

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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SPECIAL PUBLIC MEETING

+ + + + +

THURSDAY  
OCTOBER 16, 2008

+ + + + +

The Special Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 6:00 p.m., Anthony J. Hood, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD	CHAIRPERSON
GREGORY JEFFRIES	VICE-CHAIRPERSON
MICHAEL TURNBULL, FAIA	COMMISSIONER
	(OAC)
PETER MAY	COMMISSIONER
	(NPS)

OFFICE OF ZONING STAFF PRESENT:

ESTHER BUSHMAN	General Counsel
DONNA HANOUSEK	Zoning Specialist
SHARON SCHELLIN	Secretary

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

ALAN H. BERGSTEIN, ESQ.  
JACOB RITTIG, ESQ.

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER, DEPUTY DIRECTOR  
JOEL LAWSON  
TRAVIS PARKER  
PAUL GOLDSTEIN  
MAXINE BROWN-ROBERTS  
STEVEN COCHRAN

The transcript constitutes the minutes from the Special Public Meeting held on October 16, 2008.

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

6:35 p.m.

CHAIRPERSON HOOD: We're ready to get started. This is a special public meeting. Good evening, ladies and gentlemen. This is October 16th. This is our special public meeting of the Zoning Commission, District of Columbia.

My name is Anthony Hood. Joining me are Vice Chairman Jeffries, May, and Turnbull. We are also joined by the Office of Joining Staff under the leadership of Ms. Jerrily Kress, Office of the Attorney General under the leadership of Mr. Bergstein. Tonight it looks like we're under the leadership of the Office of Planning with Mr. Parker.

Copies of today's meeting agenda are available to you and are located in the bin near the door. We do not take any public testimony at our meetings unless the Commission request someone to come forward.

1           Please be advised that this  
2 proceeding is being recorded by a court  
3 reporter and is also webcast live.  
4 Accordingly we must ask you to reframe from  
5 any disruptive noises or actions in the  
6 hearing room. Please turn on -- I'm sorry,  
7 please turn off all beepers and cell phones.

8           Does the staff have any  
9 preliminary matters?

10           MS. SCHELLIN: Just one with the  
11 case before us. There are two documents that  
12 came in after the record closed, Exhibits 87  
13 and 88. They came in, I believe, maybe four  
14 or five days after the record closed if you  
15 guys would reopen the record to accept those.

16           CHAIRPERSON HOOD: Colleagues, I  
17 don't see a problem with reopening the record.  
18 Do we need to do a general consensus or vote?

19           MS. SCHELLIN: Consensus is fine.

20           CHAIRPERSON HOOD: I think we have  
21 general consensus. Do we have anything else,  
22 Ms. Schellin? I will tell you this is the

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1 first of many series for the Commission in  
2 moving forward and I want to put this on the  
3 record.

4 While we may have to make some  
5 tweaks and changes as we go along, I believe  
6 that this process is a work in process so bear  
7 with us as we go through this. We are going  
8 to fend through it the best way we know how  
9 and any changes that we made I'm sure that  
10 this Commission staff and all we will govern  
11 ourselves accordingly.

12 A lot of work groups have put a  
13 lot of comments into the record. Tonight I'm  
14 going to be referring to September 3rd. The  
15 process now is to give guidance in how the  
16 Commission wants to proceed.

17 I think we have a fine document  
18 which is in the public record. It's dated  
19 September 3. Unless my colleagues see another  
20 way of moving, I would like to basically use  
21 this as our road map.

22 I do know that a lot of groups, as

1 I stated earlier, have made a lot of comments.  
2 I think there will be another bite at the  
3 apple in time for us to make tweaks as we seem  
4 and see necessary.

5 That is the fashion that I think  
6 this Commission -- at least I would like to  
7 see us move in that fashion unless my  
8 colleagues feel otherwise. Are we in  
9 agreeance? Okay. All right.

10 Okay. Ms. Schellin, are we ready  
11 to proceed?

12 MS. SCHELLIN: Yes, sir.

13 CHAIRPERSON HOOD: Okay. Proposed  
14 Action, Zoning Commission Case No. 0806-2.  
15 This is under the ZRR and tonight's issue is  
16 parking. Ms. Schellin.

17 MS. SCHELLIN: You have before you  
18 the case on parking and it's our understanding  
19 that the Commission will have dialogue with  
20 the Office of Planning and give them some  
21 direction regarding a parking policy.

22 CHAIRPERSON HOOD: Okay. With

1 that, again, colleagues, let's refer to to the  
2 submission dated September 3, 2008. This is  
3 our road map and I would just like to start  
4 off with No. 1, minimum parking requirements.

5 This is kind of like -- the way I  
6 envision it this is just like a road map. I  
7 actually have two copies but I want to --  
8 before we get started I'm going to point out  
9 one thing that I've heard and I'm just going  
10 to take it from a number of places.

11 Mr. Bergstein, I think this is not  
12 in compliance with how we need to proceed.  
13 You can chime in. I've noticed in  
14 supplementals one of the things that I heard  
15 from a number of people who commented, for  
16 example, I'm taking this straight from a  
17 August 19th letter of the committee of 100.

18 I think Lindsey Williams also  
19 mentioned this to Kalorama Citizens  
20 Association, the Federation of Citizen's  
21 Association as well have mentioned basically  
22 the same concept. We have been asked -- I

1 think we need to do this preliminarily.

2 We have been asked and it says,  
3 "The committee recommends the Zoning  
4 Commission hold a round table which the  
5 related governmental agencies, OP, DDOT, DPW,  
6 and the Zoning Administrator can offer  
7 integrated proposals based on their  
8 programmatic responsibilities.

9 Then it says, "The public, too,  
10 deserves the opportunity to inquire further  
11 into what will change in their communities."  
12 I think there is going to be -- the way I see  
13 it I think there is going to be enough bites  
14 of the apple in the process, again, a working  
15 process. We are not exactly sure how many  
16 bites.

17 We know there will be at least one  
18 more bite at the apple. I'm seeing Mr. Parker  
19 concurring by nodding his head. I'm sure  
20 there is some collaboration between OP and  
21 DDOT. I'm not sure what role right now the  
22 DPW may be playing but I'm sure they are

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1 probably involved as well as the Zoning  
2 Administrator.

3           When I look at the review of the  
4 task force and the folks in law, I think that  
5 some of that is actually starting to  
6 materialize. If it's just right out there at  
7 this point, I'm not sure if that's the case  
8 but that is something that we probably will  
9 put on the back burner. In other words, I  
10 want to make that statement because I don't  
11 want anyone to feel that we have not read the  
12 materials.

13           Tonight we are just giving  
14 guidance. It's more of a general. We're not  
15 getting down to the knitty gritty specifics of  
16 exactly what we are going to move when we get  
17 some language. I just wanted to put that on  
18 the record. If anyone has any problems with  
19 what I said, speak up now. If not, we're  
20 going to move forward.

21           Okay. Let's go back to September  
22 3, 2008. I think this is a good road map. It

1 says "minimum parking requirements." We have  
2 some options. A. Off-street parking by the  
3 public or building tenants. We have Option 1,  
4 do not require any building in any area to  
5 provide off-street parking.

6 There is a direction if we don't  
7 accept Option -- if we go with Option 1 but  
8 then we have Option 2, required building to  
9 provide off-street parking if houses one or  
10 more nonresidential uses and is located in a  
11 residential district where multi-family  
12 dwellings are not permitted or a commercial  
13 quarter within however many feet we deem seem  
14 necessary of such a district except in transit  
15 or development areas.

16 Then we have Option 3 if we don't  
17 agree with that. I mean, this is the way I  
18 see that this plays out. Option 3, require  
19 buildings to provide off-street parking if --  
20 that's if we don't accept 2 that's for us to  
21 fill in. Then Option 4, retain existing  
22 parking minimums. What I would like to do at

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1 this time is open it up to my colleagues and  
2 let's talk about Option 1.

3 First of all, let me do it this  
4 way. Does anyone have -- is there anyone who  
5 would like us to accept Option 1? Option 1  
6 says, "Do not require any building in any area  
7 to provide off-street parking." Does anyone  
8 move? I'm looking. I want everybody to  
9 concur before we move.

10 COMMISSIONER MAY: I'm not ready  
11 to say no minimums period. I wasn't convinced  
12 by the testimony we got from the Office of  
13 Planning and those who supported the notion of  
14 no minimums period.

15 CHAIRPERSON HOOD: All right.  
16 Let's look at Option 2, required building to  
17 provide off-street parking if it houses one or  
18 more non-residential uses as located in a  
19 resident district. We have it in front of us.  
20 I'm not going to keep reading the same thing  
21 because we have it in front of us. Anyone  
22 move or would like to comment on that? Option

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1 2.

2 MR. TURNBULL: Mr. Chair, I guess  
3 I go back and do Bill Cruise's letter to us  
4 and the concern about the spill-over effect.  
5 He mentioned -- you know, I'm looking at his  
6 Exhibit 83. He talked about, "Specific uses  
7 to trigger the exceptions do not include  
8 multi-family residences uses wherein the  
9 single family rowhouse areas are in commercial  
10 court of such areas."

11 That's what he talks about. Maybe  
12 Mr. Parker could comment upon what Mr. Cruise  
13 was getting at in his. I mean, I think we've  
14 had this from others, too, to worry about the  
15 spill-over effect in areas where there isn't  
16 any parking.

17 MR. PARKER: Would you like a  
18 response?

19 MR. TURNBULL: Please.

20 MR. PARKER: Well, keep in mind  
21 that No. A where we're talking about retaining  
22 parking minimums, that's in low and moderate

1 density residential zones. That's in single-  
2 family districts and flat districts. Those  
3 types of buildings aren't allowed in those  
4 districts. Existing buildings that are there  
5 like that are grandfathered whether they have  
6 parking or not so it's really not an issue.

7 I assume that the issue that would  
8 be of concern is in commercial corridors for  
9 new multi-unit residential buildings and  
10 commercial corridors. Again, it's a choice  
11 that you certainly have to make but our  
12 recommendation and the recommendation of our  
13 consultant was that the market has provided  
14 this.

15 In Portland they removed parking  
16 requirements for all uses along their  
17 commercial corridors in an effort to spur  
18 development, to provide more incentives to in-  
19 fill these smaller lots, and to remove the  
20 variances when you have to dig underneath on  
21 these small lots or provide parking.

22 You don't have room in the back to

1 provide parking. Less than 1 percent of the  
2 new buildings in Portland in those zones were  
3 built without parking so it's not an issue of  
4 new multi-family buildings going up without  
5 parking.

6 People who have cars want to move  
7 into a building with parking space and want to  
8 buy a parking space. That's what we found and  
9 that's what the research done by our  
10 consultant has shown. Our minimum parking  
11 requirements as we have them now don't really  
12 play a role in providing parking for those  
13 buildings.

14 We can argue about whether we  
15 should set those limits higher and provide  
16 more parking in those buildings. Right now  
17 it's not been an issue.

18 COMMISSIONER MAY: Now, what about  
19 in the circumstance where you've got a  
20 commercial corridor and then immediately  
21 adjacent to that commercial corridor you have  
22 a low or moderate density residential zone.

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1 MR. PARKER: Right.

2 COMMISSIONER MAY: You're saying  
3 that -- what you're saying is that the market  
4 for the higher density buildings is going to  
5 be such that it's going to -- that the parking  
6 is going to occur just by market demand.

7 MR. PARKER: We're actually  
8 pushing for maximums in order to limit the  
9 amount of parking for this very reason. The  
10 other cities that we've looked at that have  
11 done this same thing certainly have not had a  
12 problem with the provision of parking.

13 Portland and San Francisco you  
14 have letters in the record from them who have  
15 initiated the same sort of thing and they have  
16 gone further. They haven't required it for  
17 the office or the commercial in these  
18 commercial corridors. They have not had an  
19 issue with projects being built without  
20 parking or without adequate parking.

21 COMMISSIONER MAY: The  
22 neighborhoods where we have spill-over issues

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1 right now, what's causing that?

2 MR. PARKER: Well, there's a lot  
3 of reasons for that. Part of it is right now  
4 everyone drives everywhere. Right now if  
5 there is plenty of parking in a neighborhood  
6 people are going to drive there and the first  
7 thing that they're going to do is not go down  
8 into that parking lot.

9 They are going to drive around the  
10 neighborhood and take the first spot that  
11 comes. The provision of more parking what it  
12 can do is encourage more people to drive to  
13 that neighborhood. People don't drive  
14 necessarily to Adams Morgan because they know  
15 they're not going to have a place to park.

16 COMMISSIONER MAY: That never  
17 stopped me when I went there. I remember, I  
18 don't know, maybe I've been around Washington  
19 too long, but the whole parking garage  
20 controversy in Adams Morgan when everybody in  
21 the council and everybody else was clamoring  
22 to get a parking garage built in Adams Morgan

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1 to deal with that.

2 MR. PARKER: And it hasn't helped  
3 the on-street parking situation.

4 COMMISSIONER MAY: Well, would it  
5 be worse? Are you saying it would be just as  
6 bad because it's "build it and they will  
7 come?"

8 MR. PARKER: Very much so. Build  
9 extra and they will come. We're not talking  
10 about not building any. Obviously the  
11 developers are going to build as much as they  
12 can sell and that's always going to be the  
13 case.

14 It's building stuff that they  
15 can't sell that's an issue. Wherever we  
16 require it, usually we are going to be below  
17 that but in a few cases we are requiring them  
18 to build more than they can sell, those are  
19 the cases we want to take care of.

20 COMMISSIONER MAY: How many of  
21 those cases have occurred that have built more  
22 than they can sell? I've heard about one in

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1 Columbia Heights.

2 MR. PARKER: That's information  
3 that we cannot get because it's not something  
4 that developers are willing to share.  
5 Developers build too much parking and they  
6 want to tell people buying their spots that  
7 there's -- I mean, they don't want to lower  
8 their prices. They don't want to tell their  
9 lender that they've built too much. It's not  
10 information that we can readily get.

11 VICE-CHAIR JEFFRIES: I think  
12 there is something on Columbia Heights. I  
13 think it's like 14th and Gerard. I think the  
14 ground floor has a Dunkin' Donuts. I think  
15 they have more parking than --

16 COMMISSIONER MAY: Somebody's  
17 presentation mentioned that building in  
18 particular.

19 MR. PARKER: That was DCUSA I  
20 think that was mentioned.

21 COMMISSIONER MAY: Oh. So this is  
22 another one?

1                   VICE-CHAIR JEFFRIES: This is  
2 another building.

3                   MR. PARKER: So it happens. We  
4 just have no -- that's impossible to get data  
5 on because it's not something that people are  
6 willing to share.

