

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

IN THE MATTER OF:

DOWNTOWN DEVELOPMENT DISTRICT Case No.
ZONING AMENDMENTS 00-30TA

Monday
February 12, 2001
Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 00-30TA by the District of Columbia Zoning Commission convened at 4:00 p.m. in the Office of Zoning Hearing Room at 441 4th Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN, Chairperson
ANTHONY J. HOOD, Vice Chairperson
HERBERT M. FRANKLIN, Commissioner
JOHN G. PARSONS, Commissioner

OFFICE OF ZONING STAFF PRESENT:

Alberto P. Bastida, Secretary, ZC
Gerald Forsburg, Office of Zoning

OTHER AGENCY STAFF PRESENT:

Andrew Altman, Director Office of Planning
Ellen McCarthy, Deputy Director, Office of Planning
Arthur Rodgers, Office of Planning

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

4:00 p.m.

CHAIRPERSON MITTEN: Good afternoon, ladies and gentlemen. We are going to commence with a piece of unfinished business that we have left over from our public meeting earlier, and if I could ask Mr. Altman to give us a status report on the discussions related to the Woody s case.

MR. ALTMAN: Yes.

Members of the Commission, we have been conferring with counsel for the Applicant to address the number of things that we need to bring back. We are looking now, the items as you listed, actually, at the end of the Commission meeting, one was some elevations and some schematics about both the housing, as well as the addition of the 9th and 10th floor. We will also review with the Corp. counsel, related to the covenant and the bond, in terms of the guarantees for the housing. Another issue was to look at the affordability issue, discussing that, and I believe there was one other issue.

We believe, the Applicant believes, that they can bring all that information forward to us so that we could actually hear that on oh, the other question was whether it was to be a one or two-phase HUD which we can address and the Applicant believes they can bring that information forward very quickly, so that they could they d be prepared to hear it on Thursday night if the Commission so desires. We d be prepared to

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1 review that immediately, they are going to get that information
2 to us, I believe, hopefully as early as tomorrow late afternoon,
3 so we d be able to submit that to the Commission and address
4 those outstanding issues.

5 CHAIRPERSON MITTEN: So, that would allow us to
6 deliberate then on Thursday, prior to our

7 MR. ALTMAN: Yes, your American University hearing.

8 CHAIRPERSON MITTEN: Okay.

9 The hearing that s scheduled on American
10 University starts at 7:00. Any sense from the Commissioners
11 about how much time we might need to deliberate on Woody s, and
12 whether or not your schedules are going to accommodate an early
13 commencement of a special public meeting?

14 VICE CHAIRPERSON HOOD: Madam Chair, about what
15 time are we looking at?

16 CHAIRPERSON MITTEN: Well, that s what I m trying
17 to get a sense of, how much time we need to deliberate. I would
18 say at least an hour, we should allocate at least an hour to
19 deliberate.

20 VICE CHAIRPERSON HOOD: Well, I know I personally
21 will not be able to make it until 7:00, so if I could get
22 something maybe I could proxy something in. I m not sure.

23 COMMISSIONER PARSONS: I could be here at 6:00, but
24 it s too bad it would be just three of us.

25 COMMISSIONER FRANKLIN: Madam Chair, I can make it

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1 at 6:00 on Thursday, if that would be helpful.

2 CHAIRPERSON MITTEN: Mr. Bastida, do we have a
3 hearing on the following Monday?

4 MR. BASTIDA: No, it s a holiday.

5 CHAIRPERSON MITTEN: Oh, it s a holiday.

6 Well, I think we made a commitment that we would
7 try and move forward as expeditiously as possible once the
8 information was provided to us that was outstanding, so, Mr.
9 Hood, if you would proxy something in, and if you have questions
10 or things that you d like us to consider if you d include that,
11 and then if we could convene a special public meeting to
12 deliberate the Woody s case at 6:00 p.m., this Thursday.

13 MR. BASTIDA: If you so desire, I will have the
14 reporter here so we can do that, beginning at 6:00.

15 CHAIRPERSON MITTEN: Yes, if that works for
16 everyone.

17 MR. BASTIDA: Okay.

18 CHAIRPERSON MITTEN: All right.

19 Now, we will commence with the public hearing.

20 This is a public hearing of the Zoning Commission
21 of the District of Columbia for Monday, February 12, 2001. My
22 name is Carol Mitten. Joining me this afternoon are Vice
23 Chairman Anthony Hood and Commissioners John Parsons and Herbert
24 Franklin.

25 The subject of this afternoon s hearing is Zoning

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1 Commission Case No. 00-30TA regarding changes to the Downtown
2 Development District Regulations. These changes were originally
3 recommended by the Mayor's Downtown Housing Task Force, and the
4 Downtown Action Plan, and subsequently a text amendment case was
5 initiated by the Office of Planning in October of 2000.

6 Notice of today's hearing was published in the
7 D.C. Register on December 8, 2000, and in The Washington Times on
8 December 1, 2000. This case was originally scheduled to be heard
9 on January 29, 2001, and was rescheduled until today.

10 This hearing will be conducted in accordance with
11 the provisions of 11 DCMR, Section 3021, Rulemaking Hearings.
12 The order of procedure will be as follows: preliminary matters,
13 the case presented by the Office of Planning, reports of other
14 government agencies, testimony of affected ANC's, in this case ANC
15 2-C and ANC 2-F, organizations and persons testifying in support,
16 organizations and persons testifying in opposition.

17 The following time constraints will be adhered to
18 in this meeting as strictly as possible: organizations, five
19 minutes; individuals, three minutes. Those presenting testimony
20 should be brief and non-repetitive. If you have a prepared
21 statement, please give copies to staff prior to beginning your
22 testimony, and orally present only the highlights.

23 All persons appearing before the Commission this
24 is a rulemaking, right?

25 VICE CHAIRPERSON HOOD: Right, so there's no

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1 swearing.

2 CHAIRPERSON MITTEN: So, we do the witness cards,
3 though.

4 VICE CHAIRPERSON HOOD: Right.

5 CHAIRPERSON MITTEN: Okay, just want to be sure.

6 All persons appearing before the Commission are to
7 fill out two witness cards. These cards are located near the
8 door and at the end of each table in front of you. Upon coming
9 forward to speak to the Commission, please give both cards to the
10 reporter sitting to my right.

11 If these guidelines are followed, an adequate
12 record can be developed in a reasonable length of time.

13 Please turn off all beepers and cell phones at
14 this time, so as not to disrupt these proceedings.

15 Does the staff have any preliminary matters?

16 MR. BASTIDA: Madam Chairman, no, the staff has no
17 preliminary matters.

18 CHAIRPERSON MITTEN: If I may, I would like to put
19 on the record the fact that the Notice of Public Hearing did not
20 include the full scope of the text amendments that had been
21 included in the set down report by the Office of Planning, and to
22 the extent that there is additional time required for individuals
23 to submit comments, if that becomes apparent we may need to leave
24 the record open in order to receive those comments because the
25 advertisement didn't represent the full scope of what we intended

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1 to hear today.

2 So, with that, I'll turn to the Office of Planning
3 for its presentation.

4 MR. ALTMAN: Members of the Commission, we will
5 hand out a copy of the brilliant Power Point display that we had
6 prepared for you in our high technology environment. It looks
7 like we need some more data centers, this isn't enough.

8 Okay. Members of the Commission, we are very
9 happy to bring before you this afternoon recommendations to amend
10 the District's Zoning Regulations to facilitate the construction
11 of housing downtown. Art Rogers here will make a more detailed
12 presentation. Let me just provide a little bit of context to
13 this.

14 As you know, the Mayor released a downtown action
15 agenda in November, and one of the principal features of that
16 agenda was to really encourage downtown housing, the long-held
17 goal of having a critical mass of housing downtown.

18 As you know, we are striving for 10,000 units
19 downtown, both south of Massachusetts Avenue and north of
20 Massachusetts Avenue. The living downtown has proposed 12,500,
21 which given the amount of construction downtown office
22 construction was not achievable as there's very little land left,
23 but we did think that 10,000 was still reasonably attainable, but
24 would take a very concerted effort. We have about 3,300 units
25 downtown now. We have about 2,000 potentially that are in the

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1 pipeline. Many of those projects you've seen, such as the JBG
2 project that was approved in the last two weeks, which could be
3 anywhere from 120 to 170 units, Avalon Bay, which would be up to
4 200 units, JPI at 7th and D, which could be about 400 units, so
5 there are significant housing developments coming on line, as
6 well as Massachusetts Avenue where we have before the BZA two
7 projects totaling close to 600 units, and, of course, what we
8 heard in terms of Woody's just the other night, which has an
9 amenity package that includes up to 200 units or more at 5th and
10 Massachusetts Avenue, 4th and Massachusetts Avenue, so there's a
11 significant amount of number of projects that are proposed.

12 The real challenge is to make sure that both those
13 projects come to fruition, and that more units are encouraged.
14 So, we have before you today what the Mayor proposed and what we
15 are bringing forward to you after significant deliberation with
16 the downtown development community, Downtown Housing Now, Terry
17 Lynch and the Cluster of Downtown Congregations, we think will
18 remove many of the barriers to the development of housing.

19 Art Rogers will walk through many of the details,
20 but let me just tell you in summary what some of these
21 recommendations are. One relates there are really three
22 principal features one relates to combined lot transfer, and
23 this is the whole system by which land within the DZ downtown,
24 the downtown development district, DDD, sites are encumbered both
25 with office and housing requirements. The office cannot proceed

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1 until such time as there is a Certificate of Occupancy for the
2 housing. That has often resulted in, frankly, a standstill,
3 where neither the office, nor, actually, the housing gets built
4 in a timely manner, and has long been a source of some conflict
5 downtown, and was the subject of intense discussion by this group
6 as to how to achieve a system that on the one hand allows the
7 office to proceed, but also provides the incentives for housing
8 to be built within a reasonable period of time, so that we do not
9 sacrifice housing downtown simply to allow office construction to
10 proceed quickly, but to have a system to allow the housing
11 development to proceed quickly as well.

12 So, we combined lot transfer, which Art will walk
13 through and will spend more time on, because it s fairly
14 detailed. Some of the principal features are a covenant that
15 binds to receiving site, to construct an amount of housing equal
16 to the commercial development rights; the establishment of escrow
17 accounts, so that funds are actually placed when the transaction
18 between the two parties in site A and site B occurs, that those
19 funds are held in escrow until 50 percent completion of the
20 housing project has been certified; if the housing is not
21 completed within five years those escrows are deposited in the
22 Housing Production Trust Fund for construction of housing within
23 the DDD. That s important, because, essentially, we are setting
24 up an incentive, so it s not simply that you would take the new
25 accepted here, the receiving site, the additional density for

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1 housing, but also that in order, as an incentive, to access those
2 funds that you would construct that housing within five years, so
3 that, hopefully, that will provide sufficient motivation to
4 actually see that housing constructed, and, if not, you lose
5 those funds but still have the housing requirement on your site
6 in perpetuity.

7 The second area relates to residential density.
8 Again, we'll go through that, but the idea is to have extra
9 density, allow extra density for housing downtown, so you can
10 maximize the FAR for downtown housing. This is something that is
11 done across the country in terms of density bonus. Of course, in
12 Washington you are always restricted because of the height limit,
13 so this allows you to fill out the zoning envelope, the FAR that
14 one could achieve. Right now, there are a number of cases that
15 are coming through requesting relief, either through the BZA or
16 otherwise, to attain that extra density, this would give that
17 incentive.

18 And, one of the issues that we will be discussing
19 with you is that in the area, particularly, in NOMA, and it's
20 important for the purpose of this discussion, and we'll talk
21 about this a little more, that the area of New York Avenue
22 Massachusetts Avenue to New York Avenue, the area of NOMA where
23 we recently released the Wax Museum RFP, that we really are
24 building a new residential neighborhood downtown.

25 So, in terms of our thinking, in terms of extra

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1 density in NOMA, one of the issues that we re putting on the
2 table is that if you achieve if you are afforded that extra
3 density that some percent of those units would have to be made
4 affordable to low and moderate-income people up to 120 percent of
5 median. That s a very classic planning tool that s used across
6 the country called inclusionary zoning, to ensure that as NOMA
7 develops its residential neighborhood it s a diverse neighborhood
8 and has levels of affordability built in. Again, that s only if
9 you are asking for the extra density, that then say up to ten
10 percent of those units could be affordable, and it s built in to
11 have a diverse downtown. So, that s a subject of discussion that
12 we ll want to engage you in, and, obviously, we ll hear about in
13 terms of public testimony, but that we think is an important one
14 when you are building a new neighborhood.

15 Similarly, with the recreation space requirement,
16 which is the third component of the proposal, this would be to
17 reduce the recreation space requirements to five percent. There
18 have been a number of cases that have been requesting relief from
19 the BZA to reduce the recreation space requirement, given that s
20 an urban setting it seems entirely appropriate to do, given the
21 access to open space within the immediate area, and to have a
22 more urban housing type.

23 Now, when we look at NOMA again, in this area we
24 talked about if you are going to reduce the housing requirement
25 to the five percent level, that we would consider the option of

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1 allowing this only if the developers contribute to an open space
2 fund. We have not determined what that amount of money should
3 be. We would have to develop an appropriate formula, but again,
4 the idea is that as you are lowering your recreation space
5 requirement in that area, that you would then contribute some
6 amount to an open space fund for open space that could be a
7 common use in that whole area, and, particularly, in light of the
8 Downtown Action Plan, which called for the development of a new
9 park in that area to serve the residents, that this would be a
10 mechanism where the public and the private sector could both
11 contribute to realizing the public benefit amenity. So, that s a
12 proposal that s before you also in the NOMA area, but overall
13 again, the idea is to have a recreation space requirement
14 reduction. So, allow more density on the one hand to fill out
15 the envelope, reduce the recreation space requirement, all of
16 which are geared toward achieving a greater number of units,
17 high-density housing, downtown.

18 So, those are the three principal components.
19 I ve given Art as much possible time as possible to put this
20 together. I continue to drone on, but I think

21 MR. RODGERS: As you ll see towards the end of the
22 presentation, there s a good reason why we wanted to have a Power
23 Point.

24 MR. ALTMAN: so, what I d like to do is actually,
25 Art, why don t you walk through what would have been the Power

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1 Point presentation. Those are the three principal elements we d
2 like to discuss with you. They are really a package, and as I
3 said earlier, there was a long deliberation with many of the
4 people who were a part of that over this past year, to really
5 come to what I think is an important milestone, in terms of
6 facilitating downtown housing.

7 So, with that, I ll turn it over to Art and we ll
8 walk through the Power Point presentation.

9 MR. RODGERS: Thank you.

10 My name is Art Rodgers, I m with the Office of
11 Planning, and first I d like to thank all the people who put an
12 effort into these proposals. There was a lot of hard work on all
13 parts put into it.

14 So, briefly, I d just like to start the
15 presentation that we provided. Does everyone have copies of the
16 Power Point presentation? There should be some extra copies over
17 there still.

18 As Andy introduced, there s three main topics that
19 are to be covered in this hearing, but before we went on to that
20 we wanted to discuss a little bit of the current housing and
21 office dynamics, the economics of the situation. And so, that
22 will come first, and then we ll discuss in some detail the
23 changes, the reasons for the changes, and why we felt the sort of
24 changes we made are an appropriate improvement to what the Task
25 Force had proposed, and then we ll end by summarizing our

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1 recommendations.

2 The three main things, as Andy said, are the
3 changes to the combined lot transfer regulations, which will
4 enable the office development to proceed without having to wait
5 for the housing to get its Certificate of Occupancy.
6 Essentially, that s a two-year wait, depending on how long the
7 construction would take for the housing, and, in general, that
8 was seen as an inhibiting factor to both developing the office
9 and developing the housing.

10 Essentially, to protect that housing gets built
11 there were three things, as Andy mentioned, a covenant on the
12 land, an escrow of all the compensation, and then a time limit to
13 the escrow.

14 The next one was the removal of FAR density
15 restrictions to housing developments in the DD, and my co-worker
16 David McGhettigan will go over that.

17 And then finally, the reduction of the recreation
18 space requirement for residential buildings in the DD.
19 Essentially, the proposal is to reduce it down to five percent,
20 and we have an alternative to discuss for north of Massachusetts,
21 which has substantially different urban infrastructure from south
22 of Massachusetts.

23 On to the current housing market, right now there
24 is tremendous interest in, not only the District with about 5,800
25 units for the District, either under construction or planned, but

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1 also for downtown. There s several reasons for this, a one
2 percent vacancy rate of the investment grade properties, a
3 growing demographic interest in urban living from empty nesters
4 and young professionals, and it s resulted, as we can see, in
5 rising prices.

6 Freddie MAC, the Federal Home Loan Mortgage
7 Corporation data tracked a 20 percent increase in the value of
8 condos and co-ops, between the third quarter of 99 and the third
9 quarter of the year 2000.

10 A recent article in The Washington Post documented
11 that there are some downtown apartments that are achieving rents
12 as high as \$2.97. Certainly, this is the very top end that we ve
13 seen so far, but there s definite interest that rents in downtown
14 are approaching somewhere between \$2.30 and \$2.50 per square
15 foot. That s monthly.

16 And then also, the cost of permanent debt right
17 now is tremendously advantageous for housing development. It s
18 at 7-3/4s, if not lower.

19 This has resulted in 2900 units planned that were
20 proposed in downtown, and now some of these may not be completed
21 in this developed cycle of course, but certainly I don t think
22 we ve seen this kind of interest, at least since I ve been in the
23 District, which, granted, has only been two years, but certainly
24 for a long, long time.

25 And, it s important to point out that 1,400 of

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1 those units are going forward or are planned and proposed without
2 any public subsidies. There are many units that will have some
3 sort of public subsidy, but at least 1,400 will not, and that s a
4 definite change in the economics. Even in the 80s, when there
5 was a housing boom, the Lansburg and a lot of the other projects
6 downtown received some sort of subsidies.

7 And then, another important factor is, because of
8 this demonstrated demand, the overall risk of housing in urban
9 areas is dropping, and that s reflected in the capitalization
10 rates, and I ll go into a little bit later how that affects the
11 ability for housing to be built. One sort of caveat to that,
12 though, is because of all the units that are planned and proposed
13 for downtown, if all of these came on all at the same time there
14 would be a definite difficulty in absorbing in the market
15 absorbing all those units and them actually getting rented. And
16 so, that s suggesting that the cap rates might go up a little
17 bit, and, essentially, squeeze out the lower tier of projects
18 that might have gone forward otherwise.

19 On my next slide, page six, you can see all the
20 different projects that have been proposed for downtown, and this
21 doesn t include the ones that are just proposed. These are ones,
22 essentially, that we, the Office of Planning, has received plans
23 for. The ones that are proposed, we know that they are
24 potential, but we haven t received any plans for them in one way
25 or another, but we know that they are possible.

