysis. So I don't know what we can do to, you know, flush that out a little bit more, but it's --

There's been a number of cases, one that stands out in my mind very vividly because it was recent, but they just simply don't -- they do not go below the surface.

MR. COCHRAN: I assume that this is being webcast to everyone except members of the BZA.

CHAIRPERSON MITTEN: No. I hope it's in their bedrooms and they're hearing it in their sleep.

(Laughter.)

MR. JEFFRIES: And Madam Chair is speaking on behalf of herself, not for the entire Commission.

MR. COCHRAN: And finally with respect to full relief --

MS. MCCARTHY: But I would add I know in -- I think, the Office of Planning tries in cases where economic hardship is being claimed, to do an analysis ourselves, to the extent that we get the information necessary from the Applicant.

When we don't get the application, the information necessary from the Applicant, we so note to the BZA that we were not able to assess these claims because we don't have sufficient information from --

CHAIRPERSON MITTEN: Okay. So that goes to the point of in order to claim economic hardship, you must submit the following as a minimum, so that don't claim it if you're not willing to share the information.

MS. MCCARTHY: Yes. I think that would be a really big help.

CHAIRPERSON MITTEN: Maybe that's another amendment we can make elsewhere, so that we don't have these situations where you can't get the information that you need to do the analysis.

MR. COCHRAN: And in granting full relief, you basically have to have that provision in there. Whether it's going to be used or not, or whether it's ever going to be able to be demonstrated that you've deprived -- that you've been deprived of all economic use --

CHAIRPERSON MITTEN: But that's a variance anyway. That's a variance. In the extreme, that's a variance.

MR. COCHRAN: Right.

CHAIRPERSON MITTEN: I mean, because anything -- any imposition that we create that renders a property void of all economic use, that is a taking.

MR. COCHRAN: We used the category simply because we were trying to track -- trying to keep our tracking parallel to the Campaign's proposal in as many instances as possible, when we refer to full relief.

CHAIRPERSON MITTEN: Okay, okay. I have a couple of more technical things. This is on page eight of your hearing report of July 15th. Under W-1, I'm comparing C-1 and W-1. Both have a base zone height of 40 feet. Both, you're suggesting as in all cases, would have the 20 percent bonus density offered.

But in the case of C-1, you say that the minimum square footage as a percent of bonus density would be 75 percent for C-1, but only 50 percent for W-1.

Then you have the 50-50 split between 50 percent of AMI and 80 on C-1, but only 80 percent of the AMI on W-1, and then there's the additional distinction between ten percent and eight percent. What's going on? Why the difference there?

MR. RODGERS: I think you make a good point actually. Looking at that, I was -- one thing I might have thought was going on was that the change in height would have triggered, in most instances, a fifth floor and a change in construction type.

So that's why I just -- I think that's just an oversight. I think you're right. It would -- it's very similar to the commercial zone. So it would make sense that it would have the same requirements.

CHAIRPERSON MITTEN: Okay, and then I guess I didn't understand the distinction of before we've even confronted where we're going to map this, why you would just automatically not include SP? Because Could zone new things SP-1 and -2.

On the other pages you said that S -- in the chart, and then on page nine, you say SP-1 and SP-2 districts would be excluded from IZ requirements, due to limited quantity and special circumstances.

MR. RODGERS: You'll notice in our testimony that we amended that.

CHAIRPERSON MITTEN: Oh, you did? Okay, sorry. I didn't pick up on that. On page ten, I'm just not fully understanding the last column in the chart, the "Percentage Change in FAR."

MR. RODGERS: Yes. It's the total theoretical capacity if you make those changes. You would enable, you know, a CR zone, if you changed the, I think it was the height. You would enable the 20 percent increase to happen if you make those changes.

MR. COCHRAN: It's not that we're suggesting that anyone would ever be able to get up to the 28 percent or 37 percent increase.

CHAIRPERSON MITTEN: Yes.

MR. COCHRAN: It was just an attempt to see is it possible to get even to 20 percent.

CHAIRPERSON MITTEN: So you're checking, to make sure you've got the minimums in each case; is that right?

MR. COCHRAN: Exactly, yes.

CHAIRPERSON MITTEN: Okay. So then that's the -- that leads to another question that I had, which is you can look in that chart, but where I picked it up in is the chart on page 14, which is the only zone that you give flexibility on lot occupancy and height is CR.