7                   COMMISSIONER MAY: Is that the  
8 problem -- that's not the problem we're trying  
9 to solve. We're trying to manage people's  
10 habits or people's tendencies.

11                  MR. PARKER: That would be the  
12 parking maximums. Here we are trying to  
13 eliminate those cases where we may be forcing  
14 too much parking and cut down on the number of  
15 variances where parking wouldn't be necessary  
16 but it's required or parking wouldn't be  
17 needed but it's required. This isn't about  
18 managing. This is about removing --

19                  COMMISSIONER MAY: So why wouldn't  
20 we just be looking at reducing the minimums?

21                  MR. PARKER: We certainly can.

22                  COMMISSIONER MAY: I'm asking why

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1 are you eliminating minimums as opposed to  
2 simply reducing them or finding a mechanism  
3 for reducing them in an orderly fashion and in  
4 a coordinated fashion?

5 MR. PARKER: I guess the point is  
6 whatever level you set minimums at, it's not  
7 right for 90 percent of the project. You're  
8 right for a project somewhere but for half of  
9 the projects that's more than they need and  
10 for half of the projects that's less. Now,  
11 actually --

12 COMMISSIONER MAY: You're saying  
13 half the projects are building more parking  
14 than they need?

15 MR. PARKER: Not at all. Forgive  
16 me that I said that. The point is whatever  
17 limit you set some of the projects -- in this  
18 city most of the projects need more parking  
19 than that limit. Some of the projects need  
20 less. We can't set a parking requirement  
21 that's as exact as the people who are building  
22 that building.

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1           They have more information about  
2           how much parking need there is for that  
3           building than we do and it changes on a site-  
4           by-site basis. What we found is that parking  
5           minimums set for a particular use across the  
6           city are a shot in the dark in terms of what  
7           the actual need for that use in a particular  
8           location is.

9           COMMISSIONER MAY: So the answer  
10          is to not take a shot at all.

11          MR. PARKER: Well, it's not needed  
12          and it hasn't been in the cities that have  
13          taken away the minimums.

14          COMMISSIONER MAY: Well, I'm not  
15          absolutely convinced of that based on some of  
16          the other testimony that we've received and  
17          we've seen a lot of things that contradict.

18          MR. PARKER: From other cities  
19          that have done this.

20          COMMISSIONER MAY: Well, what's in  
21          people's testimony and in their submissions  
22          about the success of the other cities. I

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1 mean, some of what's in there. You know, you  
2 read so much of this stuff it's hard to know  
3 what to believe and what not to believe.

4 You get some blanket statements  
5 from reputable organizations that say things  
6 like, "This policy has been implemented," or  
7 there's enough proof from where these policies  
8 have been implemented that minimums don't work  
9 as if it's fact, stating this as if it's fact.  
10 It's not fact. What they are stating is a  
11 generalization so it makes it very hard to  
12 rely on a lot of the data that we have.

13 MR. PARKER: I guess the point is  
14 they have worked very well for what they were  
15 designed to do 50 years ago. Fifty years ago  
16 people didn't build parking. People didn't  
17 put it on their own lots. The only parking  
18 was on the streets and there was a need for  
19 off-street parking and people had to be  
20 engineered to provide it.

21 That's been done. We've got 50  
22 years of engineering to get us to provide

1 parking and now we are doing it on our own.  
2 People build the parking that they need and  
3 they build it on their own lot and people want  
4 parking on their own lot. What we're saying  
5 is that the need for our social engineering by  
6 requiring it is gone. We've been successful  
7 in getting people to realize that they need  
8 parking on their lot.

9 VICE-CHAIR JEFFRIES: Do you mind,  
10 Commissioner May, that I step in? I just want  
11 to get some clarity here. So the Office of  
12 Planning you were effectively recommending  
13 that we remove minimum parking standards from  
14 the parking schedule but maintain minimums in  
15 areas where there is potential spill-over  
16 effect.

17 MR. PARKER: Absolutely.

18 VICE-CHAIR JEFFRIES: Okay. That  
19 seems reasonable to me. The question is let's  
20 look at 14th Street, my neighborhood.  
21 Adjacent you have R-5. I think you might have  
22 a couple of R-4s but R-5s. There may be

1 spill-over there. In those situations for  
2 those buildings that are going up on 14th  
3 Street you would require some sort of minimum?

4 MR. PARKER: We've recommended  
5 that, yes.

6 VICE-CHAIR JEFFRIES: Okay. Then  
7 in situations where there are non-residential  
8 uses that are in, let's say, R-4 --

9 MR. PARKER: Schools and churches.

10 VICE-CHAIR JEFFRIES: Schools and  
11 churches, you would require some level of  
12 minimum.

13 MR. PARKER: The same as we have  
14 now. We wouldn't change it.

15 VICE-CHAIR JEFFRIES: Okay. So,  
16 Commissioner May, what is your issue with  
17 that?

18 COMMISSIONER MAY: This is all  
19 under the Option 2 framework. Is that right?

20 MR. PARKER: That was our  
21 recommendation, yes.

22 COMMISSIONER MAY: I'm just not

1 completely convinced that what's being  
2 addressed in terms of the risk of spill-over  
3 is adequately defined by what's on this piece  
4 of paper.

5 In other words, you know, which is  
6 required billing to provide off-street parking  
7 if it houses one or more nonresidential uses  
8 and is located in the residence district where  
9 multiple family dwellings are not permitted or  
10 a commercial corridor located within X feet of  
11 such a district.

12 I think there are other factors  
13 that play into that. From when I had read  
14 this, mixed use areas served by transit might  
15 be places where it's acceptable. I mean, why  
16 are we defining the areas where -- you know,  
17 why is it none anywhere except trying to  
18 address some of the spots where we know we  
19 have the spill-over issue? Why don't we focus  
20 on where we think it's okay to eliminate the  
21 minimum?

22 VICE-CHAIR JEFFRIES: I mean, I

1 thought the main thrust of some of this was  
2 really trying to deter people from driving  
3 their cars into certain neighborhoods,  
4 particularly if there were metro stations,  
5 very strong buslines. I live three blocks  
6 from Adams Morgan and you are absolutely  
7 right.

8           There's certain neighborhoods you  
9 don't even think about getting in your car and  
10 driving to because it's just going to be a  
11 major, major hassle and you figure out other  
12 ways to get there.

13           I guess I thought that's what we  
14 were really trying to get to clearly  
15 recognizing that certain people are going to  
16 drive but as we look into the future here in  
17 the District, I mean, we have to start to sort  
18 of manage this.

19           It seems like a reasonable  
20 recommendation to me. I get the impression  
21 that you're right, that there's probably some  
22 tweaking and some things that we really need

1 to do to sort of address it but I don't --  
2 clearly beyond the former zoning  
3 administrator, I mean, a number of people have  
4 talked about the spill-over effects so we  
5 really do need to address that. This is what  
6 I consider to be somewhat of a hybrid sort of  
7 approach. It seems reasonable to me.

8 VICE-CHAIR JEFFRIES: If I might.

9 VICE-CHAIR JEFFRIES: Sure.

10 MR. PARKER: One other thing that  
11 I haven't really mentioned that we need to  
12 consider is the one reason to provide on-  
13 street parking has always been to prevent  
14 spill-over onto on-street parking or to  
15 provide off-street parking has been to prevent  
16 spill-over.

17 What our consultants have been  
18 telling us is that the provision of off-street  
19 parking does not prevent spill-over, does not  
20 keep people from parking on the street and we  
21 can see that. We've had these requirements  
22 for 50 years. We have problems all over the

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1 city with spill-over parking on the street.

2 The question becomes if that's not  
3 the answer what is? The answer is the  
4 management of on-street parking through better  
5 RPP, through better enforcement of RPP,  
6 through demand pricing of commercial streets.

7 That's what DDOT is working on.  
8 DDOT understands that we've had these  
9 requirements for 50 years. They are not  
10 controlling the on-street parking so they've  
11 got to do it more directly.

12 VICE-CHAIR JEFFRIES: So, Mr.  
13 Parker, are you saying -- I'm going to go back  
14 to 14th Street even if you were to provide  
15 visitor parking underground, several spaces,  
16 people driving there might or might not. They  
17 might decide not to go there. They are still  
18 sort of park in some of the adjacent --

19 MR. PARKER: Think of the places  
20 in the city that have the most off-street  
21 parking. Downtown has tons of off-street  
22 parking. Is there places on the street to

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1 park? Has it stopped spill-over?

2 I mean, the places with the most  
3 off-street parking do not have less spill-over  
4 than the places without any. What we're  
5 seeing and what our consultants have said is  
6 that off-street parking is not the solution to  
7 on-street parking.

8 VICE-CHAIR JEFFRIES: There's not  
9 a nexus?

10 MR. PARKER: There's not the nexus  
11 that there was believed to be. We can control  
12 on-street parking through other methods and  
13 DDOT is working to do that now and will  
14 continue to work to do that. What we're  
15 saying is that people are conditioned to build  
16 their off-street parking.

17 They are going to build what they  
18 need. We don't need to require them to build  
19 more because whether they do or not we're not  
20 going to clear up spaces on the street that  
21 way.

22 CHAIRPERSON HOOD: How is DDOT

1 doing it? Just give me an example of what  
2 they're doing. I know Ms. Ricks testified for  
3 DDOT. How are they doing it? Just give me an  
4 example.

5 MR. PARKER: Well, they've got  
6 several strategies. They're running several  
7 pilots across the city. One thing they're  
8 looking at -- basically I think the general  
9 goal is 80 percent filled parking so that  
10 wherever you go in the city there will always  
11 be 20 percent of the spots open.

12 The way that you do that where you  
13 charge for parking is you raise the rates and  
14 you have demand prices so during rush hour  
15 parking cost more than in the middle of the  
16 night. The cost of parking always keeps some  
17 spaces open.

18 In residential zones it becomes  
19 more an issue of enforcement and may be  
20 narrowing the areas which RPP cover and having  
21 smaller areas so that only the residents of  
22 that immediate area can park in that area and

1 enforcing to ensure that commercial people  
2 don't. Spill-over parking from commercial  
3 isn't legal now in a lot of residential  
4 neighborhoods.

5 COMMISSIONER MAY: For two hours  
6 it is.

7 MR. PARKER: Well, maybe it  
8 shouldn't be. I mean, maybe that's the issue.  
9 If we make that illegal and enforce it, that's  
10 going to keep the street clear.

11 CHAIRPERSON HOOD: The key to the  
12 last word -- and I know that some of this is  
13 probably going beyond. We can put a reg in  
14 place but enforcement, that last word you  
15 said, is very key.

16 MR. PARKER: Absolutely. And  
17 that's the only thing that will solve the  
18 problem, not the provision of more off-street  
19 parking.

20 VICE-CHAIR JEFFRIES: Some of this  
21 is out of our jurisdiction. We're just one  
22 part of this overall puzzle here. I don't

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1 think that we need to -- you know, I mean, I  
2 think we need to consider these things but  
3 clearly recognize what we do here.

4 CHAIRPERSON HOOD: Right. I  
5 appreciate your comments but I also want to  
6 make sure, at least from my standpoint that I  
7 try to make an informed decision on where I'm  
8 going to fall on this. Okay. Let's move this  
9 along.

10 COMMISSIONER MAY: I'm sorry.

11 CHAIRPERSON HOOD: We want to go  
12 back to Option -- where are we at now, 2?  
13 We're still on 2.

14 COMMISSIONER MAY: Well, no. I  
15 just want to follow-up on that slightly if I  
16 could. I know I've heard discussion of  
17 residential parking permit costs going up and  
18 being graduated for first car, second car, so  
19 on.

20 MR. PARKER: That's certainly an  
21 idea. I mean, if you charge more for the  
22 second and third car, yeah.

1                   COMMISSIONER MAY: Is anything  
2 happening with that?

3                   MR. PARKER: I can't answer that.  
4 Maybe Chris Ziemann from DDOT can answer that.  
5 I know that's been considered in the past and  
6 I know it is being considered again but I  
7 don't know where it's at.

8                   COMMISSIONER MAY: Yeah. Okay.

9                   MR. ZIEMANN: Hi. Should I state  
10 my name?

11                   COMMISSIONER MAY: Yes.

12                   MR. ZIEMANN: Okay. My name is  
13 Christopher Ziemann. I'm the Ward 2  
14 transportation planner for DDOT. DDOT is  
15 doing a lot of different pilot programs right  
16 now.

17                   COMMISSIONER MAY: I just have a  
18 very discrete question which is are you  
19 looking at raising the rates on RPP and  
20 graduating it one car, two car, etc.?

21                   MR. ZIEMANN: We are looking at it  
22 right now. It depends on a lot of things,

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1 especially city council, popularity and  
2 everything. That is definitely one of the  
3 ideas that we're bouncing around.

4 COMMISSIONER MAY: So it's  
5 bouncing around. Okay.

6 MR. TURNBULL: What about the  
7 notion that was raised just about a minute ago  
8 about eliminating the spill-over parking, the  
9 two-hour parking for other than residents  
10 parking on the street? Is that contemplated?

11 MR. ZIEMANN: Yeah. There's a  
12 number of ideas right now that are being  
13 contemplated. That's one. For example, what  
14 some people are talking about is having it on  
15 one side of the street and then still  
16 retaining the two-hour parking on the other  
17 side of the street.

18 Another strategy is to actually  
19 put multi-space meters on residential streets  
20 so that people who are parking there for two  
21 hours still have to pay. There's the pilot  
22 program around the ballpark which during

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1 baseball games I think the first hour is \$2,  
2 the second hour is \$8, the third hour is also  
3 \$8, and then the fourth hour is another \$2.  
4 That is somewhat equivalent to what it cost to  
5 park in the parking garage.

6 VICE-CHAIR JEFFRIES: Did you say  
7 meters on residential blocks?

8 MR. ZIEMANN: Yes.

9 VICE-CHAIR JEFFRIES: You didn't  
10 say that. Did you say that?

11 MR. ZIEMANN: Yeah. Not for  
12 residents, though. Except for residents.  
13 Visitors who come to the area would pay the  
14 meters.