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1 And then, the next slide is an analysis of land prices,
2 using a residual land value technique, and the source comes from
3 an article that was published in the DCBIA Newsletter back in
4 November, and I happened across it and I thought it was a very
5 timely discussion. Essentially, it sort of estimates the value
6 of land that an office development or a housing development can
7 pay for, can, essentially, purchase by developing either office
8 or housing. And, what s important about this is, when this
9 research first started the task force had one set of numbers,
10 and, essentially, those numbers have greatly changed.

11 You can see from this residual land value analysis
12 a couple of differences, and I ll try to point out all of them.
13 It starts at a rent number. As you can see, office achieves much
14 higher rents than apartments, about double the rent. Vacancies
15 will vary between both, but, in general, you know, people will
16 forecast 3 to 5 percent vacancy rates. And then, there are
17 expenses deducted from that, and then you ll have a net operating
18 income number.

19 And then, this is where the rubber hits the road.
20 The cap rate is, essentially, a measure of risk, and it
21 estimates the value of the development. And, as I pointed out,
22 the task force, when they started, they used the cap rate of 9.5
23 percent, and while the numbers above the cap rate are relatively
24 similar, if you go down to the bottom the land per square foot,
25 there s a tremendous difference in what a housing unit can

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1 achieve at lower cap rates compared to what was used by the task
2 force. So, that in itself is a tremendous difference, and it
3 demonstrates the strength right now of the housing market.

4 Beyond that, I talked to, to sort of update even
5 those numbers, I talked to a gentleman by the name of Mike Sears,
6 he s a Senior Vice President at Associates, which is an
7 appraisal firm, and he pointed out that the cap rates for the
8 premium units, primarily in Penn Corridor, are even below 8
9 percent, and this is very rare to happen in the District.

10 Now, of course, the cap rates are going to vary
11 depending, not just on the current economic developments, but
12 given the current time they are going to change based on the size
13 of the project, the quality of the units, and most importantly
14 the location of the project.

15 As we go farther north in the north of
16 Massachusetts area, the cap rates are going to rise because that
17 reflects a higher risk environment. There is the infrastructure
18 of the area, whether it s open space, the amenities are just
19 different from the area south of Massachusetts. And so, there s
20 some definite difference in the economics for north and south of
21 Mass, and I think that was realized when these regulations were
22 first proposed, and the task force recognized it also.

23 This next slide sort of demonstrates, takes that
24 residual land value analysis and builds out an office
25 development, and, essentially, given that office can achieve

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1 about \$83.00 per square foot, and that s a pretty conservative
2 number, and a building with an FAR of ten, and, roughly, 200,000
3 square feet, might achieve about \$16 million in value to purchase
4 the land it needs to build on.

5 Now, in this slide we can definitely see that it s
6 different, it s just very different for housing. There is
7 housing can achieve on the same site, essentially, the same FAR
8 could only achieve about almost \$5 million in a land value, and
9 this is a substantial difference, and the whole the initial
10 regulations attempted to remediate some of these differences, the
11 TDRs, the other incentives, and I ll go into those a little bit
12 more, tried to fill that gap between what office could demand and
13 what housing could achieve.

14 Now, the next slide takes those projects that
15 were, essentially, outside the DD, and, more importantly, the
16 housing priority areas of the DD, and then gives an example of a
17 site in the DD C-4. Now, technically, the zoning requirement for
18 housing should affect the potential land values, essentially,
19 because there is a two FAR requirement of housing. There s a
20 difference in what can be achieved, and so, therefore, the land
21 value for that site in the DD C-4 is going to be commensurate
22 with lower than what a housing site or what an office site could
23 achieve outside the DD. And so, that was one of the efforts that
24 the initial regulations tried to effect, was to reduce that land
25 price so housing could be more competitive.

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1 Now, this slide, essentially, tries to show what
2 happens when an office developer is relieved of their housing
3 requirement, which is, essentially, what the combined lot tries
4 to do. It s done through the private market, essentially, right
5 now, but, essentially, what happens is, because there s another
6 two FAR of office that can be built the office developer has
7 received about \$2.3 million in added value to his office project,
8 and the whole idea of the combined lot when it was initially
9 written was that a portion of this value would be transferred to
10 the housing site in response to accepting that added burden of
11 additional housing requirement for the site.

12 It s important to point out that not all of this
13 money, not all of this \$2.3 would be transferred, because at \$2.3
14 million the office developer is indifferent, he could build the
15 housing on site or he could pay someone to accept it. He doesn t
16 care. And so, ideally for him because that s the value of the
17 office, so ideally an office developer would pay something less
18 than this figure to a housing site for that two FAR housing.

19 Now, this slides tries to take all of the
20 incentives, including the proposed amendments, the added density,
21 and estimates the impact to its effect on housing, and,
22 essentially, the housing itself, with the added density, goes
23 from just under \$5 million for a parcel of land to just under \$6
24 million, \$5.8, \$5.9. And then, because it s south of Mass it can
25 also have the right to sell transferrable development rights, and

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1 in this instance we use a relatively conservative estimate of
2 about \$18.00 per square foot for a transferrable development
3 rate. The most recent transfer that we are aware of was about
4 \$23.00, so, again, this is slightly below that just to be
5 conservative.

6 And then again, the added value of the combined
7 lot being paid to the housing site by the office site, and again,
8 it s going to be under this \$2.3, but it s important to point out
9 that that \$2.3 million only represents one transaction. An
10 office developer gets rid of its two FAR. This site in the DD,
11 with the proposed amendments, or even under the old amendments,
12 could accept up to another six FAR of combined land transfers,
13 and so beyond that \$2.3 there is another hard to estimate number
14 that would be added to the housing site to make sure that it has
15 the potential to be developed.

16 Essentially, though, there are some problems with
17 the combined lot. The current regulations state that an office
18 development cannot go forward unless the housing has received a C
19 of O. That s a lot of risk to be placed on the office.
20 Investors with debt equity are unlikely to invest in an office
21 site that has its C of O, the power for the developer to achieve
22 the C of O removed from the developer, essentially, because it
23 has to wait for the housing developer, and that s a lot of risk
24 for anyone to go build an office site, and then find out that
25 they can t get their C of O because the housing has not received

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1 its C of O.

2 But, there are some important things from the
3 original DD regs, one, that somehow the concept that the housing
4 construction should be linked to the commercial is very
5 important, and while these proposed regulations relax that there
6 is still a fairly strong linkage.

7 One of the other issues is that the amendments
8 should not threaten legitimate housing projects having the
9 ability to compete for combined lot transfers with sites that
10 have no intention of building housing. There s a possibility,
11 for instance, on a small strip of land that s not really
12 developable, because it has an envelope above it, it could
13 potentially receive a combined lot transfer that would have gone
14 to a legitimate housing site. And, there s only so many transfer
15 transactions to go around, and so one of the things we wanted to
16 make sure was that a housing site should not have to compete with
17 a site that s not really housing.

18 Another thing was, we wanted to make sure that the
19 compensation that was paid, essentially, being a development
20 account, an escrow account, that the developer would be able to
21 draw upon at a certain point and use as part of the construction
22 dollars. We talked to a couple lenders and they, essentially,
23 said that, yes, if this escrow agreement was in place as an
24 identified source of money, and there was a legitimate process by
25 which the housing developer could access it, it could be

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1 considered as equity into the development, essentially, reducing
2 the amount of debt that a housing developer, construction debt,
3 that a housing developer would have to pay for over the
4 construction period.

5 Right now, we propose that, essentially, if the
6 project has reached 50 percent of completion, then the dollars
7 could be released and the housing developer could then use it to
8 build the project.

9 And, basically, the final issue we wanted to make
10 sure is that these combination covenants, and I m sorry, I
11 skipped something, didn t I? One of the things we wanted to make
12 sure was that there was a covenant on the land, as Andy mentioned
13 earlier, that documented the added housing requirement to the
14 site. This covenant would ride with the land, it would place the
15 District as the beneficiary, and so, therefore, would require any
16 applicant, if they wanted to remove the covenant they would have
17 to, essentially, come before the Zoning Commission and say, you
18 know, I tried, you know, essentially, I need a variance, or the
19 BZA I should say, I just can t build housing and this is why.

20 We would strongly recommend against any kind of
21 release of that. We think those covenants should be there,
22 there s a reason it should be there. The housing site knew what
23 it was getting into when it accepted the housing, essentially, an
24 added housing requirement, and it s effectively rezoning the site
25 to an R-5-E or something similar.

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1 And, that s, essentially, what we ve proposed. We
2 want the office development to proceed, we don t think they
3 should be held up if there s something beyond their control, but,
4 as I said, a covenant escrow that can only be drawn upon once
5 their project has reached 50 percent completion, and finally that
6 there will be a time limit to the escrow, and I think it s
7 important to point out that when a housing site accepted the
8 covenant and accepted the escrow this was a voluntary agreement.

9 They didn t have to, they could have followed a different
10 development path, and so it s important that it be known and
11 recognized that this is a voluntary agreement.

12 But, essentially, if the District doesn t see what
13 we want to see, and that s the housing built within a five-year
14 period, and I m sorry, and with a three-year extension instead of
15 an eight-year extension, up to a maximum of eight years, if the
16 housing doesn t see this built in that time period then,
17 essentially, the District would have the right to take the money
18 and apply it to a housing project that is going to go forward in
19 the DD.

20 And, that sort of, you know, briefly concludes the
21 combined lot recommendations that we are proposing, and I m going
22 to hand it over to David McHettigan to address the residential
23 density requirements.

24 MR. MCGHETTIGAN: Thank you.

25 The residential density requirements are fairly

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1 simple and straightforward, just going to eliminate FAR
2 requirements for residential developments in the DDC 2-C, DDC 3-
3 C, and DDC 4-South.

4 The reason for this change would be to encourage
5 the production of residential units by lifting the FAR
6 restrictions. The FAR requirements are more strict upon
7 residential than commercial because of differing ceiling height
8 requirements. Therefore, this is compared to an office going to
9 be a and the FAR is going to discourage the housing from
10 getting as many easements as it can.

11 Also, by releasing the FAR requirements for
12 residential developments provides enough additional units to make
13 properties that would be marginal under existing regulations
14 developable, and also to lower the operating costs for a project
15 by distributing the costs among more units.

16 So, the pros and cons of this proposal are, the
17 pros are that it increases the number of housing sites that can
18 be developed, and it also will increase the number of housing
19 units that will be reduced in developments that aren't going to
20 have it there.

21 The negatives are possible impacts on light and
22 air, and increases the overall bulk of buildings in the DD.

23 As far as light and air, we still have our
24 requirements in place for courtyards, building code requirements
25 for light and air are adequate to meet the light and air needs,

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1 and market forces should ensure some quality in the development
2 that will vindicate that, too. So, we feel that there s no
3 concern with light and air with these conditions.

4 The bulk, the other factors that are going to
5 control the bulk, are the high ER lot occupancy, and, of course,
6 the light and air requirements are still going to control the
7 bulk, so you are going to have a smaller bulk than a commercial
8 development, and because of the ceiling height differences the
9 bulk increase in development is going to be relatively small.

10 So, we have some sort of examples with a sort of
11 case study here that shows a building that would be developed
12 under the current FAR for housing, and sort of show the bulk of
13 it, and this is what the additional bonus density would yield
14 actually, in this particular case an entire additional floor, and
15 we get a building that looks something like that. From the
16 street view, it looks a little bit like this. And, instead of
17 adding it onto the top, we added it to the side, it looks
18 something like this from the street.

19 So, we feel that the extra bulk might not be an
20 issue in certain cases, certainly minimal.

21 There are some caveats we want to include in our
22 requirements, one, we want to retain the benefit of the extra
23 housing units by not allowing them to be counted in the combined
24 lots for TDR transactions, also we need to retain the character
25 of the historic district, which has a six FAR max, so we wouldn't

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1 allow the bonus in that district.

2 Art will take it from here.

3 MR. RODGERS: One of the things we wanted to raise,
4 with regards to the residential density bonus, is that right now
5 there s many jurisdictions across the country that in exchange of
6 these added density they place a small affordable housing
7 requirement on a site. As the slide points out, some of these
8 jurisdictions are San Francisco, Boston, other very high-cost
9 markets.

10 We realized that this was not part of the original
11 discussion of the task force. They did cover it a little bit,
12 but they, essentially, realized that without added incentives
13 beyond what zoning can do that it does affect the ability of
14 housing to go forward, especially when the housing has to compete
15 with office for land.

16 And so, we wanted to mention this, we felt it was
17 appropriate to mention it, given there is a tremendous
18 gentrification going on in the areas just north of the DD in
19 Shaw, you know, this is an assumption given by the health of the
20 the economy of the region and the growing confidence in the
21 District. But again, we wanted to mention that this is something
22 that we felt it shouldn t be left unsaid, but we are not
23 recommending it, but we are mentioning it because we felt it s an
24 option that should be at least analyzed. And, essentially, the
25 next couple slides will go over how it might look like.

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1 Quickly, the next slide just sort of points out
2 the type of people that would be targeted by this affordable
3 housing, that it, essentially, would look at families between 50
4 to 80 percent, and this just sort of points out who those
5 families are, and I'll allow the people to look through that
6 slide at their leisure.

7 We did try to go through a pro forma analysis,
8 which goes into analyzing in much better detail than the residual
9 land value, and, of course, there's going to be assumptions made
10 that people will refute and challenge and so on, but,
11 essentially, we felt we used fairly conservative numbers, and
12 this slide sort of documents the difference between the two
13 potential projects.

14 Essentially, we would be looking at households
15 between 50 and 80 percent, and that they would contribute 30
16 percent of their monthly income toward the rent.

17 Now, right now, for instance and we're proposing
18 this for or, not proposing it, we are discussing it for north
19 of Massachusetts, which has in the DD C-2-C an FAR of 8.5, with
20 the added density bonuses it's possible the project could go to
21 11, maybe even higher, but we, again, wanted to be conservative
22 as to what the actual added density would be.

23 Because there are so many units being built, the
24 actual effect on the projects average rent per square foot is
25 fairly minimal, because, essentially, they are getting more

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1 market rate units to balance out the effect of a minor affordable
2 housing component, and another thing is, one of the major reasons
3 why this is so is that in jurisdictions across the country what
4 they do, and Montgomery County is a prime example, they apply the
5 affordability requirement to the base density and not to the
6 units achieved by the bonus density, and so, essentially, if we
7 had 207 units under the initial proposal we would get 21.

8 And, as you can see, there s an added amount in
9 the equity and there s a drop in the IRR, and so, essentially,
10 while under this scenario it looks like it s achievable, again,
11 we have to remind ourselves that the sites have to compete with
12 office for land, and so that s another important concept.

13 The next issue we wanted to cover was the
14 recreation space requirements, and, essentially, the DD
15 regulations, and I ll go through this very quickly, the DD
16 regulations increase the density in the housing priority areas,
17 but, essentially, maintained the same recreation space
18 requirement, and this slide shows that with added density, and,
19 particularly, for a site in C-2-C, we end up with recreation
20 space of more than one entire floor of the building, and we end
21 up with three times more than what would be required by a
22 straight C-4 area that has no added density. And, essentially,
23 that s pretty burdensome on a housing developer to get this added
24 density and then find out that most of it is eaten up by
25 recreation space requirements.

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1 And so, we are proposing a couple of things, and
2 the reasons why are, in the DD there s currently a lot of
3 recreation opportunities. There s The Mall, Judiciary Square,
4 John Marshall Park, are the quality open spaces, there s
5 restaurants, retail opportunities, museums, so on and so forth.
6 Secondly, we wanted to encourage the eyes on the street concept.

7 You know, we want people in the DD to be walking on the streets,
8 we don t want them, you know, recreating inside their buildings,
9 not entirely.

10 And then, essentially, if a housing developer was
11 to provide this on the ground floor as open space, it is
12 prohibitively expensive to sacrifice, you know, develop the land
13 for it, and it also eats up the potential for retail
14 opportunities. And so, those are some important points we wanted
15 to point out.

16 North of Mass there s a slight different
17 condition. There s very few recreation opportunities, and so
18 while in the text amendment we proposed that it just be reduced
19 to five percent we thought it was important to discuss that one
20 alternative might be that for north of Mass that there be a
21 buyout option from the 15 to the lot. We want to point out that
22 this was sort of last minute added to the conversation, there
23 were some people who thought it had some credence, but no value
24 was assigned to that relief, and so for an actual buyout
25 provision we need some further research as to what would be an

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1 appropriate amount.

2 And then, we ll just go on to our summary of our
3 recommendations. Again, for the combined lot transfers, a
4 covenant binding the receiving site to the added housing, the
5 establishment of an escrow that can only be released when the
6 housing site has achieved 50 percent of completion, and that
7 there be a time limit on this, that if it s clear that the site
8 never had any intention of housing, the District would be able to
9 take this money and apply it to a legitimate housing site in the
10 DD. And, I stress the DD because we want to see the housing
11 downtown, and this is value created in the downtown, and so we
12 wanted to keep it there, rather than potentially let it bleed out
13 to other sites.

14 For residential density, essentially, projects in
15 the DD may be relieved of their density restrictions as long as
16 they are consistent with the height act, and that the sites are
17 not in the historic district or registered landmarks.

18 One important thing is, the density should not be
19 used for transferrable development rates. The bonus density
20 should not be used for transferrable development rates, nor the
21 combined lot transfers, because those, essentially, wouldn t if
22 we allowed that to happen we wouldn t get more units, we d just
23 get more projects rewarded more heavily, or fewer projects
24 rewarded more heavily, rather than more projects receiving value
25 from the combined lot transfers.

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1 And then finally on the recreation space, again we
2 think it should be reduced to five percent in the DD areas of C-
3 2-C and C-3-C, south of Mass, and that for north of Mass in the
4 housing priority area a buyout option be considered and the
5 public record be left open on this.

6 And, that concludes my own remarks, and I just
7 wanted to let Andy or Ellen add anything to the discussion.

8 MR. ALTMAN: I think it s been pretty extensive,
9 Art did a very extensive job showing how we really did think
10 through the economics of this, the massing, the design
11 considerations, to try to understand all the angles in terms of
12 providing you with the implications of these proposals.

13 I think, you know, in essence, what we really
14 wanted to do was to create a system that allows the market to
15 operate downtown, provides guarantees, so that as we are freeing
16 up the market, removing some of these barriers, that we do want
17 to ensure that housing is ultimately constructed to the extent we
18 can in zoning.