Yet that's one where you're only meeting a minimum of 20 percent in the chart on page ten, which I frankly didn't quite get. I didn't understand that. Why can't you get there with just the height flexibility?

MR. RODGERS: Well, I think one of the things to think about is -- first of all, we made an assumption of an average floor to floor of 11 feet.

CHAIRPERSON MITTEN: That's another thing I want to ask you about.

MR. RODGERS: Right. But the -- if you multiply it out. So in other words, you've gone to 100 feet and 80 percent lot occupancy, over let's see, original FAR of six for the CR. I think one of the -- if you look at, for instance, R-5E.

CHAIRPERSON MITTEN: Yes.

MR. RODGERS: You have an FAR -- have almost the same -- you do have the same lot occupancy and zoning height, but you have one FAR lower capacity, a limit for the base zone. So in other words, R-5E is a 5.0. CR is enabled to go to a six.

CHAIRPERSON MITTEN: Okay. I actually see what you -- I see. I think I see what you've done, which is -- so this brings another question up. In W-3, which has the same maximum density and the same lot occupancy and the same height on the base zone, instead of tweaking both on W-3, you've said "Okay, leave the lot occupancy alone, but the height needs to be 110."

For some reason, you've decided to do a little -- not go so high on the CR, but change the lot occupancy. So I'm wondering what was -- is that because in the W, you wanted to -- you said earlier --

MR. RODGERS: Right. That what's I answered. It was answered with Mr. Parsons.

CHAIRPERSON MITTEN: So then given that that's -- given that CR is the only one where you were kind of like playing in both realms, what was it about CR that had you do that?

MR. RODGERS: Again, it was the smallest increments we could come up with, to accommodate a 20 percent bonus density. It was either go from -- add ten feet and lot occupancy, or add 20 feet, the same way we did in W-3.

We thought that that was -- that the adding height in an area that's -- that the CR -- in areas that the CR is used in, when you're adding that much more height, it has a significant impact to the street environment.

Again, on the W-3 the main goal was keeping that access to the waterfront.

CHAIRPERSON MITTEN: Okay. Now about 11 foot height. One of the questions that I've been interested in having answered, so this is the occasion to have it answered, is remember when we lifted the FAR restrictions in the DD overlay?

MR. RODGERS: Right.

CHAIRPERSON MITTEN: I'd like to know -- I'm trying to validate the 11-foot assumption. So what's happened? What did developers do in the DD overlay in those buildings that we said just pack it in, you know? What are the heights?

MR. RODGERS: Well, the typical heights in -- well, the typical height in general for residential development right now is about nine feet ten inches, and that's floor to ceiling. Then you add another seven to ten inches for your structure, your concrete and your steel. So you now, you're now getting close to that 11-foot average.

Basically what they did in the DD is they typically do have ground floors that are little bit taller. They have loading docks. They have entrances that they want to, you know, provide detail to. They want to have retail.

So the ground floor tends to be a little bit higher than that average. But essentially what they did in the DD is they -- yes. In the same height limit, they added a couple of floors and reduced --

CHAIRPERSON MITTEN: So I'd like to know what that is. I'd like to know what that measurement is.

MR. RODGERS: Yes, sure. Okay.

CHAIRPERSON MITTEN: Because there's different ways of accommodating, you know, giving the bonus. We give more height or we could say "Well, pack it in like they do in the DD."

MR. RODGERS: Right, right.

CHAIRPERSON MITTEN: I just want to --

MR. COCHRAN: We can provide that. We did much of that analysis for the Mount Vernon overlay, or Mount Vernon subarea.

CHAIRPERSON MITTEN: Okay. I think those are all my questions for now. I just want to confer with my colleagues for a minute, as we decide how we want to close this out. So just give us a minute.

(Whereupon, a short recess was taken.)

CHAIRPERSON MITTEN: First, let me say it's late, so that's in part driving what I'm about to suggest. We did want to have the Campaign come up again, but we don't want to rush through it and we want our brains to be sharp when we do that.

We also have a lot of material that's been submitted to us over three nights that we haven't had a chance to go through everything again.

So given that we sort of have two applicants, we have the Campaign and we have the Office of Planning, what we'd like to do is to have a session that we will not take any more testimony at the session.