15 VICE-CHAIR JEFFRIES: So we have  
16 to see these little meters all up and down our  
17 residential blocks.

18 MR. ZIEMANN: We don't have to do  
19 anything. These are options that we're  
20 considering.

21 COMMISSIONER MAY: Yeah, that's  
22 being done in some places in S.W. in

1 particular.

2 MR. ZIEMANN: Where it is being  
3 implemented it's shown to be very popular.

4 VICE-CHAIR JEFFRIES: I'm just  
5 dealing with the physical appearance of that.

6 MR. TURNBULL: Maybe we need some  
7 better looking parking meters?

8 VICE-CHAIR JEFFRIES: I don't  
9 know. It's just one more thing that's up and  
10 cluttering the street and so forth but  
11 whatever.

12 MR. TURNBULL: With all the number  
13 of pilot projects and programs you've got  
14 going, how long -- what is the test period?  
15 How long does this go?

16 MR. ZIEMANN: It depends on the  
17 specific program. I know with the ballpark  
18 parking pilot they have been kind of tweaking  
19 it and evaluating it periodically, perhaps  
20 monthly or bi-monthly. I'm not sure but  
21 they're been having community meetings to kind  
22 of get feedback on how it's working and what's

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1 working and what's not working.

2 I think they might have changed  
3 the prices and the scales a little bit. It  
4 would depend on the specific program. Some  
5 could be six months and some could be a year.

6 MR. TURNBULL: I guess if it's  
7 going to take that long do you see a time  
8 period where you feel you could come back and  
9 you're going to be telling -- you're going to  
10 say, "Here is what we are planning to go  
11 forward with?" I mean, do you have a set  
12 period of time when you are going to roll out  
13 some of these new ideas?

14 MR. ZIEMANN: Well, we're rolling  
15 them out right now as test pilots. Basically  
16 what we've found is that every neighborhood is  
17 different so every neighborhood seems to be --  
18 needs to be considered --

19 MR. TURNBULL: So you're tweaking  
20 it for the neighborhood, for each  
21 neighborhood.

22 MR. ZIEMANN: Right. Yeah. I

1 mean, we come with the ideas of what we think  
2 will work and then we see why it does work,  
3 why it doesn't work, how it could work better,  
4 what are the strengths and weaknesses of each  
5 program in each area.

6 MR. TURNBULL: Do you think that  
7 when you're ready you have the funding to be  
8 able to carry out some of these programs on a  
9 wider basis?

10 MR. ZIEMANN: Yeah, yeah.  
11 Definitely. I mean, as far as funding goes it  
12 depends on a lot of things. It depends on  
13 which program we're talking about if we're  
14 talking about meters on residential streets or  
15 just talking about different signage or if  
16 we're talking about increasing enforcement.  
17 For example, at night U Street or Georgetown  
18 or something on the weekends.

19 MR. TURNBULL: Okay. Thank you.

20 CHAIRPERSON HOOD: Let's try to  
21 get back to -- okay. Option 2 is -- I don't  
22 want to sound -- let's leave that in the

1 parking lot. Let's just park right there for  
2 Option 2. Let's go down to -- let me skip to  
3 Option 4.

4 Obviously retain existing parking  
5 minimums. Is anyone interested in that? I'm  
6 working my way differently so we can move  
7 along. Option 3. Does anyone have anything  
8 that we may want to recommend and maybe we can  
9 tie that in with Option 2.

10 At this point unless -- I don't  
11 want us to do it off the cuff but at this  
12 point if someone has something that they may  
13 want to come back and reconsider, we'll put  
14 both of those in the parking lot and move on  
15 and come back to that.

16  
17 COMMISSIONER MAY: I'm not sure  
18 what you mean by putting them in the parking  
19 lot --

20 CHAIRPERSON HOOD: Let's park it  
21 and let's move on. Put a pin in it.

22 COMMISSIONER MAY: I understand.

1 Option 2 has been cast has eliminate the  
2 minimums except where there is an issue of  
3 spill-over. Right? That's the way someone  
4 characterized it here. In principle I think  
5 that is probably okay.

6 I was originally thinking, "Well,  
7 maybe what we should be doing is not looking  
8 at where we would have minimums but where we  
9 would eliminate minimums which is the approach  
10 that was taken in most of the other cities  
11 where the examples have been provided where  
12 they say, "Okay, this is an area where we  
13 don't think we need them and it's been  
14 successful in those areas."

15 I certainly would be open to that  
16 approach. That may not be as aggressive in  
17 achieving some of the other goals of making  
18 this change which is to reduce the number of  
19 vehicle trips into the neighborhood.

20 If we go back to Option 2, I guess  
21 I would just want to broaden Option 2 so that  
22 what it covers is not just a building that has

1 a nonresidential use in it because I think  
2 residential uses can also cause the spill-over  
3 effect. Are you looking at Option 2?

4 VICE-CHAIR JEFFRIES: Yeah, but --  
5 okay, what are you referring to?

6 COMMISSIONER MAY: I'm just  
7 reading --

8 VICE-CHAIR JEFFRIES: Go on.

9 COMMISSIONER MAY: I'm saying, you  
10 know, Option 2 says require a building to  
11 provide off-street parking if it houses one or  
12 more non-residential uses, you know, if it's  
13 an office building. If it's a -- well, you  
14 can't do it in a residential neighborhood.  
15 Does that really -- I guess I'm confused then  
16 because the way someone characterized Option  
17 2 was that it would be a way of addressing the  
18 spill-over effect.

19 VICE-CHAIR JEFFRIES: Nonresidential  
20 uses would be schools -- I mean, that are  
21 accepted in a residential zone would be a  
22 school, churches, those few --

1 CHAIRPERSON HOOD: Let's get some  
2 clarification on that. I don't know who said  
3 that. Mr. Parker, help us with that.

4 MR. PARKER: Absolutely.  
5 Institutional uses would be the best example  
6 of things that are allowed in residential,  
7 churches, schools, daycares.

8 COMMISSIONER MAY: That's the only  
9 thing that would be required to have a  
10 minimum.

11 MR. PARKER: Unless there was a  
12 variance granted to put a commercial or an  
13 office space.

14 COMMISSIONER MAY: No, no, that's  
15 not what I'm suggesting. I guess what I had  
16 in my mind based on someone's characterization  
17 of Option 2 where we have a spill-over effect  
18 where we have you are adjacent to a commercial  
19 district and you're in a residential district  
20 that there would have to be some minimum in  
21 that circumstance. You're not suggesting  
22 that?

1 MR. PARKER: No. The two things  
2 are trying to find the uses that are  
3 considered to cause the spill-over.

4 COMMISSIONER MAY: And those uses  
5 are?

6 MR. PARKER: In the residential  
7 zones the institutional uses, the churches and  
8 schools and such and the commercial corridors  
9 near those zones, the commercial and office  
10 use, the uses where people drive to the  
11 neighborhood for those uses.

12 COMMISSIONER MAY: All right. So  
13 what I'm getting back to is that where it says  
14 at the bullet points, "Require a building to  
15 provide off-street parking if it houses one or  
16 more nonresidential uses and is located in a  
17 commercial corridor located within X feet of  
18 a residence district.

19 MR. PARKER: Right.

20 COMMISSIONER MAY: What I'm saying  
21 is that a building -- you're only going to  
22 make that a requirement if it's a

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1 nonresidential use.

2 MR. PARKER: With a direct  
3 potential for causing spill-over on  
4 residential properties.

5 COMMISSIONER MAY: Right. I guess  
6 what I'm hung up on is the fact that  
7 residential uses -- I mean, I'm thinking of  
8 you have a commercial district that could have  
9 a building that is 100 percent residential.

10 MR. PARKER: Right.

11 COMMISSIONER MAY: And it's next  
12 to an R-4 zone.

13 MR. PARKER: Right.

14 COMMISSIONER MAY: That could  
15 cause spill-over into the neighborhood.  
16 Right?

17 VICE-CHAIR JEFFRIES: Yeah, but  
18 what they said earlier -- what the Office of  
19 Planning said there is not necessarily a nexus  
20 between what's going on at that 100 percent  
21 residential that's in a commercial zone like  
22 14th Street. I mean, I keep going back to

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1 that. The point is there's not necessarily a  
2 nexus. You're still going to get spill-over.

3 COMMISSIONER MAY: I understand  
4 that but are we going to wind up with  
5 apartment buildings in commercial zones where  
6 the people live in those things but they go to  
7 work every morning so every night they park in  
8 the neighborhood a half a block away or those  
9 sorts of circumstances.

10 There are plenty of people who  
11 live in apartment buildings who park in  
12 neighborhoods and some of them manage to get  
13 residential parking permits. I don't know  
14 what the deal is with that.

15 VICE-CHAIR JEFFRIES: My  
16 experience with this and particularly with  
17 developments, residential developments, there  
18 has to be a certain percentage of those units  
19 that have parking. They just won't be able to  
20 move those units.

21 COMMISSIONER MAY: I understand  
22 that.

1 VICE-CHAIR JEFFRIES: People want  
2 their cars.

3 COMMISSIONER MAY: There are  
4 always people who are not willing to pay that  
5 price. I mean, there are people who park on  
6 Haines Point and walk three-quarters of a mile  
7 to go to work at the Bureau of Engraving and  
8 Printing in the rain and they do that because  
9 they don't want to pay.

10 VICE-CHAIR JEFFRIES: Right.

11 COMMISSIONER MAY: People do that  
12 all the time.

13 CHAIRPERSON HOOD: Okay. Let  
14 me --

15 COMMISSIONER MAY: I'm not worried  
16 about the spill-over affect on Haines Point.

17 CHAIRPERSON HOOD: Let me bring  
18 you back in. The changed behavior and stuff,  
19 I think there are some things that we need to  
20 fine tune so we can move this along because  
21 actually we don't have any text in front of  
22 us.

1                   Again, we have given direction.  
2                   From what I hear out of this discussion, and  
3                   I would agree and, Mr. Parker, you let me know  
4                   if that's enough guidance, I think for all of  
5                   us Option 4 is definitely out of the question.  
6                   Option 2 would probably be more likely. We  
7                   might need to fine tune it.

8                   VICE-CHAIR JEFFRIES: Mr. Chair,  
9                   can we just simply say of the options do a  
10                  show of hands in terms of which one --

11                  CHAIRPERSON HOOD: No one has  
12                  Option 1. We're just not going to cut them  
13                  out totally. That's why I was taking a poll  
14                  here. Option 4, retain existing parking  
15                  minimums. We know that we need to do something  
16                  so I was leaving the flexibility of 2 and 3,  
17                  basically on 2, but it's how we word it and  
18                  what we're looking for once we get more  
19                  clarification. That is Office of Planning's  
20                  recommendation, Option 2.

21                  MR. PARKER: So your guidance is  
22                  Option 2.

1 CHAIRPERSON HOOD: It's Option 2  
2 with a few --

3 COMMISSIONER MAY: I would just  
4 want to raise the issue that I think we need  
5 to look more carefully at whether it's just  
6 nonresidential uses located in A and B. We  
7 need to look at residential uses there as  
8 well.

9 VICE-CHAIR JEFFRIES: A resident  
10 district where multi-family dwellings are not  
11 permitted.

12 COMMISSIONER MAY: It's the first  
13 line where it says, "Require a building to  
14 provide off-street parking if it houses one or  
15 more nonresidential uses." If it's 100  
16 percent residential, then you've got no  
17 requirement.

18 VICE-CHAIR JEFFRIES: Right.

19 COMMISSIONER MAY: Doesn't matter  
20 where it's located.

21 MR. PARKER: Commissioner May, I  
22 don't think we can solve the problem. We

1 can't force people -- even if we force them to  
2 provide parking we can't force the residents  
3 to buy it. We can always have the people who  
4 just say, "I'm not going to buy it. I'm going  
5 to take my chances in the neighborhood."

6 Forcing the building to provide the parking  
7 doesn't solve the problem that you're looking  
8 at. I guess the point being --

9 COMMISSIONER MAY: And I'm not  
10 suggesting that we're going to solve the  
11 problem tonight. All I'm suggesting is that  
12 if we're going to look at a direction for the  
13 language that I would want to keep the  
14 direction open to considering the impact that  
15 a residential building in this circumstance  
16 has on the parking.

17 You may be convinced that  
18 residential buildings in this circumstance  
19 having minimums are not going to solve the  
20 problem but if you ask the general public what  
21 they think, there are a lot of people who do  
22 believe that.

1                   VICE-CHAIR JEFFRIES:  What you're  
2                   saying, Commissioner May, is on my block  
3                   there's a 20-unit residential building that is  
4                   going up.  It's an R-5-A.  Your concern is  
5                   that if there is not a minimum associated with  
6                   that development and that developer decides  
7                   that they are not going to provide parking,  
8                   then there's going to be a greater -- I mean,  
9                   considerable burden on street parking from  
10                  that particular development.

11                  COMMISSIONER MAY:  Conceivably.  I  
12                  don't know.  I'm not trying to establish  
13                  what --

14                  VICE-CHAIR JEFFRIES:  No, no, no.  
15                  I'm not trying to disagree with you.  I'm just  
16                  trying to --

17                  COMMISSIONER MAY:  That's the  
18                  concern.  It's not just that.  It's not just  
19                  that.  It may not even be the R-5-A.  It might  
20                  be the C-2 or the C-3 that's within 100 feet  
21                  of that that has that building with a  
22                  residential use in it.  It's 100 percent

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1 residential and it's still caught.

2 VICE-CHAIR JEFFRIES: So your  
3 concern -- I just want to be clear. Your  
4 concern on my block where they are doing the  
5 22-unit that's in the middle of a rowhouse  
6 zone not requiring a minimum there potentially  
7 a developer would just build all these units  
8 and not provide parking and, therefore --

9 COMMISSIONER MAY: Or not provide  
10 enough parking and everybody would park -- or  
11 they would provide what -- you know, they  
12 could even be providing the minimum and you  
13 wind up with people trying to park in the  
14 neighborhood anyway. I've just been through  
15 a bunch of PUDs where we wind up with  
16 townhouse developments with outrageous amounts  
17 of parking all because the neighborhood is so  
18 concerned about the parking that's there.