19 We did call out, and that s why this really is a
20 package, but Art did, as I mentioned in my comments, in terms of
21 north of Massachusetts Avenue, the two areas I would say largely
22 that most of the things that we have discussed here and proposed,
23 the combined lot, the residential density and the recreation
24 space requirements, were, you know, largely, I won t say
25 consensus items, but in terms of a lot of discussion, a lot of

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1 agreement through the task force that the Mayor established, on
2 the two areas that we're bringing also in addition to the table
3 relating to NOMA, which we think are very important, and Art was
4 being modest saying we are suggesting it, but I think we really
5 are recommending that both the recreation space requirement when
6 it comes to NOMA, actually, that the establishment of an open
7 space fund I think is important, and I think the affordability
8 issue is very important when you are going to have extra density,
9 the density bonus, as Art I think demonstrated, we don't think
10 the impact right now would be significant in terms of the
11 economics of a project. Obviously, there are many assumptions to
12 that, but, again, when you are building a neighborhood, building
13 in diversity, building in for open space, you have more than a
14 project, but have a particular housing have a community, it's
15 an important principle underlying this, so I would stress that
16 both affordability and open space are important recommendations
17 that we're making.

18 But overall, the key to this is that it's a whole
19 package that really works together to provide an incentive for
20 downtown housing and, hopefully, will even give an extra impetus
21 to those projects that are there to move forward.

22 So, with that, I think we'll turn it over to
23 questions.

24 CHAIRPERSON MITTEN: Thank you to the folks from
25 the Office of Planning, and I know it reflects a lot of work on

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1 your part and a lot of work on the part of the folks that have
2 participated in the Downtown Housing Task Force, and we very much
3 appreciate that.

4 Does anyone have any questions for the Office of
5 Planning?

6 COMMISSIONER FRANKLIN: This is a lot to absorb, in
7 terms of, you know, we talked the other day about moving parts,
8 this seems to have quite a few moving parts, and I think it s
9 obviously a very creative suggestion.

10 I don t where to begin. I guess I m not as
11 familiar as I should be with the Housing Production Trust Fund.
12 Could somebody describe how that works, who is in charge of it,
13 how it makes its decisions?

14 MS. MCCARTHY: I can describe the Housing
15 Production Trust Fund, but if you are asking that in conjunction
16 with our plans that if the escrow fund is not used within eight
17 years the house what we are talking about there is something
18 that would not be commingled with the Downtown Housing Trust
19 Fund, it would be the Downtown Housing Production Trust Fund
20 now is administered by DHDD and can fund affordable housing
21 anywhere in the City. What we are proposing is something that
22 probably would be administered in the same way in order to reduce
23 administrative expenses, but would be earmarked for sites within
24 the Downtown Development District.

25 COMMISSIONER FRANKLIN: Well, I appreciate that,

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1 but I guess I don t know enough about how the trust fund works,
2 how does it inject funds into a housing project? Has it got a
3 track record?

4 MS. McCARTHY: No, it does not.

5 COMMISSIONER FRANKLIN: It does not, because I
6 don t recall a project coming before us that had some financing
7 from that fund.

8 MS. McCARTHY: No, the Downtown Development
9 Production Trust Fund was set up as a result of the DDD, and
10 subsequent to the establishment of the DDD the market that the
11 Housing Production Trust Fund depended on somebody who was doing
12 a mixed-used project, buying out of a portion of their housing
13 requirements by contributing to the fund to substitute for the
14 affordable housing. And, it, basically, has not been used.

15 COMMISSIONER FRANKLIN: So, it sounds like it s a
16 dry trust fund, there s been no activity.

17 MS. McCARTHY: Right.

18 Our notion, when we discussed it when we first
19 established it from the DDD, was we were thinking about something
20 akin to the way that linkage funds had been used in San Francisco
21 and Boston, which was very similar to the same model that UDAG
22 had used, where they were but for contributions, they were, they
23 came in at the end when you had a project put together, and you
24 had a gap that needed financing, and with the addition of the
25 money from the trust fund you could make the project go, and I

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1 think that would be our notion with this fund as well, that it
2 would not be financing a community development corporation
3 operation, it would simply be the money that goes in, the last
4 dollars in that would make a project go. So, it would have a
5 high degree of leverage.

6 COMMISSIONER FRANKLIN: Okay.

7 Now, the Open Space Fund that has been talked
8 about doesn't exist now, is that correct?

9 MS. McCARTHY: That does not. That's really
10 something that came about just in the last month when we were
11 discussing relief from recreation space requirements with various
12 housing developers, and came to the realization that, you know,
13 north of Mass Avenue, in particular, there was very little open
14 space and that that was an important amenity to help kind of
15 create a sense of neighborhood there.

16 COMMISSIONER FRANKLIN: How would that fund work
17 conceptually?

18 MS. McCARTHY: I think conceptually through
19 contribution probably to the Parks and Recreation Department?

20 MR. ALTMAN: Yeah, I mean, the idea is that what
21 will and again, this is a concept that really emerged both from
22 the action plan and the north of Massachusetts Avenue plan, which
23 is that it's going to take both public and private contributions
24 to create the open space in that area. For example, it's been
25 suggested that there be a new park in the area to support the

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1 amount of residential development. There s also street scape and
2 medians and various improvements to create the neighborhood
3 amenities.

4 So, the idea is that you would probably have a
5 trust that would be administered by the Parks Department, could
6 be Public Works, where these funds would go into. They d be,
7 essentially, sequestered for this purpose. The City could then
8 add, through its capital improvement program, for its park
9 expenditures, and then you d have a pool of funds that could be
10 used to construct the open space over the next, you know, five
11 years.

12 COMMISSIONER FRANKLIN: On land that would have to
13 be acquired?

14 MR. ALTMAN: Well, one advantage in the NOMA area
15 is that it s been estimated that roughly, I d say a minimum of 30
16 percent, and even greater, are publicly owned sites within the
17 north of Massachusetts Avenue/Mount Vernon triangle neighborhood,
18 so we could use some of those sites potentially as open space.
19 This would help with the actual development of that site, the
20 landscaping, construction, et cetera, and we didn t really
21 envision necessarily new acquisition of sites, although, that s
22 always a possibility for smaller parks, or, you know, it could be
23 carved out of some sites in terms of smaller open space. It s
24 flexible.

25 COMMISSIONER FRANKLIN: So, the notion would be

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1 that there would be a plan developed for the designation of some
2 existing publicly-owned land for park use or open space use.

3 MR. ALTMAN: Yes.

4 COMMISSIONER FRANKLIN: And, that this fund would
5 help defray the costs of land preparation, not the land
6 acquisition.

7 MR. ALTMAN: Right.

8 COMMISSIONER FRANKLIN: I guess I don't entirely
9 understand this escrow proposal. Who would be the escrowee, who
10 would be holding these funds, the receiving developer, or maybe
11 just if you could explain the mechanics of that.

12 MS. MCCARTHY: Well, we had talked about that,
13 basically, the mechanic itself would probably be a private escrow
14 agent, and it would be somebody mutually agreed upon by the
15 property owner for the residential property who is accepting the
16 covenant and who intends to accept the money when they construct
17 their housing project, and the commercially the developer of
18 the commercial site is making the contributions.

19 COMMISSIONER FRANKLIN: Are the escrow funds to be
20 held at interest?

21 MR. RODGERS: I just wanted to point out that under
22 the current regulations there is a combined lot transaction going
23 through, and what we are proposing is very similar to what the
24 private sector would require. Essentially, the office developer
25 wants to make sure that under the current regulations the site

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1 goes through, that the housing site be completed.

2 He s not going to let the housing developer touch
3 that money until, essentially, there s housing built, and so that
4 money would be held in escrow by, you know, a third party,
5 whether it s a title insurance, or a bank, or, you know, whoever.

6 And so, again, we are not really proposing anything that the
7 private sector isn t already doing.

8 COMMISSIONER FRANKLIN: Well, perhaps

9 MR. RODGERS: It s just that we would be a third
10 party beneficiary, essentially, to that escrow agreement.

11 COMMISSIONER FRANKLIN: And, if the housing were
12 never developed, again, this money would what would happen to
13 this money again?

14 MR. ALTMAN: The money then goes to the Housing
15 Production Trust Fund.

16 COMMISSIONER FRANKLIN: Production Trust Fund.

17 MR. ALTMAN: Right, so that that way we are ensured
18 that those funds can be used to close construction of housing.

19 MS. MCCARTHY: But, in this case the site still
20 remains with the obligation to construct housing, whether or not
21 the money is still available in escrow. So, the notion was, put
22 the money in there, indicate there s a maximum of eight years in
23 which it can be used, so that when the deal is initially struck
24 between the office developer and the housing developer, the
25 office developer is looking for somebody who is basically ready

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1 to proceed in fairly short order, so it s a clean transaction and
2 the housing developer knows that if they are not ready to go
3 within eight years they can lose the money, but still have an
4 additional housing requirement on their site.

5 MR. ALTMAN: That s an important point, because if
6 you have 2.5 pick a number, if you have 2.5 FAR residential
7 requirement on your site, you accept the additional residential
8 developed density of, say, 2.5, you don t have that 5.0
9 requirement of residential on your site.

10 Now, if you don t access those funds, obviously,
11 within five years, it s to your detriment that you haven t done
12 that. Hopefully, this gives an incentive to expedite the housing
13 construction, and the reason we put that in is people were very
14 concerned that, you know, you could accept this density and use
15 the funds for other purposes, and maybe just sit on the site for,
16 you know, in perpetuity, and, hopefully, this way it says, well,
17 you ve got a use it or lose it provision to the funds.

18 COMMISSIONER FRANKLIN: So, if I m developing
19 housing, and there s this money sitting in escrow to try to make
20 sure that I do it, I have no access to that money to help finance
21 the housing, and it just comes into my hands when a C of O is
22 issued for the housing, is that correct?

23 MS. MCCARTHY: That s something that was discussed
24 in a number of our task force meetings and discussions with the
25 housing developers, and the thought was, if this money were

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1 available at the 50 percent completion stage, then through bridge
2 financing you could essentially have access to it as equity, so
3 it could be used at the front.

4 COMMISSIONER FRANKLIN: I see.

5 MS. MCCARTHY: And, that you would be able to
6 arrange the bridge because it s clear the stage at which you were
7 able to draw upon it. That s why we didn t want to wait until
8 the completion of the project, because we figured at that point
9 it has very little utility to housing developers.

10 COMMISSIONER FRANKLIN: Now, I understand you are
11 not recommending, I guess, these affordability policies, you are
12 just simply calling our attention to these issues?

13 MR. ALTMAN: Well, let me amend that, let me say
14 that we are recommending that, we discussed it. We ve discussed
15 it quite a bit, and we ve been doing a lot of work on the
16 analysis, and what we are bringing forward today is that we think
17 and based on what Art showed and some further analysis we ve
18 been doing, that it makes sense to consider that. You know,
19 again, the point here is, we just, for example, released the Wax
20 Museum RFP, we had 20 percent affordability in there when we used
21 a publicly-owned site, in order to encourage a diverse
22 neighborhood. We think if you are getting the extra density and,
23 again, Art showed examples from California and elsewhere where
24 this has been used pretty successfully, the ten percent
25 affordability, particularly, when you are looking at the moderate

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1 income range, up to 120 percent of median, that you are really
2 talking about, you know, providing housing for a downtown work
3 force, and that that s an important component of this program.

4 COMMISSIONER FRANKLIN: In the Wax Museum case,
5 was there a write down of the land value?

6 MR. ALTMAN: Well, the proposal is not on the
7 street yet, so we ll see what we receive, but, hopefully, not.
8 We are requesting maximum value.

9 COMMISSIONER FRANKLIN: Sorry to have asked that
10 question.

11 I know that in Montgomery County, and maybe, I m
12 not familiar with the other cities, but the policies in
13 Montgomery, and, perhaps, in some of the other cities,
14 essentially, require a skewing of the rents. What I mean by that
15 is a crossed subsidy from those who are paying market rents to
16 those in the same project who are paying less than market rents.

17 Is that what is being contemplated under this proposal?

18 MS. McCARTHY: That s essentially what it comes out
19 to, if you have ten percent of your residents that are going to
20 be, by requirement, paying at and again, you could set it at a
21 50 to 80 percent average median income, you could set it at 80 to
22 120 percent, those are the two typical categories, but if those
23 people are paying only a percentage of their income there s a cap
24 on that and you are looking you ve got to get your operating
25 income and your debt payment and all of that for your project,

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1 then the other units will probably be paying more than they would
2 if you didn't have a limitation on those units.

3 But, one of the things we've discussed with
4 downtown housing developers is that, in any project you are
5 always going to have some units that are less desirable than
6 other units, and

7 COMMISSIONER FRANKLIN: That was my next question.

8 MS. MCCARTHY: yes, so that a ten percent
9 affordability factor isn't necessarily a big burden, that's the
10 one, you know, that some of the units would be alley views, or
11 with smaller unit sizes.

12 COMMISSIONER FRANKLIN: Well, what you are saying
13 is that the normal market reaction to some of these units would
14 be that they'd be less pricy because of their character and their
15 size, and they would even be written down more because of this
16 policy.

17 Madam Chair, I have other questions, but I don't
18 want to monopolize this, and I would just as soon listen to some
19 other points, if you want to go on to other areas.

20 CHAIRPERSON MITTEN: Okay, thank you.

21 Anyone else like to take a crack at it?

22 VICE CHAIRPERSON HOOD: Madam Chair, I just have a
23 few questions.

24 Do we have a specific definition of good cause,
25 because I'm sitting here running it through my mind, and running

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1 it through my mind, and I m sure that everyone who is not able to
2 who is not going to be able to produce housing is going to come
3 down, and what we think and what we see as a good cause, do we
4 have something within the realm of things where we can kind of
5 get a hold on good cause, because I see the Commission being a
6 posture of a position of maybe being unfair to a certain point or
7 not. So, I just wondered if someone could elaborate on the good
8 cause for me.

9 MS. McCARTHY: I think there are a variety of
10 different ideas about what good cause could be, and we d be happy
11 to try to I thought it would be useful to hear from people who
12 are testifying tonight what they would suggest. It has been
13 suggested in the past that the good cause should cover only
14 situations where a developer has been unable to receive a permit
15 through no fault of their own, but through city action or city-
16 based delays. There have been suggestions that if you related it
17 to interest rates, if the economy goes in one direction and
18 interest rates rise above a certain percent, and so I guess the
19 short of it is we don t have one specific answer. We would be
20 happy, if you wanted to, to leave the record open to go confer
21 with the task force, do some more looking around at other
22 jurisdictions, and try to come back with some suggested language
23 for good cause. We know that s been a subject of concern to the
24 Commission in the past.

25 VICE CHAIRPERSON HOOD: I m just hoping that maybe

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1 if we can go into this with some type of structure, because I
2 know that different circumstances will create things that are not
3 the same, that we cannot see the future of, so that s something
4 that we really want to look at so we can kind of have a handle on
5 it when it presents itself to the Commission.

6 Also, for example, if we see something that back
7 on the good cause issue, after five years and we don t see where
8 they need an extension to eight, if I m reading correctly that
9 money then goes into the trust fund, and the District then
10 decides upon where that money is going to be placed. Am I
11 correct? I m kind of concerned that it s going to be within the
12 DD, are we going to have a balance of housing on one side
13 looking at the map, it s going to be like an unevenness across
14 the DD if it all is just put in one particular area. And, I
15 guess maybe I need to hear more discussion, and also from the
16 people who are going to testify, but I can just see us maybe
17 coming to some fine tuning problems that need fine tuning, if you
18 follow what I am saying.

19 MR. ALTMAN: Yes, I think a couple things. One is
20 on the Housing Production Trust Fund scenario that you spoke of,
21 is the idea was that these funds, if they are not used within
22 that five-year period of time, or three-year extension, would be
23 used within the Downtown Development District, because, in fact,
24 we want to have a concentration of housing downtown, and we want
25 to reinforce the housing that s being built downtown, and,

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1 particularly, if you look at the area north of Massachusetts
2 Avenue, which is where a lot of the new housing opportunities are
3 going to be, we want that clustering effect. So, you want to
4 concentrate it there, which is why we are very concerned that the
5 funds would just go outside of the downtown.

6 Now, that s not to say as I pointed out earlier,
7 it was pointed out to me to answer a question by Commissioner
8 Franklin, that the Housing Production Trust Fund, in fact, does
9 have \$25 million that s been deposited into it, Steve Green, who
10 is here from the Deputy Mayor s office, confirmed that, so it s a
11 trust fund that is being activated, it may have been dormant for
12 some time, but we intend to use that as a mechanism to really
13 increase housing production.

14 VICE CHAIRPERSON HOOD: Okay, thank you.

15 Madam Chair, I have no further questions.

16 CHAIRPERSON MITTEN: Mr. Parsons, did you have some
17 questions?

18 COMMISSIONER PARSONS: Yes.

19 I m very skeptical of this, and I think you ve
20 made a convincing argument for why we need to do something. I m
21 very concerned about the proposal. Is it it would seem to me
22 that we would be able to identify, almost identify the sites that
23 we want housing on, and have a reseizing site that is somehow
24 mandatory and can t be waived, or for good cause, or for best
25 efforts, or for, you know, good faith. I envision a built-out

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1 office environment with empty lots that have a covenant on them,
2 and the worst case is they go to the City Council and they get an
3 act that says, look, housing didn't work out here, why don't you
4 spend that in Anacostia. Now, that's a horribly pessimistic
5 point of view, but at the beginning of your presentation you make
6 the argument about all these unassisted planned housing
7 developments going on right now, and many of them unassisted, and
8 I kind of want a map of that, a map of how much is left to be
9 built out in the DD? How much land is really left here that this
10 process can work on, because I'm afraid it's not going to work.

11 Enough of my testimony.

12 Are there any tax incentives being considered by
13 the City Council to assist housing in the City, or are we on our
14 own here?

15 MR. ALTMAN: Let me the answer to your question
16 is, the Mayor is going to be coming forward shortly with tax
17 incentives for housing, but that was actually one of the other
18 recommendations, both from the Downtown Housing, Downtown Action
19 Agenda, and it came out of the task force, was that there would
20 also be tax abatements for housing, and that's something that's
21 being considered right now. That will be proposed, so you have
22 both the zoning incentive and a tax incentive, that would be also
23 city-wide, I should say, not just downtown. I don't know if
24 Steve Green wants to comment on that, but I think it's something
25 that's coming forward quickly.

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1 In response, if I may just respond to your
2 testimony for a second, because most of this will be affected in
3 the area, and we will get you a map of both what is planned and
4 an area that remains, most of this will probably be in the area
5 of north of Massachusetts Avenue, the majority of the new site in
6 that Mount Vernon Square area, although there are some sites that
7 still remain south of Massachusetts Avenue, which we will show
8 you.

9 We did not take the route of just designating
10 those sites, because, that, in essence, just wasn't a rezoning of
11 those sites to residential, rather than if you were to just say
12 this site shall be residential, this one shall be commercial,
13 what this does is, essentially, allow the market to work and,
14 essentially, allow people a reason to sell selectively and
15 rezone, but at the same time they are taking on that commitment
16 and it allows for funding to help incent that. It's one thing
17 just to rezone it, but this actually also generates the resources
18 that the private market transaction would encourage, as opposed
19 to a rezoning which I think we could spend many, many years
20 fighting and arguing over the rezoning of those parcels, which
21 might, in fact, result in a stalemate. And, the idea of this was
22 to break the stalemate, allow the market to work, but, in
23 essence, it does allow for that rezoning to occur on a market-
24 based transaction.