The session would be about us asking follow-up questions to the Campaign and the Office of Planning as applicants, after we digest all the material that has been submitted. It may be a short session or it may last a while, depending on, you know, what we see. But our suggestion would be that we do this on September 8th at 7:30.

We have a hearing that starts at 6:30, and we're projecting that that would be about an hour, and then we would take this up afterwards. So is the Campaign, will people from the Campaign, anybody from the Campaign be there? Maybe not everybody from the Campaign.

Could you come forward and take a seat, and identify yourself?

MS. DASTUR: With your permission, I'm Nina Dastur. I'd like to speak for the Campaign. I'm actually leaving the Campaign at the end of August and moving to New York sadly enough. It's been very moving to listen to how much people care about the District of Columbia, because I do too.

I will probably not be available on September the 8th. I'm getting married and going on my honeymoon hopefully.

CHAIRPERSON MITTEN: I think that's a very worthwhile endeavor.

MS. DASTUR: Right. I think so, but you know, I'm biased. We have supplementary materials that I think would be appropriate probably to provide to you for your review for that day.

CHAIRPERSON MITTEN: Oh, that would be great.

MS. DASTUR: If I can make myself available, I will. But I would imagine most of the other members of the Campaign will be here, and they're certainly more than qualified to represent our position on these issues.

CHAIRPERSON MITTEN: Okay. We just -- we want to be sure that we can digest everything, but still have, you know, the ability to ask, sort of co-applicants, ask follow-up questions to both the Campaign and OP.

MS. MCCARTHY: Well, Madam Chair, if a matter of a week or so would make it possible for Nina to be off of her honeymoon, we could see if there's -- if you haven't started working on something else, we could see if it were possible to do a small consulting contract or some way to bring you down.

MS. DASTUR: I will be back in the country on October the 10th.

CHAIRPERSON MITTEN: Oh wow. You're doing it right.

MS. DASTUR: No, no, no. Don't tell us the reality. It sounds really good --

(Simultaneous discussion.)

MS. DASTUR: The reality is whatever. I'm getting married on September the 18th, and in between time moving and adjusting to a new life.

CHAIRPERSON MITTEN: Okay.

MS. DASTUR: If I can, I could try to be here on September the 8th if you wanted to pursue this. I'm not sure how the Campaign feels about pushing into October. There is a great sense of urgency. We filed the petition in November of last year, and I think people really would like to move it forward. So given how their schedules --

CHAIRPERSON MITTEN: Well, we tried to pick a date as early in September as we could accommodate. So, I mean, we're not interested in prolonging this, but we do -- you know, this is a very complicated proposal, and there's, you know, differences obviously.

We'd like to get as much good information as we can before we go into deliberations. So if you guys will --

MR. JEFFRIES: Madam Chair, question. So will the record be open and we'll get additional written information up until September 8^{th}?

CHAIRPERSON MITTEN: Right. Well, the record will be open for any written submissions from anybody until September 8^{th}, and then we'll close the record when we're done with that session, is what I would anticipate. But we won't take any more public testimony at that. It will just be commissioner questions. Okay.

MS. DASTUR: So maybe I could explain just in reference to our hearing a week ago, and questions that were posed by the commission, what we'll be submitting today.

That's actually matrices on a comparison of the standard of review for alternatives in the major jurisdictions that have mandatory inclusionary zoning proposals, a comparison of control periods and equity-sharing provisions, since that was a key issue that came up in the public testimony.

Then a question and answer about some of the key issues that came up. Again, why are we asking the affordable housing community -- sorry, the for-profit market rate developers to contribute to the production of affordable housing, how did we set the amount of income that somebody should be able to spend towards housing costs, substantial rehab, you know, the equity-sharing provisions.

So that you'll have all of that, our responses, what we would have said tonight in front of you, too, and then you can ask more questions on September the 8th about those particular issues and any others, of course.

CHAIRPERSON MITTEN: Okay. That would be great. Okay. So we're going to close the -- we will have this additional session, but we will close the record at the end of that session.

So anyone who is aware of anyone who would like to make any additional written submissions needs to do it by September the 8th, and then we'll reconvene this at around 7:30 on the 8th.

I thank you all for your tenacity and your good efforts and your really thoughtful contributions. Thank you.

(Whereupon, at 10:42 p.m., the public hearing was adjourned.)