19 VICE-CHAIR JEFFRIES: Listen. I  
20 think you are using a scalpel and I think  
21 that's a good thing to use a scalpel here but  
22 I do think -- I would agree with the chair

1 that I think what we're saying here is Option  
2 2, perhaps 3 if the Office of Planning can  
3 look at this a little more or something. I  
4 mean, that's fine but I think at least, Mr.  
5 Chair, I'm supportive of Option 2. I think  
6 Commissioner Turnbull is supportive of 2. I  
7 don't know where you are.

8 CHAIRPERSON HOOD: What I was  
9 trying to do because I can tell you that we  
10 can have this discussion for the rest of the  
11 evening. There are some other things I also  
12 wanted to add to this as we move further.  
13 First, if we move in that direction, Mr.  
14 Parker, does that give you what you need?

15 MR. PARKER: We can come back with  
16 -- what we're going to do from here is just  
17 turn this into parking language so we're going  
18 to bring you at some point a parking chapter  
19 that says what you tell us you want it to say.  
20 At this point I'm bringing you back a parking  
21 chapter that codifies Option 2 and you have an  
22 option to tell me to add these others things.

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1 What I'm hearing is --

2 CHAIRPERSON HOOD: We've heard  
3 what Mr. May's concern was. Do you want to  
4 repeat it, Mr. May?

5 COMMISSIONER MAY: Does anybody  
6 agree with it? I think we shouldn't close the  
7 door on declaring residential --

8 CHAIRPERSON HOOD: I would agree.  
9 I'm just trying to see -- I know this is  
10 probably not making Office of Planning's job  
11 any easier but nobody said it was going to be  
12 easy.

13 MR. BERGSTEIN: Could I make a  
14 suggestion?

15 VICE-CHAIR JEFFRIES: There could  
16 be a variance, by the way. I mean --

17 CHAIRPERSON HOOD: I want to talk  
18 about the variance.

19 VICE-CHAIR JEFFRIES: -- the  
20 situation that Commissioner May is talking  
21 about but --

22 CHAIRPERSON HOOD: Let me ask you

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1 this.

2 VICE-CHAIR JEFFRIES: I'm just  
3 trying to get to a place where we are giving  
4 direction to the Office of Planning. We are  
5 saying Option 2. Now, when they come back  
6 with their text or whatever they're coming  
7 back with, they can address issues or concerns  
8 that Commissioner May -- I mean, I am trying  
9 to move this along. I'm not trying to stay on  
10 this.

11 CHAIRPERSON HOOD: I don't have  
12 anything else to do tonight. No football so  
13 we can stay here all night. Mr. Bergstein  
14 wanted to ask something and then I want to ask  
15 something.

16 MR. BERGSTEIN: I was just going  
17 to make a suggestion because there is another  
18 step here. One thing that we could do is  
19 basically add in Option 2 and then Option 3  
20 which is an also so you can see what it looks  
21 like which would be to require parking for  
22 multi-family dwellings which I think is what

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1 Mr. May is suggesting if I'm correct.

2 Then the other issue would be all  
3 multi-family dwellings or multi-family  
4 dwellings over a certain number of unit size.  
5 We could always put that in for you to see and  
6 discuss in the context of seeing it all  
7 together.

8 It would be nonresidential uses --  
9 let's use current zoning terminology --  
10 nonresidential uses located in buildings in R-  
11 1 through R-4 zones, nonresidential buildings  
12 located in corridors in C zones that are  
13 adjacent to an R-1 through an R-04 zone, or a  
14 multi-family dwelling no matter where it's  
15 located.

16 The or is what I think Mr. May is  
17 going towards and the question is should we  
18 just pop it in for you to see next time around  
19 or do you want to resolve it one way or the  
20 other tonight.

21 VICE-CHAIR JEFFRIES: But we're  
22 only talking -- we're only talking about -- I

1 mean, how are we talking about R-4 zones?

2 MR. BERGSTEIN: Because the way  
3 this is written it's nonresidential uses in  
4 any zone that does not permit multi-family  
5 dwellings. That's how it begins.

6 VICE-CHAIR JEFFRIES: I guess I'm  
7 trying to break this down because clearly in  
8 an R-5 zone you can get multi -- I mean, it's  
9 my block. You can get that and I understand  
10 what Commissioner May is saying in that  
11 instance but R-2, R-3, I mean, you can't  
12 really -- I don't think you can --

13 COMMISSIONER MAY: It's only when  
14 they are in close proximity to like a C-2-A  
15 or --

16 VICE-CHAIR JEFFRIES: You can't  
17 get that residential multi-family in an -- I  
18 guess you can't get that in that R-4 zone.

19 MR. BERGSTEIN: The way this is  
20 written -- I'm sorry. The way this is written  
21 in terms of residence zone there would be a  
22 parking requirement for nonresidential uses in

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1 only those zones where multi-family dwellings  
2 are not permitted.

3 If you had a nonresidential use in  
4 a zone where multi-family dwellings were  
5 permitted, there is no parking requirement for  
6 the nonresidential use. There is no parking  
7 requirement for multi-family dwelling.

8 What I thought I heard Mr. May  
9 express concern about is whether some  
10 residential uses, one-family dwelling, two-  
11 family dwelling, multi-family dwelling because  
12 that's what we got, would cause a parking  
13 concern so that there should still be some  
14 retention of a parking requirement for them.

15 I assume that would be in any  
16 zones or just the commercial zones which I'm  
17 not clear about from the discussion. The  
18 question is do you want some language that  
19 addresses residential dwellings but there  
20 would need to be some scope for us.

21 Are you talking about one-family  
22 dwellings, flats, multi-family dwellings, or

1 all three? Are you talking about them in all  
2 zones? That's the issue or we could just go  
3 on and leave it.

4 VICE-CHAIR JEFFRIES: I think  
5 you're talking about the example that I raise.  
6 You're not talking about a one-family or a  
7 flat or something like that.

8 CHAIRPERSON HOOD: Tell us what  
9 you're talking about and let's do that and  
10 let's move forward.

11 COMMISSIONER MAY: Okay. It's the  
12 circumstance where you have a residential  
13 building, a multi-family building in close  
14 proximity to one of these lower density  
15 residential zones. What Option 2 says now is  
16 that if there's a nonresidential use in the  
17 building and it is in a residence district  
18 where multi-family dwellings are not permitted  
19 or commercial corridor located within X feet,  
20 I mean, it's that proximity.

21 Maybe I'm just not understanding  
22 this. Maybe it was already covered but I'm

1 just concerned about the residential building  
2 that's close to a moderate density residential  
3 zone because I think the spill-over from the  
4 residential building is potentially a lot  
5 worse than the spill-over from nonresidential  
6 building.

7 CHAIRPERSON HOOD: It's almost  
8 like living next to an end zone, the  
9 residential right across from the end zone.  
10 I mean, I recognize it a little better when I  
11 talk about industrial uses because I know  
12 exactly what you're talking about. I think if  
13 we do as we said, Option 2 and 3, colleagues,  
14 I think we get there. I think this is an  
15 issue -- will that give you enough?

16 MR. PARKER: Not quite. What you  
17 would like us to come back with are two  
18 chapters, one that has Option 2 and one that  
19 has Option 3 and then you decide between them?

20 CHAIRPERSON HOOD: No, no. I  
21 thought Mr. Bergstein --

22 MR. BERGSTEIN: What I thought I

1 heard from Mr. May would be simply add a C to  
2 this which would be "or a multi-family  
3 dwelling located within a certain number of  
4 feet of such a zone."

5 MR. PARKER: Add that in the  
6 alternative or that's the decision of the  
7 Board.

8 MR. BERGSTEIN: That's what I  
9 would like to hear from the Board but that is  
10 how I would accomplish it and the only  
11 question is coming to them should we just put  
12 a bracket around it and say do you want to  
13 resolve this now, say it's basically left up  
14 in the air at this point, or do they want to  
15 resolve it and it's not left up in the air and  
16 that we have guidance?

17 VICE-CHAIR JEFFRIES: So, Mr.  
18 Parker, we're saying Option 2 and we're adding  
19 -- after A and B we're adding C.

20 MR. PARKER: We will add a  
21 requirement for parking for multi-family  
22 buildings in these areas near --

1 VICE-CHAIR JEFFRIES: That are  
2 near -- yes. I mean, R-1 to 4.

3 MR. PARKER: In these commercial  
4 corridors, for example.

5 COMMISSIONER MAY: Yes, satisfied  
6 with that.

7 CHAIRPERSON HOOD: Mr. Parker, are  
8 you okay? Are we okay with that? Let me also  
9 ask as a number of us --

10 VICE-CHAIR JEFFRIES: Excuse me.  
11 Mr. Parker, did you say you're satisfied?

12 MR. PARKER: If that's your  
13 guidance, that's what we'll do.

14 VICE-CHAIR JEFFRIES: I didn't  
15 hear him.

16 COMMISSIONER MAY: He understands  
17 but I think he might be disappointed.

18 VICE-CHAIR JEFFRIES: Okay.

19 CHAIRPERSON HOOD: I got it. One  
20 of the things --

21 MR. PARKER: You can still take it  
22 later.

1                   CHAIRPERSON HOOD: We can make any  
2 change we want to make, or whoever is here can  
3 do that anytime. The other thing is a lot of  
4 us are set on BZA cases where cases have come  
5 through and parking was not needed. One of  
6 the things I hear us talking about -- this is  
7 just for consideration, this may not be the  
8 appropriate time but I'm bringing it up  
9 anyway.

10                   One of the things I think we need  
11 to look at as opposed to a variance can we  
12 look at whether or not parking relief can be  
13 considered a special exception. Does that  
14 move anyone?

15                   MR. PARKER: Relief from the  
16 minimums that we are now very narrowly going  
17 to apply?

18                   CHAIRPERSON HOOD: What I'm saying  
19 is opposed to the process being a variance I  
20 wonder if we can look at --

21                   MR. PARKER: I think in terms of  
22 defining some of these things if that gives

1 the Office of Planning some flexibility to  
2 provide the incentives that affect the  
3 behavior, I mean, yeah.

4 I mean, I would want to make it --  
5 I think it's a good idea to make it easier in  
6 certain ways providing certain conditions are  
7 met and that's the good thing about doing it  
8 as a special exception is that there is an  
9 assumption that it could be reduced but it  
10 defines the conditions under which it could so  
11 that we don't --

12 MR. PARKER: I got lost. Where  
13 are we on that on the worksheet?

14 COMMISSIONER MAY: We're not on  
15 the worksheet anymore.

16 MR. BERGSTEIN: You're actually  
17 jumping the gun. Relief from parking  
18 requirements will follow in just a few  
19 minutes.

20 COMMISSIONER MAY: Okay. Anthony.

21 CHAIRPERSON HOOD: Did I jump the  
22 gun? That's fine. It won't be the first or

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1 the last time. Anyway, we're straight with 2.  
2 We are ready to move now to B. Again, another  
3 thing I have in front of me.

4 Mr. Parker, what I brought up  
5 earlier and I see here in the response OP --  
6 this goes back to what I said about the  
7 committee of 100, Lindsay Williams,  
8 Federation, they talk about working closely  
9 with DDOT, DPW.

10 I think some of the submittals we  
11 have here OP is working closely with DDOT to  
12 ensure that on-street parking management  
13 complements the recommended zoning policy and  
14 mitigates any spill-over effects. That's  
15 being done.

16 The only difference is from what  
17 I've heard from I guess members of the  
18 community was that the only people who were  
19 not involved with this discussion from what I  
20 see here is the zoning administrator and DPW.

21 I'm still trying to figure out  
22 where DPW fits into that but I thought that

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1 was a good recommendation even though the  
2 recommendation was to hold off any hearings  
3 until everyone has a chance to sit at the  
4 table.

5 I don't know if that's exactly  
6 what we need to do. Anyway, I've seen that's  
7 being done with DDOT with the spill-over and  
8 whatnot. There is some collaboration between  
9 Office of Planning and DDOT.

10 MR. PARKER: Quite a bit.

11 CHAIRPERSON HOOD: Okay. But do  
12 you think it will ever happen with the zoning  
13 administrator and DPW?

14 MR. PARKER: Oh, absolutely. The  
15 zoning administrator is part of -- I mean,  
16 he's on the task force. He's reviewed  
17 everything that we've done and then we've had  
18 discussions on almost all of our subjects with  
19 the zoning.

20 CHAIRPERSON HOOD: Okay. I just  
21 wanted to make sure for the zoning record.  
22 Okay.

1 COMMISSIONER MAY: Is parking  
2 enforcement still in DPW?

3 MR. PARKER: I think so, yes.

4 COMMISSIONER MAY: So that's where  
5 they would come in.

6 CHAIRPERSON HOOD: Parking  
7 enforcement? I thought DDOT had that.

8 MR. PARKER: I think it's still in  
9 DPW. Actually parking enforcement many, many  
10 police departments can issue those tickets.  
11 The Mint police can issue parking tickets.  
12 I'll give you the list one day. It's not just  
13 DPW. There are a slew of agencies that can  
14 issue parking tickets.

15 CHAIRPERSON HOOD: Okay. All  
16 right. Moving right along, let's go to B,  
17 off-street parking for car-sharing companies.  
18 It's right below where we were up in Option 4.  
19 Everybody with us? It's on the same page,  
20 off-street parking for car-sharing companies.

21 As you can see, "In addition to  
22 any minimum parking requirement imposed, any

1 new parking lot whether accessory or public  
2 with at least 50 parking spaces shall provide  
3 parking spaces for exclusive use of one or  
4 more car-sharing companies -- share companies  
5 as follows."

6 Then we have the number of parking  
7 spaces to be built, 50 to 149. Number of  
8 reserve spaces for car sharing will be one.  
9 This gives the formula. We have recommended  
10 150 to 249, recommended two. Then 250, three  
11 plus one space for each additional 100 spaces.  
12 Then we have some bullet points. We have one  
13 -- well, it's not numbered but I numbered it  
14 one.

15 "After the CFO is issued the owner  
16 shall make a required space available to a  
17 car-share company no later than 90 days after  
18 receipt of a written notice." Then we have 2.  
19 "If more than one request is received, the  
20 owner may provide the space to the car-share  
21 company that offers the most advantageous  
22 terms."

1                   Then we have 3. "A car-share  
2 service may occupy the space for a five-year  
3 period which is automatically renewable unless  
4 one or more different car-share companies  
5 desire the same space in which case B  
6 applies." Or the recommendation says, "Do not  
7 require parking spaces to be reserved for the  
8 exclusive use of one or more car-share  
9 companies."