25 COMMISSIONER PARSONS: So, how many sites are there

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1 left in Housing Priority C, for any kind of development?

2 MS. McCARTHY: There s only one site, that s Square
3 406.

4 COMMISSIONER PARSONS: And, we ve already taken
5 care of that.

6 MS. McCARTHY: Well, it s not taken care of, there
7 are certainly plans for it, and the plans do not include housing
8 on there. And, there s the Department of Employment Services
9 site, which will have housing on it, and that s proceeding,
10 Square 457.

11 COMMISSIONER PARSONS: Yes, I understand that.
12 There are no sites left that this would apply to in Housing Area
13 C.

14 MS. McCARTHY: That s correct.

15 COMMISSIONER PARSONS: And, how about Housing Area
16 B?

17 MR. RODGERS: I think it s important to point out
18 that even sites that are currently developed have a housing
19 requirement on them. So, if they were to be redeveloped, that
20 that housing requirement would trigger and they would have to
21 either build housing on site or get rid of it to another site
22 through combined lot. So, even when the site is redeveloped, the
23 DD regulations have a trigger that, you know, I think

24 COMMISSIONER PARSONS: No, what I meant was, how
25 many sites are vacant, are ripe, ready to go, with the housing

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1 requirement on them, that are ready to transfer these development
2 rights, in Housing Area B?

3 MS. McCARTHY: Projects that are in the pipeline
4 now?

5 COMMISSIONER PARSONS: Yes, they are ripe for
6 office developing, have a housing requirement, but would want to
7 move it off.

8 MS. McCARTHY: There are a number of sites out
9 there. There are several people here today to testify who have
10 sites in Area B that are planning on doing housing on them.
11 There are sites in Area B where there s discussion of housing
12 projects, particularly, along 6th Street, Bergman s site, and the
13 eastern side of 6th Street, south of H. There are squares even to
14 the west of Mount Vernon Triangle that have a housing requirement
15 on them, and two sites along L Street which are PUDs that were
16 not rezoned in the DD, but have indicated they are interested in
17 becoming rezoned to be housing priority areas in the 1300 block
18 of L.

19 COMMISSIONER PARSONS: Well, I don t mean to run
20 through your memories here, but I m trying to figure out what s
21 motivating us to do this. If there are ten sites out here south
22 of Massachusetts Avenue in Housing Area B that simply will not
23 develop until something changes, that s what I am trying to
24 understand here.

25 MS. McCARTHY: You know, I think one of the things

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1 that helped turn the tide in our way of thinking was when we
2 realized that not only were the awkwardness of the timetable on
3 combined lots affecting officer developers ability to move
4 forward, but that if you were on the other side of that equation
5 and you are a housing developer, and you are looking to receive a
6 contribution and you are happily waiting to accept combined lot
7 transactions, you typically have a problem that if you have the
8 instances the one instance in particular that we have talked
9 about the most, AvalonBay, and there are people here to testify
10 from AvalonBay, they are they can self-finance in anticipation
11 of eventually getting the contribution back from the office
12 developer. Most housing developers are not in that position, so,
13 therefore, they have to wait until the office developer is able
14 to finance the office building to the point where the office
15 developer then has money to transfer.

16 But, the office developer has a difficult time
17 getting financing if the lender knows that they can't count on
18 the Certificate of Occupancy being granted for that office
19 building until a housing developer, over whom the office
20 developer has absolutely no control, delivers housing, gets a C
21 of O for that housing, that then will permit the officer
22 developer to get the C of O for the office development.

23 So, without the ability to break that log jam it
24 was a standoff on both sides, and you have rare instances where
25 someone could self-finance and overcome that, and, perhaps, with

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1 the pump primed we have enough going that that could continue,
2 but it seemed that in order to make it easier, to take advantage
3 of what s now an extremely favorable market situation, that this
4 was a time to see if when we knew we had a lot of people coming
5 to us who had interest in doing housing, if we made it a little
6 easier could we reap the benefits of that.

7 COMMISSIONER PARSONS: Yes.

8 So, somehow you are going to produce a map to try
9 to answer the question that I m not very articulate in
10 expressing?

11 MS. MCCARTHY: Yes, we d be happy to highlight
12 potential sites.

13 COMMISSIONER PARSONS: All right, thank you.

14 Now, should we be defining the term 50 percent?
15 Is that a state of art in the building permit business, that
16 everybody knows when a building is 50 percent complete, or should
17 the Zoning Commission define what that means?

18 MS. MCCARTHY: First of all, everybody generally
19 knows because with your construction lender you establish a draw
20 schedule.

21 COMMISSIONER PARSONS: Oh, okay. All right, so we
22 don t have to bother with that.

23 MS. MCCARTHY: We can certainly clarify it in the
24 language, in the record, so that it s very clear that there s a
25 good, clear legislative history that that was our intention, and

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1 I think we were talking about requiring an outside architect to
2 review the plans and certify that in addition to that being
3 certified by the construction lender s draw.

4 COMMISSIONER PARSONS: Okay, next to the Open Space
5 Fund. There s only one park in the DD, and that s Mount Vernon
6 Square, that I m aware of. There are some small triangles, but
7 there is only one park, if we call that a park, that is, the
8 grounds of Mount Vernon Square.

9 MS. McCARTHY: Well, there s a large triangle
10 generally used for sleeping in front of Union Labor Lake.

11 COMMISSIONER PARSONS: Yes, yes, that is under the
12 jurisdiction of RLA. I didn t realize that was in the DD, but
13 anyway, so I was interested in why you wouldn t consider the
14 National Park Service as a potential recipient of some of these
15 funds in the open space account, because I don t think the
16 Department of Recreation really has any land in this area, unless
17 the plan is to purchase a park, which I would encourage that to
18 happen, given the number of residents we have here it s a long
19 walk to The Mall, if you will.

20 So, we don t have to resolve that tonight, but I
21 think there might be some split responsibility there that could
22 be used to tap this fund.

23 MS. McCARTHY: I think we are willing to be quite
24 entrepreneurial about where the land is located, and I don t
25 think we meant to rule out the National Park Service. We were

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1 thinking, particularly, north of Massachusetts Avenue, that this
2 was an area we had in mind as more likely to be to have appeal
3 to family niches than south of Mass Avenue, probably just given
4 the economics, and so one of the open spaces that we had thought
5 about would be a playground most likely.

6 COMMISSIONER PARSONS: Within the housing complex,
7 you mean built as an amenity as part of a project and then turned
8 over to

9 MS. McCARTHY: Within a housing complex or adjacent
10 to a housing complex, and as Mr. Altman said, 30 to 40 percent of
11 the land in the Mount Vernon Triangle is owned by the City, so if
12 we were to designate some of that as open space that was a
13 possibility.

14 MR. ALTMAN: In the NOMA plan that will be
15 forthcoming, we can share it with you, there are proposals for a
16 couple of sites, in fact, Committee of 100 recommended a creation
17 of a park, I believe, along K Street. Wasn't that two parks?
18 Two parks, in fact.

19 COMMISSIONER PARSONS: Okay.

20 MR. ALTMAN: Along K Street, as being sort of the
21 residential spine of the neighborhood, where those could become
22 open and accessible.

23 COMMISSIONER PARSONS: Okay, thank you, Madam
24 Chair.

25 CHAIRPERSON MITTEN: To follow up on Mr. Parsons

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1 initial question about what other financial incentives are going
2 to be coming forward, one of the things that we've been guilty of
3 in the past is trying to bridge economic gaps exclusively with
4 zoning incentives and so on, and so I'm glad that there are other
5 things that are going to be coming forward. But, one of the
6 things that I'm hearing is a theme of well, there's two things
7 that I'm hearing one is, throughout the Downtown Housing Task
8 Force report there is sort of a request for consistency,
9 predictability, and not this kind of flip-flopping reacting
10 approach that we've taken to housing downtown. And then, the
11 other thing I've been hearing is, that we have this opportunity
12 because the market is so strong right now, and we need to take
13 advantage of that.

14 And, I guess I'd like to hear to what extent you
15 think that what you have proposed will survive the strong market
16 and take us through a full cycle, so that we don't keep flopping
17 around trying to adapt the zoning to market conditions.

18 MS. McCARTHY: Well, for one thing, that was one of
19 the rationales behind the eight years, is in talking to housing
20 developers their feeling was, if they were at a point in the
21 cycle where they were comfortable enough with their ability to
22 accept an additional housing requirement and to expect to do that
23 within five years, that that additional three years would provide
24 for them a sufficient time frame that they could get through a
25 cycle and be back on the upswing, and that the eight years was a

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1 cycle that they could comfortably predict and feel comfortable
2 that they would not be they would not be having to come back to
3 the Commission and saying, well, we know we said eight years,
4 but, really, you know, we need more time.

5 And, you are right, it was definitely an important
6 thread in the Downtown Housing Task Force that the market can
7 only work to keep land prices adjusted to being affordable for
8 housing if the City is very clear in all of its policies, from
9 the Zoning Commission, to the City Council, to the administration
10 of the Housing Production Trust Fund, to the Office of Planning
11 and everybody, if they are all on the same page and saying, we
12 are very serious about housing. We are not going to offer
13 relaxation from housing requirements as part of a deal to deal
14 with changes in market conditions or whatever, and that that be
15 articulated from the get go, so it s in the Downtown Housing Task
16 Force report, it s in the Downtown Action Plan, and when the
17 package of incentives comes out from the Mayor with the
18 additional tax incentives or whatever, that position will also be
19 strongly articulated in that event and a policy document would
20 say that as well.

21 MR. ALTMAN: I think, you know, just quickly, Ellen
22 is right about the timing issue, but I think overall the idea of
23 these proposed amendments is that they really transcend the
24 cycles. These are the incentives that are needed that we heard
25 from the downtown development community, in other words, the

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1 cycle, the financing issue is there, but these zoning issues are
2 there whether down cycle or up cycle, they need these because
3 what they do is allow you to maximize the envelope to develop as
4 much housing as possible. It allows them to then, within that
5 envelope, based on market conditions, they ll be able to
6 determine how many units are appropriate, but it removes a lot of
7 the uncertainty in a number of areas, one, for example, in the
8 recreation and density requirements, the reduction of the
9 recreation requirement, that you don t have to go through to the
10 BZA. We ve had a number of cases now that we ve had to beat to
11 the BZA, and they ve all been approved, but the uncertainty and
12 the timing requirement, this removes that uncertainty. It allows
13 you to maximize your residential density, removes that, so you
14 have the ability, as the developer, to say, what is the market,
15 that you have the opportunity to do that as opposed to that being
16 a regulatory hurdle, and then the combined lot also takes away
17 that uncertainty. There s always the uncertainty of who you are
18 going to conduct the transaction with, but in terms of having to
19 wait for that construction to occur for the office to proceed,
20 and the residential developer with the uncertainty of whether
21 they can construct fast enough to allow the office to proceed,
22 there was so much uncertainty in the marketplace there that what
23 this does, it reduces that uncertainty to the extent one can when
24 there are private transactions.

25 So, what we thought, we sort of attacked what we

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1 saw as the current barriers that then allow the market to work to
2 its best ability.

3 CHAIRPERSON MITTEN: Another question that I had,
4 because I saw sort of a difference between what was in the
5 Downtown Housing Task Force report and what was in your report,
6 related to the residential density issue of removing the FAR
7 limitation, and it seemed that in the task force report that that
8 limitation was seen as somehow helping to raise the land value
9 for land that was subject to a residential requirement, and that
10 would somehow provide an incentive, and in your report I saw that
11 it was of greater importance to you that we were increasing the
12 number of units. And, I guess I want to be clear about what
13 exactly are we trying to accomplish by removing the density
14 limitation, because if it s about the land value then the land
15 value will adjust to reflect the change.

16 MR. RODGERS: Well, I think we have two. One is,
17 it s still felt that there s a marginal property out there that
18 could be developed with the addition of some additional units.
19 And also, our whole point is to encourage more units. So, we are
20 doing both of those.

21 MS. MCCARTHY: I think the Downtown Housing Task
22 Force report reflected the perspective of many of the developer
23 participants, who were looking at it from the very beginning with
24 the perspective of looking at residual land value and what could
25 make up the difference in residual land value between office and

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1 residential, and that, you know, began with an economic analysis
2 and that thread carried through.

3 The more we looked at it, it made sense because if
4 your floor-to-floor heights were lower for housing, because you
5 didn't need to leave as much space for the cabling and the
6 electronic equipment as you do in office, then why not take
7 advantage of that fact to build more housing within the same
8 envelope, essentially, and I think particularly what helped raise
9 that, the visibility of that as the policy perspective was when
10 we started doing a count, taking a look at the 5,400 unit target
11 south of Mass Ave., that had been established in the
12 comprehensive plan, and realistically assessing how close we were
13 going to come to that if every square that had a housing
14 requirement on it developed to its full zoning envelope. We were
15 still more than a thousand units short.

16 So then, we began looking at, well, what could we
17 do that could help increase the number of units so we could come
18 closer to meeting that target, and that that was done very well.

19 CHAIRPERSON MITTEN: Have you considered
20 oh, I'm sorry.

21 MR. ALTMAN: No, I was just going to say following
22 on that, we found that in discussions with a number of the
23 developers downtown, who were contemplating residential
24 development at these sites, that they've already been factoring
25 in how much additional density, you know, that they can achieve

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1 on these sites to making these feasible. So, that led us to that
2 over the past couple of months in working with the developers for
3 a residential development community, downtown development
4 community.

5 MS. MCCARTHY: It seems like a sobering reality
6 that almost anything we did that was trying to impact the
7 relative value of housing construction versus office construction
8 was very quickly capitalized into the land value, so it had no
9 lasting effect in that respect.

10 CHAIRPERSON MITTEN: Have you thought about trying
11 to link the notion of affordability and providing an incentive
12 for that with reducing or eliminating the FAR limitation, so that
13 for people who would be providing affordable housing, those are
14 the people that would get that incentive?

15 MR. ALTMAN: Yes, I m sorry, we were conferring. In
16 the area north of Massachusetts Avenue, that s exactly what we
17 were proposing, which is the density bonus, in essence, the idea
18 that you could build, that if you are going to build that
19 additional FAR by right, that we allow that by right, then a
20 percent of those units, suggesting 10 percent, would be set aside
21 for affordable housing.

22 CHAIRPERSON MITTEN: Okay. So, you see those two

23 MR. ALTMAN: So, we saw a connection between

24 CHAIRPERSON MITTEN: they are not necessarily,
25 they are simultaneous recommendations, as opposed to if you do

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1 this then you get that. It s just sort of, you will have an
2 affordability requirement and this is what we are giving you to
3 go along with it.

4 MR. ALTMAN: Right.

5 CHAIRPERSON MITTEN: Okay.

6 MR. ALTMAN: Exactly, and again, we modeled it off
7 various statutes around the country, and going back to your point
8 about predictability and reducing uncertainty, is that if you are
9 going to get that extra density then you can do that
10 automatically and by right, and you know that X number of units,
11 10 percent say, would be set aside for affordable housing.

12 CHAIRPERSON MITTEN: Okay.

13 I d like to ask about the amount of money that
14 would go into escrow, because there s an implied transaction
15 that takes place, there s an implied arm s-length transaction
16 that takes place which may not, in fact, occur, and I ll let you
17 answer that and then I have a follow-up about that.

18 MS. MCCARTHY: The less than arm s-length
19 transaction problem was one that the task force, Community Safety
20 Task Force wrestled with substantially. Some task force members
21 wrestled with it more than others, but in the end the sense was,
22 by putting the restriction against lots that were adjacent to
23 each other, doing combined lots or lots that were owned by the
24 same entity, or carved out of the same parcel, we were trying to
25 reduce one aspect of the less than arm s-length transaction where

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1 someone might deliberately leave land vacant and it could be
2 easily turned into an amenity for their project, nicely
3 landscaped, and create I mean, it seemed unlikely, given the
4 price of downtown land, that people could afford to simply do a
5 transaction for a site and leave it totally vacant, unless there
6 was some way that it could renown to their benefit like serving
7 as a landscape plaza or something for their office building. So,
8 that was one reason for that restriction.

9 And, every other mechanism that we could come up
10 with to try to deal with that issue had so many drawbacks, and in
11 the end we said we think we ll rely on the market to keep the
12 value of those parcels being high enough that it was unlikely
13 somebody would leave it fallow, and secondly, we had to rely on
14 good faith at some point.

15 CHAIRPERSON MITTEN: I guess, what about somebody
16 who is on both ends of the deal, they ve got both sites, they ve
17 got the sending site and they have the receiving site, and there
18 is no formal transaction that takes place, what do you do?

19 MS. MCCARTHY: Our feeling was, because the
20 receiving place was going to have their zoning permanently
21 altered to increase the amount of housing they were required to
22 do there, that they were if they wished to increase the
23 requirement on that receiving site without a commensurate amount
24 of money changing hands from one parcel to another, that was the
25 burden that they had placed upon themselves, and probably we

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1 were hard pressed to think of that many instances where it would
2 be likely that you were going to accept the additional housing
3 requirement without some sort of compensating transaction for
4 that.

5 CHAIRPERSON MITTEN: No, but I m saying, they are
6 not actually going to take money out of one pocket and put it
7 into another pocket, so there s nothing to go into escrow and
8 there s nothing for the Downtown Housing Production Trust Fund to
9 latch onto if the housing doesn t materialize within the time
10 frame that s anticipated.

11 So, basically, what you are saying, you know,
12 there s a calculus that would go on potentially from a developer
13 who would say, well, am I willing to encumber, you know, site B
14 with a housing requirement in order to get more office at \$83.00
15 or more dollars per square foot of FAR. They d run the numbers
16 and they d say, yeah, I ll take that chance, and there s nothing
17 for the District to do about it.

18 So, that s my concern, is if we don t have some
19 way of defining what amount of money should go into the escrow,
20 other than, you know, whatever the transaction, whatever occurs
21 as a result of the transaction which may or may not actually
22 occur, then there s something that we re missing in the equation.

23 MS. MCCARTHY: Well, what we were originally
24 looking at, could we specify some sort of minimum transaction
25 cost, and it was very difficult to come up with a formula that

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1 could be updated to represent changes in land costs having seen
2 that cycle go up and down in the last ten years, and even assess
3 value which was at the basis of the Downtown Housing production
4 Trust Fund formula under the DDD didn't seem to operate very
5 efficiently as a proxy for that. So, our sense was, we are still
6 keeping all of the restrictions that require that your parcels
7 have to be within the same combined lot, or you have the same
8 housing priority area, so it's not like you could take land in
9 Housing Priority C, which is a C-4, which is very valuable office
10 land, and match yourself with a low-cost parcel north of
11 Massachusetts Avenue. You were going to be taking parcels that
12 because they were in the same housing priority area at least had
13 relatively like values, and you were going to have to encumber
14 one of them with increased zoning.