10                   VICE-CHAIR JEFFRIES: Mr. Chair, I  
11 have a question for the Office of Planning.  
12 In terms of the ratios that were established,  
13 just for the record, how do you determine the  
14 ratios? I mean, why one space between 50 and  
15 49? I just wanted to -- I mean --

16                   MR. PARKER: I may have to get  
17 back with you on that. I know we looked at  
18 examples of this being done in other places  
19 including Arlington. I know that this came  
20 from elsewhere, from Best Practice Research,  
21 but I don't know.

22                   VICE-CHAIR JEFFRIES: Okay. I

1 just wanted to make certain there were some --  
2 if it was Best Practices or there was a  
3 discussion with a car-share. I don't know.  
4 I mean, in terms of where you got these --

5 MR. PARKER: This was looking at  
6 other places have done it.

7 MS. THOMAS: Then Arlington does  
8 it on a similar basis. They do it through  
9 their site plan review process and it's all  
10 written up as part of their TMP,  
11 transportation management plan.

12 VICE-CHAIR JEFFRIES: Okay.

13 CHAIRPERSON HOOD: Any other  
14 questions?

15 COMMISSIONER MAY: I think I'm  
16 find. We may wind up wanting to tweak the  
17 numbers, the schedule, or whatever. By the  
18 time this is enacted there may be -- we may  
19 want to rethink the numbers but I think it's  
20 fine generally.

21 CHAIRPERSON HOOD: Okay. Are we  
22 asked to pick one of these -- we are asked to

1 pick one of these three or do not require  
2 parking spaces.

3 MR. PARKER: It's everything above  
4 the or or the thing below the or.

5 VICE-CHAIR JEFFRIES: We're going  
6 with everything above the or.

7 CHAIRPERSON HOOD: Definitely  
8 above the or. Let me just ask, if I remember  
9 correctly, and this may be jumping the gun  
10 again, there was some testimony that talked  
11 about not wanting to do a car-sharing and --  
12 was it private buildings?

13 VICE-CHAIR JEFFRIES: Yeah,  
14 private buildings where you couldn't have  
15 access.

16 CHAIRPERSON HOOD: Has that been  
17 considered?

18 MR. PARKER: You heard testimony  
19 from that at the hearing. The Zip Car  
20 regional manager was here and she talked about  
21 how they provide keys to the private garages.  
22 When they make deals with buildings with

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1 private garages they provide keys to those  
2 garages for Zip Car members.

3 CHAIRPERSON HOOD: Okay. Maybe  
4 that was a hearing then when we were told  
5 because of the security issues. Okay. I know  
6 there was some testimony at some point down  
7 here about car sharing and private garages.  
8 Okay. We're going to do everything above the  
9 or.

10 MR. PARKER: Okay.

11 CHAIRPERSON HOOD: No. 2, maximum  
12 parking requirements. Maximums do not provide  
13 -- existing regulations, as we know, do not  
14 provide a cap so, to me, I'm treading down  
15 some unfamiliar water. Anyway, we have some  
16 recommendations in front of us. Maximum  
17 parking requirements, established parking  
18 maximums in certain circumstances.

19 Then it also goes on to say, "To  
20 be recommended in future working group  
21 submissions which may happen in the future,"  
22 which is going to happen in the future, or,

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1 "Do not establish parking maximums." Anyone  
2 feel compelled to -- let me ask this. Does  
3 anyone feel compelled to do B?

4 VICE-CHAIR JEFFRIES: No.

5 COMMISSIONER MAY: I'm happy to  
6 hear the results of those work group sessions  
7 and see where it goes.

8 CHAIRPERSON HOOD: Okay. All  
9 right. Let's move to No. 3, relief from  
10 parking minimums, Option 1, relief as of  
11 right, lack of access, and it talks about --  
12 let me read it.

13 "The only means by which a vehicle  
14 can access a lot is from a primary street (90  
15 feet in width or greater) and a request to  
16 install a curb cut at the location cannot or  
17 has not been granted, and relief by special  
18 exception up to a 50 percent reduction of the  
19 parking requirement based on any of the  
20 following criteria, proximity to transit,  
21 demonstrated lack of parking demand,  
22 demonstrated lack of available space for

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1 parking both on the lot and in the vicinity."

2 Then we have a note, "Any relief  
3 beyond 50 percent will require an area  
4 variance." Then we have Option 2 which is  
5 relief only through a variance.

6 MR. BERGSTEIN: Which, by the way,  
7 is the status quo.

8 CHAIRPERSON HOOD: Right now  
9 relief only through a variance.

10 MR. BERGSTEIN: Yes.

11 CHAIRPERSON HOOD: Okay. Is this  
12 my time to talk about relief through a special  
13 exception or is anyone compelled? Maybe this  
14 is the appropriate time.

15 MR. BERGSTEIN: That's the issue  
16 before you. Right now we're talking about an  
17 absolute reduction from parking requirements.  
18 Not just moving it some place but just saying  
19 to the extent that they actually say, let's  
20 say, someone has a minimum of 20 spaces. If  
21 they can't get access to their lot for all the  
22 reasons stated in A, it's a matter of right

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1 exemption.

2 Then B, if they want a reduction  
3 from 20 to 10 and they can show one or more of  
4 those factors have been met, then they can get  
5 a special exception. Right now they would  
6 have to get a variance under both  
7 circumstances.

8 CHAIRPERSON HOOD: So everything  
9 in Option 1. It says "and" so A and B. Let  
10 me make sure I understand. Under Option 1 it  
11 would be A and B or Option 2.

12 MR. BERGSTEIN: The two  
13 circumstances would never coincide. Option 1  
14 I'm basically on a lot that I can't get my  
15 cars onto. Then you would get an absolute  
16 matter of right, no special exception, no  
17 hearing. You get an absolute elimination of  
18 your parking requirement.

19 Option 2 is where that  
20 circumstance doesn't apply. You can get cars  
21 onto your lot but there are reasons why it  
22 would be appropriate to reduce that parking by

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1 up to 50 percent and those would be the  
2 factors.

3 There's two ways that you can get  
4 relief from parking. One, matter of right  
5 based upon the circumstances of your lot. The  
6 second is a special exception based upon proof  
7 that certain circumstances exist.

8 CHAIRPERSON HOOD: Okay. I guess  
9 maybe I'm confused but I'm looking at Option  
10 1 that says A. It says A and then it says  
11 "and B." I wasn't trying in Option 1 and 2.  
12 I was just saying Option 1 has A and B and I'm  
13 guess that is what we're considering. Then,  
14 if not, we're going to do Option 2.

15 Am I clear, Mr. Bergstein?

16 MR. BERGSTEIN: Well, I guess you  
17 can forget about the "and." In other words,  
18 you could say just A, you could say just B,  
19 and then you can say neither in which case  
20 experience all around.

21 In other words, if you think a  
22 person who doesn't have access to their lot

1 should not get an automatic relief, then you  
2 would go back to the status quo which is  
3 variance. If you believe that a person who  
4 can prove these factors should, nevertheless,  
5 still have to prove the variance requirement,  
6 then you will reject B as well.

7           They are two different things. I  
8 guess there shouldn't have been an and there.  
9 It's just two different circumstances both of  
10 which now require variance relief. In the  
11 first instance there would be an absolute  
12 matter of right reduction and in the second  
13 instance there would be discretionary  
14 reduction going to the BZA.

15           CHAIRPERSON HOOD: I think I got  
16 it now. As a matter of fact, I know I have.  
17 Okay.

18           Mr. May.

19           COMMISSIONER MAY: Yeah. I'm not  
20 ready to say that A is going to work, that  
21 relief can be granted as a matter of right.  
22 The reason I say that is I'm just concerned

1 that there would be circumstances where a  
2 decision whether or not to allow a curb cut is  
3 not being made wisely by those who get to make  
4 that decision.

5 It has an impact on the zoning  
6 requirement. I'm just not ready to give that  
7 authority away. It also frankly opens the  
8 door for kind of gaming the system, for  
9 assembling your lot in such a way to make sure  
10 that you don't turn a corner onto that  
11 secondary street so, therefore, I can't park  
12 no matter what.

13 This sort of runs contrary to the  
14 idea that we don't really want to have  
15 minimums in the first place. I just know that  
16 there are people who are going to want to go  
17 out and build just the cheapest thing they can  
18 get and aren't going to want to address  
19 minimum requirements when it really is  
20 appropriate.

21 I wouldn't have any problem with  
22 structuring a special exception relief to have

1 100 reduction if there were certain  
2 circumstances that were met but I would rather  
3 have the BZA have to look at those  
4 circumstances. If you made A a special  
5 exception, then --

6 CHAIRPERSON HOOD: So we're all  
7 agreeing. I actually like that.

8 VICE-CHAIR JEFFRIES: Yeah, I  
9 would agree. I just think there are all kind  
10 of circumstances. I don't think we want to  
11 hand that over, the curb cuts. I mean, I  
12 would agree with Commissioner May that is one  
13 that -- I'm open to a special exception as  
14 well if we want to go that route. As long as  
15 there is some regulatory review in those  
16 instances, it seems fine to me. Certainly I  
17 want to fast track where I can but this looks  
18 a little critical.

19 COMMISSIONER MAY: The whole  
20 subject of fast tracking is an interesting  
21 thought, too, because the way a lot of BZA  
22 cases are handled that ought to be hopefully

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1 a subject of discussion because things like a  
2 consent calendar, you know, ought to be part  
3 of the process so that we can deal with  
4 certain things quickly. Very good.

5 CHAIRPERSON HOOD: Okay. So are  
6 we all in agreement?

7 MR. TURNBULL: I would agree, Mr.  
8 Chair. Unfortunately it's a very cynical way  
9 of looking at life but I think it's also a  
10 very pragmatic and practical one that we have  
11 to deal with so I'm in concurrence with that.

12 CHAIRPERSON HOOD: Okay. So can we  
13 move on?

14 MR. BERGSTEIN: So can I confirm?  
15 A would exist as a special exception. Okay.

16 CHAIRPERSON HOOD: Are we okay?

17 VICE-CHAIR JEFFRIES: Yeah.

18 CHAIRPERSON HOOD: No. 4,  
19 flexibility of minimum space requirements  
20 through shared parking. We have "or."  
21 Anyway --

22 MR. BERGSTEIN: I'm sorry. This

1 end of the table must have missed something.

2 What did you do with B in 3B?

3 VICE-CHAIR JEFFRIES: 3B stays as  
4 a special exception.

5 MR. BERGSTEIN: Okay. Thank you.

6 CHAIRPERSON HOOD: You mean the  
7 one we just -- okay, No. 4. Flexibility for  
8 minimum space requirements through shared  
9 parking. A, permit the parking requirement of  
10 one lot to be satisfied in whole or in part by  
11 parking spaces on a different lot located  
12 within 400 feet thereof, or continue to  
13 require special exception from the requirement  
14 that required parking spaces shall be located  
15 on the same lot with the buildings or  
16 structures that are intended to serve 11 DCMR  
17 2116.1.

18 VICE-CHAIR JEFFRIES: Okay.  
19 Office of Planning, for 4A effectively -- I  
20 mean, it says flexibility here. If we stuck  
21 with B, obviously that's more restrictive.  
22 Sorry, I'm just -- I mean, you're just making

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1 a point of flexibility giving more options to  
2 a developer in terms of --

3 MR. PARKER: If you'll remember  
4 from the report this is for areas like say  
5 you've got a restaurant that is open at night  
6 next to an office building. If the office  
7 building isn't using their parking after 5:00,  
8 the restaurant can meet their requirement if  
9 they are only open at 5:00.

10 Basically if there's an agreement  
11 between two parties to share based on time of  
12 day and the needs of their space, then they  
13 can do that as a matter of right. Things like  
14 a church and a school next to each other could  
15 share their parking requirement in one lot  
16 since they use different days of the week.

17 VICE-CHAIR JEFFRIES: Is there any  
18 thoughts on how that could be abused in any  
19 way? I mean --

20 MR. BERGSTEIN: There's actually  
21 -- if I could try again, there is a lot of  
22 this that has been written out and we spared

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1 you it because it would be so into minutia  
2 next round. There's covenant, there's all  
3 sorts of things that have been written out  
4 that relate to this.

5 There's penalties for early  
6 termination of agreements. It's all there but  
7 we wanted to get your go ahead on the concept.  
8 Once we got your go ahead on the concept  
9 there's all sorts of protections that have  
10 been written out in the 15th draft of this  
11 that we'll stick in in some other place for  
12 your review.

13 VICE-CHAIR JEFFRIES: Mr. Chair,  
14 I'm fine with 4A.

15 COMMISSIONER MAY: I'm glad to  
16 hear that because my big question was what is  
17 really going to guarantee that this parking  
18 remains available if it's not on site in  
19 perpetuity or for the life of a C of O or  
20 whatever. I don't envy you trying to craft  
21 that.

22 VICE-CHAIR JEFFRIES: We'll see

1 that in the next round.

2 CHAIRPERSON HOOD: Okay. All  
3 right. We are on 4A. Let's move to 5,  
4 location of nonrequired parking spaces. A  
5 says, "No longer require nonrequired parking  
6 space to be located on the same lot as the  
7 building they serve or continue to require  
8 special exception for the requirement that  
9 nonrequired parking spaces shall be located on  
10 the same lot with the building. These  
11 instructions are intended to serve 11 DCMR  
12 2116.1."

13 VICE-CHAIR JEFFRIES: The same  
14 thing applies effectively as 4.

15 MR. BERGSTEIN: Except this one is  
16 going to be totally matter of right. This is  
17 a situation where you are back to the  
18 restaurant and they have taken care of the  
19 required spaces but they want to have 20 more  
20 parking spaces that are associated with the  
21 restaurant so they call the place across the  
22 street and they say, "Can I add those 20

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1 spaces to your parking lot not affecting your  
2 required spaces?"

3 Right now you need a whole special  
4 exception to do that. This would simply say  
5 if you can make an agreement for your  
6 nonrequired spaces that you need to fill your  
7 customer demand and you find somebody else who  
8 is willing to put those spaces in your lot,  
9 that's matter of right. It's just a deal  
10 between the two of you.

11 MR. PARKER: The important thing  
12 is these aren't spaces that are required so  
13 they could legally not have them at all.

14 CHAIRPERSON HOOD: I didn't  
15 understand. I missed that.

16 COMMISSIONER MAY: These are not  
17 spaces that are required.

18 VICE-CHAIR JEFFRIES: They were  
19 just available spaces.

20 MR. PARKER: We don't care where  
21 they are.

22 COMMISSIONER MAY: We care about

1 where the minimum required spaces would be.

2 MR. BERGSTEIN: Right, but at the  
3 moment the zoning regulations actually require  
4 a special exception for you to place  
5 nonrequired spaces, surplus spaces. You need  
6 permission to put them some place else.

7 CHAIRPERSON HOOD: And that's what  
8 you call an accessory parking lot or whatever  
9 you call it?

10 MR. BERGSTEIN: Exactly, Mr. Hood.  
11 Yes.

12 CHAIRPERSON HOOD: I remember that  
13 now. Okay.

14 MR. TURNBULL: I think you want to  
15 go with A.

16 VICE-CHAIR JEFFRIES: Wait.  
17 Commissioner May, do you have an issue with  
18 this?

19 COMMISSIONER MAY: Do people  
20 actually come in for special exceptions that  
21 they self-certify for that issue alone?

22 MR. BERGSTEIN: Yes, but there is

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1 also a special exception associated with the  
2 accessory parking lot which is going to be a  
3 whole other discussion. For example, you'll  
4 have a church that doesn't need its parking  
5 spaces during the week and you have a grocery  
6 store that does so the grocery store makes a  
7 deal with the church that overflow parking can  
8 be served. Yeah, we get them quite a lot down  
9 at BZA.

10 CHAIRPERSON HOOD: Okay. We're  
11 going to go with A.

12 VICE-CHAIR JEFFRIES: 5A.

13 CHAIRPERSON HOOD: 5A, "No longer  
14 require nonrequired parking spaces to be  
15 located on the same lot as the building they  
16 serve."

17 Okay. Let's mo on to 6, "Location  
18 of all parking spaces within a lot. Limit  
19 surface parking spaces to the rear yard or  
20 Office of Planning's recommendation, "Limit  
21 surface parking spaces to the rear yard and  
22 allow inside yard screens, screen stands to be

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1 provided later, or allow surface parking at  
2 side or rear yard without screening."

3 COMMISSIONER MAY: Can I ask a  
4 question of the Office of Planning?

5 CHAIRPERSON HOOD: Sure.

6 COMMISSIONER MAY: How would  
7 Option A, or even Option B work with something  
8 like a gas station where you have cars parked  
9 out in front? I mean a service station where  
10 they fix vehicles and park them out in front.

11 MR. PARKER: That's an interesting  
12 question. I don't think the gas pumps  
13 themselves are considered parking spaces.

14 COMMISSIONER MAY: That's right.

15 VICE-CHAIR JEFFRIES: I don't  
16 believe gas stations --

17 MR. PARKER: That's a good  
18 question. They would have to access their  
19 service bays from the side. Well, they  
20 wouldn't be able to park cars out front under  
21 this without a variance.

22 COMMISSIONER MAY: Do you know how

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1 many gas stations we have left in the city?

2 MR. PARKER: No.

3 COMMISSIONER MAY: Do you know  
4 there are a lot less now than there used to be  
5 10 years ago, five years ago, two years ago?

6 MR. PARKER: Even a year ago,  
7 right.

8 COMMISSIONER MAY: I'm not sure  
9 that we do anything that's going to make it  
10 harder to keep a service station in the  
11 District.

12 MR. PARKER: This would only  
13 affect new stations.

14 COMMISSIONER MAY: Um?

15 MR. PARKER: This would only  
16 affect new stations.

17 COMMISSIONER MAY: Understandably  
18 but you never know what modifications might be  
19 made to the stations that could cause other  
20 problems for them.

21 CHAIRPERSON HOOD: When you say  
22 new, you don't mean renovated. You mean from

1 the ground up new?

2 MR. PARKER: Well, anything that's  
3 grandfathered. If they've got spaces there  
4 now, they can continue.

5 VICE-CHAIR JEFFRIES: There must  
6 be a long line of gas station operators  
7 looking for gas stations here in the District.

8 MR. TURNBULL: Actually, there is  
9 one BZA case but they have landscaping.

10 VICE-CHAIR JEFFRIES: Really?

11 MR. TURNBULL: It has other issues  
12 that I don't want to talk about but they are  
13 providing landscaping so some semblance of  
14 screening. They are trying to anyway.

15 CHAIRPERSON HOOD: I don't know  
16 how much experience any of you all have had on  
17 the BZA but I haven't had a whole lot.

18 VICE-CHAIR JEFFRIES: Whose fault  
19 is that?

20 CHAIRPERSON HOOD: Your fault.  
21 You and Mr. Turnbull won't let me come.

22 COMMISSIONER MAY: I just think

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1 that -- I mean, that was just sort of the one  
2 practical circumstance where conceivably I  
3 thought it could be an issue. At the very  
4 least it creates nonconformities.

5 Who knows what gas stations are  
6 going to look like, or fuel stations, what  
7 kind of fuel they're going to have, what kind  
8 of requirement it's going to have. They'll be  
9 different. When the hydrogen stations start  
10 getting built, are they going to be --

11 MR. PARKER: I guess what this  
12 encourages is the same for gas stations as it  
13 is for everything else. It encourages the  
14 building to be on the street and the cars to  
15 be in the back. If we have a future  
16 generation of gas stations where the building  
17 is in front and you pull around behind to get  
18 gas, is there a problem with that?

19 COMMISSIONER MAY: I don't know.  
20 I don't know.

21 MR. PARKER: The thought in  
22 writing this was retail, strip mall.

1 COMMISSIONER MAY: Right.

2 VICE-CHAIR JEFFRIES: Commissioner  
3 May, what are you recommending here?

4 COMMISSIONER MAY: I guess I would  
5 like to know a little bit further more about  
6 these types of uses and whether, in fact, by  
7 instituting a rule like this are we going to  
8 wind up --

9 VICE-CHAIR JEFFRIES: You've only  
10 brought up one use. You have several other  
11 ones?

12 COMMISSIONER MAY: No. I don't  
13 have any other uses in mind but that was the  
14 one that popped into my head. If people are  
15 building gas stations across the country in  
16 different models or in other cities, I mean,  
17 other cities have development pressures, too,  
18 and they've lost gas stations and there are  
19 still some, different models I assume.

20 I don't know. I guess I would  
21 just register that as a condition we need to  
22 be aware of and that we may to make exception

1 for. I guess I would look for the Office of  
2 Planning to study that a little bit further.

3 VICE-CHAIR JEFFRIES: Okay. Well,  
4 we're fine -- well --

5 CHAIRPERSON HOOD: I think B --  
6 can we do this? Can we go with B and also  
7 with the caveat of what Commissioner May said?  
8 Let's delve into that a little more.

9 MR. PARKER: Okay. I'm  
10 understanding this as go with B but study an  
11 exception for gas stations, or if it's needed.

12 COMMISSIONER MAY: Or other uses.

13 VICE-CHAIR JEFFRIES: I actually  
14 like the whole notion of the building being  
15 towards the street in terms of gas stations.  
16 I guess what I'm saying I know that you guys  
17 have gotten into a little exchange here but  
18 just represent that this is a Commission.

19 MR. PARKER: I prefer one set of  
20 guidance.

21 VICE-CHAIR JEFFRIES: No, it's  
22 clear. The guidance here is 6B.

1                   CHAIRPERSON HOOD: The guidance is  
2                   6B. Let me help you with the guidance. The  
3                   guidance is 6B with the caveat of what  
4                   Commissioner May said just to look into it and  
5                   that satisfies everybody up here.

6                   MR. PARKER: We'll look into it.

7                   COMMISSIONER MAY: That's all I'm  
8                   asking for and I may wind up in the same place  
9                   as you. I may agree that the best thing is to  
10                  have the front of the gas station up at the  
11                  street and the parking in the back.

12                  VICE-CHAIR JEFFRIES: I think what  
13                  OP is having some difficulty here with in  
14                  terms of our direction is that they are going  
15                  to walk away from here and start writing text.  
16                  They can't write text with the option of an I  
17                  going to do an exception. We just need to let  
18                  them know.

19                  CHAIRPERSON HOOD: I think what's  
20                  clear, though, the stronger point was 6B with  
21                  the caveat of looking. We didn't say you had  
22                  to come back. It's all about the words we

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1 used.

2 COMMISSIONER MAY: Look at it.

3 CHAIRPERSON HOOD: It satisfies  
4 everyone. That's the Chair's job. We make  
5 sure everybody's input is in. Okay. 6B with  
6 the caveat. Okay, let's move to 7. Does  
7 anybody need to take a break? Okay. Parking  
8 size requirements.

9 Requirements will apply to all  
10 spaces whether required or not. Current  
11 regulatory scheme occasionally differentiates.  
12 OP's recommendation is 1, update parking space  
13 size requirements to current ITE and DDOT  
14 standards. Refresh me. What is ITE, Mr.  
15 Parker?

16 MR. PARKER: It's the Institute of  
17 Transportation Engineers.

18 CHAIRPERSON HOOD: Okay. So ITE  
19 and DDOT standards. Increase the amount of  
20 parking spaces that certain parking facilities  
21 may designate for compact spaces from 25  
22 percent to 50 percent of the total and all

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1 size requirements apply whether parking spaces  
2 are required or not, or update size  
3 requirements -- the first one was OP's  
4 recommendation -- or update size requirements  
5 but do not keep distinction between required  
6 and non-required spaces or do not update  
7 parking space size requirements or compact  
8 space requirements. Okay. Any discussion?

9 COMMISSIONER MAY: I think I'm  
10 comfortable with OP's recommendations. I  
11 would ask a question because I never like to  
12 make it easy. What about the really, really  
13 small cars that we're getting to? I mean, the  
14 Smart Car, that kind of model.

15 I have to believe there's  
16 potentially much more of that. There's also  
17 things like scooters and other smaller  
18 vehicles that could be accommodated here and  
19 do we want to establish size standards or  
20 incorporate this in some fashion?

21 MR. PARKER: That's a fair  
22 question. As far as this A3 the

1 recommendation is if you provide car spaces  
2 they have to meet the requirement. You can  
3 always provide motorcycle or scooter spaces.  
4 That's a good question with minis and with  
5 increasingly small cars should we change that.

6 Quite frankly there's two ways to  
7 look at it. Either we could go ahead and do  
8 this and then as those car standards change if  
9 we continue to get smaller cars, then we need  
10 to update this in five years or we continue  
11 the existing practice of if your space is not  
12 required, just build them however you want.  
13 The danger then is that you get some garages  
14 that may not be as usable.

15 MR. TURNBULL: I think you would  
16 probably address that as an amendment later on  
17 once you see the data that says we're getting  
18 automobiles the size of Smart Cars until you  
19 start seeing reasonable numbers coming in. I  
20 mean, I can't see asking someone to have a  
21 third size of a car space for the possibility  
22 that a Smart Car or a mini is going to be

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1 there which can still be accommodated by a  
2 compact car space.

3 COMMISSIONER MAY: It's not a  
4 matter of requiring it. It's a matter of  
5 allowing a very small space to count which in  
6 the spirit of trying to reduce parking  
7 requirements maybe you want to do. I don't  
8 know.

9 CHAIRPERSON HOOD: Mr. Parker,  
10 help me to understand the reason to make this  
11 distinction. Maybe I don't understand. What  
12 is the reasoning behind making this  
13 distinction?

14 MR. PARKER: Distinction between  
15 required and nonrequired?

16 CHAIRPERSON HOOD: No, distinction  
17 between the size. What is the reasoning?

18 MR. PARKER: Well, right now the  
19 regulations allow two size spaces. The  
20 standard space is 9 by 19 and if you have a  
21 certain number of those in your garage, you  
22 can provide some that are compact which is 8

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1 by 16. There are several rules with providing  
2 compact spaces that get a little awkward.

3 One of the rules is you have to  
4 provide them in groups of four or five rather  
5 than just being able to put them where they  
6 fit in your garage. Another is you are  
7 limited to, I think, 25 percent of your spaces  
8 can be compact spaces.

9 We're saying in an era of smaller  
10 cars you could probably fairly go up to 50  
11 percent compact cars. We've removed the  
12 requirement that they have to be grouped so  
13 you can put them where it works for your  
14 garage but we keep the distinction between  
15 standard spaces and contact spaces.

16 COMMISSIONER MAY: Can we do  
17 anything about the guy in the giant car who  
18 parks in the compact space?

19 VICE-CHAIR JEFFRIES: They come  
20 the first time and then they don't come the  
21 second time.

22 COMMISSIONER MAY: What's that?

1                   VICE-CHAIR JEFFRIES:  They come  
2                   the first time and it's like sheer hell and  
3                   then they don't come back.

4                   COMMISSIONER MAY:  We could  
5                   eliminate parking minimums.

6                   VICE-CHAIR JEFFRIES:  That's what  
7                   we're trying to do.

8                   COMMISSIONER MAY:  I was thinking  
9                   like a guillotine kind of thing.

10                  CHAIRPERSON HOOD:  7A.  Okay.  8,  
11                  "Access to parking space requirements will  
12                  apply to all spaces whether required or not.  
13                  Current regulatory scheme occasionally  
14                  differentiates."  We have A, as you can see,  
15                  "Adopt OP recommendation regarding the  
16                  location of access from a public street or  
17                  alley to parking spaces on a lot.

18                  One, permitted access points, and  
19                  then we have the circumstances of permitted  
20                  access points in the diagram.  Two, increase  
21                  the minimum allowed distance between the  
22                  driveway and the street intersection from 25

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1 feet to 60 feet to conform to DDOT's minimum  
2 distance standard for curb cuts. Then we  
3 have, "Or do not adopt OP recommendations  
4 regarding access."

5 VICE-CHAIR JEFFRIES: Office of  
6 Planning, Roman Numeral II, increase the  
7 minimum allowed distance. What would that get  
8 us?

9 MR. PARKER: That would put the  
10 zoning regulations in line with the current  
11 DDOT standards.

12 VICE-CHAIR JEFFRIES: That's all  
13 that we would be achieving by that one?

14 MR. PARKER: Right. Right now we  
15 have two different standards. It would make  
16 circumstances like this building not legal.  
17 If you've been in and out of the garage here,  
18 it doesn't work very well because the entrance  
19 is so close to the corner.