15 Yeah, it's true, in the end there may not be money
16 for the District to reclaim, but that money wouldn't necessarily
17 have gone to the development of that parcel anyway, but you will
18 now have a parcel that has a higher housing requirement on it.
19 If the original owner decides not to follow through on their
20 housing commitment on that site, that site goes to market, but it
21 now goes to market, presumably, at a sales price that reflects
22 the fact that it has a higher housing requirement on it, and that
23 the market should then require its sale to be something
24 commensurate with what the cost of the developing housing on the
25 site.

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1 CHAIRPERSON MITTEN: Okay.

2 I just want to suggest one thing in addition to
3 that as all of this evolves, which is, even when you have a
4 transaction, and say it s a market rate transaction, the amount
5 of money that changes hands reflects someone s willingness to
6 encumber their property with a housing requirement to a greater
7 extent than naturally exists, but it doesn t actually give them
8 an incentive to start building anything. So, to the extent that
9 there s any way that and I understand that there s going to be
10 some other financial incentives coming down the pike, and maybe
11 that s the role that they will play, but it doesn t all we re
12 doing, even at a market level transaction, is moving the pieces
13 around, it s not an incentive.

14 Mr. Franklin, did you have some more questions?

15 COMMISSIONER FRANKLIN: I was following your s with
16 great interest, and I agree. I guess maybe the thing to do is to
17 let other people testify and then have questions, but, you know,
18 I think we are dealing here with a proposal that is, as I said
19 before, very creative, but it has the intricacy of a Swiss watch,
20 and I may be unfair in this, but it seems to me that we are
21 creating this intricate system here, because the City is
22 unwilling to make direct assistance available to achieve the
23 housing objectives it proposes to have and, therefore, it s
24 trying to, you know, squeeze out of the private sector, in one
25 way or another, however creative, however imaginative, the money

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1 that is necessary to achieve these public purposes. And, I am a
2 little bit skeptical of that approach. I would love to see the
3 City, through tax increment financing, through other tax
4 incentives, to direct appropriations, try and achieve these
5 goals.

6 That s enough of my testimony.

7 A couple of quick questions. Mr. Altman, you had
8 said something about the plan for NOMA, could you describe what
9 that plan generally will entail? I mean, are we going to have,
10 for example, some urban design kind of standards? I mean, all
11 the drawings that I ve seen of NOMA, whether it s the Committee
12 of 100, or the Downtown Task Force, used clearly obviously
13 schematic approaches to what the housing developments would look
14 like that strike me as, frankly, very unimaginative and very
15 large scale and suburban in character.

16 It would be very interesting if so much of the
17 land is publicly owned, to be able to come up with an urban
18 design program for that land that would really let people know
19 where the parks would go, maybe some land ought to be set aside
20 for supermarkets and not housing, the kind of thing that people
21 look for when they have settled into a neighborhood. You know,
22 we have to look at this in, I think, a very holistic way, and I
23 assume that something like that is in the works.

24 MR. ALTMAN: Yes, you know, having worked on the
25 West Coast, everything I do is holistic. No, I m just kidding.

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1 The response to your question is, we are, in fact
2 two things about the NOMA plan, one is, we had a briefing about
3 the downtown plan, the NOMA plan is a kind of subset of that,
4 it s a little bit Mount Vernon but south of Massachusetts Avenue,
5 and the plan for NOMA really is a very sort of housing emphasis,
6 you know, upward of 3,500-4,000 units that we could achieve
7 there, particularly, since so much of it is publicly owned, but
8 also by encouraging higher-density housing, particularly, along
9 the corridors, New York, Massachusetts Ave., and even along K
10 Street, which would be the residential spine.

11 We are going to do urban design guidelines. We
12 think those are very important to the whole creation of this
13 place, as I said, and we re actually starting that up right now,
14 so that we will have guidelines for private developers, as well
15 as for our own site, Was Museum site. In fact, in the Wax Museum
16 site, to your point, we ve encouraged, in the RFP, that in
17 addition to it being an all housing site, and it currently allows
18 both housing and office, we are saying it would be residential
19 only, but also have neighborhood serving retail, preferably we d
20 like to see a grocery store there if possible to serve what would
21 be the emerging residential community. So, we are thinking those
22 kinds of guidelines through.

23 I just want to make one quick comment on your
24 testimonial, which is that we are not creating a system here so
25 much, as there s a system in place which is the Downtown

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1 Development District. What we responded to, in terms of what we
2 are putting forward, is that there have been a number of issues
3 that were raised since that s been adopted that both sides, I
4 think, both community, and housing developers, and office
5 developers felt wasn t really serving its purpose to allow the
6 construction of housing and created certain barriers. So, we
7 really didn t sort of try to create an intricate system, so much
8 as taking what is a very intricate system and trying to within it
9 allow the market to operate more freely than it currently is.

10 The tax incentives and other issues, certainly,
11 those are very important, but fundamentally this system is not
12 dependent on those, and these were barriers that had been created
13 by the DDD since its enactment, we are just trying to propose,
14 and you raised many good points that we need to follow up and
15 think through, but it s how to make that existing system work,
16 because they are not, obviously, proposing just a straight
17 rezoning, which is, let s sort out what s residential, what s
18 commercial, that wasn t the premise of starting the DDD. We
19 didn t revisit that, we took that as a given, and figured out how
20 to make it work along the lines that you are talking about.

21 COMMISSIONER FRANKLIN: I think your answer is very
22 fair, in terms of the existing intricacy of the system, and since
23 it was adopted before I became a Commissioner I don t have to
24 defend it.

25 Let me just make one other well, I have one

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1 other question, and then I think we probably should open it up to
2 the people who have been very patient waiting to testify.

3 Is it your understanding that the Housing
4 Production Trust Fund would inject money into projects more or
5 less as the UDAG program did? Is that something that the trust
6 fund has as a matter of policy, or is it something that we should
7 provide in our regulations?

8 MR. ALTMAN: You may want to turn actually have
9 Steve Green

10 COMMISSIONER FRANKLIN: Well, will Mr. Green
11 testify later?

12 MR. ALTMAN: Would you want to comment on that?
13 Steve s been working very much on this issue of the Housing
14 Production Trust Fund.

15 MR. GREEN: I don t think I can comment on the UDAG
16 methodology.

17 CHAIRPERSON MITTEN: Sir, could you just come up
18 and identify yourself for the record?

19 COMMISSIONER FRANKLIN: And, use the mic, I guess.

20 CHAIRPERSON MITTEN: That, too.

21 MR. GREEN: I m Steve Green, I m a Special
22 Assistant in the Deputy Mayor for Planning and Economic
23 Development s office, and I m not sure that I can address the
24 question because I m not sure what you mean by the UDAG program.
25 But, you must have something in mind.

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1 COMMISSIONER FRANKLIN: In my judgment, it s one of
2 the best programs that HUD ever had. Unfortunately, it no longer
3 exists.

4 But, basically, under that program, as I think Ms.
5 McCarthy mentioned earlier, public monies were injected to
6 achieve certain development objectives in a way that was, for
7 example, not the first money in. There was a test to make sure
8 that there was a basic market validity to what was going on, and
9 there was maybe a low-interest loan that got injected into the
10 project after private sector money had gotten involved, and in
11 return for that there were certain public benefits that were
12 derived, and, in fact, the loans were the payback of the loan
13 and the low market interest was sent into a revolving fund,
14 typically. Buffalo was a particularly successful program.

15 MR. GREEN: I think Stan Newman would appreciate
16 your comments.

17 COMMISSIONER FRANKLIN: Yes, he s heard them from
18 me directly.

19 MR. GREEN: I think that s pretty much it, though
20 we are the DUCD and Milton Bailey is in the process of
21 developing new regulations for the Production Trust Fund, since
22 it hasn t been operational. I think it s very much along those
23 lines. The but for monies that Ellen mentioned, it s supposed to
24 be highly leveraged and fairly creative in the sense that it
25 helps make something happen that might not have otherwise

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1 happened, be that and I think it varies depending upon your
2 economic climate, interest rates, markets, et cetera, as to
3 whether you will provide the low market financing, given the, you
4 know, tax incentives are now are what, 5-3/4 or whatever they
5 are, or whether it s a straight out just sort of GATT financing.

6 I do believe, though, the emphasis there is on
7 housing production, and, of course, UDAG had a broader purview.

8 COMMISSIONER FRANKLIN: Thank you.

9 MS. McCARTHY: I think also, Commissioner
10 Franklin, the other part of your comment is, I m not sure whether
11 we need to put them in the regulations, but certainly putting
12 them in the legislative history as the intent of the Commission
13 could help guide Milton and the government when they are coming
14 up with the regulations.

15 COMMISSIONER FRANKLIN: I think also that federal
16 funds can still be deployed through the Community Development
17 Program for these purposes, so that would be a case of the city
18 putting its own chips on the table in this process, but using
19 federal funds for that purpose.

20 MR. GREEN: That s correct, and addressing the
21 earlier question, we will be proposing dedication of resources,
22 both direct resources and tax abatements, for the production of
23 both housing and affordable housing, in a way that hasn t been
24 done to date. So, we won t be out much, and it will be
25 completely consistent with the recommendations from the Office of

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1 Planning that you ve heard today. In other words, the incentives
2 will be tied towards affordability, the greater the affordability
3 more tax incentives.

4 COMMISSIONER PARSONS: Is that city-wide or is that
5 specific to the downtown?

6 MR. GREEN: It will be both. There will be one
7 that s a right for certain priority development areas, and then
8 additional abatement tied to affordability, and it will be city-
9 wide. That s what we are proposing.

10 COMMISSIONER PARSONS: But, will there be a
11 specific proposal for just the downtown?

12 MR. GREEN: Yes.

13 COMMISSIONER PARSONS: The last time we went
14 through this, the City Council disagreed with this Commission and
15 tried to get the housing removed from downtown and placed in
16 other areas of the City, so I m pushing this to make sure that
17 there is a specific proposal for downtown and it isn t watered
18 down in the receiving areas or northeast somewhere.

19 Promise? Thank you.

20 MR. GREEN: I don t promise the outcome. I can
21 only promise what we will propose.

22 CHAIRPERSON MITTEN: Mr. Green, were you going to
23 make a formal report, or were you just here to answer questions?

24 MR. GREEN: I was just here to answer questions.

25 CHAIRPERSON MITTEN: Okay, I just wanted to make

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1 sure we didn't lose you before you had a chance to give your
2 report.

3 Maybe if the Office of Planning will indulge us,
4 after we listen to the testimony of folks we might have some
5 additional questions at the end that may trigger things for us as
6 a follow-up.

7 MS. McCARTHY: We were planning on being here for
8 the duration.

9 CHAIRPERSON MITTEN: Excellent.

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E-V-E-N-I-N-G S-E-S-S-I-O-N

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6:00 p.m.

25

CHAIRPERSON MITTEN: Mr. Bastida, are there

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1 reports of any other government agencies?

2 MR. BASTIDA: No, Madam Chairman.

3 CHAIRPERSON MITTEN: Are any representatives of
4 either ANC 2-C or ANC 2-F here to give a presentation or a
5 report?

6 All right, then we'll proceed. I'd like to just
7 proceed with our witness list in the order in which people
8 responded, and bring up folks in panels of four, and we'll start
9 with the first four individuals, Norman Glasgow, Jr., Michael
10 Darby, Kirk Salpini, Steve Tanner. If you'd come forward and take
11 a seat. If you have a prepared statement, if you would give it
12 to staff.

13 MR. GLASGOW: Ms. Mitten?

14 CHAIRPERSON MITTEN: Yes.

15 MR. GLASGOW: If we could, we wanted Mr. Bartley to
16 go ahead and go first. The first seven people were signed up
17 with me.

18 CHAIRPERSON MITTEN: Oh, okay.

19 MR. GLASGOW: And, what we could do is, if he could
20 go, he's got an engagement he needs to go to, and we have no
21 objection to letting him go before our group.

22 CHAIRPERSON MITTEN: That sounds great.

23 MR. GLASGOW: I think it will speed everything up.

24 CHAIRPERSON MITTEN: Okay.

25 Can we still get four people at the table, just so

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1 we don t have to keep playing musical chairs?

2 Okay. I ll just remind you that unless you are
3 testifying on behalf of an organization, you ll have only three
4 minutes, and if you have prepared testimony we ll read whatever
5 you don t get through. Okay?

6 MR. BARTLEY: Okay, thank you. I ll be very brief.

7 I am Stewart Bartley, I m Managing Director of JBG
8 Residential Properties, and as I testified last week we have over
9 900 units that are under consideration for development of
10 residential units downtown.

11 I do want to echo Mr. Altman s comments about why
12 we are here. We do have a very intricate system, and these are
13 efforts to simplify, to really simply a system.

14 We do believe that we can get a number of housing
15 projects out of the starting gates here soon, if we work in
16 conjunction with the Mayor s other recommendations for tax
17 abatements, et cetera, and the proposal that s before you
18 tonight.

19 I would like to emphasize that many people feel
20 like we are starting to get late in the cycle, and so there is a
21 real sense of urgency on our parts to try to get some of these
22 projects underway.

23 I should also add, Mr. Rogers gave an excellent
24 overview of the economic side of the equation, but the other
25 reason, and I think I testified on this last time I was before

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1 you, the residential economics downtown remain very fragile. The
2 demand side looks good right now, the one thing that was
3 certainly missing from an overview of the current housing market
4 is that our costs are up about 30 to 40 percent in many cases,
5 from a short 18 months ago, as a result of the very, very tight
6 labor market in the construction sector. So, that has really,
7 again, put pressure on the economics, and we tend to only read in
8 The Washington Post about the high ingress of certain selected
9 projects. So, we are very concerned about that.

10 Briefly, to the points before you tonight,
11 combined lot development, I do stand here before you as one of
12 the developers who has entered into a combined lot development
13 agreement under the current regulations, so while they can work I
14 will say that so many moons have to line up to get them to work,
15 there s not likely to be very many others in my humble opinion.
16 If there s any slippage in schedule, et cetera, et cetera, it can
17 be very, very difficult.

18 We do believe that adequate safeguards have been
19 put in, in the form of escrows and the covenants, in order to
20 keep us from competing, us as residential receiving sites, to end
21 up competing with sites that are not viable contenders for near-
22 term development.

23 As to the recreation space, I was one of the ones
24 who actually argued for no recreation space requirement, and said
25 the other way, to let the market set that. We are competing for

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1 very, very sophisticated customers at these rent levels, and I
2 can assure you that our friendly competitors will ensure that we
3 have provided an adequate level of recreation space within the
4 buildings, but we, at the end of the day, don't believe that
5 that's why our customers will be choosing to live downtown. We
6 can't build a smoking lounge to compete with the National Gallery
7 of Art, so we really believe 5 percent is certainly adequate.

8 I can't speak to the NOMA area as well, as I'm not
9 involved in it. I will say I thought that the fact that most of
10 it was open space was the problem in NOMA, so I would encourage
11 you to be cautious about restrictions up there.

12 As to the density, this is one of the most
13 compelling issues. It seems like, if under the current
14 regulations we are willing to have an office building of a given
15 height and girth, that we should be willing to put a residential
16 building within that same envelope, and it can make a very, very
17 dramatic difference.

18 One of the projects that was listed in your
19 package, which is our company's project on Mass Avenue, which is
20 listed at 116 units, we calculated we can turn that into 145
21 units, which is a much bigger difference than even the numbers
22 imply, in terms of the operational efficiency and sustainability.

23 And, at the end of the day, I think we are really talking about
24 trying to build a sustainable residential market downtown, not
25 one that's simply targeted at the very tip top of the market.

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1 So, anything that we can do to facilitate these developments to
2 make them more economically viable and have them compete at net
3 levels that people can afford, we would encourage you to take
4 action on that, and, again, I would encourage you to take action
5 as soon as possible, if not tonight.

6 Finally, there s

7 CHAIRPERSON MITTEN: Mr. Bartley, can I get you to
8 finish up?

9 MR. BARTLEY: Okay.

10 CHAIRPERSON MITTEN: Thanks.

11 I know you have to go somewhere so

12 MR. BARTLEY: Well, thank you. My wife thanks you,
13 too.

14 CHAIRPERSON MITTEN: Mr. Glasgow?

15 MR. GLASGOW: Thank you, Madam Chair.

16 First of all, and I guess I get five minutes,
17 since I m an organization, but certainly we support the Office
18 of Planning proposal on overall.

19 CHAIRPERSON MITTEN: Could you we just want to
20 make sure that you get the time that you are allotted. What
21 organization are you representing?

22 MR. GLASGOW: The law firm of Wilkes Artis.

23 CHAIRPERSON MITTEN: I think, typically, that would
24 be considered that you are testifying as an individual.

25 MR. GLASGOW: Okay, well, there s more than one of

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1 us, but we ll do whatever it is. I can move quickly.

2 CHAIRPERSON MITTEN: Okay, thank you.

3 MR. GLASGOW: All right, thank you.

4 We support the Office of Planning proposal, and we
5 think there s a lot of merit to it. I believe I did the first
6 combined lot development transaction, and that was about seven or
7 eight years ago, and there was emergency action taken by the
8 Zoning Commission at that time in Section 1706.1.3, to help that
9 move forward. I can certainly get the precise data, but it s
10 been a while to get to the second one. So, there is some
11 complications and some difficulty with the combined lot process.

12 Then, going down some of the points that the
13 Zoning Commission members raised, with respect to FAR, we have
14 had some turnover in the downtown area with sites where people
15 have been interested in developing residential. So that, with
16 respect to the extra FAR, yes, there are some people that gets
17 factored into the price from here on out but, for those that
18 were interested in doing residential, the fact that there would
19 be a change and they could get additional FAR, going up from 8-
20 1/2 to ten, or 11, or whatever they could put on the site, that s
21 going to be a benefit and help them move forward with those
22 projects, if they are right on the line.

23 Next, with respect to the Downtown Development
24 District, the conversation between Commissioner Franklin and Andy
25 Altman was very instructive. The DDD is very complicated to use

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1 as it is right now, and certainly an issue is how is it that you
2 get desired preferred uses on site, and, essentially, use the
3 private sector to do it. It is very, very difficult, and it s
4 been a challenge for everybody over this past ten plus years.

5 And, while I m glad to hear that there are going
6 to be some tax reliefs or whatever, that has to go through the
7 City Council, some other things have to go, and with some of the
8 tax relief we ve heard, giving some incentive with respect to
9 abatements on real estate taxes at a couple dollars a foot and
10 that type of thing, you ve seen the report done by the Office of
11 Planning and the economics that they have in there on pages 11
12 and 12, I basically agree with them on that. A couple dollars a
13 foot doesn t do it. We are going to need some help from this
14 Commission. If you are right there at the edge and narrow this
15 gap significantly, then what s being proposed will help.
16 Otherwise, it s going to be in the hands of this Commission to
17 help out and get those preferred uses there.

18 Certainly, we want the regulations clarified, that
19 not only are the Certificates of Occupancy delinked, but also the
20 building permits. That s a technical thing that we can work out.

21 Also, there were two additional things I d like
22 the Commission to just consider. One is, it used to be that the
23 roof structure setback rules years ago were one-to-one setback,
24 and you could go up higher. This will help with respect to
25 utilization of the roof deck areas. Right now, we are having a

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1 problem because of the under slung and side slung elevators and
2 the additional cost of dealing with those type of elevator
3 systems. It would be better if we could go up 25 feet, or
4 whatever it is, if we could set back 25 feet, which is permitted
5 under the 1910 Height Act, and I believe that that was the rule,
6 I guess, up until about the early 1980s. I m looking at
7 Commissioner Parsons, I m trying to remember when we did this
8 change in the regulations.

9 COMMISSIONER PARSONS: You mean the 18-1/2 foot
10 penthouse?

11 MR. GLASGOW: Yes, the 18-1/2 foot penthouse, I
12 think maybe it came in in the late 70s.

13 COMMISSIONER PARSONS: Early 70s, I would think.

14 MR. GLASGOW: No, it was after that, because I was
15 practicing law, which started in 77, when that change was done,
16 so it would have been after 77, but we can get the date.

17 There were two more things, if I could, that I
18 wanted to cover. One is, with respect to ownership of property
19 downtown, it is very, very rare with LLCs and with the financing
20 of the LLCs, to have the exact same ownership on two major
21 parcels. It s just very rare. I m not saying it can t happen,
22 but it s very rare that it happens. So, somebody sacrificing a
23 piece of property to say, I m just going to put a little park on
24 there or whatever, is unlikely. And, even if it is, it s quite a
25 price to pay to say that that property is going to be just a park

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1 in perpetuity, because you are going to know who the ownership
2 was and what was going on with respect to that. The Commission
3 is going to know the history, the development community,
4 everybody is going to know what the history is on that.

5 Next, with respect to the Housing Production Trust
6 Fund, private escrow agents, we are using that in Square 456,
7 where we have the half million dollar escrow, that s in place
8 right now for that housing development. That s working well. We
9 believe that either March 1 or April 1 we may have a closing on
10 that, and the escrow will be released. They are waiting for a
11 letter from me that the escrow can be released, and all that, so
12 there s all kinds of ways that that is dealt with.

13 And lastly, with respect to the 50 percent
14 completion determined by a lender, we had an outside architect
15 certify the completion of the project at 1312 Massachusetts
16 Avenue, which was converted to a housing project, and that, I
17 believe, everyone was satisfied with the way that that worked
18 out.

19 So, some of these things that are suggested by the
20 Office of Planning, they have been done before and done
21 successfully.

22 CHAIRPERSON MITTEN: Thank you.

23 MR. GLASGOW: Thank you.

24 CHAIRPERSON MITTEN: Mr. Salpini?

25 MR. SALPINI: Yes, good evening, Madam Chairman,

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1 fellow Zoning Commissioners, I m Kirk Salpini, here to testify on
2 behalf of Monument Realty.

3 First of all, I want to say that we are here to
4 support the proposed zoning regs. Having been developing a
5 commercial site for the past three years in the District, we are
6 well aware of the combined lot complications and are here to
7 provide some testimony with regard to one unique example, 901 New
8 York Avenue, whereby the current provisions just simply do not
9 work.

10 Our timing happens to be coincidental with your
11 hearing today, but we would be here regardless, because we are up
12 against a problem. To date, several things have happened, and I
13 just want to step back with regard to this particular
14 transaction.

15 The request to the Office of Planning, we
16 completed an assemblage, we paid a premium to a particular lot
17 seller in order to complete the assemblage and accepted a DD
18 overlay on 4 percent of the overall site that was actually
19 raffled into this overall planned unit development approval, by
20 virtue of the assemblage process.

21 Subsequent thereto, and in addition to monies laid
22 out in advance, we have completed the following housing
23 amenities. There was a purchase of 919 L Street on behalf of a
24 tenant association. We provided affordable housing units, I
25 believe there were 20 affordable housing units provided

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1 throughout the District. We financially assisted affordable
2 housing as the opportunity exists in the zoning regs to do so.
3 We spent 3/4s of a million dollars implementing off-site
4 residential on a market rate basis within the neighborhood
5 boundaries, pursuant to our zoning approvals. So, in sum we
6 spent \$2-1/4 million in just housing amenities alone in a multi-
7 year period, trying to advance this commercial development.

8 We are now to the point where the only residential
9 amenity between us and being able to start a commercial project
10 at this location is this remaining combined lot amenity of 4,000
11 plus or minus square feet. We ve gone to the neighborhood, we ve
12 asked the neighborhood, what do you think, ANC 2-F, with regard
13 to the proposed zoning regs? They say we think you are entitled
14 to some change. We support that change, and we understand and
15 want the commercial development that you can t provide because of
16 this impediment.

17 We ve gone to over 20 particular property owners
18 within Housing Priority Areas B and C, and for various reasons,
19 which Mr. Darby is going to go into, we have been unable to
20 consummate combined lot development transactions. The reality
21 here

22 CHAIRPERSON MITTEN: Can I get you to wrap up,
23 because we are going to take this up in a special meeting.

24 MR. SALPINI: I understand.

25 The reality is, it s a small housing requirement.

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1 You have to watch out in these regs as written that small
2 housing requirements can't easily be met. They don't work, they
3 don't provide the financial incentive necessary to trigger full-
4 scale residential development on one of the sites that you would
5 end up combining with.

6 In short, the system is broke. Please, help us to
7 fix it, we fully support the proposed reg changes by the Office
8 of Planning.

9 CHAIRPERSON MITTEN: Thank you, Mr. Salpini.

10 Mr. Darby?

11 MR. DARBY: Michael Darby, also with Monument
12 Realty, principal of Monument Realty, and I've been working on
13 901 New York Avenue.

14 When we met with the Office of Planning and
15 discussed how we could take care of this off-site housing
16 requirement of 4,000 square feet, we thought it was going to be
17 easy, 4,000 square feet somewhere in the two zones that we had
18 before us, we thought we'd go down, swap some commercial FAR for
19 residential and we'd be done.

20 Little did we know that that task would be a lot
21 harder than that. It became almost a nightmare as we went from
22 site to site trying to negotiate with people. First of all, it
23 was a timing issue. We had 4,000, they had a site that was
24 probably going to go residential, and they probably wanted to
25 trade it, but they couldn't tell us when. We'd go and try

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1 another site. We went site after site with the large developers,
2 Square 457, Market Square North, you name it, we went to them and
3 said, hey, we ve got 4,000 square feet that we are going to buy
4 from them, we are going to buy it for a pretty penny, upwards of
5 \$70.00, \$80.00 a square foot is what we were going to pay for it.

6 No takers. They d either had the problem solved or they
7 couldn t give us a time when they would be able to start the
8 project. We needed to know when they could give us this FAR so
9 that we could move ahead with our project.

10 Obviously, to start a project, which was a 530,000
11 square foot office building, \$140 million office building,
12 without knowing we could pull a Certificate of Occupancy was not
13 a very prudent thing to do, so we waited, kept on looking.

14 After a while, we thought maybe it would be a
15 little bit easier if we d go after the smaller sites, go around
16 all through the different priority zones and find those smaller
17 sites that were approximately 4,000 square feet and buy those.
18 One commercial site that could be turned into residential we
19 thought would be a good thing, do a nice townhouse, throw it up
20 and away we go, we have our requirement, everybody is happy, but
21 finding those sites was almost impossible. We went door to door
22 throughout the different areas and what we found was, there were
23 either single homes that we thought would work that turned into
24 be part of an assemblage, they were owned by individuals that
25 owned multiple assets along those different areas, and they

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1 weren t willing to sell one.

2 We went to different sites that we thought were
3 independently owned and were not part of assemblages. We found
4 that there was historic preservation considerations, and that the
5 underlying zoning laws that we couldn t do the residential, we
6 had to keep within that zoning before we could build residential,
7 and we had to build residential on top of the current zoning,
8 such that there was only a certain size house there that we could
9 renovate and turn into residential.

10 On and on we went. We actually went all around
11 the block from 6th to 7th, from H to I, we thought would be a good
12 block to work on, it needs a lot of rehabilitation, went around
13 the block, went to every owner there and were turned down by each
14 one of them for various reasons. They wanted too much money,
15 because they thought that we could be part of an assemblage and
16 somebody could pay a lot more, it didn t make doggone sense to do
17 what we were trying to do, or they weren t interested in selling,
18 or were part of a bigger assemblage.

19 What, as I said, turned out to be what should have
20 been a simple problem, we re the ones, remember, buying the
21 commercial and giving the residential away, what we thought was
22 easy was not. So, what we are saying is, this does need to be
23 fixed and we need to straighten that out, delink it, and we can
24 move on and get these things done.

25 Thank you.

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1 CHAIRPERSON MITTEN: Thank you.

2 Before you get up, just do any of the
3 Commissioners have questions for these folks?

4 Thank you very much for your testimony.

5 Is Steve Tanner here?

6 COMMISSIONER PARSONS: No, he s not here.

7 CHAIRPERSON MITTEN: No, okay, and I don t see Mr.
8 Fisackali, Mr. Demall, Mr. Millstein?

9 COMMISSIONER PARSONS: No.

10 CHAIRPERSON MITTEN: All right.

11 Mr. Sher, and Mr. Birenbaum. I don t see Cynthia
12 Giordano. Is Mr. Gross still here? Mr. Feola, Doctor Janet
13 Brown. You can take a seat at the table, ma am.

14 Now, I m just going to remind you all that the
15 only one among you who has five minutes is Doctor Janet Brown,
16 representing an organization, and the rest of you have three
17 minutes, which I would appreciate you doing your best to adhere
18 to that.

19 Mr. Sher.

20 MR. SHER: Good evening, Madam Chair and members of
21 the Commission.

22 For the record, my name is Steven Sher, the
23 Director of Zoning and Land Use Services with the law firm of
24 Holland & Knight LLP.

25 I d like to go back to what Mr. Altman said almost

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1 at the end of the Office of Planning presentation, and focus on
2 the fact that these are amendments to the existing regulations to
3 try and make the system work better. I d like to sort of start
4 with number two and number three and go back to number one.

5 Number two says I can stop now, but it wasn t
6 that fast.

7 COMMISSIONER FRANKLIN: Time flies when you are
8 having fun.

9 MR. SHER: I guess.

10 The second one says, increase the amount of floor
11 area within the same cubic volume, that would otherwise be
12 devoted to an office use because the floor-to-floor heights can
13 be lower. What s happening here is that residential is getting
14 very close to being feasible, and so if you are going to do it at
15 all you want to do as much as you can.

16 When we first started looking at the Downtown
17 Development District, residential wasn t close to being feasible,
18 and every client I had wanted to know how can I get away with
19 doing the least that I can do in the way of residential. That
20 was 11-12 years ago, and we ve been working on that ever since,
21 and we ve been in here with projects where we ve been able to get
22 some relief on things, but what s happening now is, as developers
23 are looking at these projects, people want to find out how they
24 can do more.

25 So the cases that have been coming forward to the

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1 Board of Zoning Adjustment for the most part have been FAR
2 variances, variances on the residential recreation space, which
3 is part three, but how do we get more residential in order to
4 make these things work, and I believe what the Office of Planning
5 has recommended and what is before you this evening is a solution
6 to that, which is to say, you can increase your FAR over the 8-
7 1/2 allowed, for example, in DDC 2-C to ten, 10-1/2, 10.7, 11 if
8 you can get it depending on the site, but it s still within the
9 same height constraints, still within the same lot occupancy
10 constraints, if you can make it work you ought to be able to do
11 it.

12 On the residential recreation space requirement,
13 what happens is, if you do the second part, i.e., raise the
14 density, by building more density you are also incurring a
15 greater liability for residential recreation space. If in a DDC
16 2-C district the 15 percent requirement was retained, and if you
17 built, for example, a 10 FAR building, that would mean the
18 equivalent of 1-1/2 FAR of residential recreation space
19 somewhere. Well, where s the where? You don t have the lot
20 open lot area to have it, the roof area isn t that big, so what
21 you wind up having to do is eat away at the residential density
22 inside the building. You either have to provide gyms, or
23 community rooms, or sports facilities, or recreational
24 facilities, but it takes away from the unit count that you are
25 trying to push up by allowing an increase in the residential

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1 density in the first place. And, I think as Mr. Bartley said
2 before, what people come for when they are looking to live
3 downtown is not necessarily the same kind of suburban park-like
4 amenity you have when you move out in Rockville, or even in other
5 parts of the District of Columbia.

6 Going back to point number one on the combined lot
7 development issue, what is proposed by the Office of Planning is
8 to delink the end of the process, because right now, as you heard
9 somewhat from Mr. Darby and Mr. Salpini, they are not free of
10 that process until the residential building gets its C of O, it s
11 built, it s occupied it s built, it s finished, it s got a C of
12 O, then the office building can get a C of O. This way at least,
13 the commercial developer is allowed to proceed with his
14 development, puts the money up in escrow, and doesn t have to
15 wait until the thing is finished, makes it more likely that
16 everybody is going to get what they want out of the situation.
17 The office building goes forward, the residential developer knows
18 that at the 50 percent mark that money is there, and it makes the
19 project more feasible from both sides.

20 That was a little bit over, but close.

21 CHAIRPERSON MITTEN: Thank you, Mr. Sher.

22 Mr. Feola?

23 MR. FEOLA: Thank you, Madam Chair.

24 For the record, my name is Phil Feola, of the law
25 firm of Shaw & Pittman, and I m here tonight on behalf of JPI,

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1 which is the contract purchaser and soon to be owner of Square
2 457, which you've heard some discussion about.

3 As you probably know, JPI won a competition to
4 develop that site, and its plans include 422 apartment units, a
5 grocery store, a 250-seat live theater, a theater school, retail,
6 and the restoration of two historic landmarks, the Clara Barton
7 House and D.C. Space.

8 JPI has built and managed over 40,000 apartment
9 units nationwide from Philadelphia to Dallas, and it believes
10 strongly that D.C. provides a vital market for its product.
11 However, they asked me to come here tonight to caution the
12 Commission that even with its significant capital resources, and
13 with this vibrant market that we've heard, that it's extremely
14 difficult and economically tight to develop downtown housing.
15 There's virtually no room for error. A slight deviation in the
16 market rental rates or interest rates can really devastate a
17 project.

18 The provision of uses that we've heard talked
19 about, like grocery stores, and theaters, are also not economic
20 generators that can sustain a development, so we are here tonight
21 to testify in support of the Office of Planning recommendations
22 with regard to the combined lot and recreation space, and I won't
23 go into that. I've turned in my written testimony.

24 But, we would like to discuss a little bit about
25 the residential FAR requirement, because we believe, like the

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1 Chair indicated earlier, that by eliminating or allowing the FAR
2 to increase all it s going to do is raise the unit price per land
3 on that property. The market will adjust to that. If you have a
4 ten FAR people will pay for a ten FAR, if it s 8-1/2 they ll pay
5 for an 8-1/2. So, what we would like to see done, in conjunction
6 with raising the FAR limits, which we believe is important to the
7 downtown to provide more housing, more people, you know, protect
8 JPI s investment in its properties downtown, is to tie that
9 increase to the purchase of TDRs from other preferred uses in the
10 downtown, housing, theaters, grocery stores, because people are
11 going to pay the land value that the FAR sets, and if it s
12 \$20,000.00 a unit, that s what they ll pay. If there are 100
13 units they ll pay \$20,000.00 times a hundred. If it s 120, it
14 will be \$20,000.00 times 120. So, we think the combination of
15 allowing the increases in densities, to encourage more units, but
16 also compensate the properties that are being developed in those
17 preferred uses, there s a good balance to be done.

18 Now, JPI has an interest in this, obviously, as I
19 indicated. It will have almost a million square feet of TDRs to
20 sell for its theater and housing and grocery store. And so, it s
21 buying its property from GSA with the idea that this was part of
22 the deal, it was part of the DD that was implemented ten years
23 ago, and it was relying on this Commission s idea of trying to
24 balance the given incentives through TDRs to sell those
25 development rights elsewhere.

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1 So, with that, I ll just close, ask you to read
2 the testimony, which is in much more depth, and I ll answer
3 questions if you have them.

4 Thank you.

5 CHAIRPERSON MITTEN: Thanks, Mr. Feola.

6 Mr. Birenbaum, did I say that right?

7 MR. BIRENBAUM: Yes, thank you.

8 My name is Matthew Birenbaum, I am Regional Vice
9 President of Development with AvalonBay Communities. AvalonBay
10 is a national publicly-traded real estate investment trust. We
11 specialize in the ownership, operation, development, management
12 of luxury rental housing in the northeast and West Coast markets
13 of the U.S., and we own about 5,000 apartments here in the D.C.
14 area, including suburban jurisdictions as well as D.C., so we are
15 very familiar with the various requirements, a lot of the things
16 that you all have been discussing here tonight.

17 We own two properties in Square 46, one on 5th
18 Street which we are planning a 203-unit building, which would
19 also include 7,000 feet of retail, or 9,000 feet of retail on the
20 ground floor, and we just closed on a property on 6th Street in
21 the same square, where we are planning a 144-unit apartment
22 building with about 6,500 square feet of retail space.

23 We are here to speak in support of the O of P
24 changes, with a couple of modifications. As it relates to the
25 combined lot changes, we think that that s important. We need

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1 it. It will make the system work. The system doesn't quite work
2 now. We are working on several pending transactions right now on
3 both of our properties, and this issue has come up, how do we
4 satisfy the commercial developer who wants to get started, and
5 what guarantees do we have to give them that we are going to
6 finish, and what penalties do we open ourselves up to if we
7 don't. So, we think that it's a good creative solution to that.

8 We are very supportive of restricting removing
9 the density restrictions and, in fact, our 6th Street property is
10 another example of that, we have a generous height restriction on
11 6th Street, but an 8.5 FAR. If the density restriction is lifted,
12 we can develop 144 apartments versus 120 without it. That helps
13 the economics of that transaction, and it doesn't really affect
14 the bulk of the building, because without it what we would do is
15 just build higher ceiling heights. So, you are getting the same
16 building envelope and, frankly, if these changes don't go through
17 we'll go to the BZA and ask for a variance to get that extra
18 density, and the BZA has been giving that in some cases recently.