20 CHAIRPERSON HOOD: I think  
21 permitted access points is definitely -- for  
22 those of us who are able to frequent the BZA

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1 we have seen a lot of. I'm not sure about  
2 two. So do we want to adopt OP's  
3 recommendation?

4 VICE-CHAIR JEFFRIES: 8A, yes.

5 CHAIRPERSON HOOD: Let's move  
6 right along. Mr. Parker, you got that?

7 MR. PARKER: 8A.

8 COMMISSIONER MAY: And I have no  
9 special requests.

10 CHAIRPERSON HOOD: Let's hurry up  
11 and move right on. Parking lot trash  
12 receptacles. "Required parking areas serving  
13 retail uses and restaurants to contain at  
14 least one outdoor litter receptacle within the  
15 parking area or do not require outdoor litter  
16 receptacles." What do we do now?

17 MR. TURNBULL: I'm just curious.  
18 I thought the General Counsel's Office had  
19 said at one point this may go beyond a zoning  
20 issue.

21 MR. BERGSTEIN: I don't like to  
22 discuss these things publicly. I wrote a memo

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1 to you all expressing concerns over when  
2 zoning regulations apply across zoning  
3 boundaries where they are not tied to specific  
4 boundaries but they say in this case if you've  
5 got a use and it has this characteristic, I  
6 don't care where it is, you've got to have a  
7 trash receptacle. There's concern in my mind  
8 over whether or not that's a zoning regulation  
9 and I provided some citations to you where the  
10 courts have discussed it.

11 There's also a policy  
12 consideration where this regulation and one  
13 that will follow it which deals with requiring  
14 shower facilities in buildings if they have  
15 bicycle racks are matters that could go to the  
16 Council of the District of Columbia. There's  
17 no doubt in my mind that would be true.

18 And the Council of the District of  
19 Columbia when Home Rule was created Congress  
20 gave the council all power to legislate except  
21 for certain things and he gave the Zoning  
22 Commission the authority to exercise zoning.

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1                   My question is how much  
2 concurrency and jurisdiction is there between  
3 the two bodies and does the Commission want to  
4 invite persons who cannot get legislation  
5 before the council because the council you can  
6 only introduce legislation through the mayor  
7 or through a council member but the Zoning  
8 Commission all you have to do is petition.

9                   If I've got a choice between who  
10 I'm going to bring legislation before -- well,  
11 actually, I don't have a choice. I go to the  
12 Zoning Commission and I petition them. By  
13 doing that I bypass not just the council  
14 process but I go from an elective group of  
15 persons to a nonelective group.

16                   I go to a group whose legislation  
17 becomes immediately effective as opposed to  
18 the council legislation which goes to the  
19 mayor for consideration. It goes to Congress  
20 for oversight.

21                   Where any new obligations you do  
22 add can only be enforced by the zoning

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1 administrator because the zoning administrator  
2 enforces all zoning regulations, whereas when  
3 the council passes legislation it gives the  
4 mayor the authority generally to decide who  
5 would best enforce it. For example, something  
6 like this might be enforced by DPW which has  
7 sanitation responsibilities anyway.

8 The last concern I have is that  
9 when you put legislation before the council  
10 they have to consider physical impact. There  
11 has to be a physical impact statement. You  
12 don't so if someone comes to you and say let's  
13 do this or let's do that, no one has to be  
14 concerned about the budgetary impact.

15 You might recall what happened  
16 with inclusionary zoning. Those are both my  
17 legal concerns and I wanted to share the  
18 policy considerations with you.

19 CHAIRPERSON HOOD: I don't know  
20 about my colleagues. What I got out of that  
21 I think we just need to skip over No. 9. Am  
22 I correct? Short version, Mr. Bergstein, just

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1 skip over No. 9?

2 MR. BERGSTEIN: It's your choice.  
3 I'm just your humble legal advisor. I've  
4 expressed in a memo my legal concerns which  
5 you can accept or not and I've stated policy  
6 considerations which is totally up to you to  
7 make.

8 COMMISSIONER MAY: We could just  
9 pick B.

10 CHAIRPERSON HOOD: Let's move to  
11 No. 10.

12 COMMISSIONER MAY: Is that 9B?

13 CHAIRPERSON HOOD: No, we're  
14 skipping it.

15 COMMISSIONER MAY: So we're not  
16 going to take any action.

17 CHAIRPERSON HOOD: I think -- I  
18 recall the memo now and I apologize. I think,  
19 unless I'm advised otherwise, that maybe we  
20 should just skip over 9.

21 VICE-CHAIR JEFFRIES: I didn't get  
22 a sense that we were going to be admonished if

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1 we voted for 9A. I understand the precedent  
2 that you're speaking of. I don't really care  
3 but I didn't get a sense that if we voted 9A  
4 that, you know, there was going to be legal  
5 challenge to us, or are you saying that?

6 MR. BERGSTEIN: What I'm saying is  
7 that I'm prepared to certify as legally  
8 sufficient because I think you could probably  
9 make a straight-face argument in court that  
10 you have the jurisdiction. I'm suggesting to  
11 you that there could be grounds for  
12 challenging it.

13 CHAIRPERSON HOOD: Let me hear  
14 from my colleagues. I would like for us to  
15 move with it after council but Commissioner  
16 May thinks B. I think if we leave it alone  
17 we're still in the same place.

18 MR. BERGSTEIN: Maybe what you  
19 might want to do, because she's going to come  
20 up with loading, too, is to just review my  
21 memo one more time because I think I said  
22 everything I needed to say legally in that

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1 memo and then you could revisit this when we  
2 come back to you and we'll highlight it for  
3 you.

4 CHAIRPERSON HOOD: Okay. Let's  
5 just skip it.

6 MR. PARKER: Okay.

7 CHAIRPERSON HOOD: Does that give  
8 you enough guidance?

9 MR. PARKER: Skipping does. I  
10 mean, we could say -- I guess my suggestion  
11 would be that you say our preference would be  
12 A or B if we can address it. I mean, we need  
13 to know what to bring back to you.

14 VICE-CHAIR JEFFRIES: My  
15 preference is A. I mean, what I heard council  
16 say is that he could make a legal sufficiency  
17 argument for it and that's fine but, again, I  
18 will go with what the Commission wants to do.  
19 It's not a big production for me. I would  
20 like to see receptacles there whether it's  
21 done by council or as long as it gets there.

22 CHAIRPERSON HOOD: I think what I

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1 would advise is to skip it and come back and  
2 revisit it as was mentioned by Mr. Bergstein.  
3 We may very well do exactly that. This is our  
4 first time. This is our first time out here  
5 so let's do that.

6 Okay. Mr. Bergstein, does that  
7 also apply to 12? I don't think it applies to  
8 11. I'm not sure.

9 MR. BERGSTEIN: No, it applies to  
10 12 which has the same characteristic. In  
11 other words, it doesn't matter what zone these  
12 buildings are in. If you have a building and  
13 you have a bike space requirement, you've got  
14 to have a shower facility.

15 MR. PARKER: The difference there  
16 is that's related to -- I mean, we would like  
17 to at least challenge that in that this one is  
18 directly related to the parking which doesn't  
19 have to be zone specific. If bike parking is  
20 required, you can make a direct connection  
21 between the shower facilities and the bike  
22 parking.

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1 MR. BERGSTEIN: I do have a  
2 somewhat different view because the power to  
3 regulate parking is separately stated in the  
4 Zoning Act and it says that you can provide  
5 for required parking spaces within buildings  
6 but it doesn't then say if you have a parking  
7 requirement, then the sky's the limit to what  
8 you can do in those buildings.

9 That is still a concern of mine.  
10 It's the same issue. You're not going to hurt  
11 my feelings if you decide to adopt either one  
12 of those. I just wanted to point out the  
13 issue because it has really not come up before  
14 and you are going to see more of these as the  
15 rewrite continues. Once you basically say  
16 this is okay, you are going to get, I believe,  
17 some more of these types of across-the-board  
18 regulations.

19 CHAIRPERSON HOOD: I actually went  
20 out of order because I thought they were  
21 synonymous. Let's go back in order. We can  
22 come back to that. Let's go to 10, parking

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1 lot landscaping requirements.

2 "Requires landscaping equivalent  
3 to 10 percent of the parking lot surface area  
4 and tree canopy cover equivalent to 30  
5 percent, adopt other OP recommendations to  
6 buffer trees and encourage the protection of  
7 existing trees, or adopt other standards of a  
8 certain percentage of landscaping with a  
9 certain percentage of canopy cover, or  
10 maintain existing 5 percent landscaping and no  
11 canopy cover requirements."

12 MR. PARKER: 10A.

13 COMMISSIONER MAY: I would agree  
14 but I would suggest that if it makes sense in  
15 the process of drafting it to tweak those  
16 recommendations. I wouldn't object to minor  
17 deviations from those things.

18 MR. PARKER: And I should point  
19 out we are trying to hit a 30 percent  
20 equivalent but we may accomplish that with a  
21 number of trees per space or something.

22 COMMISSIONER MAY: So I would

1 agree with that flexibility.

2 CHAIRPERSON HOOD: Okay. All  
3 right. Is that okay? Are you straight, Mr.  
4 Parker, with that?

5 MR. PARKER: Yes, 10A.

6 CHAIRPERSON HOOD: Okay, 11,  
7 bicycle parking. "Require minimum indoor and  
8 outdoor bicycle parking spaces for certain  
9 residential and nonresidential buildings or  
10 require only indoor spaces or do not require  
11 bicycle parking."

12 VICE-CHAIR JEFFRIES: 11A.

13 MR. PARKER: I agree.

14 COMMISSIONER MAY: Concur.

15 CHAIRPERSON HOOD: Okay. Now, I  
16 was going to put shower facilities. Let me  
17 read it because one of my colleagues wants to  
18 -- Commissioner May wants to speak on this so  
19 let me just read it. "Shower facilities if  
20 bicycle parking spaces are required" as we've  
21 already said, 11A. "Require all buildings  
22 subject to minimum bicycle space requirements

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1 to have shower facilities or do not require  
2 shower facilities."

3 COMMISSIONER MAY: First of all,  
4 let me say I'm all for having shower  
5 facilities and would encourage them. I think  
6 it's a very good idea because I ride my  
7 bicycle to work and it would be a really good  
8 thing to have.

9 VICE-CHAIR JEFFRIES: I would  
10 imagine.

11 COMMISSIONER MAY: I guess my  
12 question is whether it's necessary to cover  
13 this in the zoning or are the requirements by  
14 the Green Building Act which requires a  
15 certain level of certification for buildings  
16 of certain sizes and so on, is this already  
17 covered in that circumstance because it seems  
18 to me this is relatively easy points to get in  
19 the LEED scheme.

20 MR. PARKER: But certainly not  
21 required.

22 COMMISSIONER MAY: Not required

1 but --

2 MR. PARKER: And this would cover  
3 some buildings that aren't covered in the  
4 Green Building Act. This --

5 COMMISSIONER MAY: How big does a  
6 building have to be?

7 MR. PARKER: Let me pull that up.  
8 Maybe it doesn't actually. We had talked  
9 about -- oh, nonresidential uses greater than  
10 50,000. I suppose that is the same limit. We  
11 think it's an important standard to meet and  
12 that it directly relates to the bicycle  
13 parking that we're requiring. You're right  
14 that a lot of people would do it anyway. I  
15 see that as an argument not to worry about  
16 going ahead and requiring it.

17 COMMISSIONER MAY: And the  
18 buildings that have the minimum bicycle space  
19 requirement --

20 MR. PARKER: Right.

21 COMMISSIONER MAY: -- I guess that  
22 may be a residential building and it may be

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1 required to have shower facilities but that's  
2 the shower you have in your unit. Is that  
3 right?

4 MR. PARKER: Right.

5 COMMISSIONER MAY: That would be a  
6 separate shower facility.

7 MR. PARKER: No shower facility is  
8 required for resident -- right. This is a  
9 requirement for mainly office buildings but  
10 office and commercial buildings where people  
11 are trying to be encouraged to bike to work or  
12 to bike to these facilities.

13 COMMISSIONER MAY: In 11 you're  
14 requiring bike parking for residential  
15 buildings.

16 MR. PARKER: Right, but the shower  
17 facility doesn't deal with residential.

18 COMMISSIONER MAY: So it's not all  
19 buildings subject to minimum bicycle space  
20 requirements but all nonresidential.

21 MR. PARKER: That's excellent.

22 Yeah, let me read the actual recommendation

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1 from the report. "OP recommends that  
2 nonresidential uses greater than 50,000 square  
3 feet that require Class A, which are the  
4 indoor spaces, should also provide shower  
5 facilities."

6 COMMISSIONER MAY: All right.  
7 I've said as much as I wanted to say about  
8 this issue. We can elect to treat it as we  
9 did No. 9 if you'd like.

10 CHAIRPERSON HOOD: I think, unless  
11 I hear otherwise, we're going to treat it as  
12 we did in the previous one, No. 9.

13 VICE-CHAIR JEFFRIES: Punt, pass.  
14 Go on do a John McCain. Throw that pass.

15 CHAIRPERSON HOOD: Okay. Any  
16 other comments? I guess next what we need to  
17 do is, first of all, let me ask Mr. Parker the  
18 process. I don't know how clear the direction  
19 is but we've given you some direction.

20 MR. PARKER: We've got some  
21 direction.

22 CHAIRPERSON HOOD: What is Office

1 of Planning's anticipation of what happens  
2 next? You may have already told us this  
3 but --

4 MR. PARKER: I may have to ask Mr.  
5 Bergstein for help here because --

6 MR. BERGSTEIN: Actually, I think  
7 Mr. Parker and I have talked about it on the  
8 side. I think what we would like to do is to  
9 come up with text and also give you an overall  
10 introductory document. I like to create text  
11 just for my own benefit.

12 You can throw it away or whatever  
13 you would like to do but I think the fact is  
14 Mr. Parker and I have been working together on  
15 this and understand where we need to go in  
16 terms of text just for our purposes and we'll  
17 share it with you.

18 We'll also provide you with a  
19 narrative document that summarizes how the  
20 text relates to your decision making. Then  
21 after we give it to you you can decide what  
22 you want to do with it.