19 Finally, with the residential rec space, we do
20 have a problem with that, even at the 5 percent. We did go to
21 the BZA and get a variance from the 5 percent on our 5th Street
22 property, that's a 220,000 foot building, even 5 percent would be
23 11,000 square feet. That's a huge amount of space to give away
24 as non-revenue space. We are providing a first class
25 recreational facility, a large fitness center, larger than we

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1 usually do for a property of this size, a roof deck, but even
2 with that we couldn't meet the 5 percent.

3 In addition, we are required to do ground floor
4 retail space, so where do we put it? We put a little on the
5 ground floor, we put some on the roof, but there's no where else
6 to put it except in apartment floors, which is very, very costly.

7 On 6th Street, it's the same issue, we are not
8 going to be able to meet the 5 percent and make the project
9 viable, so we would be asking for a variance from the BZA, but
10 that's a non-predictable process and we would prefer to see the
11 zoning regs changed and eliminate that requirement. It
12 definitely it's important to us in making these projects go.

13 I'd be happy to answer any questions.

14 CHAIRPERSON MITTEN: Thank you, Mr. Birenbaum.

15 Doctor Brown?

16 DOCTOR BROWN: I'm Janet Brown, and I'm speaking
17 tonight for the Washington Regional Network for Liveable
18 Communities. We advocate land use policies that will help create
19 a network of walkable/liveable communities linked by quality
20 transit and surrounding green belts, with the District, as the
21 economic and cultural hub of the region.

22 We are WRN think that the changes proposed by the
23 Office of Planning will contribute to creation of such
24 communities in the Downtown Development District. Though we have
25 some reservations, we support the amendments proposed.

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1 We are very pleased at WRN to see a residents and
2 businesses returning to the City. This is part of an unstoppable
3 national trend to move back to the cities where the action is.
4 The construction required to accommodate the returnees and the
5 newcomers will contribute to the D.C. tax base and assure
6 continuing progress in the City, and it will help create a
7 vibrant downtown.

8 To these ends, the Office of Planning has proposed
9 a series of amendments, and I want to say that we think they are
10 very real concessions. They offer fewer restrictions and greater
11 flexibility. They offer more offices first, and then housing.
12 They offer reductions in recreation space, greater densities,
13 economies of scale, and higher profits.

14 Some might even question why in this period of
15 booming real estate we need to have such concessions. These
16 downtown areas of the City are prime premium locations, and I
17 hope the developers who appear here this day will recognize that
18 the Office of Planning proposals are a gift from the taxpayers.

19 Mr. Rogers has already discussed the economics of
20 the units, so let me continue. When I consider how hot the
21 downtown market is, and how generous the proposed concessions
22 are, and the other financial incentives that the City may still
23 offer on specific projects, I can t help thinking the taxpayers
24 shouldn t get more out of the effort, especially with respect to
25 affordable housing.

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1 We have a real crisis in affordable housing in the
2 City, and one way to deal with it is to require every development
3 to include its fair share of moderate and low-income units.

4 From the perspective of working families in this
5 City who face huge rent increases, possible displacement, and
6 erosion of established communities north of the DDD, the City's
7 current program of incentives to developers looks like welfare
8 for the rich.

9 Other cities around the country, from Boston to
10 Seattle, integrate low and moderate-income units among market
11 rate units, as does Montgomery County. It is largely this
12 concern for affordable housing that shapes my following specific
13 recommendations with respect to the proposals from the Office of
14 Planning.

15 We agree that the combined lot transfers, within
16 the subsections only, should encourage housing development, but
17 we want to make sure that the housing really will be built and in
18 a timely way. So, the language of the covenants must be
19 absolutely clear and irrevocable, that the land must be used for
20 housing and only for housing.

21 I would also release only 80 percent of the money
22 held in escrow at the 50 percent completion point, and withhold
23 20 percent until the project is actually ready for occupancy.

24 We further recommend that the five-year limit,
25 within which the housing must be completed, should be reduced to

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1 four, with the possibility of two-year extensions, and to make it
2 clear that there is nothing automatic about the extensions, the
3 compelling exceptions under which an extension might be granted
4 should be spelled out in the agreement.

5 Finally, as a 43-year D.C. resident who has seen
6 other special funds in this town used for operating expenses, I
7 hope you ll make sure that the trust fund is truly unviable, and
8 that it cannot be tapped by anyone for any other purpose than
9 housing.

10 We highly endorse also the density bonuses for
11 affordable housing up to at least 15 percent, which is the figure
12 in Montgomery County, and we would not limit this benefit only to
13 the Mount Vernon Triangle north of Massachusetts Avenue.
14 Experience elsewhere around the country shows that when they are
15 well designed mixed communities can thrive, and we have a special
16 opportunity in this area to make that work.

17 We likewise support the Office of Planning s
18 reduction on recreational space. In the Mount Vernon Triangle,
19 there will be more families with children than in B and for C,
20 and the overall plan must there include usable outdoor space as
21 well.

22 Thank you very much.

23 CHAIRPERSON MITTEN: Thank you, Doctor Brown.

24 Any questions?

25 COMMISSIONER FRANKLIN: Yes.

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1 Mr. Sher, do you think that a previous witness
2 has indicated that he thought that recreational space in these
3 new developments could be left to the market, essentially, and
4 not to worry about it, because if the development didn't provide
5 sufficient interior space, fitness rooms or whatever, it would be
6 disadvantaged. Is that a correct reading of the market?

7 MR. SHER: I have to say I don't really know what
8 the market is at this point, since nobody has actually built any
9 of these projects of the 1,500 units or whatever that are listed
10 on those sites, they are all still in the planning stages. So, is
11 there competition in the market at this point? I can't answer
12 that, because I don't know.

13 I'd only point out two things. One, it's a little
14 bit, curious isn't quite the right word, but there's no
15 requirement for residential recreation space for an apartment
16 building in a residential zone, yet we have this requirement for
17 apartment buildings right across the street from residential
18 zones, in some cases right next door from residential zones, and
19 on the one hand if there was a real need or demand for it across
20 the board, we don't provide for across the board. I mean, it
21 would go way beyond my three minutes to tell you what the
22 derivation of all that was, I know it, but I don't think you need
23 to hear it tonight.

24 The second thing is that, I think the people that
25 I've worked with are pretty close to the 5 percent, in terms of

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1 what they think they can provide, given the space in the
2 building. Mr. Birenbaum says he's got a problem getting quite up
3 to 5 percent, I know one we've got is 4.45 percent or something
4 like that, we are in for a variance on the last piece of it. But
5 again, a lot of what happens in the downtown area, these sites
6 are, I don't want to call them leftover sites, but a lot of them
7 are difficult sites. They weren't prime office building sites or
8 they would have been developed as prime office buildings, they
9 are smaller sites, they are unusually configured sites, and
10 trying to make all that work for these uses is difficult.

11 The one site that I'm working on with JPG, Mr.
12 Bartley, in the 1200 block of Mass Avenue, it's just a really
13 funny kind of site, and it has a lot of it's an unusual site,
14 it's two squares offset by the grid at an angle, with a sort of a
15 narrow throat in the middle. How do you make all that work
16 without having to go to the Board? We couldn't, we went to the
17 Board for some variances on a bunch of things. Residential
18 recreation space is one of them, but in that particular scenario
19 you've got the very wide Massachusetts Avenue with the parking
20 that the City calls the space between the property line and the
21 curb, which is green space effective probably more than any
22 courtyard we would provide on the building. Is that going to be
23 sufficient for the market? I suspect it is.

24 Put another example up there, I'm not sure it
25 would be the same answer.

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1 COMMISSIONER FRANKLIN: Thank you.

2 CHAIRPERSON MITTEN: Anything else?

3 Thank you all for your testimony.

4 The next group will be Cheryl Court.

5 UNIDENTIFIED SPEAKER: She will not be coming.

6 CHAIRPERSON MITTEN: Okay, she s not coming, okay,
7 then I think we can get everybody at the table then, the last
8 group, Burke Shervin, Lyle Blanchard, I don t think Kent Cooper
9 is here, Joe Bender, and Jeanine Zigner.

10 Mr. Shervin, why don t you go ahead.

11 MR. SHERVIN: Actually, we are going to switch.

12 CHAIRPERSON MITTEN: Alrighty, that s great.

13 Mr. Blanchard.

14 MR. BLANCHARD: Chairperson Mitten, and members of
15 the Commission, my name is Lyle Blanchard from Greenstein,
16 Demourm & Lux, and I m appearing this evening with my client, Mr.
17 Burke Shervin, Executive Vice President of the Wilkes Company, to
18 comment on these proposed rules.

19 And, actually, what I m going to do is something
20 we do in front of the City Council all the time, I m going to
21 yield the balance of my time to Mr. Shervin, and respond to any
22 questions afterwards.

23 CHAIRPERSON MITTEN: Okay, thank you. I m sure Mr.
24 Shervin is thrilled.

25 MR. SHERVIN: Yes, indeed.

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1 Good evening, Madam Chair and members of the
2 Commission, I m Burke Shervin, Executive Vice President and a
3 principal of the Wilkes Company, a real estate development firm
4 located in the District of Columbia.

5 I want to begin my testimony by expressing our
6 strong support for the text amendments under consideration in
7 this case, and commending the Mayor s Downtown Housing Task Force
8 and the Office of Planning for the courage and vision which
9 resulted in the proposal before the Commission.

10 While we are strongly supportive of the overall
11 approach to modifying the Downtown Development District, our
12 company would like to make one specific recommendation which we
13 feel will strengthen and enhance the proposal. Our
14 recommendation reflects our deep concern about suggestions by the
15 Office of Planning in its January 25th report that the Commission
16 might want to treat Housing Priority Area A in a manner different
17 in certain important respects than Housing Priority Areas B and
18 C. Those differences would treat Housing Priority Area A in a
19 manner that is less favorable and more burdensome than Housing
20 Priority Areas B and C.

21 We feel strongly that instead of creating
22 differences and distinctions in treatment, Priority Areas A, B
23 and C should have the same, not different, incentives,
24 opportunities, and requirements. Our reasons involve more than
25 just the important issue of equity and fairness. First, we

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1 believe that the Office of Planning s report has seriously
2 underestimated the significant difficulties inherent in
3 developing housing in Priority Area A, especially on the many
4 sites not owned by the government where there is not a subsidy to
5 ensure housing s viability.

6 The geographic area which comprises Priority Area
7 A has few of the amenities, cultural attractions, street scape
8 improvements, recreation, open space or overall ambiance of
9 Priority Areas B and C. Indeed, tens of millions of federal and
10 District funds have been spent in Priority Areas B and C, from
11 Pennsylvania Avenue to Massachusetts Avenue, in public
12 improvements, while relatively few dollars have been spent north
13 of Massachusetts Avenue.

14 Priority Areas B and C even have their own
15 Business Improvement District, with the substantial and important
16 benefits which come with that designation.

17 Simply stated, Housing Priority Area A is not, in
18 our view, the place, and now is certainly not the time, to make
19 it comparatively more difficult to develop housing there.
20 Accordingly, we ask the Commission to give special attention to
21 the following issues discussed in the Office of Planning report.

22 1. It is suggested in the report that the residential
23 recreation space requirement be reduced to 5 percent in
24 Priority Areas B and C, with the same reduction in Area A,
25 only with the contribution to an open space fund.

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1 Well, we believe that a strong case might be made to eliminate
2 altogether the recreation space, if there is to be a reduced
3 requirement it certainly should be the same for all three
4 priority areas. As part of the NOMA planning process, there
5 should be, in our view, public plazas or squares, perhaps, as
6 part of the Wax Museum RFP. This should be one of the public
7 contributions to the public/private partnership needed to achieve
8 all of our hopes for NOMA.

9 2. The idea of removing the density restrictions for housing
10 is one of the best features of the proposed amendments.

11 Yet, here again, there is discussion in the OP report that,
12 perhaps, and I ll quote, In Housing Priority Area A a density
13 bonus incentive may not be as critical, though the strength of
14 the market here has not yet been demonstrated. The fact is, the
15 need for the density bonus in Priority Area A is substantially
16 greater than in Priority Areas B and C. It certainly isn t less.

17 Here again, we urge that different, unequal treatment among the
18 housing priority areas not be included in the final text
19 amendment.

20 Finally, as a technical comment, we want to bring
21 the Commission s attention to the table in Section 1706.3D of the
22 proposed amendments, this is Attachment 3 to the OP report. We
23 noticed in our review of this provision that the Office of
24 Planning had inadvertently omitted the additional .5 FAR bonus
25 earned if all housing is built on the site under the DD District

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1 regulations. We suggest that the Commission correct this
2 oversight by amending the table to indicate 8.5 FAR in DDC 2-C,
3 10 in DDC 3-C, and 10.5 in DDC 4.

4 In conclusion, our company strongly endorses the
5 overall approach with our one caveat, that a level and fair
6 playing field be maintained in all three housing priority areas.

7 Thank you for this opportunity to appear before
8 the Commission and for your consideration of our views.

9 CHAIRPERSON MITTEN: Thank you very much.

10 Mr. Bender?

11 MR. BENDER: Good evening, my name is Joe Bender.
12 I m here to present the testimony of the Committee of 100. We ve
13 submitted written testimony, so I ll summarize and then take
14 questions. We are here to say great on some things and take a
15 look at some others.

16 First on the combined lot performance
17 requirements, the principal concern that we have is that as
18 presently constituted the thrust of the provisions is to ensure
19 performance, not just the pledge, but the actual performance on
20 the housing, on the preferred use. And, we are not sure we are
21 there as proposed by the Office of Planning. So, we think that
22 we have recognized that there is some difficulties with that
23 mechanism, but we would urge the Commission, in whatever they do
24 finally adopt, to stress the performance.

25 We recognized when we did this, hard fought over

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1 many years, that this was not going to be easy for either the
2 housing developers or the commercial developers necessarily, that
3 the thrust was on performance to actually get it, and that s what
4 we d like to see achieved.

5 We also wanted to point out that combined lot can
6 work, particularly where the City provides some of the grease in
7 using its public sites to provide housing. Now, you heard about
8 the Wax Museum site today, we are encouraged that the City is out
9 there and are talking about building in excess of its residential
10 requirement on that site, and we point out that in the new
11 Downtown Action Plan there is the talk of increasing the
12 densities for residential in the Mount Vernon Triangle area.
13 Likewise, there s discussion in also Housing Priority A, west of
14 Mount Vernon Square, to use that area as a hospitality district.

15 This is a perfect example of where the City can get out ahead,
16 generate a lot of unused commercial FAR, completely combine with
17 housing site or hotel sites on the other side to make that work.

18 So, the City can be a big player in actually making it work, by
19 getting out there before the need is there, or certainly
20 concurrently, and we d encourage them to exercise stewardship of
21 their resources to do that.

22 With respect to greater density for residential
23 sites, we recognize that sites can, in fact, accommodate
24 additional densities within the same envelope. That discussion
25 has been had. Our concern is that, and I ve heard some questions

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1 on this, is that there should be urban design guidelines in place
2 to test the applicability of that across these sites.

3 Time is now to do it. We've had a number of
4 planning studies. We, quite frankly, think that it is prudent
5 and reasonable for this Commission and for the Planning Office to
6 produce urban design guidelines currently, and in concurrent time
7 frame with the promulgation of these regulations, because
8 otherwise, really, the characteristics of different sites could
9 result in different conclusions on density.

10 And there, the Committee of 100, as you know, in
11 our concept plan, which wasn't, Commissioner Franklin, an urban
12 design plan, we recognize, did recognize that we had very high
13 densities proposed under existing zoning, and we recommend the
14 establishment of a 90-foot cornice line with setbacks to 110, and
15 then to 130 in our plan. That might not be the perfect solution,
16 that's what we recommended. These kinds of things need to be
17 looked at to see how much density you can, in fact, achieve, and
18 still have marketable good quality housing.

19 With respect to K Street, we think that you should
20 take the opportunity to reinforce what everybody has been talking
21 about and there's general consensus over, for a retail grade
22 level orientation on that street, and adopting some standards for
23 increased glazing and entryways. We should think that this is
24 the time to do it. You've got it in front of you, do it.

25 With respect to recreational requirements, we are

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1 going to, essentially, create densities. We are going to create a
2 new town, a small town full of people in this area. There aren't
3 residential requirements. There aren't recreational
4 opportunities for people in this area. They need to be provided.

5 We also agree with OP that flexibility should be
6 there to provide them off site, but we should, in fact, designate
7 the areas, there's no reason why they can't be designated
8 currently, and then have those provisions in place so people can
9 look to them, and we are not suggesting that these necessarily be
10 a burden to the developer to buy into, it's just simply that if
11 you are going to build a community you need recreation space, so
12 provide it before you relax requirements, because there is a
13 need.

14 We, lastly, encourage the Commission, aside from
15 this case, to take another look at Square 483, which, in our
16 view, it's the only square in this area that's not that has no
17 residential requirement, and we think that that's an outlier that
18 should be reconsidered in terms of current public policy.

19 Thank you.

20 CHAIRPERSON MITTEN: Thank you, Mr. Bender.

21 And, Ms. Zigner.

22 Ms. ZIGNER: Good evening, Madam Chairperson, and
23 members of the Zoning Commission. My name is Jeanine Rustan
24 Zigner, with the law firm Robbins, Kaplan, Miller & Ceresi. We
25 are here this evening on behalf of Mr. Peter Schwartz and 1234

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1 Massachusetts Avenue LLC, owners of property located in Square
2 283, Lot 826, which is located in the DD R-5-E zoning district.

3 With me here this evening is Mr. Peter Schwartz.
4 We support the amendments that have been proposed by the Office
5 of Planning, in that as far as they go with providing incentives
6 for housing in the downtown area.

7 However, we are also requesting an amendment to
8 the DD R-5-E zoning district which will allow for an unlimited
9 FAR to additions to existing buildings within this district,
10 similar to the unlimited FAR which is being proposed for the
11 commercial districts in the downtown area.

12 The R-5-E zoned district is intended to be the
13 highest density residential district found in limited areas
14 within the DD. However, in terms of density, the Zoning
15 Commission created the R-5-E district so that it mirrored the
16 highest density available for residential use in commercial
17 districts.

18 The DD R-5-E zoned district was created in 1992,
19 when the Zoning Commission amended the regulations applicable to
20 the R-5 district and created a new medium density. By allowing
21 our proposal, it would, once again, allow the maximum residential
22 density, as was intended by the zoning regulations.

23 We d like to note that although, because of the
24 limited time, JBG did not get to indicate they have sent in a
25 letter, they are a neighboring property owner to Mr. Schwartz,

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1 they support our proposal.

2 And, we are here for any questions generally, and
3 Mr. Schwartz with regard to his property.

4 MR. SCHWARTZ: I m Peter N.G. Schwartz, the owner
5 of the Massachusetts House, good evening, ladies and gentlemen of
6 the Commission.

7 I ve been the owner of the Massachusetts House for
8 20 years. I ve been out of the real estate business for ten
9 years, and I have to say it was really very interesting to sit
10 here tonight and to see all the new developers coming into the
11 area and building, which for a long time there was no interest in
12 residential, so we are very supportive of that.