1           You can decide whether or not you  
2 simply want to keep that for later reference  
3 or at a time when you might later take  
4 proposed action or go ahead and take proposed  
5 action immediately based upon the text that  
6 the text works.

7           I think if you'll humor Mr. Parker  
8 and I, I think what we would like to do is  
9 come up with a text if nothing else for our  
10 own -- get it done now and we can later change  
11 it if we need to and share it with you so you  
12 see what we've done and then you can decide  
13 how worthwhile it is for your purposes.

14           CHAIRPERSON HOOD: I want to make  
15 sure one of the things that I heard in all the  
16 submittals we heard at the hearing was that  
17 the community wanted to be able to -- once we  
18 do that, when do they have the opportunity  
19 again to chime in or give input into the text?

20           MR. BERGSTEIN: It would be after  
21 you take proposed action on it. However, that  
22 is the way that an agency communicates its

1 ideas with the public for them to comment on.  
2 There is no law that says after they comment  
3 on it you can say, "Well, I want to think  
4 about it some more."

5 The way that an agency formally  
6 communicates with the public in terms of its  
7 proposed rules is to issue a notice of  
8 proposed rulemaking. I know there has been a  
9 suggestion that OP could put it on their  
10 website.

11 My problem is that when I produced  
12 that for you it's an attorney/client  
13 privileged document until you authorize its  
14 release. If you want to authorize OP to go  
15 ahead and publish it before you've seen on  
16 their website for informal comments, you  
17 certainly may but to me this is redundant. The  
18 more normal process would be for us to provide  
19 you the text as best we can.

20  
21 If you think it's worthwhile to  
22 get -- if you think it's a document that can

1 be rationally commented upon, usefully  
2 commented upon, then we can go ahead and you  
3 can take proposed action just for the purpose  
4 of formally saying to the public, "This is how  
5 we've taken our concepts and translated into  
6 text. Now you tell us what you think." That  
7 would be, as I said, the normal way to do it  
8 under the D.C. Administrative Procedures Act.

9 CHAIRPERSON HOOD: I guess the  
10 other thing I would ask is if we would  
11 consider, colleagues, and I want to ask this  
12 and then I'll go to Mr. Parker. Normally  
13 that's 30 days. Right? The comment period.

14 MR. BERGSTEIN: Right, but you can  
15 pick whatever period you would like greater  
16 than that as you did for inclusionary zoning.

17 CHAIRPERSON HOOD: How many days  
18 did we do it for? I can't remember. Sixty?

19 MR. BERGSTEIN: I think that was  
20 45. For the program rules they did 90. It's  
21 really whatever you think works for the public  
22 and works for you. It shouldn't be too

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1 attenuated because then there is the  
2 possibility of staleness but --

3 CHAIRPERSON HOOD: I would  
4 personally like to give the community at least  
5 more than 30 days.

6 MR. BERGSTEIN: We'll present you  
7 the text and you can make the decision. If you  
8 decide to go forward with the proposed once  
9 you see the text, then you can decide whether  
10 or not you would like a larger comment period.  
11 You might want to wait until you actually see  
12 what the text looks like before you --

13 CHAIRPERSON HOOD: Thank you.  
14 We'll do that. Any other comments? Mr.  
15 Parker wanted to say something.

16 MR. PARKER: I guess I have some  
17 process questions of my own now. If this is  
18 considered something that needs to come from  
19 Mr. Bergstein and go to you, one thing that we  
20 had indicated certainly to the task force is  
21 that we would make this available to them  
22 prior to coming back to you.

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1 I need to know when I can take  
2 this language to the task force. If that  
3 needs to wait until you take proposed action,  
4 then they can comment on it or if I can take  
5 it to them first and then bring their comments  
6 along with the text. I need that guidance  
7 from you as well, I guess.

8 MR. BERGSTEIN: They would have to  
9 formally give that to you. In other words, if  
10 they say to you that you may provide your work  
11 -- well, you could provide your work product  
12 to the task force. It's when I start getting  
13 involved when I look at a notice of proposed  
14 rulemaking my client really is the Zoning  
15 Commission.

16 MR. PARKER: My work doesn't look  
17 like my work after you've --

18 MR. BERGSTEIN: I'm sorry?

19 MR. PARKER: I said my work isn't  
20 necessarily my work after you've looked at it.

21 MR. BERGSTEIN: You've noticed  
22 that. If you wanted to be able to provide

1 something that I've said to you, this is  
2 something I'm prepared to legally certify,  
3 then I need to know from the Commission that  
4 you can share that with the working group with  
5 the provisal that document doesn't go further  
6 than the working group.

7 MR. PARKER: The task force.

8 CHAIRPERSON HOOD: The task force.  
9 Can we do that? Do any of my colleagues have  
10 a problem with that? We have some folks who  
11 are really up to snuff on these issues in that  
12 work group, minus myself.

13 Mr. Turnbull.

14 MR. TURNBULL: I don't have an  
15 issue. I guess my only concern is when do we  
16 get back into 9 and 12? What's the process  
17 for 9 and 12?

18 CHAIRPERSON HOOD: Mr. Bergstein,  
19 if you want to --

20 MR. BERGSTEIN: At this point I'm  
21 going to put them in because I think what I'm  
22 really hearing is the consensus you would like

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1 to do it if I'm willing to legally certify and  
2 I'm willing to legally certify it. Why don't  
3 we just put them in and you can change your  
4 mind when you take proposed action.

5 VICE-CHAIR JEFFRIES: Again, if  
6 there is a determination that we don't have  
7 legal standing here, you will hand it over to  
8 council or whatever it is that you do.

9 MR. BERGSTEIN: No, I just simply  
10 wouldn't certify it which I've never done but  
11 there might be a day. Generally I try to  
12 express those concerns to you and generally  
13 speaking we've always been able to come up  
14 with language that works from a legally  
15 sufficient point of view.

16 I'm not here to stop the  
17 Commission. My view of legal sufficiency is  
18 as long as you can stand in court and make an  
19 argument that's based upon law, then I'm going  
20 to sign it. All I can do is apprise you of  
21 the risks and it's your risk to take those.

22 VICE-CHAIR JEFFRIES: But you are

1 telling us that you think we have legal  
2 sufficiency here for 9 and 12.

3 MR. BERGSTEIN: I think --

4 VICE-CHAIR JEFFRIES: You stated  
5 the risk. I got it.

6 MR. BERGSTEIN: Yes. I'm saying  
7 that I'm prepared to certify both of those for  
8 legal sufficiency.

9 VICE-CHAIR JEFFRIES: That's all  
10 we need.

11 MR. BERGSTEIN: In other words,  
12 yes, you can go forward. I can't stop you  
13 except for not signing that document and I'm  
14 prepared to sign that document.

15 VICE-CHAIR JEFFRIES: I just want  
16 to move this thing along.

17 CHAIRPERSON HOOD: We're going to  
18 go ahead and include 9 and 12 for the 9 and 12  
19 section.

20 MR. PARKER: A for both?

21 CHAIRPERSON HOOD: What was it?  
22 Was it A?

1 VICE-CHAIR JEFFRIES: A.

2 CHAIRPERSON HOOD: We can always  
3 -- I will tell you there is another bite at  
4 the apple for us also. We can always take it  
5 back out even if we split.

6 VICE-CHAIR JEFFRIES: Well, in  
7 February 2009 you can do what you want.

8 CHAIRPERSON HOOD: Okay. Again,  
9 let's go back to this process issue about Mr.  
10 Parker to the task force giving them the text.  
11 Mr. Bergstein, I understand even after you  
12 look at it if we say it's okay, it's all right  
13 to still give it to the task force prior?

14 MR. BERGSTEIN: I think what Mr.  
15 Parker is asking you to do is to authorize him  
16 to share with the task force the version of  
17 this text that we're going to come up with  
18 which I believe to be legally sufficient and  
19 that will happen before you see it.

20 That's I believe what Mr. Parker  
21 is asking. I'm asking you to state  
22 affirmatively that he can do that because

1 basically this is a privilege that is between  
2 you and me and only you can waive it.

3 VICE-CHAIR JEFFRIES: Effectively  
4 when he does that, he is effectively giving it  
5 to the public.

6 MR. BERGSTEIN: As I said, the  
7 provisal, I hope, would be that the members of  
8 the task force cannot share it. When they  
9 accept it they have to agree that they will  
10 not share it but you obviously -- you know,  
11 you're letting the cat out of the bag but  
12 that's the risk you take. It's, I dare say,  
13 an inclusionary process so it's really a  
14 matter of policy for you whether you can do  
15 that.

16 CHAIRPERSON HOOD: We can do that  
17 and I'm just throwing this out here and then  
18 I'll hear what my colleagues have to say. We  
19 can do that. If the cat really gets all out  
20 the bag and then gets haywire and has a  
21 problem because it needs to get out of the bag  
22 eventually but if there is an issue then, we

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1 can always change it the next go around.

2 VICE-CHAIR JEFFRIES: But clearly,  
3 I mean, in terms of, and Mr. Bergstein said  
4 it, I mean, the normative process is really  
5 propose action, give them more than 30 days,  
6 give everyone as much time as they need to  
7 review it, and then come back with the  
8 comments.

9 CHAIRPERSON HOOD: Let's do that.  
10 Let's do that because I don't think there will  
11 be much time for us after we do proposed and  
12 then we can maybe extend the time probably not  
13 more than 60, maybe 45 days.

14 VICE-CHAIR JEFFRIES: I think  
15 Office of Planning has a comment.

16 MR. PARKER: What I'm hearing is  
17 you would like to review it first and then  
18 open it up for the normal process?

19 CHAIRPERSON HOOD: That's what I'm  
20 hearing. I actually would like to give it to  
21 the task force first but I'm going with how --  
22 I've been around here long enough to know how

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1 the vote is going so let's do that as Mr.  
2 Vice-Chairman has already mentioned.

3 VICE-CHAIR JEFFRIES: I'm just  
4 concerned about the slippery slope, that's  
5 all, if there is an issue. I mean, if we've  
6 done this before, that's fine.

7 MR. PARKER: I guess the whole  
8 hallmark of this entire process was to be as  
9 open as possible and as transparent as  
10 possible. We are just talking about text that  
11 we already know what it's supposed to say so  
12 there's no surprises in what we're going to be  
13 writing. It's just whether we got it right or  
14 not.

15 VICE-CHAIR JEFFRIES: But the  
16 proposed action, I mean, that's transparent.  
17 Are you making the argument that it  
18 isn't?

19 MR. PARKER: No, no, no.

20 VICE-CHAIR JEFFRIES: Okay.

21 MR. BERGSTEIN: Let me just say  
22 this does happen a lot of time at the agency

1 level. You have a very formal process for  
2 doing rulemaking including a hearing. It  
3 happens many times that an agency will provide  
4 a draft proposed rules to the stakeholders in  
5 industry, for example, to say is this  
6 technically right before we go ahead and  
7 propose it.

8 It is not unusual that where there  
9 is a small stakeholder group that you want to  
10 get consensus on before you issue proposed  
11 rules and for a regular agency that doesn't  
12 have hearings to just kick the rules out.  
13 There is often a vetting process of the  
14 proposed text.

15 VICE-CHAIR JEFFRIES: Okay, but --

16 MR. BERGSTEIN: I'm just saying  
17 although you've never done it on other agency  
18 levels, it does get done that way.

19 VICE-CHAIR JEFFRIES: Well, to me,  
20 and I think what I've heard Mr. Parker say, is  
21 that after he has written -- there is nothing  
22 preventing him from writing this text and then

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1 sharing his written text before he presents it  
2 to the Zoning Commission.

3           There is nothing stopping him from  
4 taking it back to the task force. The only  
5 difference is once you take a look at it  
6 you're going to revise it so that he might  
7 recognize it and than at that point, you know,  
8 I guess the concern I have is why can't the  
9 two of you work to figure out exactly what it  
10 is that you're going to be putting together in  
11 terms of a written test. Take that to the  
12 task force and then bring it to us.

13           MS. STEINGASSER: Office of  
14 Planning is also a client of OAG so it would  
15 not be unreasonable for OAG to work with OP to  
16 draft the text in a way that would have an eye  
17 to both directions but it would not be a  
18 privileged document for the Commission, the  
19 same way OAG works with OP when we write any  
20 zoning text that we bring to you through the  
21 normal set-down process.

22           That would allow us to get early

1 feedback from OAG, take it to the task force,  
2 and then bring it to the Commission. You  
3 would obviously always have the prerogative in  
4 your proposed action to accept or reject  
5 anything that comes to you.

6 VICE-CHAIR JEFFRIES: Fine. Okay.

7 MR. BERGSTEIN: So do I hear the  
8 Commission agreeing that after Mr. Parker and  
9 I arrive at a text that we both find  
10 acceptable he can share it with the task  
11 force. That's the question for the  
12 house.

13 CHAIRPERSON HOOD: Exactly. I  
14 would concur that we do that. OAG, OP work  
15 together, take it to the task force. If it  
16 goes haywire this time, we'll learn from this  
17 time. We've got to start somewhere.

18 We'll learn from this time what we  
19 need to do next time so let's do it that way.  
20 The task force I think they're great. They  
21 work real hard. Even beyond that as far as  
22 I'm concerned they can hash through a lot of

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1 it for us. I'm just putting it out there. I  
2 think we've got a lot of experts on that task  
3 force even though the final say so is with the  
4 five commissioners.

5 Well, right now four. Okay? But  
6 at the end of the day you've got one vote just  
7 like the rest of us. All right. I'll tell  
8 you what. While this is not perfect, this was  
9 a great start I think. We may need to make  
10 some tweaks in how we deliberate. I  
11 appreciate the working document from OAG and  
12 the Office of Planning.

13 I appreciate the Office of Zoning  
14 Staff and everyone who has made this a little  
15 easier for us but I'm sure we have a lot to  
16 do. This is just the work in progress. We'll  
17 make plenty of tweaks and we'll see how things  
18 work and make adjustments accordingly.

19 Ms. Schellin, is everything in  
20 order?

21 MS. SCHELLIN: Yes.

22 CHAIRPERSON HOOD: Okay. With

1 that, this special public -- is everybody on  
2 the same page? Do we know what our next steps  
3 are? Okay. This special public meeting is  
4 adjourned.

5 (Whereupon, at 8:36 p.m. the  
6 meeting was adjourned.)

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