13 Our building is 90 foot in height, and we feel
14 that one day we may be able to add one or two stories, which
15 would be quite a nice addition, and not have the other DD
16 buildings towering above us, as we are a corner building located
17 on Massachusetts Avenue, 13th and 12th Street. We think that that
18 could be beneficial, not only to our property, but to the
19 neighborhood.

20 And, as we ve been an owner there for 20 years,
21 and watched this transformation come very slowly a part, we are
22 glad to still be here and be a part of it.

23 Thank you.

24 CHAIRPERSON MITTEN: Thank you very much.

25 Any questions for this panel? Any questions?

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1 COMMISSIONER FRANKLIN: Just one, Madam Chair.

2 Mr. Bender, do I read you correctly as basically
3 saying that there ought to be some kind of public commitment to
4 create recreational space in the NOMA district, and are you also
5 saying that that would be along side of the recreational
6 requirements imposed on private developers?

7 MR. BENDER: What we are saying is that, it makes
8 sense to us that there could be some buyout or reduction in the
9 current recreational requirements for C-2-C and C-3-C, and that
10 the City should designate areas where there will be public
11 amenities, and that then they can work out, on whatever kind of
12 compensation basis they feel appropriate, what contribution could
13 be made.

14 I believe that you have provisions in the code for
15 meeting certain provisions such as parking off site. This would
16 be something of that sort, where you could designate.

17 Now, if the City wanted to offer that up, first
18 off, there should be a designation, there should be performance
19 on this. If the City wanted to offer that up as a zero
20 compensation issue, because of the dynamics of housing finance,
21 that would be something that we would be supportive of, but that
22 would be a decision the City would have to make.

23 CHAIRPERSON MITTEN: Thank you for your testimony.

24 Mr. Docter, would you like to go first?

25 MR. DOCTER: Yes, good evening, Madam Chairman,

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1 members of the Commission.

2 I am here on behalf of the Downtown Housing Now
3 Committee. We did send a letter to you on January 5th, containing
4 very specific changes in the combined lot development. I can't
5 tell whether I thought that entitled us to be listed as a
6 witness today, so I don't know if that letter actually got to
7 you.

8 CHAIRPERSON MITTEN: I apologize, and I'm sorry
9 that you had to wait until the end.

10 MR. DOCTER: No, no, that's all right, I just want
11 to be sure you got the letter, because it's very specific, but
12 I'm going to talk generally and then get into the letter a little
13 bit.

14 I think one of the problems we've got here that we
15 are losing sight of is that the whole problem of downtown housing
16 is the question of building up the necessary critical mass, and,
17 you know, the combined lot development, as it is presently
18 constituted, because of its narrow scope, does help on the
19 critical mass, or it gives the private marketplace some
20 guidelines to work to. But, if you loosen it up, you can lose
21 housing for sure, and I think that that is a problem.

22 Now, in addition to that, we've zoned, as I
23 understand it, at least before I moved back into the District,
24 that we've zoned for certain sites to be housing, and that's been
25 decided, and I've heard from Mr. Darby and 901 New York Avenue,

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1 but as I understand it that was a site that they asked for a PUD
2 on, and they got a PUD, and now they are here screaming about
3 combined lot development. I don't think that's quite right.

4 I think the Certificate of Occupancy requirement
5 that is in existing law works. Admittedly, it hasn't worked in a
6 specific project, except that Mr. Bartley has testified that JBG
7 has made an agreement that will make it work, but it is the only
8 way to be sure that you don't lose housing in the process.

9 In fact, the proposal that is before you, that
10 comes from the Downtown Housing Task Force, of which only Mr.
11 Lynch and I were members that were not other than the people
12 from the Office of Planning that were not developers, and I
13 think the proposal is an awkward effort to try to bring the
14 private marketplace into helping to subsidize some sort of
15 residential housing, but it's not awkward at all when it comes to
16 the question of facilitating the construction of offices in the
17 City. And, I think that's where you have to understand this is
18 coming from.

19 Now, when you get to the question of incentives
20 and how we are going to get this housing, although the
21 marketplace is definitely in a position, still even if you look
22 at the chart that Mr. Roberts had in his Power presentation, if
23 you look at page six of it, you see that there are certain units
24 that have subsidies, and as I understand it there's 2,900 in
25 planning, of which they only expect 1,000 to be pretty sure right

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1 now, but of that 2,900 if you add up the ones that are getting
2 subsidies you've got 1,400 getting subsidies, and most of those
3 subsidies are from different programs that are federal, or from
4 the PADC, although they didn't include the project that is an
5 awkward lot, admittedly, that is now being built. The only
6 housing that's actually a hole is being excavated for in D.C.
7 today, and that's the project at 8th and E, which is only 43
8 units. It's a very small lot, it's next to a Pepco power
9 station, but it was the last PADC piece of property and we
10 insisted on getting that at the PADC.

11 So, I think that before we start changing the
12 zoning law, at least on the combined lot, I think we ought to
13 know what kind of incentives the City I mean, we've heard a lot
14 about, we are for incentives, we are going to give it to you
15 pretty soon, we ain't got it on the table yet, and once it's on
16 the table let's see what it is, and see if, really, it meshes
17 with this combined lot proposal that is before us.

18 Now, to try to analyze that proposal, let me just
19 go through a few points in the letter that we did send.

20 CHAIRPERSON MITTEN: I'm just going to remind you,
21 you only have about 20 seconds left, so if you could be diligent
22 about your summary.

23 MR. DOCTER: All right, well then let me just say
24 that the letter points out very clearly that the proposal is two
25 groups by setting up a citizens advisory group to be one of the

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1 beneficiaries of the covenant, and the Housing Production Trust
2 Fund. If you look at the D.C. Code today, there is not a single
3 standard in that code on the use of that fund. It just is an
4 established fund under the D.C. Code, I think we've got to have
5 that in place before we start tinkering with substantial zoning.

6 Thank you.

7 CHAIRPERSON MITTEN: Thank you, Mr. Docter.

8 Mr. Lynch.

9 MR. LYNCH: Good evening. Just for the record, I
10 do want to say, I was a member of the Downtown Housing Task Force
11 that came up with the report of which some of these
12 recommendations before you have been generated.

13 To get to the point, I would say at this time, yes
14 on the FAR recommendations that are before you, yes on the rec
15 space recommendations that are before you, and no on the combined
16 lot provisions that are before you.

17 It was not our intention, I don't think as the
18 Task Force report, to see this be the recommendation that came
19 forward to you first. We came in with a slew of recommendations
20 in that report that we had hoped the Mayor would put on the
21 table, and it was not our perception, I would not have
22 recommended the combined lot one be the one first out of the gate
23 to be approved.

24 To Mr. Parsons, I'm the one who put on the table
25 at the task force a tax abatement program for a ten-year period

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1 for projects, housing projects that are started within the first
2 five years, by 2005, and then we would phase them in after that
3 for this ten-year period. It was my, and I think the group s,
4 intention that that should, perhaps, have been the first one out
5 of the box that the Mayor would have put on the table, would have
6 enacted and implemented, perhaps, before some of the other
7 recommendations.

8 We also had on there tax exempt financing that we
9 would hope would have been expanded to include market rate
10 housing. We had hoped that the enterprise zone bond program
11 would be expanded to include rental housing. We wanted to see
12 the reduction of recordation fees to be in line with what some
13 surrounding jurisdictions have, to look at credit enhancement
14 measures, broadening tip districts so they could have benefitted
15 housing. There was a whole slew of recommendations that we put
16 together in this report to the Mayor.

17 It seems to me the Deputy Mayor for Economic
18 Development is sort of putting OP and this Commission in an
19 awkward, if not a difficult, spot by bringing to you some certain
20 elements on this case and in others which aren t quite timely and
21 should have been done with showing all the cards that are really
22 on the table.

23 So, I don t think I would move the combined lot
24 provisions at this point. I think we need to wait, I think those
25 are a year to 18 months away from being looked at, until you ve

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1 gotten to see, one, how many of the current projects in the
2 pipeline are going to actually break ground over the next year.

3 We ve requested several times that OP come back to
4 this body with a list of other sites in the downtown that would
5 be appropriate to add to the housing requirements in Areas B and
6 C. And, as well in a year we could see which of the other tools
7 in our report the Mayor has actually been able to get enacted,
8 like the property taxes, recordation, tax financing, what are the
9 other tools that are being put on the table, is he serious about
10 moving those, is the Deputy Mayor willing to move those, this
11 Commission would have a much better view of the world picture
12 before moving the combined lot.

13 The combined lot provisions, I think, as in there,
14 really, are more facilitating to the commercial office side than
15 the residential side.

16 So, in summary, yes on the FAR, and yes on the rec
17 space, hold off on the combined lot at this time until we see
18 where we ve moved on the other recommendations that are in the
19 report, I think, to give things a chance to gel first.

20 CHAIRPERSON MITTEN: Thank you, Mr. Lynch.

21 Any questions of these gentlemen?

22 VICE CHAIRPERSON HOOD: I just had a question of
23 Mr. Docter. In your letter here, I just found page two, it
24 seemed to have gotten misplaced here, for your recommendations,
25 number three on page three says, if the residential project is

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1 not completed within the adopted timetable, the receiving lot
2 shall be considered in violation of the zoning regulations.

3 Okay, if it s in violation then what is the cure?

4 MR. DOCTER: The cure is that conceivably the City
5 could bring some sort of action against the owner, but, you know,
6 this only says it shall be considered, it s still up to the City
7 to decide what to do.

8 I think that at least we tried to set out some
9 standards that the Commission can follow in letting additional
10 time go on these, going forward on the housing, and we ve also
11 tried to in the amendments make sure that it is clear cut that
12 the covenant doesn t expire when the money goes to the Housing
13 Production Trust Fund. I think you could read these, a clever
14 lawyer could read the proposal, although I m sure this wasn t
15 intended, as basically the whole game is over as soon as the
16 money goes in the Housing Production Trust Fund.

17 VICE CHAIRPERSON HOOD: Mr. Docter, did you and
18 your organization also piggyback on what Mr. Lynch said about no
19 combined lots at this time?

20 MR. DOCTER: Definitely, I mean, no question about
21 it. I endorse every word of Mr. Lynch s testimony.

22 VICE CHAIRPERSON HOOD: Okay.

23 I just wanted to say for the record, every time
24 I ve seen anything in my tenure dealing with downtown housing I
25 have seen you two. So, keep up the good work.

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1 Thank you.

2 CHAIRPERSON MITTEN: Mr. Franklin, did you have a
3 question?

4 Thank you, both.

5 Now, is there anyone else who would like to
6 testify this evening? Okay, thank you.

7 Do any of the Commissioners have any follow-up
8 questions for the Office of Planning, after hearing the testimony
9 of these individuals? Going once.

10 COMMISSIONER PARSONS: Well, I don't have any
11 questions, but I think there were a lot of good points made here
12 tonight, and the next step should be a report back to us. I
13 assume that's what they will do.

14 VICE CHAIRPERSON HOOD: I, too, just want to echo,
15 I don't know if we can ask for a summary report, because I did
16 hear some good testimonies from Mr. Lynch and the others, but I
17 want to make sure that we when moving forward, we move forward
18 cautiously, and not just haphazardly.

19 CHAIRPERSON MITTEN: I agree certainly with that,
20 and I guess at this point what we would ask is that we've heard
21 suggestions from some of the individuals who testified, and I
22 think we'd like to have some follow-up feedback from the Office
23 of Planning about either how you might integrate the ideas into
24 your proposals or why you've chosen to reject them, to help guide
25 us in our decision making.

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1 And, to that end, I think we need to leave the
2 record open for a variety of things. So, if there s nothing
3 else, I ll read the closing statement and we can set a time frame
4 for closing the record and allowing in some of the additional
5 information.

6 MR. BASTIDA: Madam Chair?

7 CHAIRPERSON MITTEN: Yes?

8 MR. BASTIDA: Would you like to list what you are
9 going to permit in the record, prior to closing the record?

10 CHAIRPERSON MITTEN: I was going to do that as I
11 wound it down.

12 MR. BASTIDA: Okay.

13 MR. RODGERS: Madam Chair?

14 CHAIRPERSON MITTEN: Yes.

15 MR. RODGERS: Sorry, the Office of Planning, we
16 would like to point out one thing regarding some of the testimony
17 that was given tonight.

18 In response to increasing the density for R-5-E,
19 and how these regulations have set up a sort of a double standard
20 between the commercial zones and the R-5-E, the whole DD regs
21 effort were to try to help housing compete with the office
22 market. In the R-5-E, first of all, commercial is not permitted,
23 and secondly, there are other guidelines that, for instance,
24 address recreation space in the R-5-E. There are greater lot
25 occupancy requirements and other things that address recreation

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1 space and so on.

2 We just wanted to go on the record as pointing
3 that out.

4 CHAIRPERSON MITTEN: Thank you.

5 COMMISSIONER FRANKLIN: Mr. Rodgers, does the Mr.
6 Sher had observed earlier that we don't have a recreation
7 requirement in residential developments in residential areas, do
8 you agree with that?

9 MR. RODGERS: As I stated, there is not a set
10 recreation requirement, but there are other guidelines that
11 provide for spaces that would be used as recreation, and as I
12 said, there's a greater lot occupancy, or, I should say, a lesser
13 lot occupancy restriction, that they were allowed 60 percent in
14 the R-5-E, and that lot occupancy allows for a greater open
15 space.

16 COMMISSIONER FRANKLIN: But, does it mean that that
17 open space has to be designed for recreation?

18 MR. RODGERS: No, it doesn't.

19 COMMISSIONER FRANKLIN: I would appreciate the
20 Office of Planning looking at this particular issue, because if
21 we really want housing to be developed why are we imposing in
22 this area, which is a high-priority housing area, requirements
23 that we don't impose in the residential areas? I think the
24 assumption is that in other residential areas, somehow or other,
25 there are adjacent parks and the like, which I hasten to add have

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1 been put there by public investment, not by private investment.
2 And, I, for one, would like to hear the rationale for this
3 recreation requirement, period.

4 CHAIRPERSON MITTEN: I think I m going to take the
5 guidance of Mr. Bastida, which is, I think maybe we should
6 articulate, before I read the closing statement, articulate what
7 we are leaving the record open for, and since the bulk of the
8 burden of additional information is going to fall on the Office
9 of Planning if you could then provide me some guidance about the
10 time frame that you ll need.

11 But, I think we want to leave the record open for
12 comments from everyone in attendance regarding some of the new
13 issues that you introduced in your presentation regarding the
14 buyout of open space requirements and the affordable housing
15 aspect of your proposal, which we got some comments, but to the
16 extent that it was new information for folks we would leave the
17 record open for additional comments about that from the public.

18 And then, the Office of Planning, in addition to
19 providing some responses for the proposals from the individuals
20 who testified here, having responses from the Office of Planning
21 regarding those proposals, there was a request to have some
22 discussion about good cause and what might constitute good cause
23 if it should come to that in the future, if housing couldn t be
24 developed on a site where it was required, and there was a map
25 that would be forthcoming of the housing sites from the chart on

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1 page six of the Power Point presentation, and also a map of the
2 potential development sites remaining in the DD that Mr. Parsons
3 had requested.

4 And, if there s anything else, staff, is there
5 anything else?

6 MR. BASTIDA: The staff are not recording anything
7 else, no, Madam Chairman.

8 CHAIRPERSON MITTEN: Okay.

9 MS. McCARTHY: And so, I think there was also an
10 indication of wanting to get some more information about the
11 Housing Production Trust Fund and how the proposed trust fund
12 might work.

13 CHAIRPERSON MITTEN: And, I m glad you raised
14 that, because I think, you know, Mr. Docter certainly, you know,
15 most effectively raised the concern about what exactly is this,
16 and so anything that you can tell us about what it is, and how it
17 would become more effective, or, you know, how it would become
18 more reliable, what would it take to do that.

19 COMMISSIONER FRANKLIN: And, who is the trustee, I
20 mean, how is it administered?

21 MS. McCARTHY: And, certainly, I think for our part
22 of OP, we would encourage those brave developers that are still
23 left in the room, and the zoning attorneys who have acquired
24 powerful muscles allowing them to sit for long periods of time
25 after all these zoning hearings, to if anybody if you d like

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1 to set up a meeting and sit down and talk about the buyouts, you
2 know, a buyout formula, the good cause provisions, whatever, not
3 just developers, but, you know, anybody that would like to have
4 some discussion with us, we d really welcome the input, and be
5 happy to have some discussion of that before we get something
6 back to the Commission.

7 CHAIRPERSON MITTEN: Thank you, and can you give us
8 some guidance about how much time you ll need to get the
9 responses back to us?

10 MS. McCARTHY: You know, I think we could probably
11 put something together in two to three weeks, which would let us
12 get you back something in time for next month s Commission
13 meeting. So, we could aim for having something in to you a week
14 in advance.

15 CHAIRPERSON MITTEN: Okay.

16 MS. McCARTHY: And then, if we wanted to discuss it
17 on March 12th, I think is the next Commission meeting, we could do
18 that.

19 CHAIRPERSON MITTEN: Okay, so what date would that
20 be, if we had it a week in advance?

21 MR. BASTIDA: It would be, the deadline would be
22 Friday, March the 2nd.

23 CHAIRPERSON MITTEN: Okay.

24 Anything else, before I launch in? Okay.

25 Ladies and gentlemen, the other members of the

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1 Commission and I wish to thank you for your testimony and
2 assistance in this hearing.

3 The record in this case will now be closed, except
4 for the information that we specifically requested.

5 Any special information or reports specifically
6 requested by the Commission must be filed no later than the close
7 of business on Friday, March 2, 2001, in Suite 210 of this
8 building.

9 The Commission will make a decision on this case
10 at one of its regular monthly meetings following the closing of
11 the record. These meetings are held at 1:30 p.m., on the second
12 Monday of each month, with some exceptions, and are open to the
13 public. If any individual is interested in following this case
14 further, I suggest that you contact staff to determine whether
15 this case is on the agenda of a particular meeting.

16 You should also be aware that should the
17 Commission propose affirmative action, the proposed action must
18 be published in the D.C. Register as proposed rulemaking with a
19 period of time for comments. In addition, the proposed
20 rulemaking will be referred to the National Capitol Planning
21 Commission for federal impact review.

22 The Zoning Commission will then take final action
23 at a public meeting following receipt of public comments and the
24 NCPC comments, after which a written final rulemaking and order
25 will be published.

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1 Prior to adjourning this hearing, I would just
2 like to ask as you exit if you will please be quiet, because we
3 need to have a special public meeting for an item that we left
4 over from our public meeting today, and we d like to do that as
5 expeditiously as possible.

6 I now declare today s public hearing adjourned.

7 (Whereupon, the above-entitled matter was
8 concluded at 7:16 p.m.)

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